

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-EIGHTH DAY

(Wednesday, May 27, 2009)

The Senate met at 11:15 a.m. pursuant to adjournment and was called to order by President Pro Tempore Duncan.

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

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

Rabbi Eliezer Langer, Congregation Tiferet Israel, Austin, offered the invocation as follows:

With your indulgence, I start with a story. A congregant came up to his much adored rabbi and asked where he could find out more about his clergyman, what was his childhood like, what were his aspirations, et cetera. The rabbi answered that it would be in his, as of yet unpublished, biography. "And when will that be available?" asked the congregant. "Posthumously," answered the rabbi. "That's so nice; I can't wait to read it; I hope that will be soon," he responded with anticipation. Three thousand seven hundred years ago, when the children of Israel were about to enter the Holy Land, Moses said to the Jewish people, "May you be clean and pure before G-d and all Israel." This conveys a great moral lesson. It is not enough to know that one's actions are proper in G-d's eyes. One must also act in such a manner so as to not engender suspicion on the part of human beings. You, the men and women of the Senate, gathered in the final days of this session, deliberating on how to best provide the quality education and access to critical human services for our children, how to create the economic opportunities and guarantee energy independence for the citizens of the great State of Texas, likewise need this blessing. May you all be vindicated and seen as clean and pure, not only in G-d's eyes, not just posthumously, but now and in the present, for the eyes of Texas are upon you. G-d bless you all.

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

The motion prevailed without objection.

CO-SPONSOR OF HOUSE BILL 130

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

CO-SPONSORS OF HOUSE BILL 1030

On motion of Senator Ellis, Senators Huffman and Patrick will be shown as Co-sponsors of **HB 1030**.

CO-SPONSOR OF HOUSE BILL 1801

On motion of Senator Shapiro, Senator Patrick will be shown as Co-sponsor of **HB 1801**.

CO-SPONSOR OF HOUSE BILL 2154

On motion of Senator Hinojosa, Senator Uresti will be shown as Co-sponsor of **HB 2154**.

CO-SPONSOR OF HOUSE BILL 2932

On motion of Senator Carona, Senator West will be shown as Co-sponsor of **HB 2932**.

CO-SPONSOR OF HOUSE BILL 3454

On motion of Senator Williams, Senator Patrick will be shown as Co-sponsor of **HB 3454**.

PHYSICIANS OF THE DAY

Senator Watson was recognized and presented Drs. John and Judith Egerton of Austin as the Physicians of the Day.

The Senate welcomed the Egertons and thanked them for their participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

CONCLUSION OF MORNING CALL

The President Pro Tempore at 11:25 a.m. announced the conclusion of morning call.

GUESTS PRESENTED

Senator Averitt was recognized and introduced to the Senate fifth-grade students and their teachers from Midlothian Independent School District.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
HOUSE BILL 4586 ON SECOND READING**

The President Pro Tempore laid before the Senate **CSHB 4586** by Senator Ogden on its second reading. The bill had been read second time and further consideration postponed to a time certain of 11:15 a.m. today:

CSHB 4586, Relating to making supplemental appropriations and reductions in appropriations and giving direction and adjustment authority and prescribing limitations regarding appropriations.

Question — Shall **CSHB 4586** be passed to third reading?

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 4586** (Senate committee printing) as follows:

(1) In the heading to SECTION 10 of the bill (page 2, line 62), strike "DEBT SERVICE" and substitute "ADMINISTRATIVE EXPENSES".

(2) In SECTION 10 of the bill (page 2, line 67), strike "debt service payments" and substitute "administrative operation expenses".

(3) In SECTION 16 of the bill (page 5, line 12), between the period and "In addition", insert "(a)".

(4) Immediately following SECTION 16 of the bill (page 5, between lines 20 and 21), insert the following:

(b) Out of the funds appropriated in Subsection (a) of this section, the Department of Criminal Justice and the Correctional Managed Health Care Committee shall identify and evaluate mechanisms to lower the cost of, or increase the quality of care in, health or pharmacy services and submit a report to the Legislative Budget Board and the Governor no later than May 1, 2010.

(5) In SECTION 17 of the bill (page 5, line 21), strike "In" and substitute "Contingent on an interlocal agreement among interested parties, including the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1, the Edwards Aquifer Authority, the Bexar Metropolitan Water District and the San Antonio River Authority, regarding repairs to the Lake Medina Dam, in".

(6) In SECTION 20 of the bill (page 5, line 53), strike "\$178,525" and substitute "\$348,525".

(7) In SECTION 36 of the bill (page 9, line 60), strike "26,087" and substitute "26,400".

(8) In SECTION 36 of the bill (page 9, line 62), strike "15,516" and substitute "15,629".

(9) In SECTION 36 of the bill (page 10, line 9), strike "4,590" and substitute "5,442".

(10) In SECTION 42 of the bill (page 11, lines 10 and 11), strike "providing a temporary exemption for the use of federal incentives to increase federal funds".

(11) In SECTION 45 of the bill (page 12, lines 7 and 8), strike "providing a temporary exemption for the use of federal incentives to increase federal funds".

(12) In SECTION 46 of the bill (page 12, lines 21 and 22), strike "providing a temporary exemption for the use of federal incentives to increase federal funds".

(13) In SECTION 48 of the bill (page 12, line 52), strike "\$30,100,979" and substitute "\$24,041,141".

(14) In SECTION 48 of the bill (page 12, line 54), strike "\$28,959,773" and substitute "\$25,534,391".

(15) In SECTION 49 of the bill (page 12, line 59), strike "\$62,351,306" and substitute "\$74,351,306".

(16) In SECTION 50 of the bill (page 12, line 69), strike "\$5,917,242" and substitute "\$7,211,846".

(17) In SECTION 50 of the bill (page 13, line 6), strike "\$13,126,361" and substitute "\$14,248,456".

(18) In SECTION 50 of the bill (page 13, line 9), strike "\$12,460,353" and substitute "\$18,620,948".

(19) In SECTION 50 of the bill (page 13, line 12), strike "\$5,280,315" and substitute "\$6,693,100".

(20) In SECTION 52 of the bill (page 13, line 46), strike "\$790,589,278" and substitute "\$759,113,979".

(21) In SECTION 55(6) of the bill (page 14, line 32), strike "\$5,700,000" and substitute "\$6,200,000".

(22) Strike Subsection (a) of SECTION 58 of the bill (page 15, lines 48-58) and substitute the following:

(a) The amount of \$62 million is appropriated out of the general revenue fund to the Truisted Programs within the Office of the Governor for the two-year period beginning on the effective date of this Act for the purpose of providing disaster relief in accordance with this section. The prior approval of the Legislative Budget Board given or considered to be given as provided by this subsection is required to expend funds for the purpose of providing reimbursements for post disaster recovery expenditures. The Governor's Division of Emergency Management shall provide information regarding proposed expenditures of funds for this purpose to the Legislative Budget Board in a format provided by the board. If the Legislative Budget Board does not disapprove a proposed reimbursement for post disaster recovery expenditures within 10 days of receiving the required information, the proposed expenditure is considered automatically approved.

(23) Immediately following Subsection (c) of SECTION 58 of the bill (page 15, between lines 67 and 68), insert the following:

(d) Out of amounts appropriated by Subsection (a) of this section, it is the intent of the legislature that the governor coordinate with the Texas Education Agency to reimburse eligible school districts in an aggregate amount not to exceed \$10 million for qualifying disaster remediation costs.

(e) Out of amounts appropriated by Subsection (a) of this section, it is the intent of the legislature that the Governor's Division of Emergency Management shall reimburse the Texas Engineering Extension Service for costs incurred in connection with the response of the Texas Task Force 1 to certain flooding.

(f) Out of amounts appropriated by Subsection (a) of this section, it is the intent of the legislature that the Governor's Division of Emergency Management may reimburse the General Land Office for repairs made to the protective dune system for County Road 257.

(24) Strike SECTION 62 (page 16, lines 28 through 37), and substitute the following:

SECTION 62. REIMBURSEMENT TO GENERAL REVENUE FUND. (a) If any state agency or institution of higher education receives reimbursement from the federal government, an insurer, or another source for an expenditure paid for or reimbursed under Sections 9, 15, 52, 55, 56, or 57 of this Act, the agency or

institution shall reimburse the state in an amount equal to the general revenue funds expended for damages that is proportional to the total expenditures for damages described under Sections 9, 15, 52, 55, 56, or 57 of this Act, and that amount shall be deposited to the credit of the general revenue fund.

(b) If any state agency or institution of higher education receives reimbursement from the federal government, an insurer, or another source for an expenditure paid for or reimbursed under Section 58 or 60 of this Act, the agency or institution shall reimburse the state by depositing the amount of the reimbursement to the credit of the Trusteed Programs within the Office of the Governor. Amounts deposited under this subsection are reappropriated to the Trusteed Programs within the Office of the Governor for disaster preparedness and recovery costs for the two-year period beginning on the effective date of this Act.

(25) In SECTION 67 of the bill (page 17, line 28), between the "." and "In" insert "(a)".

(26) In SECTION 67 of the bill, on page 17, between lines 33 and 34, insert the following:

(b) Out of the funds appropriated in this section, the Department of Assistive and Rehabilitative Services shall make every effort to attain the following performance measure targets:

(1) provide autism services to an average of 127 children per month for the fiscal year ending August 31, 2010, and provide autism services to an average of 127 children per month for the fiscal year ending August 31, 2011;

(2) provide autism services at an average monthly cost per child of \$2,185 for the fiscal year ending August 31, 2010, and provide autism services at an average monthly cost per child of \$2,185 for the fiscal year ending August 31, 2011;

(3) provide autism services to 224 children by the end of the fiscal year ending August 31, 2010, and provide autism services to 224 children by the end of the fiscal year ending August 31, 2011.

(27) In Subsection (a), SECTION 68 of the bill (page 17, line 38), strike "\$22,648,532" and substitute "\$45,069,658".

(28) In Subsection (a), SECTION 68 of the bill (page 17, lines 38 and 39), strike "fiscal year ending August 31, 2010" and substitute "two-year period beginning on the effective date of this Act".

(29) In SECTION 68 of the bill, strike Subsection (b) (page 17, lines 42 through 52), and substitute the following:

(b) Also contingent upon the State of Texas and the United States Department of Justice reaching a settlement agreement, in addition to the number of full-time equivalent employees (FTEs) the Department of Aging and Disability Services is authorized by other law to employ during the state fiscal year ending August 31, 2010, the department may employ an additional 1,160.0 FTEs during that state fiscal year. In addition to the number of full-time equivalent employees (FTEs) the Department of Aging and Disability Services is authorized by other law to employ during the state fiscal year ending August 31, 2011, the department may employ an additional 1,160.0 FTEs during that state fiscal year.

(30) At the end of SECTION 68 of the bill (page 17, between lines 61 and line 62), insert the following:

(d) Also contingent upon the State of Texas and the United States Department of Justice reaching a settlement agreement, in addition to the number of full-time equivalent employees (FTEs) the Department of Family and Protective Services is authorized by other law to employ during the state fiscal year ending August 31, 2010, the department may employ an additional 37.0 FTEs during that state fiscal year. In addition to the number of full-time equivalent employees (FTEs) the Department of Family and Protective Services is authorized by other law to employ during the state fiscal year ending August 31, 2011, the department may employ an additional 43.0 FTEs during that state fiscal year.

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

SECTION _____. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$2,000,000 is appropriated out of the general revenue dedicated account number 550 to the Texas Commission on Environmental Quality for the two-year period beginning on the effective date of this Act for conducting hazardous substance removal and disposal activities at Ballard Pits, a state superfund site in Nueces County.

SECTION _____. DEPARTMENT OF AGING AND DISABILITY SERVICES: CONTINGENCY FOR SENATE BILL 643. (a) Contingent on the enactment by the 81st Legislature, Regular Session, 2009, and becoming law of Senate Bill 643 or similar legislation relating to the protection and care of persons with mental retardation, the Department of Aging and Disability Services is appropriated, in addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$19,000,000 from the general revenue fund and \$19,000,000 from federal funds for the two-year period beginning on the effective date of this Act to fully implement the provisions of the legislation; to install video surveillance equipment in areas defined as nonprivate space for residents of state developmental centers and the ICF/MR component of the Rio Grande State Center; and to monitor video across shifts to detect and prevent abuse and exploitation of residents and clients.

(b) In addition to the number of full-time equivalent employees (FTEs) the Department of Aging and Disability Services is authorized by other law to employ during the state fiscal biennium ending August 31, 2011, the department may employ an additional 186.0 FTEs during that state fiscal biennium.

(c) Also contingent on enactment by the 81st Legislature, Regular Session, 2009 and becoming law of Senate Bill 643 or similar legislation relating to the protection and care of persons with mental retardation, the Department of Aging and Disability Services shall use amounts appropriated by Senate Bill 1, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to implement name changes, mortality reviews, on-site annual surveys of group homes, the Forensic State Supported Living Center, an independent ombudsman, a new assistance commissioner, behavioral support specialists for alleged offenders, and employee background checks, finger printing, and drug testing.

SECTION _____. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY: TEXAS EMISSIONS REDUCTION PLAN ACCOUNT. The Texas Commission on Environmental Quality is appropriated the amount of \$37,000,000 out of the Texas Emissions Reduction Plan Account No. 5071 for the two year period beginning on the effective date of this Act for the implementation of activities under Subsection (a) of 386.252 of the Health and Safety Code.

SECTION _____. DEPARTMENT OF PUBLIC SAFETY: EMERGENCY PREPAREDNESS. The Department of Public Safety is appropriated the amount of \$4,500,000 from the general revenue fund under Goal D, Emergency Management, for the two year period beginning on the effective date of this Act to be transferred to the Division of Emergency Management for staffing and emergency systems to apply lessons learned in multiple major disasters in 2007 and 2008 to enhance the capability of the state to plan and coordinate emergency preparedness, emergency response, and disaster recovery operations with local governments and state and federal agencies and to fully incorporate the support of industry and volunteer groups into emergency operations. Of the funds appropriated in this section, the amount of \$1,550,000 shall be used to enhance the capabilities of the State Operations Center and the remainder shall be used to fund 29 full-time equivalent positions to improve preparedness and response capabilities, the delivery of disaster assistance, and staffing for disaster-related financial management.

SECTION _____. TEXAS WORKFORCE COMMISSION: FEDERALLY FUNDED BENEFITS. To minimize the impact on state funds appropriated in this Act or in Senate Bill 1, Acts of the 81st Legislature, Regular Session, 2009, (the General Appropriations Act) for the fiscal biennium ending August 31, 2011, for unemployment benefits, the Texas Workforce Commission may adjust unemployment eligibility periods as necessary to maximize receipt of any 100 percent federally funded benefit. This provision does not appropriate state funds, nor may additional state funds be appropriated as a result of this authorization. Additional federal funds received by the State of Texas resulting from the authorized adjustment are appropriated as necessary to comply with Section 2005 of Public Law No. 111-5.

SECTION _____. EMPLOYEES RETIREMENT SYSTEM: PILOT PROGRAM TO TEST ALTERNATIVE PAYMENT SYSTEMS. Out of funds appropriated to the Employees Retirement System in Senate Bill 1, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), for the fiscal biennium ending August 31, 2011, the Employees Retirement System is authorized to establish a pilot program under which physicians and health care providers who provide health care services to employees and retirees participating in the group benefits program are compensated under a payment system designed to test alternatives to traditional fee-for-service payments. To the extent practicable, the program must be based on nationally recognized quality of care standards and evidence-based best practices, and must include policies designed to promote provider collaboration and other policies and practices as necessary to ensure high-quality and effective health care services.

SECTION _____. TEXAS PARKS AND WILDLIFE DEPARTMENT: LOCAL PARK RESTORATION. Contingent on enactment by the 81st Legislature, Regular Session, 2009, and becoming law of H.B. 3391, S.B. 1010, or similar legislation relating to the continuation and functions of the Parks and Wildlife Department, out of

funds appropriated to the Texas Parks and Wildlife Department in Strategy B.2.1, Local Parks Grants in Senate Bill 1, Acts of the 81st Legislature, Regular Session, 2009, (the General Appropriations Act) for the fiscal biennium ending August 31, 2011, it is the intent of the legislature that an amount not to exceed \$1,500,000 be provided as matching grants to the City of Waco as follows:

(1) \$373,000 shall be allocated for a one-to-one matching grant for the purpose of replacing the existing Oscar Du Conge Pool with safe and appropriate public recreational water activities in East Waco, such as a splash pad/spray park; and

(2) \$1,127,000 shall be allocated for a two-to-one matching grant for the purpose of restoring, upgrading, or replacing the existing public skate park to provide a safe, family recreational skating facility.

SECTION _____. APPROPRIATIONS FOR ADVANCED CLEAN ENERGY PROJECT. Amounts appropriated by Senate Bill 1, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Trusteed Programs within the Office of the Governor for transfer to the Texas Emerging Technology Fund may be used for the two-year period beginning on the effective date of this Act for expenditures related to clean energy programs or projects, as authorized by general law.

SECTION _____. UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT HOUSTON: TRAUMA CARE. The University of Texas Health Science Center at Houston is appropriated \$6,000,000 from the general revenue dedicated account 5111 for the two year period beginning on the effective date of this Act to provide reimbursements for uncompensated care.

SECTION _____. UNIVERSITY OF TEXAS M.D. ANDERSON CANCER CENTER: UNCOMPENSATED CARE FOR HURRICANE IKE PATIENTS. The University of Texas M.D. Anderson Cancer Center is appropriated \$2,000,000 from the general revenue fund for the two year period beginning on the effective date of this Act to provide reimbursements for uncompensated care for Hurricane Ike patients.

SECTION _____. UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER AT FORT WORTH: TRAUMA CARE. The University of North Texas Health Science Center at Fort Worth is appropriated \$2,000,000 from the general revenue fund for the two year period beginning on the effective date of this Act to provide reimbursements for uncompensated care.

SECTION _____. TEXAS PARKS AND WILDLIFE DEPARTMENT: VARIOUS FUNCTIONS. The Texas Parks and Wildlife Department is appropriated from the general revenue fund for the two year period beginning on the effective date of this Act the following amounts:

(1) \$2,000,000 to repair hurricane-related damages to the Sea Rim State Park; and

(2) \$1,000,000 for information technology services.

SECTION _____. NAVARRO COLLEGE: REIMBURSEMENTS. Navarro College is appropriated \$1,500,000 from the general revenue fund for the two year period beginning on the effective date of this Act to reimburse the Higher Education Coordinating Board for new campus funding.

SECTION _____. TEXAS DEPARTMENT OF LICENSING AND REGULATION: OPERATIONS. The Texas Department of Licensing and Regulation is appropriated \$956,000 from the general revenue fund for the two year period beginning on the effective date of this Act for operations.

SECTION _____. CANCER PREVENTION AND RESEARCH INSTITUTE: CERTAIN SALARIES. (a) Notwithstanding any limitation on salary rates prescribed by Chapter 1428 (H.B. 1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Executive Director of the Cancer Prevention and Research Institute shall be compensated at a rate not to exceed \$214,000 per fiscal year for the fiscal year ending August 31, 2009, and the Chief Scientific Officer of the institute may be compensated at a rate not to exceed \$212,000 per year for the fiscal year ending August 31, 2009.

(b) In addition to the rates provided in Subsection (a) of this section, the Executive Director may receive a salary supplement not to exceed \$86,000 for a total combined salary of \$300,000 out of state and foundation funds for the fiscal year ending August 31, 2009. In addition to the rates provided in Subsection (a) of this section, the Chief Scientific Officer may receive a salary supplement not to exceed \$488,000 for a total combined salary of \$700,000 out of state and foundation funds for the fiscal year ending August 31, 2009. The respective salaries paid out of appropriated state funds and foundation funds for each fiscal year of the biennium to the Executive Director and the Chief Scientific Officer of the Institute may not exceed the highest salary paid to a chancellor of a public university system.

SECTION _____. GENERAL LAND OFFICE: DISASTER MITIGATION BUYOUTS. The General Land Office is appropriated \$10,000,000 from the general revenue fund for the two year period beginning on the effective date of this Act for structure buyouts as authorized by Chapter 33, Natural Resources Code.

SECTION _____. DEPARTMENT OF STATE HEALTH SERVICES: NORTHSTAR BEHAVIORAL HEALTH WAIVER. (a) Notwithstanding any limitations prescribed by Chapter 1428 (H.B. 1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), for the fiscal year ending August 31, 2009, to the extent that the NorthSTAR managed care organization is able to obtain cost savings associated with state-approved purchasing arrangements for the purchase of new generation medications under Department of State Health Services Strategy B.2.4, NorthSTAR Behavioral Health Waiver, NorthSTAR managed care organization may expend an equivalent amount from Strategy B.2.4, NorthSTAR Behavioral Health Waiver on direct services to clients.

(b) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$5,000,000 is appropriated out of the general revenue fund to the Department of State Health Services under Strategy B.2.4, NorthSTAR Behavioral Health Waiver to provide direct client services.

SECTION _____. APPROPRIATION FOR A SINGLE RETENTION PAYMENT FOR WORK PERFORMED BY STATE EMPLOYEES. (a) As used in this section, retention payment means a single employee compensation payment in the amount of eight hundred dollars (\$800) authorized to be paid to employees in August, 2009, by each agency of the State of Texas through the payroll system, to each

employee who was continuously employed by the agency from March 31, 2009 through August 1, 2009 for work performed by the state employees, but subject to the exclusions and limitations under this section.

(b) The Comptroller of Public Accounts is appropriated an amount estimated to be \$42,183,779 out of the General Revenue Fund, an amount estimated to be \$3,915,109 out of General Revenue-Dedicated, an amount estimated to be \$21,904,727 out of federal funds, and an amount estimated to be \$20,260,422 out of other funds and accounts, to fund a retention payment for work performed by the state employees as described in Subsection (a) of this section for employees of state agencies including employees of the Higher Education Coordinating Board and employees of a Texas A&M University System service agency.

(c) This section shall not apply to employees of institutions of higher education (except for employees of a service agency of The Texas A&M University System), statewide elected officials, justices and judges of the appellate and district courts, district attorneys, criminal district attorneys, county attorneys performing the duties of a district attorney, or line item exempt (non-classified) employees. Additionally, this section shall not apply to the following employees:

(1) At the Texas Department of Criminal Justice:

(A) Correctional Officer series; and Ranking Staff (including Sergeants, Lieutenants, Captains, Majors, Assistant Wardens, and Wardens) otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(B) Laundry Managers otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(C) Food Service Managers otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(D) Parole Officer series otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium; and

(E) Other unit staff otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(2) At the Texas Youth Commission:

(A) Juvenile Correctional Officers series otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium; and

(B) Other unit staff otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(3) Law Enforcement Employees classified under Schedule C under Part 2, Article IX of the General Appropriations Act for the 2010-11 Biennium otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(4) At the Parks and Wildlife Department, in the event the Comptroller certifies the additional revenue of \$11,328,892 from the Game, Fish and Water Safety Account No. 9, the employees provided pay raises from these amounts during the 2010-11 Biennium may not participate in the \$800 retention payment for classified employees provided by this Act.

(5) In the Judicial branch of state government:

(A) At the Supreme Court and the Court of Criminal Appeals:

(1) the staff attorneys;

- (2) law clerks; and
- (3) court administrative staff;
- (B) At the 14 Appellate Courts:

- (1) staff attorneys;
- (2) law clerks; and

(3) employees whom a Court of Appeals designates as receiving salary increases from the block grant appropriated for the 14 Courts of Appeals in the 2010-11 Biennium;

- (C) At the State Law Library, all positions; and

(D) At the State Commission on Judicial Conduct, the General Counsel and attorney staff;

(6) At all agencies, financial examiners otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium; and

(7) At all agencies, employees who earned amounts greater than \$100,000.00 per year calculated as may be prescribed by rules adopted by the Comptroller in order to achieve the legislative objective of excluding employees who earn salaries greater than either \$8,334.00 per month or \$100,000.00 per year from receiving the retention payment.

(d) For employees paid the retention payment authorized under this section, any increase in employee benefits costs associated with the retention payment as described above shall be paid exclusively from appropriations made above in Subsection (b) of this section except for county extension agents who may receive a retention payment solely from appropriations made from the general revenue fund.

(e) Provisions requiring salaries and benefits to be proportional to the source of funds shall apply to all sums allocated under this section for the payment of a retention payment as if the retention payment was a part of the employee's regular compensation, except as may otherwise be provided. Each agency shall pay the retention payment from funds held in the state treasury and from local funds in the same proportion as the employee's regular compensation.

(f) The Comptroller shall adopt rules as necessary to administer this section. Funds appropriated in this section shall be allocated to each agency, and to the appropriate employee benefit appropriation items, in accordance with such rules and may be used only for the purpose of providing a retention payment and paying associated employee benefit costs.

(g) This section does not authorize an increase of classified salary rates above the rates listed in the classified salary schedules A, B, and C (as applicable) under Part 2, Article IX of the General Appropriations Act for the 2010-11 Biennium. This section authorizes each agency to pay a retention payment to each eligible employee of that agency from funds appropriated by this Act.

(h) Agencies subject to a special provisions rider "Appropriations Limited to Revenue Collections" of the General Appropriations Act for the 2010-11 Biennium shall increase revenues as necessary to cover the increased retention payment amounts appropriated above. Revenues to general revenue and general revenue dedicated funds due to the retention payment increase described above are estimated to be at least \$3,400,000.

SECTION _____. DEPARTMENT OF PUBLIC SAFETY: APPROPRIATIONS FOR CERTAIN SALARIES. (a) Notwithstanding the Position Classification Plan, under Section 2.01, Article IX, Senate Bill 1, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), the Department of Public Safety is appropriated for the two year period beginning on the effective date of this Act the following amounts for the following purposes:

(1) \$3,369,476 out of general revenue dedicated fund 99 to fund the reclassification of positions for the police communications operators and supervisors at the Bureau of Law Enforcement Communications and Technology within the Department of Public Safety; and

(2) \$350,000 out of the general revenue dedicated fund 99 to fund the reclassification of positions for the forensic scientists in the Forensic Breath Laboratory Services within the Department of Public Safety.

(b) The State Classification Officer shall review and properly classify the positions affected by Subsection (a) of this section pursuant to authority provided under Chapter 654, Government Code.

SECTION _____. DEPARTMENT OF PUBLIC SAFETY: CERTAIN BORDER SECURITY FUNDS. (a) Notwithstanding amounts appropriated under Senate Bill 1, Acts of the 81st Legislature, Regular Session, 2009, (the General Appropriations Act), in the appropriation to the Department of Public Safety for the fiscal year ending August 31, 2010, the amount of general revenue dedicated account 99 appropriated to the Department of Public Safety under Strategy D.1.1., Emergency Preparedness, is reduced by \$5,500,000.

(b) Subsection (a), Rider 54, of the bill pattern of the Department of Public Safety, under Article V in Senate Bill 1, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), has no effect.

SECTION _____. TEXAS A&M INTERNATIONAL UNIVERSITY. OUTREACH AND ENROLLMENT. Texas A&M International University is appropriated \$1,000,000 out of the general revenue fund for the fiscal year ending August 31, 2010, and \$1,000,000 out of the general revenue fund for the period beginning on September 1, 2010, and ending on the second anniversary of the effective date of this Act for outreach, access, enrollment, advising, tutoring, and retention support.

SECTION _____. CONTINGENT APPROPRIATION FOR S.B. 2534. Contingent on the enactment of S.B. 2534 or similar legislation relating to the creation of an interagency task force on economic growth and endangered species by the 81st Legislature, Regular Session, 2009, \$250,000 is appropriated out of the general revenue fund for the fiscal year ending August 31, 2010, to the Texas A&M University System for the purpose of operating the Task Force on Economic Growth and Endangered Species.

SECTION _____. TEXAS PUBLIC FINANCE AUTHORITY: DEBT SERVICE. The Texas Public Finance Authority is appropriated \$3,200,000 from the general revenue fund for the two year period beginning on the effective date of this Act to pay debt service on general obligation bonds.

SECTION _____. CONTINGENCY APPROPRIATION FOR H.B. 1511. (a) Contingent on enactment by the 81st Legislature, Regular Session, 2009 and becoming law of House Bill 1511, House Bill 2860, or Senate Bill 1411, or similar legislation relating to financial assistance programs in connection with certain children in the conservatorship of the Department of Family and Protective Services, the Department of Family and Protective Services is appropriated \$2,250,638 out of the general revenue fund for the fiscal year ending August 31, 2010, and \$1,980,067 out of the general revenue fund for the period beginning on September 1, 2010, and ending on the second anniversary of the effective date of this Act, to implement the legislation.

(b) Also contingent on enactment by the 81st Legislature, Regular Session, 2009 and becoming law of House Bill 1511, House Bill 2860, or Senate Bill 1411, or similar legislation relating to financial assistance programs in connection with certain children in the conservatorship of the Department of Family and Protective Services, the Department of Family and Protective Services, in addition to the number of full-time equivalent employees (FTEs) the Department of Family and Protective Services is authorized by other law to employ during the state fiscal biennium ending August 31, 2011, is authorized to employ an additional 17.0 FTEs during that state fiscal biennium.

SECTION _____. CONTINGENCY APPROPRIATION FOR S.B. 2323. Contingent on enactment by the 81st Legislature, Regular Session, 2009 and becoming law of Senate Bill 2323 or similar legislation relating to the functions of the Texas School Safety Center, Texas State University-San Marcos is appropriated out of the general revenue fund for Strategy C.1.3, School Safety Center, the amounts of \$308,612 in the fiscal year ending August 31, 2010, and \$308,612 for the period beginning on September 1, 2010 and ending on the second anniversary of the effective date of this Act and is authorized to employ an additional four FTEs in each year of the biennium to implement provisions of the legislation.

SECTION _____. CONTINGENCY APPROPRIATION FOR H.B. 1684. Contingent upon the enactment by the 81st Legislature, Regular Session, 2009, and becoming law of H.B. 1684 or similar legislation relating to the creation and administration of the rural veterinarian loan repayment program, the Office of Rural Community Affairs is appropriated \$500,000 out of the general revenue fund for the two year period beginning on the effective date of this Act to implement provisions of the legislation.

SECTION _____. CONTINGENCY APPROPRIATION FOR S.B. 174. Contingent upon the enactment by the 81st Legislature, Regular Session, 2009, and becoming law of S.B. 174 or similar legislation relating to educator preparation programs, the Texas Education Agency is appropriated \$275,000 in State Board for Educator Certification fees for the two year period beginning on the effective date of this Act to implement provisions of the legislation. The Texas Education Agency may employ an additional two Full-Time Equivalents in each fiscal year during the fiscal biennium ending August 31, 2011.

SECTION _____. UNIVERSITY OF TEXAS AT TYLER: PALESTINE CAMPUS. The University of Texas at Tyler is appropriated \$1,300,000 out of the general revenue fund for the two year period beginning on the effective date of this Act for faculty salaries and facility operations at the Palestine campus.

SECTION _____. OFFICE OF THE GOVERNOR: RIDER 4. Rider 4 of the bill pattern of the Office of the Governor in Senate Bill 1, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), has no effect.

SECTION _____. CONTINGENCY APPROPRIATION FOR S.B. 1362. Contingent upon the enactment by the 81st Legislature, Regular Session, 2009 and becoming law of Senate Bill 1362 or similar legislation relating to a Texas Youth Commission comprehensive plan to improve student reading skills and behavior, the Texas Education Agency is appropriated \$375,000 out of the general revenue fund for each fiscal year of the biennium beginning September 1, 2009. On a determination by the commissioner of education that the Texas Youth Commission has developed a comprehensive plan based on research that will improve the reading skills and behavior of students served by the commission, the commissioner of education shall transfer the funds to the Texas Youth Commission for use in implementing the comprehensive plan.

SECTION _____. CONTINGENCY APPROPRIATION FOR S.B. 1313. Contingent on enactment by the 81st Legislature, Regular Session, 2009, and becoming law of Senate Bill 1313 or similar legislation relating to the quality and accessibility of public school career and technical training programs and to assistance to students concerning postsecondary education and training, the Texas Education Agency is appropriated \$1,350,000 for the state fiscal year ending August 31, 2011, out of the general revenue fund for industry certification examinations to non-economically disadvantaged students, \$540,000 in fiscal year 2011 out of the general revenue fund for the State Board Education to conduct a course review, and \$100,000 in fiscal year 2011 out of the general revenue fund to expand the Best Practices Clearinghouse to include career and technology education. The Texas Workforce Commission is appropriated \$100,000 for the state fiscal year ending August 31, 2011, out of the general revenue fund to develop a list of high-demand, high-wage, high-skill occupations that require licensure, certification, an associate degree, or a bachelor's degree. The Higher Education Coordinating Board is appropriated out of the general revenue fund the amount of \$2,290,000 for the state fiscal year ending August 31, 2011, for training and materials dealing with the "College for Texans" program and the amount of \$100,000 for the state fiscal year ending August 31, 2011, to conduct an economic impact study to determine the economic impact to the state of secondary and post-secondary training and education. The "Number of Full-Time Equivalents" in the Higher Education Coordinating Board bill pattern is increased by two FTEs in the state fiscal year ending August 31, 2011.

The amendment to **CSHB 4586** was read and was adopted by a viva voce vote.

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

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

CSHB 4586 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 4586 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4586** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3689 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3689** at this time on its second reading:

CSHB 3689, Relating to the functions and continuation of the Texas Youth Commission and the Texas Juvenile Probation Commission and to the functions of the Office of Independent Ombudsman for the Texas Youth Commission.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3689** (Senate committee printing) as follows:

(1) In the recital to SECTION 3.012 of the bill (page 12, line 7), strike "Sections 141.057 and 141.058" and substitute "Sections 141.057, 141.058, and 141.059".

(2) In SECTION 3.012 of the bill (page 12, between lines 30 and 31), insert:

Sec. 141.059. RESIDENTIAL TREATMENT FACILITY. (a) The commission may contract with a local mental health and mental retardation authority that, on April 1, 2009, had an unutilized or underutilized residential treatment facility, for the establishment of a residential treatment facility for juveniles with mental illness or emotional injury who, as a condition of juvenile probation, are ordered by a court to reside at the facility and receive education services at the facility. The commission may work in cooperation with the local mental health and mental retardation authority to provide mental health residential treatment services for juveniles residing at a facility established under this section.

(b) A residential treatment facility established under this section must provide juveniles receiving treatment at the facility:

(1) a short-term program of mental health stabilization that does not exceed 150 days in duration; and

(2) all educational opportunities and services, including special education instruction and related services, that a school district is required under state or federal law to provide for students residing in the district through a charter school operated in accordance with and subject to Subchapter D, Chapter 12, Education Code.

(c) If a residential treatment facility established under this section is unable to provide adequate and sufficient educational opportunities and services to juveniles residing at the facility, the facility may not continue to operate beyond the end of the school year in which the opportunities or services provided by the facility are determined to be inadequate or insufficient.

(d) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the State Board of Education shall grant a charter on the application of a residential treatment facility established under this section for a school chartered for the purposes of this section.

(3) Add the following appropriately numbered SECTION to ARTICLE 4 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 4.____. Section 29.012, Education Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to a residential treatment facility for juveniles established under Section 141.059, Human Resources Code.

(4) Add the following appropriately numbered SECTION to ARTICLE 5 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 5.____. Section 141.059, Human Resources Code, as added by this Act, and Section 29.012, Education Code, as amended by this Act, apply beginning with the 2009-2010 school year.

The amendment to **CSHB 3689** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3689** (Senate committee printing), in ARTICLE 3 of the bill, by striking SECTION 3.001 of the bill (page 6, lines 47 through 61) and substituting the following:

SECTION 3.001. Section 141.011(a), Human Resources Code, is amended to read as follows:

(a) The commission consists of:

(1) two district court judges who sit as juvenile court judges;

(2) one county judge or commissioner ~~two county judges or commissioners~~; ~~and~~

(3) one chief juvenile probation officer of a juvenile probation department that serves a county with a small population;

(4) one chief juvenile probation officer of a juvenile probation department that serves a county with a medium population;

(5) one chief juvenile probation officer of a juvenile probation department that serves a county with a large population;

(6) one mental health treatment professional licensed under Subtitle B or I, Title 3, Occupations Code;

(7) one educator, as that term is defined by Section 5.001, Education Code;
and

(8) one member ~~[five members]~~ of the public who is ~~[are]~~ not an employee ~~[employees]~~ in the criminal or juvenile justice system and is recognized in the community for the person's interest in youth.

The amendment to **CSHB 3689** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3689** (Senate committee printing), in ARTICLE 1 of the bill, by adding the following appropriately numbered SECTION to that ARTICLE and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 1. _____. Sections 61.0451(a) and (i), Human Resources Code, are amended to read as follows:

(a) The office of inspector general is established at the commission for the purpose of investigating:

(1) crimes committed by commission employees, including parole officers employed by or under a contract with the commission; and

(2) crimes and delinquent conduct committed at a facility operated by the commission, ~~[or at]~~ a residential facility operated by another entity under a contract with the commission, or any facility in which a child committed to the custody of the commission is housed or receives medical or mental health treatment.

(i) The office of inspector general shall immediately report to the executive director ~~[commissioner]~~, the ~~[advisory]~~ board, the governor's general counsel, and the state auditor:

(1) any particularly serious or flagrant problem concerning the administration of a commission program or operation; or

(2) any interference by the executive director, ~~[commissioner or]~~ an employee of the commission, a facility described by Subsection (a)(2), or an officer or employee of a facility described by Subsection (a)(2) with an investigation conducted by the office.

The amendment to **CSHB 3689** was read and was adopted by a viva voce vote.

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

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3689** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter E, Chapter 30, Education Code, is amended by adding Section 30.106 to read as follows:

Sec. 30.106. READING AND BEHAVIOR PLAN. (a) Because learning and behavior are inextricably linked and learning and improved behavior correlate with decreased recidivism rates, the Texas Youth Commission shall not only fulfill the

commission's duties under state and federal law to provide general and special educational services to students in commission educational programs but also shall implement a comprehensive plan to improve the reading skills and behavior of those students.

(b) To improve the reading skills of students in Texas Youth Commission educational programs, the commission shall:

(1) adopt a reliable battery of reading assessments that:

(A) are based on a normative sample appropriate to students in commission educational programs;

(B) are designed to be administered on an individual basis; and

(C) allow school employees to:

(i) evaluate performance in each essential component of effective reading instruction, including phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(ii) monitor progress in areas of deficiency specific to an individual student; and

(iii) provide reading performance data;

(2) administer the assessments adopted under Subdivision (1):

(A) at periodic intervals not to exceed 12 months, to each student in a commission educational program; and

(B) at least 15 days and not more than 30 days before a student is released from the commission;

(3) provide at least 60 minutes per school day of individualized reading instruction to each student in a commission educational program who exhibits deficits in reading on the assessments adopted under Subdivision (1):

(A) by trained educators with expertise in teaching reading to struggling adolescent readers; and

(B) through the use of scientifically based, peer-reviewed reading curricula that:

(i) have proven effective in improving the reading performance of struggling adolescent readers;

(ii) address individualized and differentiated reading goals; and

(iii) include each of the essential components of effective reading instruction, including phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(4) require each teacher in a commission regular or special educational program who teaches English language arts, reading, mathematics, science, social studies, or career and technology education to be trained in incorporating content area reading instruction using empirically validated instructional methods that are appropriate for struggling adolescent readers; and

(5) evaluate the effectiveness of the commission's plan to increase reading skills according to the following criteria:

(A) an adequate rate of improvement in reading performance, as measured by monthly progress monitoring using curricular-based assessments in each of the essential components of effective reading instruction, including phonemic awareness, phonics, fluency, vocabulary, and comprehension;

(B) a significant annual rate of improvement in reading performance, disaggregated by subgroups designated under commission rule, as measured using the battery of reading assessments adopted under Subdivision (1); and

(C) student ratings of the quality and impact of the reading plan under this subsection, as measured on a student self-reporting instrument.

(c) To increase the positive social behaviors of students in Texas Youth Commission educational programs and to create an educational environment that facilitates learning, the commission shall:

(1) adopt system-wide classroom and individual positive behavior supports that incorporate a continuum of prevention and intervention strategies that:

(A) are based on current behavioral research; and

(B) are systematically and individually applied to students consistent with the demonstrated level of need;

(2) require each teacher and other educational staff member in a commission educational program to be trained in implementing the positive behavior support system adopted under Subdivision (1); and

(3) adopt valid assessment techniques to evaluate the effectiveness of the positive behavior support system according to the following criteria:

(A) documentation of school-related disciplinary referrals, disaggregated by the type, location, and time of infraction and by subgroups designated under commission rule;

(B) documentation of school-related disciplinary actions, including time-out, placement in security, and use of restraints and other aversive control measures, disaggregated by subgroups designated under commission rule;

(C) validated measurement of systemic positive behavioral support interventions; and

(D) the number of minutes students are out of the regular classroom because of disciplinary reasons.

(d) The Texas Youth Commission shall consult with faculty from institutions of higher education who have expertise in reading instruction for adolescents, in juvenile corrections, and in positive behavior supports to develop and implement the plan under Subsections (b) and (c).

(e) A student in a Texas Youth Commission educational program may not be released on parole from the commission unless the student participates, to the extent required by commission rule, in the positive behavior support system under Subsection (c). A student in a commission educational program who exhibits deficits in reading on the assessments adopted under Subsection (b)(1) must also participate in reading instruction to the extent required by this section and by commission rule before the student may be released on parole.

(f) Not later than December 1, 2010, the Texas Youth Commission shall report to the legislature concerning:

(1) the effectiveness of the commission's reading plan based on the criteria specified by Subsection (b)(5); and

(2) the implementation of the positive behavior support system plan under Subsection (c).

(g) Not later than December 1, 2012, the Texas Youth Commission shall report to the legislature concerning the effectiveness of the positive behavior support system based on the criteria specified by Subsection (c)(3).

(h) Subsections (f) and (g) and this subsection expire January 1, 2013.

SECTION _____. (a) Not later than November 1, 2009, the Texas Youth Commission shall adopt the battery of reading assessments as required by Subsection (b), Section 30.106, Education Code, as added by this Act.

(b) Not later than January 1, 2010, the Texas Youth Commission shall begin administering the battery of reading assessments as required by Subsection (b), Section 30.106, Education Code, as added by this Act.

SECTION _____. Subsection (e), Section 30.106, Education Code, as added by this Act, applies to release on parole from the Texas Youth Commission beginning September 1, 2010.

The amendment to **CSHB 3689** was read and was adopted by a viva voce vote.

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

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

CSHB 3689 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3689 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3689** be placed on its third reading and final passage.

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

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

(President in Chair)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 27, 2009

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 42, Relating to the eligibility of certain employees, postdoctoral fellows, and graduate students to participate in health benefit programs at public institutions of higher education.

(Committee Substitute)

SB 313, Relating to the term of a reinvestment zone and to the assessment and payment of tax increments under the Tax Increment Financing Act.

(Amended)

SB 361, Relating to the requirement that certain water service providers ensure emergency operations during an extended power outage.

(Committee Substitute/Amended)

SB 504, Relating to the use of land on the main campus of Texas A&M University in College Station.

SB 654, Relating to continued health coverage for employees of certain political subdivisions.

(Amended)

SB 679, Relating to the administration of certain housing funds by the Texas Department of Housing and Community Affairs.

(Amended)

SB 882, Relating to the powers and duties of a regional tollway authority.

(Committee Substitute)

SB 958, Relating to an exemption from the sales and use tax for machinery and equipment used in an agricultural aircraft operation.

(Amended)

SB 1143, Relating to requirements regarding employer liability for certain group health benefit plan premiums.

(Amended)

SB 1145, Relating to protocol for folding the state flag.

(Amended)

SB 1209, Relating to the Middle Trinity Groundwater Conservation District.

SB 1299, Relating to the regulation of stormwater management by certain counties.

SB 1374, Relating to annual reports by the Texas Juvenile Probation Commission on the operations and conditions of probation services in this state.

(Committee Substitute)

SB 1478, Relating to the authority of hospital districts to lease undeveloped real property.

SB 1612, Relating to the provision of information by health and human services agencies to assist children with velocardiofacial syndrome.

(Committee Substitute)

SB 1633, Relating to certain restrictions on the composition of a tax increment financing reinvestment zone.

SB 1777, Relating to disbursement of child support payments in Title IV-D cases.

SB 1782, Relating to the deferral by a licensed distributor or importer of payment of gasoline and diesel fuel taxes and credits authorized for certain of those deferrals.

SB 1812, Relating to notice to a life insurer of an adverse claim to policy proceeds by a person with a bona fide legal claim.

(Committee Substitute)

SB 1813, Relating to the exception from required public disclosure of certain appraisal district records.

SB 1844, Relating to revenue received from the provision of pay telephone service to inmates confined in facilities operated by the Texas Department of Criminal Justice.

(Amended)

SB 1903, Relating to creating a recognition day in honor of Vietnam veterans.

SB 1948, Relating to a study regarding a supervised reentry program for certain inmates nearing their date of discharge from the Texas Department of Criminal Justice.

(Committee Substitute)

SB 1967, Relating to the safe operation of motorcycles and other vehicles in this state; providing penalties.

(Amended)

SB 1982, Relating to the licensing and regulation of pool-related electrical maintenance.

SB 2028, Relating to privately funded memorials honoring certain peace officers killed in the line of duty.

SB 2041, Relating to requiring an applicant for a driver's license to demonstrate knowledge of motorists' rights and responsibilities in relation to bicyclists.

SB 2067, Relating to access to precinct conventions by the elderly and persons with physical disabilities.

SB 2073, Relating to eligibility to hold the office of notary public.

SB 2169, Relating to the establishment of a smart growth policy work group and the development of a smart growth policy for this state.

(Amended)

SB 2178, Relating to the establishment by the commissioner of education of a computer lending pilot program for public schools.

SB 2244, Relating to the eligibility of employees of certain businesses or organizations established as part of the state's economic development program and of dependents of those employees to pay resident tuition at public institutions of higher education.

SB 2344, Relating to examination requirements in certain guardianship matters concerning persons with mental retardation.

SB 2442, Relating to the exemption from ad valorem taxation of property owned by certain charitable organizations.

(Amended)

SB 2453, Relating to the East Montgomery County Improvement District.

(Committee Substitute)

SB 2454, Relating to preferences of certain district courts in Tarrant County.

SB 2456, Relating to the creation of the Brush Country Groundwater Conservation District; providing authority to impose a tax and issue bonds.

(Amended)

SB 2467, Relating to the creation of Waller Town Center Management District; providing authority to impose an assessment, impose a tax, and issue bonds; and granting a limited power of eminent domain.

SB 2485, Relating to the creation of the Montgomery County Municipal Utility District No. 118; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

SB 2495, Relating to eligibility requirements to serve as a member of the board of directors of the Bee Groundwater Conservation District.

SB 2501, Relating to the creation of the North Oak Cliff Municipal Management District; providing the authority to impose an assessment, impose a tax, and issue bonds.

SB 2510, Relating to the creation of the Harris County Improvement District No. 18; providing authority to impose an assessment, impose a tax, and issue bonds.

SB 2511, Relating to the creation of Chambers County Improvement District No. 2; providing authority to levy an assessment, impose a tax, and issue bonds; granting a limited power of eminent domain.

SB 2518, Relating to the creation of the Somerset Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

SB 2522, Relating to the board of directors of the Greater East End Management District.

SB 2526, Relating to the creation of the Travis County Improvement District No. 1; providing authority to impose an assessment, impose a tax, and issue bonds.

(Committee Substitute)

SB 2552, Relating to the powers and duties of Harris County Improvement District No. 1; providing authority to impose a tax and issue bonds.

SB 2558, Relating to the promotion and marketing of alcoholic beverages.

SB 2580, Relating to actions under the Beer Industry Fair Dealing Law.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
HOUSE BILL 2086 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2086** at this time on its second reading:

CSHB 2086, Relating to the prosecution and punishment of the offense of engaging in organized criminal activity.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2086** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (e), Section 15.031, Penal Code, is amended to read as follows:

(e) An offense under this section is one category lower than the solicited offense, except that an offense under this section is the same category as the solicited offense if it is shown on the trial of the offense that the actor:

(1) was at the time of the offense 17 years of age or older and a member of a criminal street gang, as defined by Section 71.01; and

(2) committed the offense with the intent to:

(A) further the criminal activities of the criminal street gang; or

(B) avoid detection as a member of a criminal street gang.

SECTION _____. Subsection (a), Section 22.015, Penal Code, is amended by adding Subdivision (3) to read as follows:

(3) "Family" has the meaning assigned by Section 71.003, Family Code.

SECTION _____. Subsection (b), Section 22.015, Penal Code, is amended to read as follows:

(b) A person commits an offense if, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang, the person:

(1) threatens the child or a member of the child's family with imminent bodily injury; or

(2) causes bodily injury to the child or a member of the child's family.

SECTION _____. Chapter 33, Penal Code, is amended by adding Section 33.06 to read as follows:

Sec. 33.06. ONLINE HARASSMENT TO FURTHER INTERESTS OF CRIMINAL STREET GANG. (a) In this section:

(1) "Commercial social networking site" means any business, organization, or other similar entity operating a website that permits persons to become registered users for the purpose of establishing personal relationships with other users through direct or real-time communication with other users or the creation of web pages or profiles available to the public or to other users. The term does not include an electronic mail program.

(2) "Criminal street gang" has the meaning assigned by Section 71.01.

(3) "Electronic communication" means the transmission of a sign, signal, writing, image, sound, text, or other data through the use of an electronic device, including a telephone, cellular telephone, text messaging device, personal data assistant, computer, or wireless communications device.

(b) A person commits an offense if the person sends an electronic communication or posts a message on an electronic message board or commercial social networking site with the intent to:

(1) abuse, intimidate, harass, alarm, or threaten another person; and

(2) benefit, promote, or further the interests of a criminal street gang.

(c) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted of an offense under this section.

SECTION _____. Subsection (a), Section 71.02, Penal Code, is amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person ~~he~~ commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

(8) any felony offense under Chapter 32;

(9) any offense under Chapter 36;

(10) any offense under Chapter 34 or 35;

(11) any offense under Section 37.11(a);

(12) any offense under Chapter 20A; ~~or~~

(13) any offense under Section 37.10;

(14) any offense under Section 28.08; or

(15) any offense under Section 46.06(a)(1) or 46.14.

SECTION _____. Chapter 71, Penal Code, is amended by adding Sections 71.023, 71.028, and 71.029 to read as follows:

Sec. 71.023. DIRECTING ACTIVITIES OF CERTAIN CRIMINAL STREET GANGS. (a) A person commits an offense if the person knowingly initiates, organizes, plans, finances, directs, manages, or supervises a criminal street gang or members of a criminal street gang with the intent to benefit, promote, or further the interests of the criminal street gang or to increase the person's standing, position, or status in the criminal street gang.

(b) An offense under this section is a felony of the first degree.

(c) Notwithstanding Section 71.01, in this section, "criminal street gang" means:

(1) an organization that:

(A) has more than 10 members whose names are included in an intelligence database under Chapter 61, Code of Criminal Procedure;

(B) has a hierarchical structure that has been documented in an intelligence database under Chapter 61, Code of Criminal Procedure;

(C) engages in profit-sharing among two or more members of the organization; and

(D) in one or more regions of this state served by different regional councils of government, continuously or regularly engages in conduct:

(i) that constitutes an offense listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;

(ii) in which it is alleged that a deadly weapon is used or exhibited during the commission of or immediate flight from the commission of any felony offense; or

(iii) that is punishable as a felony of the first or second degree under Chapter 481, Health and Safety Code; or

(2) an organization that, in collaboration with an organization described by Subdivision (1), engages in conduct or commits an offense or conspires to engage in conduct or commit an offense described by Subdivision (1)(D).

Sec. 71.028. GANG-FREE ZONES. (a) In this section:

(1) "Institution of higher education," "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

(2) "Shopping mall" means an enclosed public walkway or hall area that connects retail, service, or professional establishments.

(b) Except as provided by Subsection (c), the punishment prescribed for an offense under Section 71.02 is increased to the punishment prescribed for the next highest category of offense if the actor is 17 years of age or older and it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense at a location that was:

(1) in, on, or within 1,000 feet of any:

(A) real property that is owned, rented, or leased by a school or school board;

(B) premises owned, rented, or leased by an institution of higher education;

(C) shopping mall;

(D) movie theater;

(E) premises of a public or private youth center; or

(F) playground;

(2) in, on, or within 300 feet of the premises of a public swimming pool or video arcade facility; or

(3) on a school bus.

(c) The punishment prescribed for an offense under Section 71.02 may not be increased under this section if the offense is punishable under Section 71.02 as a felony of the first degree.

Sec. 71.029. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In a prosecution of an offense for which punishment is increased under Section 71.028, a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of gang-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those zones if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those zones.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the zone is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 71.028; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Evidence.

SECTION _____. Subchapter D, Chapter 37, Education Code, is amended by adding Section 37.110 to read as follows:

Sec. 37.110. INFORMATION REGARDING GANG-FREE ZONES. The superintendent of each public school district and the administrator of each private elementary or secondary school located in the public school district shall ensure that the student handbook for each campus in the public school district includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SECTION _____. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.973 to read as follows:

Sec. 51.973. INFORMATION REGARDING GANG-FREE ZONES. The governing board of each institution of higher education shall ensure that any student handbook or similar publication for the institution includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SECTION _____. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.064 to read as follows:

Sec. 42.064. INFORMATION REGARDING GANG-FREE ZONES. Each day-care center shall, in accordance with rules adopted by the executive commissioner, distribute to parents and guardians of children who attend the center information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SECTION _____. Section 37.110, Education Code, as added by this Act, applies beginning with the public school district's 2009-2010 school year.

SECTION _____. Section 51.973, Education Code, as added by this Act, applies beginning with the 2009 fall semester.

SECTION _____. Subsection (e), Section 15.031, Subsection (b), Section 22.015, and Subsection (a), Section 71.02, Penal Code, as amended by this Act, and Section 71.028, Penal Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. Subchapter D, Chapter 125, Civil Practice and Remedies Code, is amended by adding Section 125.070 to read as follows:

Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION. (a) In this section, "governmental entity" means a political subdivision of this state, including any city, county, school district, junior college district, levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, and river authority.

(b) A criminal street gang or a member of a criminal street gang is liable to the state or a governmental entity injured by the violation of a temporary or permanent injunctive order under this subchapter.

(c) In an action brought against a member of a criminal street gang, the plaintiff must show that the member violated the temporary or permanent injunctive order.

(d) A district, county, or city attorney or the attorney general may sue for money damages on behalf of the state or a governmental entity. If the state or a governmental entity prevails in a suit under this section, the state or governmental entity may recover:

(1) actual damages;

(2) a civil penalty in an amount not to exceed \$20,000 for each violation;

and

(3) court costs and attorney's fees.

(e) The property of the criminal street gang or a member of the street gang may be seized in execution on a judgment under this section.

(f) The attorney general shall deposit money received under this section for damages or as a civil penalty in the neighborhood and community recovery fund held by the attorney general outside the state treasury. Money in the fund is held by the attorney general in trust for the benefit of the community or neighborhood harmed by the violation of a temporary or permanent injunctive order. Money in the fund may be

used only for the benefit of the community or neighborhood harmed by the violation of the injunctive order. Interest earned on money in the fund shall be credited to the fund. The attorney general shall account for money in the fund so that money held for the benefit of a community or neighborhood, and interest earned on that money, are not commingled with money in the fund held for the benefit of a different community or neighborhood.

(g) A district, county, or city attorney who brings suit on behalf of a governmental entity shall deposit money received for damages or as a civil penalty in an account to be held in trust for the benefit of the community or neighborhood harmed by the violation of a temporary or permanent injunctive order. Money in the account may be used only for the benefit of the community or neighborhood harmed by the violation of the injunctive order. Interest earned on money in the account shall be credited to the account. The district, county, or city attorney shall account for money in the account so that money held for the benefit of a community or neighborhood, and interest earned on that money, are not commingled with money in the account held for the benefit of a different community or neighborhood.

(h) An action under this section brought by the state or a governmental entity does not waive sovereign or governmental immunity for any purpose.

SECTION _____. Subdivision (2), Article 59.01, Code of Criminal Procedure, as amended by Chapters 127 (S.B. 1694), 822 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

(iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 152, Finance Code;

(vii) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;

(viii) a Class B misdemeanor under Chapter 522, Business & Commerce Code; ~~[or]~~

(ix) a Class A misdemeanor under Section 35.153, Business & Commerce Code;

(x) any offense under Chapter 71, Penal Code; or

(xi) any offense under Section 46.06(a)(1) or 46.14, Penal Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii), (x), or (xi) of this subdivision, or a crime of violence;

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii), (x), or (xi) of this subdivision, or a crime of violence; or

(E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25, Penal Code.

SECTION _____. Chapter 59, Code of Criminal Procedure, is amended by adding Article 59.011 to read as follows:

Art. 59.011. ELECTION OF FORFEITURE PROCEEDING. If property described by Article 59.01(2)(B)(x) or (xi) is subject to forfeiture under this chapter and Article 18.18, the attorney representing the state may proceed under either this chapter or that article.

SECTION _____. Section 125.070, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. Subdivision (2), Article 59.01, Code of Criminal Procedure, as amended by this Act, and Article 59.011, Code of Criminal Procedure, as added by this Act, apply only to the forfeiture of property used in the commission of an offense committed on or after the effective date of this Act. Forfeiture of property used in the commission of an offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. Article 42.01, Code of Criminal Procedure, is amended by adding Section 9 to read as follows:

Sec. 9. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0197.

SECTION _____. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0197 to read as follows:

Art. 42.0197. FINDING REGARDING GANG-RELATED CONDUCT. In the trial of an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the applicable conduct was engaged in as part of the activities of a criminal street gang as defined by Section 71.01, Penal Code.

SECTION _____. Subsection (a), Section 11, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision and may, at any time[;] during the period of community supervision, alter or modify the conditions. The judge may impose any reasonable condition that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. Conditions of community supervision may include, but shall not be limited to, the conditions that the defendant shall:

(1) Commit no offense against the laws of this State or of any other State or of the United States;

(2) Avoid injurious or vicious habits;

(3) Avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang;

(4) Report to the supervision officer as directed by the judge or supervision officer and obey all rules and regulations of the community supervision and corrections department;

(5) Permit the supervision officer to visit the defendant at the defendant's home or elsewhere;

(6) Work faithfully at suitable employment as far as possible;

(7) Remain within a specified place;

(8) Pay the defendant's fine, if one is is ~~[be]~~ assessed, and all court costs whether a fine is is ~~[be]~~ assessed or not, in one or several sums;

(9) Support the defendant's dependents;

(10) Participate, for a time specified by the judge, in any community-based program, including a community-service work program under Section 16 of this article;

(11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending the defendant in the case, if counsel was appointed, or if the defendant was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;

(12) Remain under custodial supervision in a community corrections facility, obey all rules and regulations of the ~~[such]~~ facility, and pay a percentage of the defendant's income to the facility for room and board;

(13) Pay a percentage of the defendant's income to the defendant's dependents for their support while under custodial supervision in a community corrections facility;

(14) Submit to testing for alcohol or controlled substances;

(15) Attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Texas Commission on Alcohol and Drug Abuse;

(16) With the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;

(17) Submit to electronic monitoring;

(18) Reimburse the compensation to victims of crime fund for any amounts paid from that fund to or on behalf of a victim, as defined by Article 56.32, of the defendant's offense or if no reimbursement is required, make one payment to the compensation to victims of crime fund in an amount not to exceed \$50 if the offense is a misdemeanor or not to exceed \$100 if the offense is a felony;

(19) Reimburse a law enforcement agency for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

(20) Pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense;

(21) Make one payment in an amount not to exceed \$50 to a crime stoppers organization as defined by Section 414.001, Government Code, and as certified by the Crime Stoppers Advisory Council;

(22) Submit a DNA sample to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant;

(23) In any manner required by the judge, provide public notice of the offense for which the defendant was placed on community supervision in the county in which the offense was committed; and

(24) Reimburse the county in which the prosecution was instituted for compensation paid to any interpreter in the case.

SECTION _____. Article 42.12, Code of Criminal Procedure, is amended by adding Section 13E to read as follows:

Sec. 13E. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF CRIMINAL STREET GANG WHO ARE PLACED ON COMMUNITY SUPERVISION. (a) This section applies only to a defendant who:

(1) is identified as a member of a criminal street gang in an intelligence database established under Chapter 61; and

(2) has two or more times been previously convicted of, or received a grant of deferred adjudication community supervision or another functionally equivalent form of community supervision or probation for, a felony offense under the laws of this state, another state, or the United States.

(b) A court granting community supervision to a defendant described by Subsection (a) may, on the defendant's conviction of a felony offense, require as a condition of community supervision that the defendant submit to tracking under an electronic monitoring service or other appropriate technological service designed to track a person's location.

SECTION _____. Chapter 54, Family Code, is amended by adding Section 54.0491 to read as follows:

Sec. 54.0491. GANG-RELATED CONDUCT. (a) In this section:

(1) "Criminal street gang" has the meaning assigned by Section 71.01, Penal Code.

(2) "Gang-related conduct" means conduct that violates a penal law of the grade of Class B misdemeanor or higher and in which a child engages with the intent to:

(A) further the criminal activities of a criminal street gang of which the child is a member;

(B) gain membership in a criminal street gang; or

(C) avoid detection as a member of a criminal street gang.

(b) A juvenile court, in a disposition hearing under Section 54.04 regarding a child who has been adjudicated to have engaged in delinquent conduct that is also gang-related conduct, shall order the child to participate in a criminal street gang intervention program that is appropriate for the child based on the child's level of involvement in the criminal activities of a criminal street gang. The intervention program:

(1) must include at least 12 hours of instruction; and

(2) may include voluntary tattoo removal.

(c) If a child required to attend a criminal street gang intervention program is committed to the Texas Youth Commission as a result of the gang-related conduct, the child must complete the intervention program before being discharged from the custody of or released under supervision by the commission.

SECTION _____. Subchapter G, Chapter 508, Government Code, is amended by adding Section 508.227 to read as follows:

Sec. 508.227. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF CRIMINAL STREET GANG. (a) This section applies only to a releasee who:

(1) is identified as a member of a criminal street gang in an intelligence database established under Chapter 61, Code of Criminal Procedure; and

(2) has three or more times been convicted of, or received a grant of deferred adjudication community supervision or another functionally equivalent form of community supervision or probation for, a felony offense under the laws of this state, another state, or the United States.

(b) A parole panel may require as a condition of release on parole or to mandatory supervision that a releasee described by Subsection (a) submit to tracking under an electronic monitoring service or other appropriate technological service designed to track a person's location.

SECTION _____. Section 3.03, Penal Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

(1) an offense:

(A) under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(2) an offense:

(A) under Section 33.021 or an offense under Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section; ~~or~~

(3) an offense:

(A) under Section 21.15 or 43.26, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections; or

(4) an offense for which the judgment in the case contains an affirmative finding under Article 42.0197, Code of Criminal Procedure.

(b-1) Subsection (b)(4) does not apply to a defendant whose case was transferred to the court under Section 54.02, Family Code.

SECTION _____. Section 9, Article 42.01, Code of Criminal Procedure, and Article 42.0197, Code of Criminal Procedure, as added by this Act, apply only to a judgment of conviction entered on or after the effective date of this Act.

SECTION _____. Subsection (a), Section 11, Article 42.12, Code of Criminal Procedure, as amended by this Act, and Section 13E, Article 42.12, Code of Criminal Procedure, as added by this Act, apply only to a person who is placed on community supervision for an offense committed on or after the effective date of this Act. A person who is placed on community supervision for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. Section 54.0491, Family Code, as added by this Act, applies only to conduct that violates a penal law of this state and that occurs on or after the effective date of this Act. Conduct that violates a penal law of this state and that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if each element of the violation occurred before that date.

SECTION _____. Section 508.227, Government Code, as added by this Act, applies only to a person released on parole or to mandatory supervision for an offense committed on or after the effective date of this Act. A person released on parole or to mandatory supervision for an offense committed before the effective date of this Act

is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. Subsection (b), Section 3.03, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. Subchapter C, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.067 to read as follows:

Sec. 101.067. GRAFFITI REMOVAL. This chapter does not apply to a claim for property damage caused by the removal of graffiti under Section 250.006, Local Government Code.

SECTION _____. Subsections (a) and (c), Article 102.0171, Code of Criminal Procedure, are amended to read as follows:

(a) A defendant convicted of an offense under Section 28.08, Penal Code, in a county court, county court at law, or district court shall pay a ~~[\$50]~~ juvenile delinquency prevention and graffiti eradication fee as a cost of court. The amount of the fee under this section must be not less than \$50 or more than \$500. In setting the amount of the fee, the court shall increase the fee based on the amount of pecuniary loss in the case and the number of times the defendant has been previously convicted of an offense under Section 28.08, Penal Code.

(c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county juvenile delinquency prevention fund. A fund designated by this subsection may be used only to:

(1) repair damage caused by the commission of offenses under Section 28.08, Penal Code;

(2) provide educational and intervention programs and materials, including printed educational materials for distribution to primary and secondary school students, designed to prevent individuals from committing offenses under Section 28.08, Penal Code;

(3) provide to the public rewards for identifying and aiding in the apprehension and prosecution of offenders who commit offenses under Section 28.08, Penal Code;

(4) provide funding for teen recognition and teen recreation programs;

(5) provide funding for local teen court programs;

(6) provide funding for the local juvenile probation department; ~~and~~

(7) provide educational and intervention programs designed to prevent juveniles from engaging in delinquent conduct; and

(8) provide funding for community art programs.

SECTION _____. Subsection (a), Section 54.0461, Family Code, is amended to read as follows:

(a) If a child is adjudicated as having engaged in delinquent conduct that violates Section 28.08, Penal Code, the juvenile court shall order the child, parent, or other person responsible for the child's support to pay to the court a ~~[\$50]~~ juvenile delinquency prevention fee as a cost of court. The amount of the fee under this section must be not less than \$50 or more than \$500. In setting the amount of the fee, the court shall increase the fee based on the amount of pecuniary loss resulting from the conduct and the number of times the child has been previously adjudicated as having engaged in delinquent conduct violating Section 28.08, Penal Code.

SECTION _____. Section 102.041, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 102.041. ADDITIONAL COURT COSTS ON CONVICTION IN DISTRICT COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a district court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a felony offense (Art. 102.017, Code of Criminal Procedure) . . . \$5;
- (5) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3; and
- (6) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . not less than \$50 or more than \$500 ~~[\$5]~~.

SECTION _____. Section 102.061, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . not less than \$50 or more than \$500 ~~[\$5]~~; and
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5.

SECTION _____. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . not less than \$50 or more than \$500 [~~\$5~~]; and
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5.

SECTION _____. Section 103.0212, Government Code, is amended to read as follows:

Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: FAMILY CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Family Code if ordered by the court or otherwise required:

- (1) in family matters:
 - (A) issuing writ of withholding (Sec. 8.262, Family Code) . . . \$15;
 - (B) filing copy of writ of withholding to subsequent employer (Sec. 8.267, Family Code) . . . \$15;
 - (C) issuing and delivering modified writ of withholding or notice of termination (Sec. 8.302, Family Code) . . . \$15;
 - (D) issuing and delivering notice of termination of withholding (Sec. 8.303, Family Code) . . . \$15;
 - (E) issuance of change of name certificate (Sec. 45.106, Family Code) . . . \$10;
 - (F) protective order fee (Sec. 81.003, Family Code) . . . \$16;
 - (G) filing suit requesting adoption of child (Sec. 108.006, Family Code) . . . \$15;
 - (H) filing fees for suits affecting parent-child relationship (Sec. 110.002, Family Code):
 - (i) suit or motion for modification (Sec. 110.002, Family Code) . . . \$15;
 - (ii) motion for enforcement (Sec. 110.002, Family Code) . . . \$15;
 - (iii) notice of application for judicial writ of withholding (Sec. 110.002, Family Code) . . . \$15;
 - (iv) motion to transfer (Sec. 110.002, Family Code) . . . \$15;

- (v) petition for license suspension (Sec. 110.002, Family Code) . . . \$15;
- (vi) motion to revoke a stay of license suspension (Sec. 110.002, Family Code) . . . \$15; and
- (vii) motion for contempt (Sec. 110.002, Family Code) . . . \$15;
- (I) order or writ of income withholding to be delivered to employer (Sec. 110.004, Family Code) . . . not to exceed \$15;
- (J) filing fee for transferred case (Sec. 110.005, Family Code) . . . \$45;
- (K) filing a writ of withholding (Sec. 158.319, Family Code) . . . \$15;
- (L) filing a request for modified writ of withholding or notice of termination (Sec. 158.403, Family Code) . . . not to exceed \$15;
- (M) filing an administrative writ to employer (Sec. 158.503, Family Code) . . . not to exceed \$15; and
- (N) genetic testing fees in relation to a child born to a gestational mother (Sec. 160.762, Family Code) . . . as assessed by the court; and
- (2) in juvenile court:
- (A) fee schedule for deferred prosecution services (Sec. 53.03, Family Code) . . . maximum fee of \$15 a month;
- (B) a request fee for a teen court program ~~administration fee~~ (Sec. 54.032, Family Code) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise not to exceed \$10;
- (C) court costs for juvenile probation diversion fund (Sec. 54.0411, Family Code) . . . \$20;
- (D) a juvenile delinquency prevention fee (Sec. 54.0461, Family Code) . . . not less than \$50 or more than \$500 ~~[\$5]; and~~
- (E) a court fee for child's probationary period (Sec. 54.061, Family Code) . . . not to exceed \$15 a month; and
- (F) a fee to cover costs of required duties of teen court (Sec. 54.032, Family Code) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise not to exceed \$10.

SECTION _____. Subsection (a), Section 485.018, Health and Safety Code, is amended to read as follows:

(a) A political subdivision or an agency of this state may not enact an ordinance or rule that requires a business establishment to display an abusable volatile chemical, other than aerosol paint, in a manner that makes the chemical accessible to patrons of the business only with the assistance of personnel of the business.

SECTION _____. Chapter 250, Local Government Code, is amended by adding Section 250.006 to read as follows:

Sec. 250.006. GRAFFITI REMOVAL. (a) Except as provided by Subsection (h), a county by order or a municipality by ordinance may require the owner of property within the jurisdiction of the county or municipality to remove graffiti from the owner's property on receipt of notice from the county or municipality.

(b) The order or ordinance must provide that a county or municipality may not give notice to a property owner under Subsection (a) unless:

(1) the county or municipality has offered to remove the graffiti from the owner's property free of charge; and

(2) the property owner has refused the offer.

(c) The order or ordinance must require a property owner to remove the graffiti on or before the 15th day after the date the property owner receives notice under Subsection (a). If the property owner fails to remove the graffiti on or before the 15th day after the date of receipt of the notice, the county or municipality may remove the graffiti and charge the expenses of removal to the property owner in accordance with a fee schedule adopted by the county or municipality.

(d) The notice required by Subsection (a) must be given:

(1) personally to the owner in writing;

(2) by letter sent by certified mail, addressed to the property owner at the property owner's address as contained in the records of the appraisal district in which the property is located; or

(3) if service cannot be obtained under Subdivision (1) or (2):

(A) by publication at least once in a newspaper of general circulation in the county or municipality;

(B) by posting the notice on or near the front door of each building on the property to which the notice relates; or

(C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates.

(e) The county or municipality may assess expenses incurred under Subsection (c) against the property on which the work is performed to remove the graffiti.

(f) To obtain a lien against the property for expenses incurred under Subsection (c), the governing body of the county or municipality must file a statement of expenses with the county clerk. The statement of expenses must contain:

(1) the name of the property owner, if known;

(2) the legal description of the property; and

(3) the amount of expenses incurred under Subsection (c).

(g) A lien described by Subsection (f) attaches to the property on the date on which the statement of expenses is filed in the real property records of the county in which the property is located and is subordinate to:

(1) any previously recorded lien; and

(2) the rights of a purchaser or lender for value who acquires an interest in the property subject to the lien before the statement of expenses is filed as described by Subsection (f).

(h) An order or ordinance described by this section must include an exception from the requirement that an owner of property remove graffiti from the owner's property if:

(1) the graffiti is located on transportation infrastructure; and

(2) the removal of the graffiti would create a hazard for the person performing the removal.

SECTION _____. Chapter 30, Penal Code, is amended by adding Section 30.021 to read as follows:

Sec. 30.021. BURGLARY OF BUILDING TO CREATE GRAFFITI. (a) A person commits an offense if, without the effective consent of the owner, the person:

(1) enters a building, or any portion of a building, not then open to the public, with the intent to commit an offense under Section 28.08;

(2) remains concealed, with the intent to commit an offense under Section 28.08, in a building; or

(3) enters a building and commits or attempts to commit an offense under Section 28.08.

(b) For purposes of this section, "enter" has the meaning assigned by Section 30.02.

(c) An offense under this section is a state jail felony.

SECTION _____. Section 101.067, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. Subsections (a) and (c), Article 102.0171, Code of Criminal Procedure, and Sections 102.041, 102.061, and 102.081, Government Code, as amended by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. Subsection (a), Section 54.0461, Family Code, and Section 103.0212, Government Code, as amended by this Act, apply only to conduct that violates a penal law of this state and that occurs on or after the effective date of this Act. Conduct that violates a penal law of this state and that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if each element of the violation occurred before that date.

SECTION _____. Section 37.10, Penal Code, is amended by adding Subsection (j) to read as follows:

(j) It is not a defense to prosecution under Subsection (a)(2) that the record, document, or thing made, presented, or used displays or contains the statement "NOT A GOVERNMENT DOCUMENT" or another substantially similar statement intended to alert a person to the falsity of the record, document, or thing, unless the record, document, or thing displays the statement diagonally printed clearly and indelibly on both the front and back of the record, document, or thing in solid red capital letters at least one-fourth inch in height.

SECTION _____. Section 521.454, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION _____. Section 521.455, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION _____. Section 521.456, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION _____. Subsection (j), Section 37.10, Penal Code, and Subsection (d), Section 521.454, Subsection (c), Section 521.455, and Subsection (e), Section 521.456, Transportation Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. Chapter 46, Penal Code, is amended by adding Section 46.14 to read as follows:

Sec. 46.14. FIREARM SMUGGLING. (a) A person commits an offense if the person knowingly engages in the business of transporting or transferring a firearm that the person knows was acquired in violation of the laws of any state or of the United States. For purposes of this subsection, a person is considered to engage in the business of transporting or transferring a firearm if the person engages in that conduct:

(1) on more than one occasion; or

(2) for profit or any other form of remuneration.

(b) An offense under this section is a felony of the third degree, unless it is shown on the trial of the offense that the offense was committed with respect to three or more firearms in a single criminal episode, in which event the offense is a felony of the second degree.

(c) This section does not apply to a peace officer who is engaged in the actual discharge of an official duty.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION _____. Article 61.02, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsections (d) and (e) 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) except as provided by Subsection (d), any two of the following:

(i) a self-admission by the individual of criminal street gang membership that is not made during a judicial proceeding, including the use of the Internet or other electronic format or medium to post photographs or other documentation identifying the individual as a member of a criminal street gang;

(ii) an identification of the individual as a criminal street gang member by a reliable informant or other individual;

(iii) a corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability;

(iv) 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 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 how or the means by [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) 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;

(vii) evidence that the individual has visited a known criminal street gang member, other than a family member of the individual, while the gang member is confined in or committed to a penal institution; or

(viii) evidence of the individual's use of technology, including the Internet, to recruit new criminal street gang members.

(d) Evidence described by Subsections (c)(2)(C)(iv) and (vii) is not sufficient to create the eligibility of a person's information to be included in an intelligence database described by this chapter unless the evidence is combined with information described by another subparagraph of Subsection (c)(2)(C).

(e) In this article:

(1) "Family member" means a person related to another person within the third degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, except that the term does not include a person who is considered to be related to another person by affinity only as described by Section 573.024(b), Government Code.

(2) "Penal institution" means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Youth Commission, or a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county jail.

SECTION _____. Subsection (b), Article 61.06, Code of Criminal Procedure, is amended to read as follows:

(b) Subject to Subsection (c), information collected under this chapter relating to a criminal street gang must be removed from an intelligence database established under Article 61.02 and the intelligence database maintained by the department under Article 61.03 after five ~~three~~ years if:

(1) the information relates to the investigation or prosecution of criminal activity engaged in by an individual other than a child; and

(2) the individual who is the subject of the information has not been arrested for criminal activity reported to the department under Chapter 60.

SECTION _____. Subsection (c), Article 61.06, Code of Criminal Procedure, as amended by Chapters 258 (S.B. 11), 263 (S.B. 103), and 1308 (S.B. 909), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the five-year ~~[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 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 confined in or committed to 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 _____. Article 61.06, Code of Criminal Procedure, as amended by this Act, applies to any applicable information maintained in an intelligence database under Chapter 61 of that code on or after the effective date of this Act.

SECTION _____. Subsection (a), Section 521.343, Transportation Code, is amended to read as follows:

(a) Except as provided by Sections 521.342(b), 521.344(a), (b), (d), (e), (f), (g), (h), and (i), 521.345, 521.346, 521.3465, ~~[and]~~ 521.351, and 521.352, a suspension under this subchapter is for one year.

SECTION _____. Subchapter O, Chapter 521, Transportation Code, is amended by adding Section 521.352 to read as follows:

Sec. 521.352. SUSPENSION OR PROHIBITION FOR CERTAIN ORGANIZED CRIME OFFENSES. (a) A person's license is automatically suspended on conviction of the person for an offense under Chapter 71, Penal Code.

(b) The department may not issue a driver's license to a person convicted of an offense specified in Subsection (a) who, on the date of the conviction, did not hold a license.

(c) The period of license suspension or prohibition under this section begins on a date set by the court that is not earlier than the date of conviction or later than the 30th day after the date of conviction. The period of license suspension or prohibition under this section expires on the first anniversary of the date the suspension or prohibition began.

SECTION _____. Section 521.457, Transportation Code, is amended by amending Subsection (e) and adding Subsection (f-2) to read as follows:

(e) Except as provided by Subsections (f), ~~[and]~~ (f-1), and (f-2), an offense under this section is a Class C misdemeanor.

(f-2) If it is shown on the trial of an offense under this section that the person operated a motor vehicle on a highway during a period that the person's driver's license was suspended under Section 521.352 or the person was prohibited from obtaining a driver's license under that section, the offense is a Class A misdemeanor.

SECTION _____. (a) The change in law made by this Act to Section 521.352, Transportation Code, as added by this Act, and Section 521.457, Transportation Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION _____. Article 18.20, Code of Criminal Procedure, is amended by adding Section 9A to read as follows:

Sec. 9A. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED PERSON. (a) The requirements of Sections 8(a)(2)(B) and 9(b)(2) relating to the specification of the facilities from which or the place where a communication is to be intercepted do not apply if:

(1) in the case of an application for an order authorizing the interception of an oral communication:

(A) the application contains a full and complete statement as to why the specification is not practical and identifies the person committing or believed to be committing the offense and whose communications are to be intercepted; and

(B) a judge of competent jurisdiction finds that the specification is not practical; and

(2) in the case of an application for an order authorizing the interception of a wire or electronic communication:

(A) the application identifies the person committing or believed to be committing the offense and whose communications are to be intercepted;

(B) a judge of competent jurisdiction finds that the applicant has made an adequate showing of probable cause to believe that the actions of the person identified in the application could have the effect of thwarting interception from a specified facility; and

(C) the authority to intercept a wire or electronic communication under the order is limited to a period in which it is reasonable to presume that the person identified in the application will be reasonably proximate to the interception device.

(b) A person implementing an order authorizing the interception of an oral communication that, in accordance with this section, does not specify the facility from which or the place where a communication is to be intercepted may begin interception only after the person ascertains the place where the communication is to be intercepted.

(c) A provider of wire or electronic communications that receives an order authorizing the interception of a wire or electronic communication that, in accordance with this section, does not specify the facility from which or the place where a communication is to be intercepted may move the court to modify or quash the order

on the ground that the provider's assistance with respect to the interception cannot be performed in a timely or reasonable fashion. On notice to the state, the court shall decide the motion expeditiously.

SECTION _____. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0207 to read as follows:

Sec. 411.0207. PUBLIC CORRUPTION UNIT. (a) In this section, "organized criminal activity" means conduct that constitutes an offense under Section 71.02, Penal Code.

(b) A public corruption unit is created within the department to investigate and assist in the management of allegations of participation in organized criminal activity by:

(1) an individual elected, appointed, or employed to serve as a peace officer for a governmental entity of this state under Article 2.12, Code of Criminal Procedure; or

(2) a federal law enforcement officer while performing duties in this state.

(c) The unit shall:

(1) assist district attorneys and county attorneys in the investigation and prosecution of allegations described by Subsection (b);

(2) if requested by the agency, assist a state or local law enforcement agency with the investigation of such allegations against law enforcement officers in the agency;

(3) assist the United States Department of Justice or any other appropriate federal department or agency in the investigation and prosecution of allegations described by Subsection (b);

(4) if requested by the agency, assist a federal law enforcement agency with the investigation of such allegations against law enforcement officers in the agency;

(5) serve as a clearinghouse for information relating to the investigation and prosecution of allegations described by Subsection (b); and

(6) report to the highest-ranking officer of the Texas Rangers division of the department.

(d) On written approval of the director or of the chair of the commission, the highest-ranking officer of the Texas Rangers division of the department may initiate an investigation of an allegation of participation in organized criminal activity by a law enforcement officer described by Subsection (b)(1). Written approval under this subsection must be based on cause.

(e) To the extent allowed by law, a state or local law enforcement agency shall cooperate with the public corruption unit by providing information requested by the unit as necessary to carry out the purposes of this section. Information described by this subsection is excepted from required disclosure under Chapter 552 in the manner provided by Section 552.108.

SECTION _____. Section 421.082, Government Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) The center shall annually submit to the governor and the legislature a report regarding criminal street gangs and gang-related crime. The report must include:

(1) an evaluation of the threat that criminal street gangs and gang-related crime pose to communities in this state that are at or near the international border between this state and the United Mexican States;

(2) an evaluation of the threat that criminal street gangs and gang-related crime occurring at or near the border pose to other areas of this state;

(3) identification of any law enforcement strategies in this state or another jurisdiction that have been effective in preventing the growth or proliferation of criminal street gangs or gang-related crime; and

(4) recommendations on actions that may be taken to:

(A) prevent criminal street gangs from committing human trafficking offenses;

(B) reduce criminal street gang violence throughout this state, with specific recommendations concerning reduction of criminal street gang violence at or near the border;

(C) prevent the growth or proliferation of criminal street gangs throughout this state, with specific recommendations concerning prevention of the growth or proliferation of criminal street gangs at or near the border; and

(D) ensure that law enforcement personnel receive the necessary training and education to effectively deal with the problems created by criminal street gangs and gang-related crime.

(f) On request, a criminal justice or juvenile justice agency of this state shall provide to the center information relating to criminal street gangs and gang-related crime.

(g) The report required under Subsection (e) may not contain any information that:

(1) is considered sensitive intelligence information by the agency that provided the information; or

(2) could jeopardize an ongoing investigation being conducted by the agency that provided the information.

SECTION _____. Chapter 772, Government Code, is amended by adding Section 772.007 to read as follows:

Sec. 772.007. TEXAS ANTI-GANG GRANT PROGRAM. (a) The criminal justice division established under Section 772.006 shall administer a competitive grant program to support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities.

(b) The grant program administered under this section must be directed toward regions of this state that have demonstrably high levels of gang violence.

(c) The criminal justice division shall award grants to qualified applicants, as determined by the division, that demonstrate a comprehensive approach that balances gang prevention, intervention, and suppression activities to reduce gang violence.

(d) The criminal justice division shall include in the biennial report required by Section 772.006(a)(9) detailed reporting of the results and performance of the grant program administered under this section.

(e) The criminal justice division may use any revenue available for purposes of this section.

SECTION _____. Section 9A, Article 18.20, Code of Criminal Procedure, as added by this Act, applies only to an application for an order authorizing the interception of a wire, oral, or electronic communication that is submitted on or after the effective date of this Act. An application that was submitted before the effective date of this Act is covered by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION _____. Not later than December 1, 2010, the Department of Public Safety shall establish the public corruption unit under Section 411.0207, Government Code, as added by this Act.

SECTION _____. The Texas Fusion Center shall submit the first annual report regarding criminal street gangs and gang-related crime to the governor and the legislature as required by Subsection (e), Section 421.082, Government Code, as added by this Act, not later than September 1, 2010.

SECTION _____. To the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION _____. Notwithstanding any other provision of this Act, Sections 37.110 and 51.973, Education Code, and Section 42.064, Human Resources Code, as added by this Act, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, those sections of the Education Code and Human Resources Code take effect September 1, 2009.

The amendment to **CSHB 2086** was read and was adopted by a viva voce vote.

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

Senator Carona, on behalf of Senator Williams, offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2086** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. Title 4, Civil Practices and Remedies Code, is amended by adding a new chapter 98A to read as follows:

SUBCHAPTER 98A. CIVIL RACKETEERING.

Sec. 98A.001. CIVIL RACKETEERING. (1) A person commits racketeering if for financial gain, the person knowingly engages in an organized enterprise that commits, facilitates, or promotes:

(A) any gambling offense punishable at least as a Class A misdemeanor;

(B) the promotion of prostitution, as described by Section 43.03, Penal Code;

(C) compelling prostitution, as described by Section 43.05, Penal Code;

(D) the unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(E) the unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(F) any offense under Subchapter B, Chapter 43, Penal Code, depicting or involving conduct by or directed toward a child younger than 18 years of age; or

(G) trafficking of persons, as described by Chapter 20A, Penal Code;
and

(2) the event, omission, transaction, or occurrence, or the series of events, omissions, transactions, or occurrences, relating to the act that meets the requirements of Subdivision (1) takes place or occurs in more than one county in Texas.

Sec. 98A.002. SUIT TO ABATE RACKETEERING. (a) The attorney general may bring suit in the name of the state against any person who engages in a pattern or practice of racketeering and may seek to recover civil remedies, costs of suit, including reasonable attorney's fees, and any appropriate injunctive relief, including the creation of a receivership, the enforcement of a constructive trust, prejudgment writs of attachment under Chapter 61 for the purpose of the freezing, preserving, and disgorging of assets, or other remedies or restraints the court considers proper.

(b) This subchapter does not authorize suit by a person that sustains injury as a result of racketeering.

(c) Notwithstanding any other provision of this subchapter, the provisions of sections 59.13 and 59.14, Code of Criminal Procedure, shall apply to any remedy under this section, and in no event shall the remedies herein result in the impairment of a security interest in property subject to a bona fide lien.

Sec. 98A.003. REMEDIES NOT EXCLUSIVE. A proceeding under this subchapter may be in addition to or in the alternative of any other action, civil or criminal, available under the laws of this state.

Sec. 98A.004. EVIDENCE. (a) In a proceeding under this subchapter, the state bears the burden of proof by a preponderance of the evidence.

(b) An individual may not be held liable in damages or for other relief under this subchapter based on the conduct of another unless the finder of fact, by a preponderance of the evidence, finds that the individual authorized, requested, commanded, participated in, ratified, or recklessly tolerated the unlawful conduct of the other.

(d) A person may not be held liable in damages or for other relief under this subchapter based on the conduct of an agent unless the finder of fact, by a preponderance of the evidence, finds that a director or high managerial agent of the person performed, authorized, requested, commanded, participated in, ratified, or recklessly tolerated the unlawful conduct of the agent.

(e) A bank or savings and loan association insured by the Federal Deposit Insurance Corporation, a credit union insured by the National Credit Union Administration, or a holder of a money transmission license under Chapter 151, Finance Code, may not be held liable in damages or for other relief under this subchapter unless the finder of fact, by a preponderance of the evidence, finds that the board of directors performed, authorized, requested, commanded, participate in, ratified or recklessly tolerated the unlawful conduct.

The amendment to **CSHB 2086** was read.

POINT OF ORDER

Senator Shapleigh raised a point of order that Floor Amendment No. 2 was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator Shapleigh withdrew the point of order.

Question recurring on the adoption of Floor Amendment No. 2 to **CSHB 2086**, the amendment was adopted by the following vote: Yeas 18, Nays 12.

Yeas: Averitt, Carona, Deuell, Duncan, Estes, Fraser, Harris, Huffman, Lucio, Nelson, Nichols, Ogden, Seliger, Van de Putte, Wentworth, West, Whitmire, Williams.

Nays: Davis, Ellis, Eltife, Gallegos, Hinojosa, Jackson, Patrick, Shapiro, Shapleigh, Uresti, Watson, Zaffirini.

Absent: Hegar.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2086** (Senate committee printing) by adding an appropriately numbered SECTION to the article to read as follows and by renumbering existing SECTIONS of the article accordingly:

SECTION 9. __. (a) The Legislative Budget Board shall prepare an annual criminal justice policy impact statement for this Act.

(b) The impact statement must include information concerning:

- (1) the number of arrests and resulting criminal dispositions under this Act;
- (2) the fiscal impact of arrests, trials, convictions, and imprisoning or imposing other sanctions on persons in accordance with this Act;
- (3) the race and ethnicity of persons arrested, prosecuted, convicted, and incarcerated under this Act;
- (4) the impact of this Act on existing correctional facilities, as defined by Section 1.07, Penal Code;
- (5) the likelihood that this Act may create a need for additional prison capacity;
- (6) civil action damages assessed and collected, and assets seized and forfeited under this Act; and
- (7) any other matter the Legislative Budget Board determines relevant.

(c) The Legislative Budget Board shall complete the impact statement not later than December 1 each year, beginning December 1, 2010, and make it available to the public on its website.

The amendment to **CSHB 2086** was read and was adopted by a viva voce vote.

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

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

CSHB 2086 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2086 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2086** be placed on its third reading and final passage.

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

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

(Senator Carona in Chair)

HOUSE BILL 1799 ON SECOND READING

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1799** at this time on its second reading:

HB 1799, Relating to information that must be included on certain electric bills.

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

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

Absent: Ogden.

HOUSE BILL 1799 ON THIRD READING

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1799** be placed on its third reading and final passage.

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

Absent: Ogden.

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

(Senator Eltife in Chair)

HOUSE BILL 1310 ON SECOND READING

Senator Nelson moved to suspend the regular order of business to take up for consideration **HB 1310** at this time on its second reading:

HB 1310, Relating to the use of a tanning facility device by a minor.

The motion prevailed.

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

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

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

Nays: Eltife.

HOUSE BILL 1310 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1310** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Eltife.

Absent: Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 2524 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **HB 2524** at this time on its second reading:

HB 2524, Relating to the accuracy, security, and reliability of certain electronic voting systems.

The motion prevailed.

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

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2524** (Senate committee report) as follows:

(1) On page 2, line 61, Sec. 129.023, insert the following subsection:

(g) This section does not apply to a county with a population of 3.3 million or more.

(2) On page 3, line 54, Sec. 129.052, insert the following subsection:

(d) This section does not apply to a county with a population of 3.3 million or more.

The amendment to **HB 2524** was read.

Senator Carona moved to postpone further consideration of the bill to a time certain of 1:30 p.m. today.

The motion prevailed.

Question — Shall Floor Amendment No. 1 to **HB 2524** be adopted?

(Senator Carona in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 281 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 281** at this time on its second reading:

CSHB 281, Relating to grants for school-based health centers and reports submitted by those centers.

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

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

Absent: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 281 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 281** be placed on its third reading and final passage.

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

Absent: Ogden.

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

HOUSE BILL 871 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 871** at this time on its second reading:

HB 871, Relating to the method of mailing notice a municipal management district may use to notify a property owner about a scheduled hearing.

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

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

Absent: Ogden.

HOUSE BILL 871 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 871** be placed on its third reading and final passage.

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

Absent: Ogden.

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

(President in Chair)

HOUSE BILL 3480 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3480** at this time on its second reading:

HB 3480, Relating to certain investment products made available to certain public school employees and the companies authorized to provide those products; providing civil penalties.

The bill was read second time.

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

Floor Amendment No. 1

Amend **HB 3480** (committee printing) as follows and adjust accordingly:

1) Page 3, line 16 after "revoked", insert the following:
without first providing the employee with notice in writing that:

(A) indicates the reason the subject of the salary reduction agreement is no longer an eligible qualified investment or why certification has been denied, suspended, or revoked; and

(B) clearly states that by signing the notice the employee is agreeing to enter into or continue the salary reduction agreement

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

SECTION _____. Chapter 22 (S.B. 17), Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), is amended by adding Sections 9A and 9B to read as follows:

Sec. 9A. A person, other than an employee of an educational institution, or an affiliate of the person may not enter into or renew a contract under which the person is to provide services for or administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986, unless the person:

(1) holds a license or certificate of authority issued by the Texas Department of Insurance;

(2) is registered as a securities dealer or agent or investment advisor with the State Securities Board; or

(3) is a financial institution that:

(A) is authorized by state or federal law to exercise fiduciary powers;

and

(B) has its main office, a branch office, or a trust office in this state.

Sec. 9B. (a) This section applies to an entity under this Act that enters into a contract with an educational institution to administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986.

(b) If a person described by Subsection (a) holds a meeting at which qualified investment products will be marketed to employees of the educational institution, the person must provide representatives of other companies certified to the retirement system under Section 5 or 8 of this Act an opportunity to attend and market their qualified investment products at the meeting.

The amendment to **HB 3480** was read and was adopted by a viva voce vote.

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

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

HB 3480 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3480 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3480** be placed on its third reading and final passage.

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

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

HOUSE BILL 2307 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2307** at this time on its second reading:

HB 2307, Relating to coverage under a meet and confer agreement for certain municipal firefighters and police officers.

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

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

HOUSE BILL 2307 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2307** be placed on its third reading and final passage.

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

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

HOUSE BILL 2504 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2504** at this time on its second reading:

HB 2504, Relating to requiring a public institution of higher education to make available to the public on the institution's Internet website certain undergraduate course information.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2504** (Senate committee report) in SECTION 1 of the bill in added Section 51.974, Education Code, (page 1, line 15), strike "Each institution of higher education" and substitute "Each institution of higher education, other than a medical and dental unit,".

The amendment to **HB 2504** was read and was adopted by a viva voce vote.

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

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2504** (Senate committee report) in SECTION 1 of the bill in added Section 51.974, Education Code, (page 1, line 54), strike "fourth" and substitute "second".

The amendment to **HB 2504** was read and was adopted by a viva voce vote.

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

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 2504** (Senate committee printing) in SECTION 1 of the bill, by adding the following and renumbering accordingly:

Institutions of higher education included in this section shall conduct end of course student evaluations of faculty and develop a plan to make evaluations available on the institution's website.

The amendment to **HB 2504** was read and was adopted by a viva voce vote.

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

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 2504** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0777 to read as follows:

Sec. 61.0777. UNIFORM STANDARDS FOR PUBLICATION OF COST OF ATTENDANCE INFORMATION. (a) The board shall prescribe uniform standards intended to ensure that information regarding the cost of attendance at institutions of higher education and at private or independent institutions of higher education approved under Subchapter F to receive tuition equalization grant funds is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families. In developing the standards, the board shall examine common and recommended practices regarding the publication of such information and shall solicit recommendations and comments from institutions of higher education and affected private or independent institutions of higher education.

(b) The uniform standards must:

(1) address all of the elements that constitute the total cost of attendance, including tuition and fees, room and board costs, book and supply costs, transportation costs, and other personal expenses; and

(2) prescribe model language to be used to describe each element of the cost of attendance.

(c) Each institution of higher education and each private or independent institution of higher education approved under Subchapter F to receive tuition equalization grant funds that offers an undergraduate degree or certificate program shall:

(1) prominently display on the institution's Internet website in accordance with the uniform standards prescribed under this section information regarding the cost of attendance at the institution by a full-time entering first-year student; and

(2) conform to the uniform standards in any electronic or printed materials intended to provide to prospective undergraduate students information regarding the cost of attendance at the institution.

(d) Each institution of higher education shall consider the uniform standards prescribed under this section when providing information to the public or to prospective students regarding the cost of attendance at the institution by nonresident students, graduate students, or students enrolled in professional programs.

(e) The board shall prescribe requirements for an institution of higher education to provide on the institution's Internet website consumer-friendly and readily understandable information regarding student financial aid opportunities. The required information must be provided in connection with the information displayed under Subsection (c)(1) and must include a link to the primary federal student financial aid Internet website intended to assist persons applying for student financial aid.

(f) The board shall provide on the board's Internet website a program or similar tool that will compute for a person accessing the website the estimated net cost of attendance for a full-time entering first-year student attending an institution described by Subsection (c). The board shall require each of those institutions to provide the board with the information the board requires to administer this subsection.

(g) The board shall prescribe the initial standards and requirements under this section not later than January 1, 2010. Institutions of higher education shall comply with the standards and requirements not later than April 1, 2010. This subsection expires January 1, 2011.

(h) The board shall encourage private or independent institutions of higher education approved under Subchapter F to participate in the tuition equalization grant program, to the greatest extent practicable, to prominently display the information described by Subsections (a) and (b) on their Internet websites in accordance with the standards established under those subsections, and to conform to those standards in electronic and printed materials intended to provide to prospective undergraduate students information regarding the cost of attendance at the institutions. The board shall also encourage those institutions to include on their Internet websites a link to the primary federal student financial aid Internet website intended to assist persons applying for student financial aid.

(i) The board shall make the program or tool described by Subsection (f) available to private or independent institutions of higher education described by Subsection (h), and those institutions shall make that program or tool, or another program or tool that complies with the requirements for the net price calculator required under Section 132(h)(3), Higher Education Act of 1965 (20 U.S.C. Section 1015a) available on their Internet websites not later than the date by which the institutions are required by Section 132(h)(3) to make the net price calculator publicly available on their Internet websites.

The amendment to **HB 2504** was read and was adopted by a viva voce vote.

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

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 2504** by adding the following sections to the bill, numbered appropriately, and by renumbering any subsequent sections of the bill accordingly:

SECTION _____. Subchapter E, Chapter 56, Education Code, is amended by adding Section 56.080 to read as follows:

Sec. 56.080. ONLINE LIST OF WORK-STUDY EMPLOYMENT OPPORTUNITIES. Each institution of higher education shall:

(1) establish and maintain an online list of work-study employment opportunities, sorted by department as appropriate, available to students on the institution's campus; and

(2) ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the institution's Internet website.

SECTION _____. As soon as practicable after the effective date of this Act, each public institution of higher education shall establish an online list of work-study employment opportunities for students as required by Section 56.080, Education Code, as added by this Act.

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

The amendment to **HB 2504** was read.

Senator Shapiro moved to postpone further consideration of the bill to a time certain of 1:30 p.m. today.

The motion prevailed.

Question — Shall Floor Amendment No. 5 to **HB 2504** be adopted?

HOUSE BILL 2012 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2012** at this time on its second reading:

HB 2012, Relating to the criminal consequences of operating without a valid driver's license a motor vehicle for which financial responsibility is not established.

The bill was read second time.

Senator Carona offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend the proposed **HB 2012** in SECTION 3 of the bill, by striking amended Section (c), (page 2, lines 22 through 24).

The amendment to **HB 2012** was read and was adopted by a viva voce vote.

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

Senator Carona offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend the proposed **HB 2012** in SECTION 2, of the bill, by striking the words "felony of the third degree" (page 1, lines 21 and 22) and replacing those words with the words "Class A misdemeanor".

The amendment to **HB 2012** was read and was adopted by a viva voce vote.

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

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2012** (Senate committee printing) by striking SECTION 3 of the bill (page 1, line 42 through page 2, line 3) and renumbering subsequent SECTIONS accordingly.

The amendment to **HB 2012** was read.

Senator Carona withdrew Floor Amendment No. 1.

Senator Carona again offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2012** (Senate committee printing) by striking SECTION 3 of the bill (page 1, line 42 through page 2, line 3) and renumbering subsequent SECTIONS accordingly.

The amendment to **HB 2012** was again read and was adopted by a viva voce vote.

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2012** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION ____ . Section 545.401, Transportation Code, is amended by amending Subsection (b) and adding Subsections (e), (f), (g), and (h) to read as follows:

(b) Except as provided by Subsection (e), an [An] offense under this section is a misdemeanor punishable by:

- (1) a fine not to exceed \$200;
- (2) confinement in county jail for not more than 30 days; or
- (3) both the fine and the confinement.

(e) If an offense under this section results in the serious bodily injury or death of an operator or passenger of another motor vehicle, the offense is a Class B misdemeanor.

(f) The court may:

(1) order that the driver's license of a person convicted of an offense under Subsection (e) be suspended for not less than 30 days beginning on the date of conviction; and

(2) require the person to attend and present proof that the person successfully completed a driving safety course approved under Chapter 1001, Education Code, before the person's driver's license may be reinstated.

(g) A judge, acting under Article 42.12, Code of Criminal Procedure, who elects to place a defendant on community supervision under that article may require the defendant to attend and present proof that the defendant successfully completed a driving safety course approved under Chapter 1001, Education Code.

(h) A person who is subject to prosecution under both this section and another section of this or any other code may be prosecuted under either or both sections.

The amendment to **HB 2012** was read and was adopted by a viva voce vote.

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

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

HB 2012 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 2012 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2012** be placed on its third reading and final passage.

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

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

HOUSE BILL 2504 ON SECOND READING

The President laid before the Senate **HB 2504** by Senator Shapiro on its second reading. The bill had been read second time, amended, an amendment offered, and further consideration postponed to a time certain of 1:30 p.m. today:

HB 2504, Relating to requiring a public institution of higher education to make available to the public on the institution's Internet website certain undergraduate course information.

Question — Shall Floor Amendment No. 5 to **HB 2504** be adopted?

The amendment to **HB 2504** was adopted by a viva voce vote.

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

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

HB 2504 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 2504 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2504** be placed on its third reading and final passage.

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

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

(Senator Eltife in Chair)

COMMITTEE SUBSTITUTE**HOUSE BILL 1819 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1819** at this time on its second reading:

CSHB 1819, Relating to minimum habitability standards for multi-family rental buildings in certain municipalities; providing a penalty.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1819** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter Z, Chapter 214, Local Government Code, is amended by adding Section 214.907 to read as follows:

Sec. 214.907. RELOCATION OF DISPLACED RESIDENTS BY CERTAIN MUNICIPALITIES. (a) In this section, "multi-family rental building" has the meaning assigned by Section 214.219.

(b) This section applies only to a municipality with a population of 1.7 million or more.

(c) A municipality may not order the closure of a multi-family rental building because of a violation of an ordinance adopted by the municipality relating to habitability unless the municipality locates housing for the residents displaced by the closure.

The amendment to **CSHB 1819** was read.

Senator Ellis withdrew Floor Amendment No. 1.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1819** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter G, Chapter 214, Local Government Code, is amended by adding Section 214.219 to read as follows:

Sec. 214.219. MINIMUM HABITABILITY STANDARDS FOR MULTI-FAMILY RENTAL BUILDINGS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 1.7 million or more. This section does not affect the authority of a municipality to which this section does not apply to enact or enforce laws relating to multi-family rental buildings.

(b) In this section:

(1) "Multi-family rental building" means a building that has three or more single-family residential units.

(2) "Unit" means one or more rooms rented for use as a permanent residence under a single lease to one or more tenants.

(c) A municipality shall adopt an ordinance to establish minimum habitability standards for multi-family rental buildings, including requiring maintenance of proper operating conditions.

(d) A municipality may establish other standards as necessary to reduce material risks to the physical health or safety of tenants of multi-family rental buildings.

(e) A municipality shall establish a program for the inspection of multi-family rental buildings to determine if the buildings meet the minimum required habitability standards. The program shall include inspections under the direction of:

(1) the municipality's building official, as defined by the International Building Code or by a local amendment to the code under Section 214.216;

(2) the chief executive of the municipality's fire department; and

(3) the municipality's health authority, as defined by Section 121.021, Health and Safety Code.

(f) A municipality may not order the closure of a multi-family rental building due to a violation of an ordinance adopted by the municipality relating to habitability unless the municipality makes a good faith effort to locate housing with comparable rental rates in the same school district for the residents displaced by the closure.

(g) The owner of a multi-family rental building commits an offense if the owner violates an ordinance adopted under this section. An offense under this subsection is a Class C misdemeanor. Each day the violation continues constitutes a separate offense.

(h) A municipality may impose a civil penalty under Section 54.017 for a violation of this section.

SECTION 2. A municipality shall adopt the minimum habitability standards required by Section 214.219, Local Government Code, as added by this Act, not later than December 31, 2010.

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

The amendment to **CSHB 1819** was read and was adopted by a viva voce vote.

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

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

CSHB 1819 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1819 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1819** be placed on its third reading and final passage.

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

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

HOUSE BILL 1275 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1275** at this time on its second reading:

HB 1275, Relating to the authority to impose a county hotel occupancy tax.

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

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

HOUSE BILL 1275 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1275** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2525 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSHB 2525** at this time on its second reading:

CSHB 2525, Relating to political expenditures made by a corporation or labor organization to finance the establishment and administration of a political committee.

The motion prevailed.

Senators Estes, Hegar, Nelson, Nichols, Patrick, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

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

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

Nays: Estes, Hegar, Nelson, Nichols, Patrick, Williams.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2525 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2525** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

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

Nays: Estes, Hegar, Nelson, Nichols, Patrick, Williams.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

HOUSE BILL 2708 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2708** at this time on its second reading:

HB 2708, Relating to the powers of the Karnes County Hospital District.

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

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

HOUSE BILL 2708 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2708** be placed on its third reading and final passage.

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

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

REPORTS OF COMMITTEE ON NOMINATIONS

Senator Jackson submitted the following reports from the Committee on Nominations:

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

Member, Board of Directors, Angelina and Neches River Authority: Patricia E. Dickey, Houston County.

Member, Board of Directors, Brazos River Authority: Trent McKnight, Throckmorton County.

Presiding Officer, Board of Directors, Central Texas Regional Mobility Authority: Ray Allen Wilkerson, Travis County.

Members, Commission on Human Rights: Thomas M. Anderson, Fort Bend County; Michelle H. Diggs, Travis County; Travis A. Morris, Travis County; Danny L. Osterhout, Andrews County; Veronica Vargas Stidvent, Travis County.

Justice, Court of Appeals, Fifth Court of Appeals District: Robert M. Fillmore, Collin County.

Members, Governing Board, Department of Information Resources: Ramon F. Baez, Tarrant County; Robert E. Pickering, Jr., Harris County.

Members, Governing Board, Texas School for the Deaf: Beatrice Maestas Burke, Bell County; Walter Camenisch III, Travis County; Nancy Mumme Carrizales, Harris County; Eric Hogue, Collin County; Susan K. Ridley, Fort Bend County; Angie Wolf, Travis County.

Members, Health and Human Services Council: Sharon J. Barnes, Calhoun County; Manson B. Johnson, Harris County; Jerry Kane, Nueces County; Leon J. Leach, Colorado County; Ronald Thomas Luke, Travis County; Teresa "Terry" Wilkinson, Midland County.

Members, Board of Directors, Lavaca-Navidad River Authority: John Alcus Cotten, Jr., Jackson County; Ronald Edwin Kubecka, Jackson County; Nils P. Mauritz, Jackson County.

Members, State Board for Educator Certification: Bradley Wayne Allard, Johnson County; Bonny L. Cain, Brazoria County; Benny W. Morris, Johnson County; Judy Robison, El Paso County.

Members, State Pension Review Board: Paul A. Braden, Dallas County; Andrew Winston Cable, Hays County; Jerry Robert Massengale, Lubbock County; Richard Earl McElreath, Randall County; Norman W. Parrish, Montgomery County; Wayne R. Roberts, Travis County; Scott D. Smith, Williamson County.

Member, Board of Directors, Sulphur River Basin Authority: Kirby Hollingsworth, Franklin County.

Members, Texas Board of Licensure for Professional Medical Physicists: Philip D. Bourland, Ph.D., Bell County; Shannon D. Cox, M.D., Travis County; Valerie Foreman, Denton County; Kumar Krishen, Harris County; John Raymond Leahy, M.D., Travis County; Rebecca C. Middleton, Dallas County; Pamela M. Otto, M.D., Bexar County; Richard E. Wendt III, Harris County.

Members, Texas Board of Nursing: Kristin K. Benton, Travis County; Patricia "Patti" Clapp, Dallas County; Tamara Jean Parrish Cowen, Cameron County; Sheri Denise Crosby, Dallas County; Marilyn J. Davis, Fort Bend County; Richard Robert Gibbs, Dallas County; Kathy Lynette Leader-Horn, Hood County; Josefina Lujan, El Paso County; Mary Jane Salgado, Maverick County.

Members, Texas Board of Occupational Therapy Examiners: Catherine Benavidez, Denton County; Judith Ann "Judy" Chambers, Hays County; Kathleen Hill, Williamson County; Stephanie Johnston, Harris County; Pamela D. Nelon, Tarrant County; Todd Matthew Novosad, Travis County; Angela Sieffert, Dallas County; Bobby James Vasquez, Collin County.

Members, Texas Board of Orthotics and Prosthetics: Leah F. Esparza, Travis County; Roy D. McCoy, Williamson County; Miguel N. Mojica, Dallas County.

Members, Texas Board of Professional Land Surveying: James Allen Childress, San Saba County; Nedra J. Foster, Hardin County; Robert H. Price, P.E., Tarrant County.

Members, Texas Emancipation Juneteenth Cultural and Historical Commission: Vicki D. Blanton, Dallas County; Willie Belle Boone, Harris County; Carmen Francis, Williamson County; Clarence E. Glover, Jr., Dallas County; William H. Watson, Lubbock County.

Member, Texas Industrialized Building Code Council: Jesse Rider, Smith County.

Members, Texas Military Preparedness Commission: Dora G. Alcala, Val Verde County; Ralph C. Gauer, Sr., Bell County; Alvin W. "Al" Jones, Brazos County; Paul F. Paine, Parker County; Thomas A. Whaylen, Wichita County.

Members, Texas Physician Assistant Board: Ronald W. Bryce, Ellis County; Terealea Davis Jones, Bee County; Felix Koo, Hidalgo County; M. A. Mitchell, D.O., Clay County; Abelino Reyna, McLennan County; Edward W. Zwanziger, Henderson County.

Members, Texas Real Estate Commission: Adrian A. Arriaga, Hidalgo County; Robert Christopher "Chris" Day, Cherokee County; Jaime Blevins Hensley, Angelina County; Joanne Justice, Tarrant County; Dona Scurry, El Paso County; Avis Geer Wukasch, Williamson County.

Members, Texas Residential Construction Commission: Ross A. Benline, Guadalupe County; Gerardo M. Garcia, Nueces County; Don Illingworth, Tarrant County; Steven R. Leipsner, Travis County; Glenda Mariott, Brazos County; Mickey Randall Redwine, Van Zandt County.

Members, Texas State Board of Acupuncture Examiners: Suehing Woo Yee Chiang, Fort Bend County; Allen D. Cline, Travis County; Linda Wynn Drain, Collin County; Terry Glenn Rascoe, M.D., Bell County; Karen Siegel, Harris County; Rachelle L. Webb, Travis County; Rey Ximenes, M.D., Travis County.

Chair, State Board of Education: Don McLeroy, Brazos County.

Members, Texas State Board of Examiners of Professional Counselors: Brenda "Brandi" Buckner, Parker County; Karen R. Burke, Travis County; Steven Douglas Christopherson, Harris County; Brenda S. Compagnone, Dimmit County; Glynda Beth Corley, Williamson County; Michelle Alcon Eggleston, Potter County; Leslie Fischer Pohl, Travis County; Jaa Akili St. Julien, Harris County; Maria Francisca Teran, El Paso County.

Members, Texas State Board of Public Accountancy: A. Carlos Barrera, Cameron County; Everett Ray Ferguson, Taylor County; James Calvin Flagg, Brazos County; Jon Reed Keeney, Harris County; David Lambert King, Bexar County; Maribess Lehmann Miller, Dallas County; Steve D. Pena, Williamson County; Thomas Green Prothro, Smith County; Catherine J. Rodewald, Dallas County; John W. Steinberg, Guadalupe County.

Members, Texas Transportation Commission: Deirdre Delisi, Travis County; Edward C. Houghton IV, El Paso County; William W. Meadows, Tarrant County; Fred A. Underwood, Lubbock County.

NOTICE OF CONSIDERATION OF NOMINATIONS

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

COMMITTEE SUBSTITUTE HOUSE BILL 3628 ON SECOND READING

Senator Duncan moved to suspend the regular order of business to take up for consideration **CSHB 3628** at this time on its second reading:

CSHB 3628, Relating to the date by which the executive director of the Texas Department of Licensing and Regulation must require compliance with certain elevator safety standards.

The motion prevailed.

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

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3628** (Senate committee printing) by striking SECTION 1 of the bill, amending Section 754.014(f), Health and Safety Code (page 1, lines 14 through 21), and substituting the following:

SECTION 1. Section 754.014, Health and Safety Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) The executive director shall grant a delay until September 1, 2012 ~~[2010]~~, for compliance with the requirements for ~~[door restrictors or]~~ firefighter's service in the ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation and the equipment was not subsequently installed. This subsection expires October 1, 2012.

(f-1) The executive director shall grant a delay until September 1, 2010, for compliance with the requirements for door restrictors in the ASME Code A17.3. This subsection expires October 1, 2010.

The amendment to **CSHB 3628** was read and was adopted by a viva voce vote.

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

Nays: Watson.

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

CSHB 3628 as amended was passed to third reading by a viva voce vote.

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

Nays: Watson.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3628 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3628** be placed on its third reading and final passage.

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

Nays: Watson.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2462 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2462** at this time on its second reading:

CSHB 2462, Relating to the authority of a county to clarify the existence of a public interest in certain roads.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2462 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2462** be placed on its third reading and final passage.

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

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

HOUSE BILL 3547 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3547** at this time on its second reading:

HB 3547, Relating to an order for the closure of unregistered dry cleaning facilities and dry cleaning drop stations by the Texas Commission on Environmental Quality.

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

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

HOUSE BILL 3547 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3547** be placed on its third reading and final passage.

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

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

RECESS

On motion of Senator Whitmire, the Senate at 2:05 p.m. recessed until 2:35 p.m. today.

AFTER RECESS

The Senate met at 2:59 p.m. and was called to order by the President.

AT EASE

The President at 2:59 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 4:05 p.m. called the Senate to order as In Legislative Session.

RECESS

On motion of Senator Whitmire, the Senate at 4:06 p.m. recessed until 4:45 p.m. today.

AFTER RECESS

The Senate met at 4:47 p.m. and was called to order by Senator Carona.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2833 ON SECOND READING**

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **CSHB 2833** at this time on its second reading:

CSHB 2833, Relating to certain building code standards applicable to the unincorporated areas of certain counties; providing a penalty.

The motion prevailed.

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

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2833** (Senate committee report) by striking SECTION 1 of the bill (page 1, line 13, through page 2, line 8) and substituting the following:

SECTION 1. Chapter 233, Local Government Code, is amended by adding Subchapter F to read as follows:

**SUBCHAPTER F. RESIDENTIAL BUILDING CODE STANDARDS
APPLICABLE TO UNINCORPORATED AREAS OF COUNTIES**

Sec. 233.151. DEFINITIONS. In this subchapter, "new residential construction" includes:

(1) residential construction of a single-family house or duplex on a vacant lot; and

(2) construction of an addition to an existing single-family house or duplex, if the addition will increase the square footage or value of the existing residential building by more than 50 percent.

Sec. 233.152. BUILDING CODE STANDARDS APPLICABLE. (a) New residential construction of a single-family house or duplex in the unincorporated area of a county shall conform to the version of the International Residential Code published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county.

(b) Standards required under this subchapter apply only to new residential construction that begins after September 1, 2009.

(c) If a municipality has adopted a building code in the municipality's extraterritorial jurisdiction, the building code adopted by the municipality controls and building code standards under this subchapter have no effect in the municipality's extraterritorial jurisdiction.

(d) This subchapter may not be construed to:

(1) require prior approval by the county before the beginning of new residential construction;

(2) authorize the commissioners court of a county to adopt or enforce zoning regulations; or

(3) affect the application of the provisions of Subchapter B, Chapter 232, to land development.

(e) In the event of a conflict between this subchapter and Subchapter B, Chapter 232, the provisions of Subchapter B, Chapter 232, control.

(f) A county may not charge a fee to a person subject to standards under this subchapter to defray the costs of enforcing the standards.

Sec. 233.153. INSPECTION AND NOTICE REQUIREMENTS. (a) A person who builds new residential construction described by Section 233.152 shall have the construction inspected to ensure building code compliance in accordance with this section as follows:

(1) for new residential construction on a vacant lot, a minimum of three inspections must be performed during the construction project to ensure code compliance, as applicable, at the following stages of construction:

(A) the foundation stage, before the placement of concrete;

(B) the framing and mechanical systems stage, before covering with drywall or other interior wall covering; and

(C) on completion of construction of the residence;

(2) for new residential construction of an addition to an existing residence as described by Section 233.151(2), the inspections under Subdivision (1) must be performed as necessary based on the scope of work of the construction project; and

(3) for new residential construction on a vacant lot and for construction of an addition to an existing residence, the builder:

(A) is responsible for contracting to perform the inspections required by this subsection with:

(i) a licensed engineer;

(ii) a registered architect;

(iii) a professional inspector licensed by the Texas Real Estate Commission;

(iv) a plumbing inspector employed by a municipality and licensed by the Texas State Board of Plumbing Examiners;

(v) a building inspector employed by a political subdivision; or

(vi) an individual certified as a residential combination inspector by the International Code Council; and

(B) may use the same inspector for all the required inspections or a different inspector for each required inspection.

(b) If required by a county, before commencing new residential construction, the builder shall provide notice to the county on a form prescribed by the county of:

(1) the location of the new residential construction;
(2) the approximate date by which the new residential construction will be commenced; and

(3) the version of the International Residential Code that will be used to construct the new residential construction before commencing construction.

(c) If required by the county, not later than the 10th day after the date of the final inspection under this section, the builder shall submit notice of the inspection stating whether or not the inspection showed compliance with the building code standards applicable to that phase of construction in a form required by the county to:

(1) the county employee, department, or agency designated by the commissioners court of the county to receive the information; and

(2) the person for whom the new residential construction is being built, if different from the builder.

Sec. 233.154. ENFORCEMENT OF STANDARDS. If proper notice is not submitted in accordance with Sections 233.153(b) and (c), the county may take any or all of the following actions:

(1) refer the inspector to the appropriate regulatory authority for discipline;

(2) in a suit brought by the appropriate attorney representing the county in the district court, obtain appropriate injunctive relief to prevent a violation or threatened violation of a standard or notice required under this subchapter from continuing or occurring;

(3) refer the builder for prosecution under Section 233.156.

Sec. 233.155. EXISTING AUTHORITY UNAFFECTED. The authority granted by this subchapter does not affect the authority of a commissioners court to adopt an order under other law.

Sec. 233.156. PENALTY. (a) A person commits an offense if the person fails to provide proper notice in accordance with Sections 233.153(b) and (c).

(b) An offense under this section is a Class C misdemeanor.

Sec. 233.157. PRIOR APPROVAL FOR OWNER-BUILT RESIDENCES. (a) This section applies only to a county located within 50 miles of an international border.

(b) For new residential construction that is built by a person who owns the residence, acts as the person's own contractor, and intends to use the residence as the person's primary residence for at least one year after the completion or substantial completion of the new residential construction, the county may require prior approval before the beginning of the new residential construction through a form prescribed by the county.

The amendment to **CSHB 2833** was read.

Senator Lucio offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 by Shapleigh to **CSHB 2833** to add new Section 233.157 to read as follows:

"Sec. 233.157. PROHIBITION IN USE OF STATE TAX DOLLARS TO REMEDIATE AND SUBSIDIZE NEW SUBSTANDARD HOUSING. (a) Notwithstanding any other provision in state law, no state funds, including state

administered monies and water and wastewater funds, shall be used to remediate, provide infrastructure or assist any substandard housing that may develop from the any new residential construction as defined by Section 233.151.

(b) Builders, developers, units of governments, including any private entities and parties, are hereby prohibited from participating in any state supported funding or state administered funding, including water and wastewater funds, to address any problems or deficiencies that will amount to remediation of conditions arising from, or in connection with, any new residential construction as defined by Section 233.151."

The amendment to Floor Amendment No. 1 to **CSHB 2833** was read.

On motion of Senator Shapleigh, Floor Amendment No. 2 was tabled by the following vote: Yeas 17, Nays 12.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Eltife, Huffman, Jackson, Nichols, Patrick, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, Zaffirini.

Nays: Carona, Estes, Fraser, Gallegos, Harris, Hinojosa, Lucio, Nelson, Ogden, Shapiro, West, Whitmire.

Absent: Hegar, Williams.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 2833**, the amendment was adopted by a viva voce vote.

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2833** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering remaining SECTIONS of the bill accordingly:

SECTION __. Chapter 242, Local Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 242.051. APPLICABILITY. This subchapter applies only to:

(1) a county that includes territory located within 50 miles of an international border; or

(2) a municipality located in that county if:

(A) the county does not exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter; and

(B) the county by resolution authorizes the municipality to exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter.

Sec. 242.052. REGULATORY AUTHORITY. (a) The commissioners court of a county to which this subchapter applies may, by order, regulate residential land development in the unincorporated area of the county. The governing body of a municipality to which this subchapter applies may, by ordinance, regulate residential

land development in the municipality's extraterritorial jurisdiction. By this authority, the commissioners court or governing body may prevent the proliferation of colonias by:

(1) adopting regulations relating to:

(A) maximum densities, including the size of lots;

(B) the height, number of stories, size, or number of buildings or other structures that may be located on a lot or tract;

(C) the location of buildings and other structures on a lot or tract; and

(D) the preparation of a plan for utility development, environmental effect and adaptation, utility extension, and capacity planning and providing financial analysis of said plan; and

(2) adopting building codes to promote safe and uniform building, plumbing, and electrical standards.

(b) If a tract of land is appraised as agricultural or open-space land by the appraisal district, the commissioners court or governing body may not regulate land development on that tract under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

(c) The authority granted under this section does not authorize the commissioners court or governing body to adopt an order regulating commercial property that is uninhabitable.

(d) The authority granted under this section does not authorize the commissioners court or governing body to adopt an order that limits or otherwise impairs the rights of individuals or entities in the exploration, development, or production of oil, gas, or other minerals.

Sec. 242.053. BUILDING PERMITS. (a) The county or municipality, as appropriate, shall issue a building permit if the person submitting the application for the permit:

(1) files information relating to the location of the residence;

(2) files the building plans for the residence; and

(3) complies with the applicable regulations relating to the issuance of the permit.

(b) The county or municipality may charge a reasonable building permit fee.

(c) The county or municipality shall deposit fees collected under this section in an account in its general fund and dedicate the fees to the building permit program. The funds in the account may be used only for the purpose of administering the building permit program.

Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. If an order adopted by the county under this subchapter conflicts with an ordinance of a municipality, the municipal ordinance prevails within the municipality's jurisdiction to the extent of the conflict.

Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority granted by this subchapter does not affect the authority of the commissioners court or governing body to adopt an order or ordinance under other law.

Sec. 242.056. INJUNCTION. The county or municipality, in a suit brought by the appropriate attorney representing the county or municipality in the district court, is entitled to appropriate injunctive relief to prevent the violation or threatened violation of the entity's order or ordinance adopted under this subchapter from continuing or occurring.

Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an offense if the person violates a restriction or prohibition imposed by an order or ordinance adopted under this subchapter. An offense under this section is a Class C misdemeanor.

(b) It is an exception to the application of this section that:

(1) the person is an owner-occupant of a residential dwelling that is classified by the Texas Department of Housing and Community Affairs as a low-income household;

(2) the dwelling was constructed before the effective date of this subchapter;

(3) the violation related to a building standard or building code for that dwelling; and

(4) the county or municipality, as appropriate:

(A) did not make available to the person a grant or loan in an amount sufficient to cure the violation; or

(B) made available to the person a loan that was sufficient to cure the violation but that caused the housing expenses of the person to exceed 30 percent of the person's net income.

SECTION __. The heading to Chapter 242, Local Government Code, is amended to read as follows:

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO
REGULATE SUBDIVISIONS AND PROPERTY DEVELOPMENT ~~[IN AND
OUTSIDE MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION]~~

SECTION __. Chapter 242, Local Government Code, is amended by designating Sections 242.001, 242.0015, and 242.002 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND
OUTSIDE MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

LUCIO
HINOJOSA
SHAPLEIGH

URESTI
ZAFFIRINI

The amendment to **CSHB 2833** was read.

Senator Lucio offered the following amendment to Floor Amendment No. 3:

Floor Amendment No. 4

Amend Floor Amendment No. 3 by Lucio to **CSHB 2833** as follows:

(1) On page 1, line 8 insert "(a)" between "." and "This".

(2) On page 1, between lines 18 and 19, insert the following new subsection (b) to read as follows:

"(b) This subchapter does not apply to a county that includes territory located within 50 miles of an international border that has a population of 700,000 or more; and contains a municipality with a population of 550,000 or more."

LUCIO
HINOJOSA

URESTI
ZAFFIRINI

The amendment to Floor Amendment No. 3 to **CSHB 2833** was read and was adopted by a viva voce vote.

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

Question recurring on the adoption of Floor Amendment No. 3 as amended to **CSHB 2833**, on motion of Senator Shapleigh, the amendment was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Eltife, Fraser, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapleigh, Watson, Wentworth, Zaffirini.

Nays: Carona, Estes, Gallegos, Harris, Hinojosa, Lucio, Shapiro, Van de Putte, West, Whitmire.

Absent: Uresti, Williams.

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

CSHB 2833 as amended was passed to third reading by the following vote: Yeas 29, Nays 1.

Nays: Estes.

Absent: Williams.

COMMITTEE SUBSTITUTE HOUSE BILL 2833 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2833** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Estes.

Absent: Williams.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 3861 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3861** at this time on its second reading:

HB 3861, Relating to the financing by the Texas Water Development Board of the proposed Lake Columbia reservoir project.

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

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

HOUSE BILL 3861 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3861** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 3144 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3144** at this time on its second reading:

CSHB 3144, Relating to an exemption from the sales and use tax for property used in agricultural operations and for aircraft used in connection with agriculture.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3144** (Senate committee printing), on page 2 line 14, by striking "used for or".

The amendment to **CSHB 3144** was read and was adopted by a viva voce vote.

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

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

CSHB 3144 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3144 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3144** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2127 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2127** at this time on its second reading:

CSHB 2127, Relating to regulations regarding the sale of plastic bulk merchandise containers; providing a criminal penalty.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2127 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2127** be placed on its third reading and final passage.

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

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

HOUSE JOINT RESOLUTION 102 ON THIRD READING

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **HJR 102** at this time on its third reading and final passage:

HJR 102, Proposing a constitutional amendment to protect the right of the public to access and use public beaches.

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

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

Nays: Harris, Jackson.

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

HOUSE BILL 3009 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3009** at this time on its second reading:

HB 3009, Relating to the authority of municipal management districts to consolidate.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 1

SECTION 1. Amend **HB 3009**, House engrossed version, by adding the following language to 375.354(c):

The consolidation district may exercise the powers of the districts being consolidated within the respective boundaries of the original districts. For land annexed into the consolidated districts; the consolidation district; the consolidated district may exercise any of the powers of the original districts.

The amendment to **HB 3009** was read and was adopted by a viva voce vote.

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

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

HB 3009 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3009 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3009** be placed on its third reading and final passage.

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

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

HOUSE JOINT RESOLUTION 85 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HJR 85** at this time on its second reading:

HJR 85, Proposing a constitutional amendment to allow the legislature to provide for members of a governing board of an emergency services district to serve terms not to exceed four years.

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

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

HOUSE JOINT RESOLUTION 85 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 85** be placed on its third reading and final passage.

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

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

HOUSE BILL 857 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 857** at this time on its second reading:

HB 857, Relating to the penalty for certain outdoor burning violations.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 857** by striking SECTION 1 of the bill (page 1, lines 10-33), and substituting:

SECTION 1. Section 7.187, Water Code, is amended to read as follows:

Sec. 7.187. PENALTIES. (a) Except as provided by Subsection (b), a [A] person convicted of an offense under this subchapter is punishable by:

(1) a fine, as imposed under the section creating the offense, of:

- (A) not more than \$1,000;
- (B) not less than \$1,000 or more than \$50,000;
- (C) not less than \$1,000 or more than \$100,000;
- (D) not less than \$1,000 or more than \$250,000;
- (E) not less than \$2,000 or more than \$500,000;
- (F) not less than \$5,000 or more than \$1,000,000;
- (G) not less than \$10,000 or more than \$1,500,000; or
- (H) not more than twice the amount of the required fee;

(2) confinement for a period, as imposed by the section creating the offense, not to exceed:

- (A) 30 days;
- (B) 90 days;
- (C) 180 days;
- (D) one year;
- (E) two years;
- (F) five years;
- (G) 10 years;
- (H) 15 years;
- (I) 20 years; or
- (J) 30 years; or

(3) both fine and confinement, as imposed by the section creating the offense.

(b) Notwithstanding Section 7.177(a)(5), conviction for an offense under Section 382.018, Health and Safety Code, is punishable as:

(1) A Class C misdemeanor if the waste is not a substance described by Subdivision (3);

(2) a Class B misdemeanor if the violation is a second or subsequent violation under Subdivision (1);

(3) a Class A misdemeanor if the violation involves the burning of tires, insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.

The amendment to **HB 857** was read and was adopted by a viva voce vote.

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

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

HB 857 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 857 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 857** be placed on its third reading and final passage.

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

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

HOUSE BILL 3876 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3876** at this time on its second reading:

HB 3876, Relating to certain enforcement actions alleging the failure to pay child support.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3876** as follows:

(1) On page 1, line 12, strike "adding Subsection (e)" and substitute "amending Subsection (d) and adding Subsection (e)".

(2) Add the following on page 1, between lines 12 and 13:

(d) If the court determines that a respondent has failed to make one or more periodic child support payments as ordered by the court, the [The] court may [not] find the [a] respondent in contempt of court regardless of whether [for failure to pay child support if] the respondent appears at the hearing with a copy of the payment record or other evidence [satisfactory to the court] showing that the respondent, as of the time of the hearing, is current in the payment of child support [as ordered by the court].

The amendment to **HB 3876** was read and was adopted by a viva voce vote.

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3876** (Senate committee printing) as follows:

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

SECTION _____. Subsection (g), Section 157.312, Family Code, is amended to read as follows:

(g) A child support lien under this subchapter may not be directed to an employer in lieu of an order or writ under Chapter 158 to withhold child support from ~~[attach to]~~ the disposable earnings of an obligor ~~[paid by the employer]~~.

SECTION _____. Section 157.314, Family Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If a child support lien notice is delivered to a financial institution with respect to an account of the obligor, the institution shall immediately:

(1) provide the claimant with the last known address of the obligor and disclose to the claimant the amount in the account at the time of receipt of the notice;
and

(2) notify any other person having an ownership interest in the account that the account has been frozen in an amount not to exceed the amount of the child support arrearage identified in the notice.

(e) On request, a financial institution to which a child support lien notice has been delivered shall provide the claimant with a statement showing all transactions involving the obligor's account that occurred from the date of receipt of the child support lien notice to the date of receipt of the request for information.

SECTION _____. Section 157.324, Family Code, is amended to read as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN. (a) A person who knowingly pays over, releases, sells, transfers, encumbers, conveys, or otherwise disposes of property subject to a child support lien or who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court under this subchapter is liable to the claimant in an amount equal to the greater of two times the value of the property paid over, released, sold, transferred, encumbered, conveyed, or otherwise disposed of or not surrendered or \$5,000, but not to exceed the amount of the child support arrearages for which the lien or foreclosure judgment was issued.

(b) A claimant may recover costs and reasonable attorney's fees incurred in an action under this section.

(c) Fifty percent of the amount paid by a person to the claimant under Subsection (a) shall be credited against the child support arrearages owed by the obligor.

(d) A financial institution is not liable under this section for the disposition of assets in an account if the child support lien does not contain either the account number or the social security number of an account owner of record.

SECTION _____. Subsections (b) and (f), Section 157.327, Family Code, are amended to read as follows:

(b) The notice under this section must:

(1) identify the amount of child support arrearages owing at the time the amount of arrearages was determined or, if the amount is less, the amount of arrearages owing at the time the notice is prepared and delivered to the financial institution; and

(2) direct the financial institution to pay to the claimant, not earlier than the 15th day or later than the 21st day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor at the time the levy is paid that are held or controlled by the institution or that should have been held or controlled by the institution, not to exceed the amount of the child support arrearages identified in the notice, unless:

(A) the institution is notified by the claimant that the obligor has paid the arrearages or made arrangements satisfactory to the claimant for the payment of the arrearages;

(B) the obligor or another person files, not later than the 10th day after the date of delivery of the notice required by Section 157.328, a suit under Section 157.323 requesting a hearing by the court; or

(C) if the claimant is the Title IV-D agency, the obligor has requested an agency review under Section 157.328.

(f) A financial institution may collect any fees and costs identified in Subsection (c) from the obligor but may not deduct those [the] fees and costs [identified in Subsection (c)] from the obligor's assets before paying the appropriate amount to the claimant.

SECTION _____. Section 157.330, Family Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) A person who possesses or has a right to property that is the subject of a notice of levy delivered to the person and who refuses or fails to timely surrender the property or right to property that should have been paid or delivered to the claimant on demand is liable to the claimant in an amount equal to the greater of two times the value of the property or right to property that should have been paid or delivered or \$5,000, [not surrendered] but [that does] not to exceed the amount of the child support arrearages for which the notice of levy has been filed.

(c) Fifty percent of the amount paid by a person to the claimant under Subsection (a) shall be credited against the child support arrearages owed by the obligor.

(d) A financial institution is not liable under this section for the disposition of assets in an account if the notice of levy does not contain either the account number or the social security number of an account owner of record.

SECTION _____. Subchapter G, Chapter 157, Family Code, is amended by adding Section 157.332 to read as follows:

Sec. 157.332. LIEN AND LEVY ON CERTAIN THIRD-PARTY ASSETS.

(a) If a claimant has reason to believe that an obligor's financial assets have been directed to a depository account of another individual in an attempt to protect those

assets from a child support lien and levy under this subchapter, the claimant may file suit to obtain a judicial determination of the extent, if any, to which the account contains assets owned by the obligor.

(b) On filing suit under this section, the claimant shall also deliver a child support lien notice under this subchapter to the financial institution in which the account is maintained. On receipt of the notice, the financial institution shall immediately:

(1) freeze all assets in the account, except for assets that exceed the amount of the child support arrearage identified in the notice, until a judicial determination is made in accordance with this section; and

(2) inform the account holder that the assets have been frozen and the account may not be closed until a judicial determination is made in accordance with this section.

(c) A child support lien notice required under Subsection (b) may be served on a financial institution in the manner authorized by Section 157.3145.

(d) Except as otherwise provided by this section, the procedures provided by Subchapter B apply to a suit under this section. The obligor must be joined as an additional respondent.

(e) After providing notice to the obligor, the account holder, any other person alleging an ownership interest in the account, the claimant, and the obligee, the court shall hold a hearing to determine the extent, if any, to which the account contains assets owned by the obligor that are subject to a child support lien and levy under this subchapter. The hearing must be held not later than the 30th day after the date suit is filed under this section.

(f) In the hearing required by Subsection (e), the claimant has the burden of proving the extent of the obligor's ownership interest in assets held in the account.

(g) Following the hearing required by Subsection (e):

(1) if the court determines that the account does not contain any of the obligor's assets that are subject to a child support lien and levy under this subchapter, the court shall:

(A) order the release of the lien against the account; and

(B) prohibit any action to levy on the account; or

(2) if the court determines that the account contains any of the obligor's assets that are subject to a child support lien and levy under this subchapter, the court shall:

(A) specify the amount of assets in the account determined by the court to be the obligor's assets subject to a child support lien and levy under this subchapter; and

(B) order that the amount specified under Paragraph (A) be applied against child support arrearages owed by the obligor.

(h) A financial institution that freezes assets under Subsection (b)(1) or surrenders assets in compliance with a court order under Subsection (g)(2) is not liable to the obligor, the account holder, or any other person for the assets frozen or surrendered.

(i) In a suit filed under this section, the court may award attorney's fees and costs to the prevailing party.

SECTION _____. Section 34.001, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to a child support judgment or any other child support collection remedy authorized by the Family Code.

SECTION _____. The changes in law made by this Act to Section 157.312, Family Code, apply only to a child support lien notice filed on or after the effective date of this Act. A child support lien notice filed before the effective date of this Act is governed by the law in effect on the date the lien notice was filed, and the former law is continued in effect for that purpose.

SECTION _____. The changes in law made by this Act to Section 157.314 and Subsection (f), Section 157.327, Family Code, apply only to a financial institution that receives a lien notice or notice of levy under those sections on or after the effective date of this Act. A financial institution that receives a lien notice or notice of levy under those sections before the effective date of this Act is governed by the law in effect on the date the lien notice or notice of levy is received, and the former law is continued in effect for that purpose.

SECTION _____. The changes in law made by this Act to Section 34.001, Civil Practice and Remedies Code, apply to each child support judgment or collection remedy, regardless of the date on which the judgment is rendered or the remedy is sought.

(2) Strike SECTION 2 of the bill and substitute the following:

SECTION 2. The change in law made by this Act to Section 157.162, Family Code, applies only to a motion for enforcement that is filed on or after the effective date of this Act. A motion for enforcement filed before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

The amendment to **HB 3876** was read.

Senator Wentworth temporarily withdrew Floor Amendment No. 2.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3876** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Section 231.202, Family Code, is amended to read as follows:

Sec. 231.202. **AUTHORIZED COSTS AND FEES IN TITLE IV-D CASES.** In a Title IV-D case filed under this title, including a case filed under Chapter 159, the Title IV-D agency shall pay:

(1) filing fees and fees for issuance and service of process as provided by Chapter 110 of this code and by Sections 51.317, 51.318(b)(2), and 51.319(2), Government Code;

(2) fees for transfer as provided by Chapter 110;

(3) fees for the issuance and delivery of orders and writs of income withholding in the amounts provided by Chapter 110;

(4) the fee for services provided by [the] sheriffs and constables, including:

(A) a fee ~~[are]~~ authorized ~~[to charge for serving process]~~ under Section 118.131, Local Government Code, for serving each item of process to each individual on whom service is required, including service by certified or registered mail~~[-to be paid to a sheriff, constable, or clerk whenever service of process is required]; and~~

(B) a fee authorized under Section 157.103(b) for serving a capias;

(5) the fee for filing an administrative writ of withholding under Section 158.503(d); ~~and~~

(6) the fee for issuance of a subpoena as provided by Section 51.318(b)(1), Government Code; and

(7) a fee authorized under a local rule for the electronic filing of documents with a clerk.

SECTION _____. The changes in law made in Section 231.202 by this Act apply to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

The amendment to **HB 3876** was read and was adopted by a viva voce vote.

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

Senator Wentworth again offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3876** (Senate committee printing) as follows:

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

SECTION _____. Subsection (g), Section 157.312, Family Code, is amended to read as follows:

(g) A child support lien under this subchapter may not be directed to an employer in lieu of an order or writ under Chapter 158 to withhold child support from ~~[attach to]~~ the disposable earnings of an obligor ~~[paid by the employer]~~.

SECTION _____. Section 157.314, Family Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If a child support lien notice is delivered to a financial institution with respect to an account of the obligor, the institution shall immediately:

(1) provide the claimant with the last known address of the obligor and disclose to the claimant the amount in the account at the time of receipt of the notice;
and

(2) notify any other person having an ownership interest in the account that the account has been frozen in an amount not to exceed the amount of the child support arrearage identified in the notice.

(e) On request, a financial institution to which a child support lien notice has been delivered shall provide the claimant with a statement showing all transactions involving the obligor's account that occurred from the date of receipt of the child support lien notice to the date of receipt of the request for information.

SECTION _____. Section 157.324, Family Code, is amended to read as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN. (a) A person who knowingly pays over, releases, sells, transfers, encumbers, conveys, or otherwise disposes of property subject to a child support lien or who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court under this subchapter is liable to the claimant in an amount equal to the greater of two times the value of the property paid over, released, sold, transferred, encumbered, conveyed, or otherwise disposed of or not surrendered or \$5,000, but not to exceed the amount of the child support arrearages for which the lien or foreclosure judgment was issued.

(b) A claimant may recover costs and reasonable attorney's fees incurred in an action under this section.

(c) Fifty percent of the amount paid by a person to the claimant under Subsection (a) shall be credited against the child support arrearages owed by the obligor.

(d) A financial institution is not liable under this section for the disposition of assets in an account if the child support lien does not contain either the account number or the social security number of an account owner of record.

SECTION _____. Subsections (b) and (f), Section 157.327, Family Code, are amended to read as follows:

(b) The notice under this section must:

(1) identify the amount of child support arrearages owing at the time the amount of arrearages was determined or, if the amount is less, the amount of arrearages owing at the time the notice is prepared and delivered to the financial institution; and

(2) direct the financial institution to pay to the claimant, not earlier than the 15th day or later than the 21st day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor at the time the levy is paid that are held or controlled by the institution or that should have been held or controlled by the institution, not to exceed the amount of the child support arrearages identified in the notice, unless:

(A) the institution is notified by the claimant that the obligor has paid the arrearages or made arrangements satisfactory to the claimant for the payment of the arrearages;

(B) the obligor or another person files, not later than the 10th day after the date of delivery of the notice required by Section 157.328, a suit under Section 157.323 requesting a hearing by the court; or

(C) if the claimant is the Title IV-D agency, the obligor has requested an agency review under Section 157.328.

(f) A financial institution may collect any fees and costs identified in Subsection (c) from the obligor but may not deduct those [the] fees and costs [identified in Subsection (e)] from the obligor's assets before paying the appropriate amount to the claimant.

SECTION _____. Section 157.330, Family Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) A person who possesses or has a right to property that is the subject of a notice of levy delivered to the person and who refuses or fails to timely surrender the property or right to property that should have been paid or delivered to the claimant on demand is liable to the claimant in an amount equal to the greater of two times the value of the property or right to property that should have been paid or delivered or \$5,000, [not surrendered] but [that does] not to exceed the amount of the child support arrearages for which the notice of levy has been filed.

(c) Fifty percent of the amount paid by a person to the claimant under Subsection (a) shall be credited against the child support arrearages owed by the obligor.

(d) A financial institution is not liable under this section for the disposition of assets in an account if the notice of levy does not contain either the account number or the social security number of an account owner of record.

SECTION _____. Subchapter G, Chapter 157, Family Code, is amended by adding Section 157.332 to read as follows:

Sec. 157.332. LIEN AND LEVY ON CERTAIN THIRD-PARTY ASSETS.

(a) If a claimant has reason to believe that an obligor's financial assets have been directed to a depository account of another individual in an attempt to protect those assets from a child support lien and levy under this subchapter, the claimant may file suit to obtain a judicial determination of the extent, if any, to which the account contains assets owned by the obligor.

(b) On filing suit under this section, the claimant shall also deliver a child support lien notice under this subchapter to the financial institution in which the account is maintained. On receipt of the notice, the financial institution shall immediately:

(1) freeze all assets in the account, except for assets that exceed the amount of the child support arrearage identified in the notice, until a judicial determination is made in accordance with this section; and

(2) inform the account holder that the assets have been frozen and the account may not be closed until a judicial determination is made in accordance with this section.

(c) A child support lien notice required under Subsection (b) may be served on a financial institution in the manner authorized by Section 157.3145.

(d) Except as otherwise provided by this section, the procedures provided by Subchapter B apply to a suit under this section. The obligor must be joined as an additional respondent.

(e) After providing notice to the obligor, the account holder, any other person alleging an ownership interest in the account, the claimant, and the obligee, the court shall hold a hearing to determine the extent, if any, to which the account contains assets owned by the obligor that are subject to a child support lien and levy under this subchapter. The hearing must be held not later than the 30th day after the date suit is filed under this section.

(f) In the hearing required by Subsection (e), the claimant has the burden of proving the extent of the obligor's ownership interest in assets held in the account.

(g) Following the hearing required by Subsection (e):

(1) if the court determines that the account does not contain any of the obligor's assets that are subject to a child support lien and levy under this subchapter, the court shall:

(A) order the release of the lien against the account; and

(B) prohibit any action to levy on the account; or

(2) if the court determines that the account contains any of the obligor's assets that are subject to a child support lien and levy under this subchapter, the court shall:

(A) specify the amount of assets in the account determined by the court to be the obligor's assets subject to a child support lien and levy under this subchapter; and

(B) order that the amount specified under Paragraph (A) be applied against child support arrearages owed by the obligor.

(h) A financial institution that freezes assets under Subsection (b)(1) or surrenders assets in compliance with a court order under Subsection (g)(2) is not liable to the obligor, the account holder, or any other person for the assets frozen or surrendered.

(i) In a suit filed under this section, the court may award attorney's fees and costs to the prevailing party.

SECTION _____. Section 34.001, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to a child support judgment or any other child support collection remedy authorized by the Family Code.

SECTION _____. The changes in law made by this Act to Section 157.312, Family Code, apply only to a child support lien notice filed on or after the effective date of this Act. A child support lien notice filed before the effective date of this Act is governed by the law in effect on the date the lien notice was filed, and the former law is continued in effect for that purpose.

SECTION _____. The changes in law made by this Act to Section 157.314 and Subsection (f), Section 157.327, Family Code, apply only to a financial institution that receives a lien notice or notice of levy under those sections on or after the effective date of this Act. A financial institution that receives a lien notice or notice of levy under those sections before the effective date of this Act is governed by the law in effect on the date the lien notice or notice of levy is received, and the former law is continued in effect for that purpose.

SECTION _____. The changes in law made by this Act to Section 34.001, Civil Practice and Remedies Code, apply to each child support judgment or collection remedy, regardless of the date on which the judgment is rendered or the remedy is sought.

(2) Strike SECTION 2 of the bill and substitute the following:

SECTION 2. The change in law made by this Act to Section 157.162, Family Code, applies only to a motion for enforcement that is filed on or after the effective date of this Act. A motion for enforcement filed before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

The amendment to **HB 3876** was again read and was adopted by a viva voce vote.

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

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

HB 3876 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3876 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3876** be placed on its third reading and final passage.

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

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

HOUSE BILL 4031 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4031** at this time on its second reading:

HB 4031, Relating to the agricultural biomass and landfill diversion incentive program.

The bill was read second time.

Senator Seliger offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 4031** (engrossed version) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 22.004(c), Agriculture Code, is amended to read as follows:

(c) Money in the account may be appropriated only to the department for the purpose of implementing, ~~and~~ maintaining, and administering the agricultural biomass and landfill diversion incentive program.

SECTION _____. The heading to Section 22.005, Agriculture Code, is amended to read as follows:

Sec. 22.005. LIMITATION ON GRANT AMOUNT; SCHEDULE OF PAYMENTS.

SECTION _____. Section 22.005, Agriculture Code, is amended by adding Subsection (c) to read as follows:

(c) On a determination that money in the agricultural biomass and landfill diversion incentive account is insufficient to pay reimbursements under Section 22.003 or grants under Section 22.006, the department, in consultation with interested

parties, may develop a proportionate and equitable schedule to pay the reimbursements or grants. In developing a schedule to pay reimbursements or grants under this subsection, the department may consider a facility's:

- (1) effect on wages and job creation or job retention;
- (2) level of capital investment; and
- (3) effect on the local economy and the economy of this state.

The amendment to **HB 4031** was read and was adopted by a viva voce vote.

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

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

HB 4031 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 4031 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4031** be placed on its third reading and final passage.

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

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

HOUSE BILL 1322 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1322** at this time on its second reading:

HB 1322, Relating to the establishment of an online resource for teachers of students with special health needs.

The bill was read second time.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1322** (Senate committee printing) by adding the following SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 32.101, Insurance Code, is amended to read as follows:

Sec. 32.101. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to insurers who comprise the top 25 insurance groups in the national market and who issue residential property insurance or personal automobile insurance policies in this state, including a Lloyd's plan, a reciprocal or interinsurance exchange, a county

mutual insurance company, a farm mutual insurance company, the Texas Windstorm Insurance Association, the FAIR Plan Association, and the Texas Automobile Insurance Plan Association.

(b) This subchapter applies to an issuer of a health benefit plan described by Section 544.301, as added by Chapter 748 (H.B. 2810), Acts of the 79th Legislature, Regular Session, 2005.

(b) This section takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes does not become law.

SECTION _____. (a) Section 32.101, Insurance Code, is amended to read as follows:

Sec. 32.101. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to insurers who comprise the top 25 insurance groups in the national market and who issue residential property insurance or personal automobile insurance policies in this state, including a Lloyd's plan, a reciprocal or interinsurance exchange, a county mutual insurance company, a farm mutual insurance company, the Texas Windstorm Insurance Association, the FAIR Plan Association, and the Texas Automobile Insurance Plan Association.

(b) This subchapter applies to an issuer of a health benefit plan described by Section 544.501.

(b) This section takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law.

SECTION _____. Section 32.102(a), Insurance Code, is amended to read as follows:

(a) The department, in conjunction with the office of public insurance counsel, shall establish and maintain a single Internet website that provides information to enable consumers to make informed decisions relating to the purchase of health insurance, residential property insurance, and personal automobile insurance. The website must include:

(1) a description of each type of residential property insurance policy and personal automobile insurance policy issued in this state, including a comparison of the coverage, exclusions, and restrictions of each policy that allows a side-by-side comparison of the features of the policy forms;

(2) a listing of each insurer writing residential property insurance or personal automobile insurance in this state, indexed by each county or zip code in which the insurer is actively writing that insurance, and a profile of the insurer that includes:

(A) contact information for the insurer, including the insurer's full name, address, and telephone number and the insurer's fax number and e-mail address, if available;

(B) information on rates charged by the insurer, including:

(i) sample rates for different policyholder profiles in each county or zip code; and

(ii) the percentage by which the sample rate has fallen or risen due to filings in the previous 12, 24, and 36 months;

(C) a list of policy forms, exclusions, endorsements, and discounts offered by the insurer;

(D) an indication of whether the insurer uses credit scoring in underwriting, rating, or tiering, and a link to the insurer's credit model or a link explaining how to request the insurer's credit model;

(E) the insurer's financial rating determined by A. M. Best or similar rating organization and an explanation of the meaning and importance of the rating;

(F) a complaint ratio or similar complaint rating system for the insurer for each of the previous three years and an explanation of the meaning of the rating system; and

(G) information, other than information made confidential by law, on the insurer's regulatory and administrative experience with the department, the office of public insurance counsel, and insurance regulatory authorities in other states; ~~and~~

(3) if feasible, as determined by the commissioner and the public insurance counsel:

(A) a side-by-side comparison of credit scoring models, including factors, key variables, and weights, of residential property insurers in this state; and

(B) a side-by-side comparison of credit scoring models, including factors, key variables, and weights, of private passenger automobile insurers in this state; and

(4) in the manner prescribed by the commissioner by rule, contact information for individual health benefit plans as necessary for consumers to obtain additional rate information regarding a plan and a comparison of information about health benefit plans, including information regarding a plan's:

(A) annual deductibles;

(B) out-of-pocket maximums;

(C) office visit copayments, listed separately for primary care providers and specialists;

(D) prescription copayments, listed by generic and brand name medications;

(E) prescription deductibles;

(F) lifetime maximum coverage;

(G) maternity coverage included;

(H) emergency room visit copayments;

(I) covered days for inpatient mental health;

(J) outpatient surgery copayments; and

(K) inpatient cost sharing.

The amendment to **HB 1322** was read and was adopted by a viva voce vote.

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

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1322** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Amend Chapter 264, Family Code, is by adding Subchapter K to read as follows:

SUBCHAPTER K. ONLINE RESOURCE CENTER

Sec. 264.821. DEFINITIONS. In this subchapter:

(1) "Communications tool" means an online method for peer-to-peer communication among individuals who handle child abuse and neglect cases.

(2) "Office" means the Office of Court Administration of the Texas Judicial System.

(3) "Online resource center" means a single interactive Internet website that provides, to individuals who handle child abuse and neglect cases, timely informational materials pertinent to child abuse and neglect cases in this state, which may include summaries of Texas cases and statutes relating to child abuse and neglect, sample briefs and other legal forms, articles and papers, manuals with information on Texas legal practice and practice tips, a conference calendar, and communications tools.

Sec. 264.822. CONTRACT. (a) The office shall contract with an entity to provide an online resource center if:

(1) the office is specifically appropriated money in an amount adequate to provide the online resource center; and

(2) there is a qualified entity with whom the office is able to contract.

(b) The online resource center must:

(1) provide a means of searching for informational materials by subject; and

(2) include a:

(A) communications tool for judges; and

(B) communications tool for attorneys.

(c) The contract under this section must prohibit the entity with which the office contracts from spending more than 12 percent of the contract price on the entity's indirect or administrative overhead expenses.

(d) If the office does not enter into a contract in accordance with this subchapter, the office may not receive the funds appropriated to the office in connection with this subchapter.

Sec. 264.823. ELIGIBILITY FOR CONTRACT. The entity with which the office contracts under this subchapter must:

(1) have experience in operating an online resource center specifically designed for judges and attorneys handling child abuse and neglect cases in this state;

(2) have experience in providing a communications tool; and

(3) employ or contract with at least one attorney who is licensed to practice law in this state and who specializes in child abuse and neglect cases to compile the materials for and oversee the operation of the online resource center.

Sec. 264.824. FUNDING. (a) The entity with which the office contracts under this subchapter may obtain funding from private foundations and individuals, from state and federal grants, and from any other source to operate the online resource center.

(b) The entity must maintain and provide to the office records that adequately identify:

(1) each person who provided funds to the entity to operate the online resource center; and

(2) the amount of funds the person provided.

Sec. 264.825. CONFIDENTIALITY. All communications conducted through a communications tool provided in connection with the online resource center implemented under this subchapter are privileged and confidential.

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

SECTION ____ . This Act takes effect September 1, 2009.

The amendment to **HB 1322** was read and was adopted by a viva voce vote.

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

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

HB 1322 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1322 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1322** be placed on its third reading and final passage.

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

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

HOUSE JOINT RESOLUTION 132 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HJR 132** at this time on its second reading:

HJR 132, Proposing a constitutional amendment relating to the financing, including through tax increment financing, of the acquisition by municipalities and counties of buffer areas or open spaces adjacent to a military installation for certain purposes.

The resolution was read second time and was passed to third reading by the following vote: Yeas 31, Nays 0.

HOUSE JOINT RESOLUTION 132 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 132** be placed on its third reading and final passage.

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

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

**VOTE RECONSIDERED ON
HOUSE BILL 3907**

On motion of Senator Whitmire and by unanimous consent, the vote by which **HB 3907** was finally passed was reconsidered:

HB 3907, Relating to the court-ordered administration of psychoactive medication to certain criminal defendants and to the release of those defendants from certain facilities.

Question — Shall **HB 3907** be finally passed?

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 3907** (Senate committee printing) on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 592.038, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) Each client has the right to refuse psychoactive medication, as provided by Subchapter E.

(b) Subsection (b), Section 592.054, Health and Safety Code, is amended to read as follows:

(b) Notwithstanding Subsection (a), consent is required for:

(1) all surgical procedures; and

(2) as provided by Section 592.083, the administration of psychoactive medications.

(c) Chapter 592, Health and Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. ADMINISTRATION OF PSYCHOACTIVE MEDICATIONS

Sec. 592.081. DEFINITIONS. In this subchapter:

(1) "Capacity" means a client's ability to:

(A) understand the nature and consequences of a proposed treatment, including the benefits, risks, and alternatives to the proposed treatment; and

(B) make a decision whether to undergo the proposed treatment.

(2) "Medication-related emergency" means a situation in which it is immediately necessary to administer medication to a client to prevent:

(A) imminent probable death or substantial bodily harm to the client because the client:

(i) overtly or continually is threatening or attempting to commit suicide or serious bodily harm; or

(ii) is behaving in a manner that indicates that the client is unable to satisfy the client's need for nourishment, essential medical care, or self-protection; or

(B) imminent physical or emotional harm to another because of threats, attempts, or other acts the client overtly or continually makes or commits.

(3) "Psychoactive medication" means a medication prescribed for the treatment of symptoms of psychosis or other severe mental or emotional disorders and that is used to exercise an effect on the central nervous system to influence and modify behavior, cognition, or the affective state when treating the symptoms of mental illness. "Psychoactive medication" includes the following categories when used as described in this subdivision:

(A) antipsychotics or neuroleptics;

(B) antidepressants;

(C) agents for control of mania or depression;

(D) antianxiety agents;

(E) sedatives, hypnotics, or other sleep-promoting drugs; and

(F) psychomotor stimulants.

Sec. 592.082. ADMINISTRATION OF PSYCHOACTIVE MEDICATION.

(a) A person may not administer a psychoactive medication to a client receiving voluntary or involuntary residential care services who refuses the administration unless:

(1) the client is having a medication-related emergency;

(2) the refusing client's representative authorized by law to consent on behalf of the client has consented to the administration;

(3) the administration of the medication regardless of the client's refusal is authorized by an order issued under Section 592.086; or

(4) the administration of the medication regardless of the client's refusal is authorized by an order issued under Article 46B.086, Code of Criminal Procedure.

(b) Consent to the administration of psychoactive medication given by a client or by a person authorized by law to consent on behalf of the client is valid only if:

(1) the consent is given voluntarily and without coercive or undue influence;

(2) the treating physician or a person designated by the physician provides the following information, in a standard format approved by the department, to the client and, if applicable, to the client's representative authorized by law to consent on behalf of the client:

(A) the specific condition to be treated;

(B) the beneficial effects on that condition expected from the medication;

(C) the probable health care consequences of not consenting to the medication;

(D) the probable clinically significant side effects and risks associated with the medication;

(E) the generally accepted alternatives to the medication, if any, and why the physician recommends that they be rejected; and

(F) the proposed course of the medication;

(3) the client and, if appropriate, the client's representative authorized by law to consent on behalf of the client are informed in writing that consent may be revoked; and

(4) the consent is evidenced in the client's clinical record by a signed form prescribed by the residential care facility or by a statement of the treating physician or a person designated by the physician that documents that consent was given by the appropriate person and the circumstances under which the consent was obtained.

(c) If the treating physician designates another person to provide the information under Subsection (b), then, not later than two working days after that person provides the information, excluding weekends and legal holidays, the physician shall meet with the client and, if appropriate, the client's representative who provided the consent, to review the information and answer any questions.

(d) A client's refusal or attempt to refuse to receive psychoactive medication, whether given verbally or by other indications or means, shall be documented in the client's clinical record.

(e) In prescribing psychoactive medication, a treating physician shall:

(1) prescribe, consistent with clinically appropriate medical care, the medication that has the fewest side effects or the least potential for adverse side effects, unless the class of medication has been demonstrated or justified not to be effective clinically; and

(2) administer the smallest therapeutically acceptable dosages of medication for the client's condition.

(f) If a physician issues an order to administer psychoactive medication to a client without the client's consent because the client is having a medication-related emergency:

(1) the physician shall document in the client's clinical record in specific medical or behavioral terms the necessity of the order and that the physician has evaluated but rejected other generally accepted, less intrusive forms of treatment, if any; and

(2) treatment of the client with the psychoactive medication shall be provided in the manner, consistent with clinically appropriate medical care, least restrictive of the client's personal liberty.

Sec. 592.083. ADMINISTRATION OF MEDICATION TO CLIENT COMMITTED TO RESIDENTIAL CARE FACILITY. (a) In this section, "ward" has the meaning assigned by Section 601, Texas Probate Code.

(b) A person may not administer a psychoactive medication to a client who refuses to take the medication voluntarily unless:

(1) the client is having a medication-related emergency;

(2) the client is under an order issued under Section 592.086 authorizing the administration of the medication regardless of the client's refusal; or

(3) the client is a ward who is 18 years of age or older and the guardian of the person of the ward consents to the administration of psychoactive medication regardless of the ward's expressed preferences regarding treatment with psychoactive medication.

Sec. 592.084. PHYSICIAN'S APPLICATION FOR ORDER TO AUTHORIZE PSYCHOACTIVE MEDICATION; DATE OF HEARING. (a) A physician who is treating a client may file an application in a probate court or a court with probate jurisdiction on behalf of the state for an order to authorize the administration of a psychoactive medication regardless of the client's refusal if:

(1) the physician believes that the client lacks the capacity to make a decision regarding the administration of the psychoactive medication;

(2) the physician determines that the medication is the proper course of treatment for the client; and

(3) the client has been committed to a residential care facility under Subchapter C, Chapter 593, or other law or an application for commitment to a residential care facility under Subchapter C, Chapter 593, has been filed for the client.

(b) An application filed under this section must state:

(1) that the physician believes that the client lacks the capacity to make a decision regarding administration of the psychoactive medication and the reasons for that belief;

(2) each medication the physician wants the court to compel the client to take;

(3) whether an application for commitment to a residential care facility under Subchapter C, Chapter 593, has been filed;

(4) whether an order committing the client to a residential care facility has been issued and, if so, under what authority it was issued;

(5) the physician's diagnosis of the client; and

(6) the proposed method for administering the medication and, if the method is not customary, an explanation justifying the departure from the customary methods.

(c) An application filed under this section must be filed separately from an application for commitment to a residential care facility.

(d) The hearing on the application may be held on the same date as a hearing on an application for commitment to a residential care facility under Subchapter C, Chapter 593, but the hearing must be held not later than 30 days after the filing of the application for the order to authorize psychoactive medication. If the hearing is not held on the same date as the application for commitment to a residential care facility under Subchapter C, Chapter 593, and the client is transferred to a residential care facility in another county, the court may transfer the application for an order to authorize psychoactive medication to the county where the client has been transferred.

(e) Subject to the requirement in Subsection (d) that the hearing shall be held not later than 30 days after the filing of the application, the court may grant one continuance on a party's motion and for good cause shown. The court may grant more than one continuance only with the agreement of the parties.

Sec. 592.085. RIGHTS OF CLIENT. A client for whom an application for an order to authorize the administration of a psychoactive medication is filed is entitled:

(1) to be represented by a court-appointed attorney who is knowledgeable about issues to be adjudicated at the hearing;

(2) to meet with that attorney as soon as is practicable to prepare for the hearing and to discuss any of the client's questions or concerns;

(3) to receive, immediately after the time of the hearing is set, a copy of the application and written notice of the time, place, and date of the hearing;

(4) to be informed, at the time personal notice of the hearing is given, of the client's right to a hearing and right to the assistance of an attorney to prepare for the hearing and to answer any questions or concerns;

(5) to be present at the hearing;

(6) to request from the court an independent expert; and

(7) to be notified orally, at the conclusion of the hearing, of the court's determinations of the client's capacity and best interest.

Sec. 592.086. HEARING AND ORDER AUTHORIZING PSYCHOACTIVE MEDICATION. (a) The court may issue an order authorizing the administration of one or more classes of psychoactive medication to a client who:

(1) has been committed to a residential care facility; or

(2) is in custody awaiting trial in a criminal proceeding and was committed to a residential care facility in the six months preceding a hearing under this section.

(b) The court may issue an order under this section only if the court finds by clear and convincing evidence after the hearing:

(1) that the client lacks the capacity to make a decision regarding the administration of the proposed medication and that treatment with the proposed medication is in the best interest of the client; or

(2) if the client was committed to a residential care facility by a criminal court with jurisdiction over the client, that:

(A) the client presents a danger to the client or others in the residential care facility in which the client is being treated as a result of a mental disorder or mental defect as determined under Section 592.087; and

(B) treatment with the proposed medication is in the best interest of the client.

(c) In making the finding that treatment with the proposed medication is in the best interest of the client, the court shall consider:

(1) the client's expressed preferences regarding treatment with psychoactive medication;

(2) the client's religious beliefs;

(3) the risks and benefits, from the perspective of the client, of taking psychoactive medication;

(4) the consequences to the client if the psychoactive medication is not administered;

(5) the prognosis for the client if the client is treated with psychoactive medication;

(6) alternative, less intrusive treatments that are likely to produce the same results as treatment with psychoactive medication; and

(7) less intrusive treatments likely to secure the client's consent to take the psychoactive medication.

(d) A hearing under this subchapter shall be conducted on the record by the probate judge or judge with probate jurisdiction, except as provided by Subsection (e).

(e) A judge may refer a hearing to a magistrate or court-appointed master who has training regarding psychoactive medications. The magistrate or master may effectuate the notice, set hearing dates, and appoint attorneys as required by this subchapter. A record is not required if the hearing is held by a magistrate or court-appointed master.

(f) A party is entitled to a hearing de novo by the judge if an appeal of the magistrate's or master's report is filed with the court before the fourth day after the date the report is issued. The hearing de novo shall be held not later than the 30th day after the date the application for an order to authorize psychoactive medication was filed.

(g) If a hearing or an appeal of a master's or magistrate's report is to be held in a county court in which the judge is not a licensed attorney, the proposed client or the proposed client's attorney may request that the proceeding be transferred to a court with a judge who is licensed to practice law in this state. The county judge shall transfer the case after receiving the request, and the receiving court shall hear the case as if it had been originally filed in that court.

(h) As soon as practicable after the conclusion of the hearing, the client is entitled to have provided to the client and the client's attorney written notification of the court's determinations under this section. The notification shall include a statement of the evidence on which the court relied and the reasons for the court's determinations.

(i) An order entered under this section shall authorize the administration to a client, regardless of the client's refusal, of one or more classes of psychoactive medications specified in the application and consistent with the client's diagnosis. The order shall permit an increase or decrease in a medication's dosage, restitution of medication authorized but discontinued during the period the order is valid, or the substitution of a medication within the same class.

(j) The classes of psychoactive medications in the order must conform to classes determined by the department.

(k) An order issued under this section may be reauthorized or modified on the petition of a party. The order remains in effect pending action on a petition for reauthorization or modification. For the purpose of this subsection, "modification" means a change of a class of medication authorized in the order.

Sec. 592.087. FINDING THAT CLIENT PRESENTS A DANGER. In making a finding under Section 592.086(b)(2) that the client presents a danger to the client or others in the residential care facility in which the client is being treated as a result of a mental disorder or mental defect the court shall consider:

(1) an assessment of the client's present mental condition; and
(2) whether the client has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm to the client's self or to another while in the facility.

Sec. 592.088. APPEAL. (a) A client may appeal an order under this subchapter in the manner provided by Section 593.056 for an appeal of an order committing the client to a residential care facility.

(b) An order authorizing the administration of medication regardless of the refusal of the client is effective pending an appeal of the order.

Sec. 592.089. EFFECT OF ORDER. (a) A person's consent to take a psychoactive medication is not valid and may not be relied on if the person is subject to an order issued under Section 592.086.

(b) The issuance of an order under Section 592.086 is not a determination or adjudication of mental incompetency and does not limit in any other respect that person's rights as a citizen or the person's property rights or legal capacity.

Sec. 592.090. EXPIRATION OF ORDER. (a) Except as provided by Subsection (b), an order issued under Section 592.086 expires on the anniversary of the date the order was issued.

(b) An order issued under Section 592.086 for a client awaiting trial in a criminal proceeding expires on the date the defendant is acquitted, is convicted, or enters a plea of guilty or the date on which charges in the case are dismissed. An order continued under this subsection shall be reviewed by the issuing court every six months.

(d) Subsections (a) and (b), Article 46B.086, Code of Criminal Procedure, are amended to read as follows:

(a) This article applies only to a defendant:

(1) who is determined under this chapter to be incompetent to stand trial;

(2) for whom an inpatient mental health facility, residential care facility, or outpatient treatment program provider has prepared a continuity of care plan that requires the defendant to take psychoactive medications; and

(3) who, after a hearing held under Section 574.106 or 592.086, Health and Safety Code, has been found not to meet the criteria prescribed by Sections 574.106(a) and (a-1), or Sections 592.086(a) and (b), Health and Safety Code, for court-ordered administration of psychoactive medications; or

(4) who is subject to Article 46B.072.

(b) If a defendant described by Subsection (a) refuses to take psychoactive medications as required by the defendant's continuity of care plan, the director of the correctional facility or outpatient treatment provider shall notify the court in which the criminal proceedings are pending of that fact not later than the end of the next business day following the refusal. The court shall promptly notify the attorney representing the state and the attorney representing the defendant of the defendant's refusal. The attorney representing the state may file a written motion to compel medication. The motion to compel medication must be filed not later than the 15th day after the date a judge issues an order stating that the defendant does not meet the criteria for court-ordered administration of psychoactive medications under Section 574.106 or 592.086, Health and Safety Code. The motion to compel medication for a defendant in an outpatient treatment program may be filed at any time.

(e) Notwithstanding any other provision of this Act, this section takes effect September 1, 2009.

The amendment to **HB 3907** was read and was adopted by a viva voce vote.

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

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

HB 3907 as amended was again finally passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 3479 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3479** at this time on its second reading:

CSHB 3479, Relating to filing of instruments conveying real property in certain counties.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3479** (Senate committee printing) by adding the following SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 209.010, Property Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (b-2) to read as follows:

(a) A property owners' association that conducts a foreclosure sale of an owner's lot must send to the lot owner and to each lienholder of record, not later than the 30th day after the date of the foreclosure sale, a written notice stating the date and time the sale occurred and informing the lot owner and each lienholder of record of the [owner's] right of the lot owner and lienholder to redeem the property under Section 209.011.

(b) The notice must be sent by certified mail, return receipt requested, to:

(1) the lot owner's last known mailing address, as reflected in the records of the property owners' association;

(2) the address of each holder of a lien on the property subject to foreclosure evidenced by the most recent deed of trust filed of record in the real property records of the county in which the property is located; and

(3) the address of each transferee or assignee of a deed of trust described by Subdivision (2) who has provided notice to a property owners' association of such assignment or transfer. Notice provided by a transferee or assignee to a property owners' association shall be in writing, shall contain the mailing address of the transferee or assignee, and shall be mailed by certified mail, return receipt requested, or United States mail with signature confirmation to the property owners' association according to the mailing address of the property owners' association pursuant to the most recent management certificate filed of record pursuant to Section 209.004.

(b-1) If a recorded instrument does not include an address for the lienholder, the association does not have a duty to notify the lienholder as provided by this section.

(b-2) For purposes of this section, the lot owner is deemed to have given approval for the association to notify the lienholder.

SECTION _____. Subsections (b), (d), (e), (f), (g), (h), (j), (k), (m), (n), and (p), Section 209.011, Property Code, are amended to read as follows:

(b) The owner of property in a residential subdivision or a lienholder of record may redeem the property from any purchaser at a sale foreclosing a property owners' association's assessment lien not later than the 180th day after the date the association mails written notice of the sale to the owner and the lienholder under Section 209.010. A lienholder of record may not redeem the property as provided herein before 90 days after the date the association mails written notice of the sale to the lot owner and the lienholder under Section 209.010, and only if the lot owner has not previously redeemed.

(d) To redeem property purchased by the property owners' association at the foreclosure sale, the lot owner or lienholder must pay to the association:

- (1) all amounts due the association at the time of the foreclosure sale;
- (2) interest from the date of the foreclosure sale to the date of redemption on all amounts owed the association at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;
- (3) costs incurred by the association in foreclosing the lien and conveying the property to the ~~[redeeming]~~ lot owner, including reasonable attorney's fees;
- (4) any assessment levied against the property by the association after the date of the foreclosure sale;
- (5) any reasonable cost incurred by the association, including mortgage payments and costs of repair, maintenance, and leasing of the property; and
- (6) the purchase price paid by the association at the foreclosure sale less any amounts due the association under Subdivision (1) that were satisfied out of foreclosure sale proceeds.

(e) To redeem property purchased at the foreclosure sale by a person other than the property owners' association, the lot owner or lienholder:

- (1) must pay to the association:
 - (A) all amounts due the association at the time of the foreclosure sale less the foreclosure sales price received by the association from the purchaser;
 - (B) interest from the date of the foreclosure sale through the date of redemption on all amounts owed the association at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;
 - (C) costs incurred by the association in foreclosing the lien and conveying the property to the redeeming lot owner, including reasonable attorney's fees;
 - (D) any unpaid assessments levied against the property by the association after the date of the foreclosure sale; and
 - (E) taxable costs incurred in a proceeding brought under Subsection (a);
- and
- (2) must pay to the person who purchased the property at the foreclosure sale:
 - (A) any assessments levied against the property by the association after the date of the foreclosure sale and paid by the purchaser;

(B) the purchase price paid by the purchaser at the foreclosure sale;
(C) the amount of the deed recording fee;
(D) the amount paid by the purchaser as ad valorem taxes, penalties, and interest on the property after the date of the foreclosure sale; and

(E) taxable costs incurred in a proceeding brought under Subsection (a).

(f) If a lot owner or lienholder redeems the property under this section, the purchaser of the property at foreclosure shall immediately execute and deliver to the redeeming party ~~[owner]~~ a deed transferring the property to the ~~[redeeming]~~ lot owner. If a purchaser fails to comply with this section, the lot owner or lienholder may file an ~~[a cause of]~~ action against the purchaser and may recover reasonable attorney's fees from the purchaser if the lot owner or the lienholder is the prevailing party in the action.

(g) If, before the expiration of the redemption period, the redeeming lot owner or lienholder fails to record the deed from the foreclosing purchaser or fails to record an affidavit stating that the lot owner or lienholder has redeemed the property, the lot owner's or lienholder's right of redemption as against a bona fide purchaser or lender for value expires after the redemption period.

(h) The purchaser of the property at the foreclosure sale or a person to whom the person who purchased the property at the foreclosure sale transferred the property may presume conclusively that the lot owner or a lienholder did not redeem the property unless the lot owner or a lienholder files in the real property records of the county in which the property is located:

(1) a deed from the purchaser of the property at the foreclosure sale; or

(2) an affidavit that:

(A) states that the property ~~[lot owner]~~ has been redeemed ~~[the property]; [and]~~

(B) contains a legal description of the property; and

(C) includes the name and mailing address of the person who redeemed the property.

(j) If a person other than the property owners' association is the purchaser at the foreclosure sale, before executing a deed transferring the property to the ~~[redeeming]~~ lot owner, the purchaser shall obtain an affidavit from the association or its authorized agent stating that all amounts owed the association under Subsection (e) have been paid. The association shall provide the purchaser with the affidavit not later than the 10th day after the date the association receives all amounts owed to the association under Subsection (e). Failure of a purchaser to comply with this subsection does not affect the validity of a redemption ~~[by a redeeming lot owner]~~.

(k) Property that is redeemed remains subject to all liens and encumbrances on the property before foreclosure. Any lease entered into by the purchaser of property at a sale foreclosing an assessment lien of a property owners' association is subject to the right of redemption provided by this section and the lot owner's right to reoccupy the property immediately after ~~[the]~~ redemption.

(m) If a lot owner or lienholder sends by certified mail, return receipt requested, a written request to redeem the property on or before the last day of the redemption period, the lot owner's or lienholder's right of redemption is extended until the 10th

day after the date the association and any third party foreclosure purchaser provides written notice to the redeeming party [~~lot owner~~] of the amounts that must be paid to redeem the property.

(n) After the redemption period and any extended redemption period provided by Subsection (m) expires without a redemption of the property, the association or third party foreclosure purchaser shall record an affidavit in the real property records of the county in which the property is located stating that the lot owner or a lienholder did not redeem the property during the redemption period or any extended redemption period.

(p) The rights of a lot owner and a lienholder under this section also apply if the sale of the lot owner's property is conducted by a constable or sheriff as provided by a judgment obtained by the property owners' association.

SECTION _____. Sections 209.010 and 209.011, Property Code, as amended by this Act, apply only to a foreclosure sale conducted on or after the effective date of this Act. A foreclosure sale conducted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

The amendment to **CSHB 3479** was read and was adopted by a viva voce vote.

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

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

CSHB 3479 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3479 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3479** be placed on its third reading and final passage.

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

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

HOUSE BILL 4704 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4704** at this time on its second reading:

HB 4704, Relating to the Starr County Hospital District.

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

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

HOUSE BILL 4704 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4704** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 4433 ON SECOND READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **CSHB 4433** at this time on its second reading:

CSHB 4433, Relating to an exemption from oil and gas severance taxes for oil and gas produced in association with the production of geothermal energy.

The motion prevailed.

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

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

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

Present-not voting: Ogden.

**COMMITTEE SUBSTITUTE
HOUSE BILL 4433 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4433** be placed on its third reading and final passage.

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

Present-not voting: Ogden.

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

HOUSE BILL 3669 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3669** at this time on its second reading:

HB 3669, Relating to the authority of certain counties to impose a hotel occupancy tax.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3669** (Senate committee printing) in SECTION 2 of the bill, in added Section 352.003(m), Tax Code (page 1, line 20), by striking "three" and substituting "two".

The amendment to **HB 3669** was read and was adopted by a viva voce vote.

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

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

HB 3669 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3669 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3669** be placed on its third reading and final passage.

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

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

HOUSE BILL 746 ON SECOND READING

Senator Patrick moved to suspend the regular order of business to take up for consideration **HB 746** at this time on its second reading:

HB 746, Relating to expanding the availability of classrooms and other facilities for use by public colleges and universities.

The motion prevailed.

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

The bill was read second time.

Senator Patrick offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 746** (engrossed version) as follows:

- (1) Strike SECTION 1 entirely.
- (2) In SECTION 2, on page 1, line 23, strike "shall" and substitute "may".
- (3) In SECTION 2, on page 2, line 4, strike "institution of higher education" and substitute "junior college".
- (4) In SECTION 2, strike subsection (d) entirely (page 2, line 21 through page 3, line 1).

The amendment to **HB 746** was read and was adopted by a viva voce vote.

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

Nays: Hegar.

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

HB 746 as amended was passed to third reading by a viva voce vote.

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

Nays: Hegar.

HOUSE BILL 746 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 746** be placed on its third reading and final passage.

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

Nays: Hegar.

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

COMMITTEE SUBSTITUTE HOUSE BILL 770 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 770** at this time on its second reading:

CSHB 770, Relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 770** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Section 11.27, Tax Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the property on which the solar or wind-powered energy device is installed or constructed is property that qualifies for an exemption under Section 11.13, Section 11.43(c) applies to the exemption provided by Subsection (a) in the same manner as Section 11.43(c) applies to an exemption listed in that section.

(b) This section applies only to an ad valorem tax year that begins on or after the effective date of this section.

The amendment to **CSHB 770** was read and was adopted by a viva voce vote.

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

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 770** by adding Section 11.231 to read as follows:

Sec. 11.231. NONPROFIT COMMUNITY BUSINESS ORGANIZATION PROVIDING ECONOMIC DEVELOPMENT SERVICES TO LOCAL COMMUNITY. (a) In this section, "nonprofit community business organization" means an organization that meets the following requirements:

(1) the organization has been in existence for at least the preceding five years;

(2) the organization:

(A) is a nonprofit corporation organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or a nonprofit corporation formed under the Texas Nonprofit Corporation Law, as described by Section 1.008, Business Organizations Code;

(B) is a nonprofit organization described by Section 501(c)(6), Internal Revenue Code of 1986; and

(C) is not a statewide organization;

(3) for at least the preceding three years, the organization has maintained a dues-paying membership of at least 50 members; and

(4) the organization:

(A) has a board of directors elected by the members;

(B) does not compensate members of the board of directors for service on the board;

(C) with respect to its activities in this state, is engaged primarily in performing functions listed in Subsection (d);

(D) is primarily supported by membership dues and other income from activities substantially related to its primary functions; and

(E) is not, has not formed, and does not financially support a political committee as defined by Section 251.001, Election Code.

(b) An association that qualifies as a nonprofit community business organization as provided by this section is entitled to an exemption from taxation of:

(1) the buildings and tangible personal property that:

(A) are owned by the nonprofit community business organization; and

(B) except as permitted by Subsection (c), are used exclusively by qualified nonprofit community business organizations to perform their primary functions; and

(2) the real property owned by the nonprofit community business organization consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used exclusively by qualified nonprofit community business organizations; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by qualified nonprofit community business organizations.

(c) Use of exempt property by persons who are not nonprofit community business organizations qualified as provided by this section does not result in the loss of an exemption authorized by this section if the use is incidental to use by qualified nonprofit community business organizations and limited to activities that benefit the beneficiaries of the nonprofit community business organizations that own or use the property.

(d) To qualify for an exemption under this section, a nonprofit community business organization must be engaged primarily in performing one or more of the following functions in the local community:

- (1) promoting the common economic interests of commercial enterprises;
- (2) improving the business conditions of one or more types of business; or
- (3) otherwise providing services to aid in economic development.

(e) In this section, "building" includes the land that is reasonably necessary for use of, access to, and ornamentation of the building.

(f) A property may not be exempted under Subsection (b)(2) for more than three years.

(g) For purposes of Subsection (b)(2), an incomplete improvement is under physical preparation if the nonprofit community business organization has:

(1) engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement; or

(2) conducted an environmental or land use study relating to the construction of the improvement.

SECTION 2. Section 11.42(d), Tax Code, is amended to read as follows:

(d) A person who acquires property after January 1 of a tax year may receive an exemption authorized by Section 11.17, 11.18, 11.19, 11.20, 11.21, 11.23, 11.231, or 11.30 for the applicable portion of that tax year immediately on qualification for the exemption.

SECTION 3. Section 11.43(c), Tax Code, is amended to read as follows:

(c) An exemption provided by Section 11.13, 11.17, 11.18, 11.182, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(h), (j), or (j-1), 11.231, 11.29, 11.30, or 11.31, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e), the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes. However, the chief appraiser may require a person allowed one of the exemptions in a prior year to file a new application to confirm the person's current qualification for the exemption by delivering a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the exemption.

SECTION 4. This Act applies only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 5. This Act takes effect January 1, 2010.

The amendment to **CSHB 770** was read and was adopted by a viva voce vote.

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

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

CSHB 770 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 770 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 770** be placed on its third reading and final passage.

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

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

(Senator Eltife in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2730 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2730** at this time on its second reading:

CSHB 2730, Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing penalties.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2730** (Senate committee printing) as follows:

(1) In SECTION 4.60 of the bill, in proposed Section 1702.221(d), Occupations Code (page 19, line 24), strike "Subsection (a)" and substitute "Subsection (b)".

(2) In SECTION 11.05 of the bill, in amended Section 411.177(b)(2)(C), Government Code (page 46, line 54), strike "411.188(j)" and substitute "411.188(k)".

(3) In SECTION 12.13 of the bill (page 55, line 24), between "Section 521.205" and the period, insert ", Transportation Code".

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2730** (Senate committee printing) as follows:

(1) In SECTION 11.01 of the bill, in amended Section 411.1711(1), Government Code (page 43, line 34), strike "an" and substitute "a felony [~~an~~"]".

(2) In SECTION 11.01 of the bill, in amended Section 411.1711(1), Government Code (page 43, lines 36-39), strike proposed Paragraphs (B) and (C) and substitute:

(B) ~~[, or]~~ Chapter 29, Penal Code;

(C) Section 25.07, Penal Code; or

(D) Section 30.02, Penal Code, if the offense is punishable under Subsection (c)(2) or (d) of that section; or

(3) In SECTION 11.02 of the bill (page 43, lines 43-44), strike the recital and substitute the following:

SECTION 11.02. Section 411.172, Government Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (b-1) to read as follows:

(4) In SECTION 11.02 of the bill, in amended Section 411.172(a), Government Code (page 44, lines 1-6), strike Subdivision (12) and substitute:

~~[(12) has not been finally determined to be in default on a loan made under Chapter 57, Education Code;]~~

(5) In SECTION 11.02 of the bill, in amended Section 411.172(a)(13), Government Code (page 44, line 7), strike "(13)" and substitute "(12) ~~[(13)]~~".

(6) In SECTION 11.02 of the bill, in amended Section 411.172(a)(14), Government Code (page 44, line 11), strike "(14)" and substitute "(13) ~~[(14)]~~".

(7) In SECTION 11.02 of the bill, in amended Section 411.172(a)(15), Government Code (page 44, line 14), strike "(15)" and substitute "(14) ~~[(15)]~~".

(8) In SECTION 11.02 of the bill, in amended Section 411.172, Government Code (page 44, between lines 17 and 18), insert the following new subsections between Subsections (a) and (d):

(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1) except as provided by Subsection (b-1), a felony if the offense, at the time the offense is committed ~~[of a person's application for a license to carry a concealed handgun]~~:

(A) is designated by a law of this state as a felony;

(B) contains all the elements of an offense designated by a law of this state as a felony; or

(C) is punishable by confinement for one year or more in a penitentiary; and

(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.

(b-1) An offense is not considered a felony for purposes of Subsection (b) if, at the time of a person's application for a license to carry a concealed handgun, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

(9) In SECTION 11.08 of the bill, in amended Section 411.186(a), Government Code (page 47, line 53), strike Subdivision (2) and substitute the following:

"(2) made a material misrepresentation or failed to disclose a material fact in an application submitted under this subchapter ~~[gave false information on the application];~~"

(10) In SECTION 11.08 of the bill, in amended Section 411.186(a)(6), Government Code (page 47, line 67), between "reversed" and the period, insert "if the applicant fails to submit a cashier's check or money order made payable to the "Department of Public Safety of the State of Texas" in the amount of the dishonored or reversed fee, plus \$25, within 30 days of being notified by the department that the fee was dishonored or reversed"

(11) In SECTION 11.09 of the bill, in amended Section 411.187(a)(3), Government Code (page 48, line 10), strike "address or name" and substitute "address, ~~[or]~~ name, or status".

(12) In ARTICLE 11 of the bill (page 50, line 60, through page 51, line 8), strike SECTIONS 11.16 and 11.17 and renumber subsequent SECTIONS accordingly.

(13) In SECTION 11.21 of the bill (page 51, line 35), strike ", 411.1882,".

(14) In SECTION 11.22 of the bill (page 51, line 38), before "411.171," insert "411.171,".

(15) In SECTION 11.22 of the bill (page 51, lines 39-40), strike "and by Section 57.491, Education Code, as amended by this article,".

(16) In SECTION 11.23 of the bill (page 51, line 47), between "411.177," and "411.184," insert "411.1882,".

(17) In SECTION 11.23 of the bill (page 51, line 49), strike ", 411.1882,".

(18) Add the following appropriately numbered SECTIONS to ARTICLE 11 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 11.____. Section 411.171(4), Government Code, is amended to read as follows:

(4) "Convicted" means an adjudication of guilt or, except as provided in Section 411.1711, an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication that has been subsequently:

(A) expunged; ~~[or]~~

(B) pardoned under the authority of a state or federal official; or

(C) otherwise vacated, set aside, annulled, invalidated, voided, or sealed under any state or federal law.

SECTION 11.____. Section 411.179(c), Government Code, as added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(c) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a qualified handgun instructor or of a judge, justice, prosecuting attorney, or assistant prosecuting attorney, as described by Section 46.15(a)(4) or (6), Penal Code, to indicate on the license the license holder's status as a qualified handgun instructor or as a judge, justice, district attorney, criminal district

attorney, or county attorney. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection.

SECTION 11. ___. Sections 411.181(a) and (b), Government Code, as amended by Chapters 594 (H.B. 41) and 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, are reenacted and amended to read as follows:

(a) If a person who is a current license holder moves from any residence ~~[the]~~ address stated on the license ~~[to a new residence address]~~, if the name of the person is changed by marriage or otherwise, or if the person's status ~~[as a judge, justice, district attorney, prosecuting attorney, or assistant prosecuting attorney, as a federal judge, a state judge, or the spouse of a federal judge or state judge,]~~ becomes inapplicable for purposes of the information required to be displayed on the license under Section 411.179 ~~[411.179(e)]~~, the person shall, not later than the 30th day after the date of the address, name, or status change, notify the department and provide the department with the number of the person's license and, as applicable, the person's:

- (1) former and new addresses; ~~[or]~~
- (2) former and new names; or
- (3) former and new status.

(b) If the name of the license holder is changed by marriage or otherwise, or if the person's status ~~[as a federal judge or state judge, or the spouse of a federal judge or state judge]~~ becomes inapplicable as described by Subsection (a), the person shall apply for a duplicate license. The duplicate license must reflect ~~[include]~~ the person's current name, residence address, and status.

SECTION 11. ___. Section 411.1882, Government Code, is amended to read as follows:

Sec. 411.1882. EVIDENCE OF ~~[EXEMPTION FROM]~~ HANDGUN PROFICIENCY ~~[CERTIFICATE REQUIREMENT]~~ FOR CERTAIN PERSONS. (a) A person who is serving in this state as a judge or justice of a federal court, as an active judicial officer, as defined by Section 411.201, or as a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney may establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards and Education for purposes of Section 1702.1675, Occupations Code, a sworn statement that:

(1) indicates that the person, during the 12-month period preceding the date of the person's application to the department, demonstrated to the instructor proficiency in the use of handguns; and

(2) designates the categories of handguns with respect to which the person demonstrated proficiency ~~[Notwithstanding any other provision of this subchapter, a person may not be required to submit to the department a handgun proficiency certificate to obtain or renew a concealed handgun license issued under this subchapter if:~~

~~[(1) the person is currently serving in this state as:~~

~~[(A) a judge or justice of a federal court;~~

~~[(B) an active judicial officer, as defined by Section 411.201,~~

~~Government Code; or~~

~~[(C) a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney; and~~

~~[(2) a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards and Education for purposes of Section 1702.1675, Occupations Code, makes a sworn statement indicating that the person demonstrated proficiency to the instructor in the use of handguns during the 12 month period preceding the date of the person's application to the department and designating the types of handguns with which the person demonstrated proficiency].~~

(b) The director by rule shall adopt a procedure by which a person described [who is exempt] under Subsection (a) [from the handgun proficiency certificate requirement] may submit a form demonstrating the person's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the person qualifies for the exemption.

(c) A license issued under this section automatically expires on the six-month anniversary of the date the person's status under Subsection (a) becomes inapplicable. A license that expires under this subsection may be renewed under Section 411.185.

SECTION 11. __. Section 411.190, Government Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) The department shall ensure that an applicant may renew certification under Subsection (d) from any county in this state by using an online format to complete the required retraining courses if:

- (1) the applicant is renewing certification for the first time; or
- (2) the applicant completed the required retraining courses in person the previous time the applicant renewed certification.

SECTION 11. __. Section 46.04, Penal Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) For the purposes of this section, an offense under the laws of this state, another state, or the United States is, except as provided by Subsection (g), a felony if, at the time it is committed, the offense:

- (1) is designated by a law of this state as a felony;
- (2) contains all the elements of an offense designated by a law of this state as a felony; or
- (3) is punishable by confinement for one year or more in a penitentiary.

(g) An offense is not considered a felony for purposes of Subsection (f) if, at the time the person possesses a firearm, the offense:

- (1) is not designated by a law of this state as a felony; and
- (2) does not contain all the elements of any offense designated by a law of this state as a felony.

SECTION 11. __. Section 521.001(a), Transportation Code, is amended by adding Subdivisions (3-a) and (8-a) to read as follows:

(3-a) "Federal judge" means:

- (A) a judge of a United States court of appeals;
- (B) a judge of a United States district court;
- (C) a judge of a United States bankruptcy court; or

(D) a magistrate judge of a United States district court.

(8-a) "State judge" means:

(A) the judge of an appellate court, a district court, or a county court at law of this state; or

(B) an associate judge appointed under Chapter 201, Family Code.

SECTION 11. __. Sections 521.054(a) and (b), Transportation Code, are amended to read as follows:

(a) This section applies to a person who:

(1) after applying for or being issued a ~~[the]~~ license or certificate moves to a new residence ~~[from the]~~ address ~~[stated in the person's application for a license or certificate];~~

(2) has used the procedure under Section 521.121(c) and whose status as a federal judge, a state judge, or the spouse of a federal or state judge becomes inapplicable ~~[moves from the address shown on the license or certificate held by the person]; or~~

(3) changes the person's name by marriage or otherwise.

(b) A person subject to this section shall notify the department of the change not later than the 30th day after the date on which the change takes effect and apply for a duplicate license or certificate as provided by Section 521.146. The duplicate license must include the person's current residence address.

SECTION 11. __. Section 521.121, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The driver's license must include:

(1) a distinguishing number assigned by the department to the license holder;

(2) a color photograph of the entire face of the holder;

(3) the full name and[-] date of birth~~[-, and residence address]~~ of the holder;
~~[and]~~

(4) a brief description of the holder; and

(5) the license holder's residence address or, for a license holder using the procedure under Subsection (c), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge.

(c) The department shall establish a procedure for a federal judge, a state judge, or the spouse of a federal or state judge to omit the license holder's residence address on the license and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status as a federal judge, a state judge, or the spouse of a federal or state judge.

SECTION 11. __. Section 521.142(c), Transportation Code, is amended to read as follows:

(c) The application must state:

(1) the sex of the applicant;

(2) the residence address of the applicant, or if the applicant is a federal judge, a state judge, or the spouse of a federal or state judge using the procedure developed under Section 521.121(c), the street address of the courthouse in which the applicant or the applicant's spouse serves as a federal judge or a state judge;

(3) whether the applicant has been licensed to drive a motor vehicle before;

(4) if previously licensed, when and by what state or country;

(5) whether that license has been suspended or revoked or a license application denied;

(6) the date and reason for the suspension, revocation, or denial;

(7) whether the applicant is a citizen of the United States; and

(8) the county of residence of the applicant.

SECTION 11.__. The change in law made by this Act in amending Section 46.04, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2730** (Senate committee printing) by adding the following appropriately numbered article to the bill and renumbering subsequent articles of the bill accordingly:

ARTICLE __. USE OR DISPLAY UNDER CERTAIN CIRCUMSTANCES OF AN EXPIRED LICENSE TO CARRY A CONCEALED HANDGUN

SECTION __.01. Section 46.15, Penal Code, is amended by adding Subsection (g) to read as follows:

(g) For purposes of Subsection (b)(6), a valid license includes an expired license if, before the expiration date of the license, the license holder submitted a timely and sufficient application for renewal of the license to the Department of Public Safety in accordance with Section 411.185, Government Code, and has not received notice that the application for renewal has been finally determined as provided by Government Code Section 2001.054.

SECTION __.02. Section 411.205(a), Government Code is amended to read as follows:

(a) If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. A person who fails or refuses to display the person's [license and] identification and handgun license as required by this subsection is subject to

suspension of the person's license as provided by Section 411.187 or, if the license is expired, a refusal to renew the person's license for the applicable period of suspension provided by that section.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2730** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 22.0834, Education Code, is amended by adding Subsections (k), (l), (m), (n), (o), and (p) to read as follows:

(k) The requirements of this section apply to an entity that contracts directly with a school district, open-enrollment charter school, or shared services arrangement and any subcontractor of the entity.

(l) A contracting entity shall require that a subcontracting entity obtain all criminal history record information that relates to an employee to whom Subsection (a) applies. If a contracting or subcontracting entity determines that Subsection (a) does not apply to an employee, the contracting or subcontracting entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in the determination that Subsection (a) did not apply to the employee continue to exist throughout the time that the contracted services are provided.

(m) A contracting entity complies with the requirements of this section if the contracting entity obtains a written statement from each subcontracting entity certifying that the subcontracting entity has obtained the required criminal history record information for employees of the subcontracting entity and the subcontracting entity has obtained certification from each of the subcontracting entity's subcontractors.

(n) A subcontracting entity must certify to the school district, open-enrollment charter school, or shared services arrangement and the contracting entity that the subcontracting entity has obtained all criminal history record information that relates to an employee to whom Subsection (a) applies and has obtained similar written certifications from the subcontracting entity's subcontractors.

(o) A contracting or subcontracting entity may not permit an employee to whom Subsection (a) applies to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from obtaining certification as an educator under Section 21.060.

(p) In this section:

(1) "Contracting entity" means an entity that contracts directly with a school district, open-enrollment charter school, or shared services arrangement to provide services to the school district, open-enrollment charter school, or shared services arrangement.

(2) "Subcontracting entity" means an entity that contracts with another entity that is not a school district, open-enrollment charter school, or shared services arrangement to provide services to a school district, open-enrollment charter school, or shared services arrangement.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 2730** (Senate committee printing) in Article 5 of the bill by adding the following SECTION to that article, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter A, Chapter 411, Government Code, is amended by amending Section 411.005 to read as follows:

Sec. 411.005. ~~[DIRECTOR AND ASSISTANT DIRECTOR]~~ DIRECTOR, DEPUTY DIRECTORS, AND ASSISTANT DIRECTORS.

(b) The director may appoint, with advice and consent of the commission, deputy directors and assistant directors who shall perform the duties the director designates. ~~[An Deputy directors and assistant directors]~~ serve until removed by the director.

(c) The commission shall select the director, and the director shall select ~~[an assistant director]~~ deputy directors and assistant directors, on the basis of the person's training, experience, and qualifications for the position. ~~[The director and an assistant director must have five years' experience, preferably in police or public administration.]~~ The director, [an assistant director] deputy directors, and assistant directors are entitled to annual salaries as provided by the legislature.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 2730** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 662.005(b), Government Code, is amended to read as follows:

(b) Except as provided by Section 662.010, and notwithstanding Section 659.015 or another law, a state employee who is a peace officer commissioned by a state officer or state agency listed under Article 2.12, Code of Criminal Procedure, or who is employed by the Department of Public Safety either to perform communications or dispatch services related to traffic law enforcement or as a public security officer, as that term is defined by Section 1701.001, Occupations Code, and

who is required to work on a national or state holiday that falls on a Saturday or Sunday is entitled to compensatory time off at the rate of one hour for each hour worked on the holiday.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 2730** (Senate committee printing) by inserting the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill appropriately:

SECTION 1. Section 601.053, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), an [Am] operator who does not exhibit evidence of financial responsibility under Subsection (a) is presumed to have operated the vehicle in violation of Section 601.051.

(c) Subsection (b) does not apply if the peace officer determines through use of the verification program established under Subchapter N that financial responsibility has been established for the vehicle.

SECTION 2. Subchapter N, Chapter 601, Transportation Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003, is repealed.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Nays: Williams.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 2730** (Senate committee printing) by amending SECTIONS 5.09 and 5.10 as follows:

SECTION 5.09. The heading to Section 411.244, Government Code, is amended to read as follows:

Sec. 411.244. OFFICE OF INSPECTOR GENERAL [INTERNAL AFFAIRS].

SECTION 5.10. Section 411.244, Government Code is amended by amending Subsections (a), (b), (d), (e), and (f), and by adding Subsection (g) to read as follows:

(a) The commission [director] shall establish the office of inspector general, which is responsible for:

(1) acting to prevent and detect serious breaches of departmental policy, fraud, and abuse of office, including any acts of criminal conduct within the department; and

(2) independently and objectively reviewing, investigating, delegating an investigation, and overseeing the investigation of administrative and all other allegations of conduct referred to in (a)(1) above and the following:

- (A) criminal activity occurring in all divisions of the department;
- (B) allegations of wrongdoing by department employees;
- (C) crimes committed on department property; and
- (D) serious breaches of department policy [~~internal affairs~~].

(b) The office of ~~inspector general~~ [~~internal affairs~~] has [~~original~~] departmental jurisdiction for oversight and coordination over all investigations occurring on department property or involving department employees. The office shall coordinate and provide oversight, but need not conduct, all investigations under this section. The ~~inspector general~~ shall delegate criminal allegations arising under this section to the Texas Ranger division or the Criminal Law Enforcement division of the department for investigation or referral back to the ~~inspector general~~ for further action. However the ~~inspector general~~ shall continually monitor referred matters and report to the commission along with any other division investigating a matter on its status while pending.

(d) The commission has direct oversight over the office of ~~inspector general~~, including decisions regarding budget and staffing. The commission [~~director~~] shall appoint the ~~inspector general~~ [~~head of the office of internal affairs~~]. The ~~inspector general~~ [~~head of the office of internal affairs~~] serves until removed by the ~~commission~~ [~~director~~]. The commission shall establish policies to ensure that the ~~commission~~ continues to oversee the office of ~~inspector general~~ as required by this subsection and to ensure that the office of ~~inspector general~~ retains and exercises its original jurisdiction under Subsection (b).

(e) The ~~inspector general~~ [~~head of the office of internal affairs~~] shall report directly to the ~~commission~~ [~~director~~] regarding performance of and activities related to investigations, report to the director for administrative purposes, and provide the director with information regarding investigations as appropriate.

(f) The ~~inspector general~~ [~~head of the office of internal affairs~~] shall present at each regularly scheduled commission meeting and at other appropriate times:

- (1) reports of investigations; and
- (2) a summary of information relating to investigations conducted under this section that includes analysis of the number, type, and outcome of investigations, trends in the investigations, and recommendations to avoid future complaints.

(g) This chapter or other law related to the operation of the department's office of ~~inspector general~~ does not preempt the authority of the state auditor to conduct an audit or investigation under Chapter 321 or other law.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSHB 2730** (Senate committee printing) as follows:

(1) In ARTICLE 15 of the bill, strike SECTIONS 15.01, 15.02, 15.03, and 15.04 (page 58, line 64, through page 60, line 18) and substitute the following:

SECTION 15.01. Section 708.151, Transportation Code, is amended to read as follows:

Sec. 708.151. NOTICE OF SURCHARGE. (a) The department shall send notices as required by Subsection (b) to ~~notify~~ the holder of a driver's license when ~~of the assessment of~~ a surcharge is assessed on that license. Each notice must:

(1) be sent by first class mail ~~sent~~ to the person's most recent address as shown on the records of the department or to the person's most recent forwarding address on record with the United States Postal Service if it is different;

(2) ~~[-The notice must]~~ specify the date by which the surcharge must be paid;

(3) state the total dollar amount of the surcharge that must be paid, the number of monthly payments required under an installment payment plan, and the minimum monthly payment required for a person to enter and maintain an installment payment plan with the department; and

(4) state the consequences of a failure to pay the surcharge.

(b) The department shall send a first notice not later than the fifth day after the date the surcharge is assessed.

(c) If on or before the 45th day after the date the first notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a second notice. If on or before the 60th day after the date the second notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a third notice that advises the person that the person's driving privileges are suspended.

SECTION 15.02. Section 708.152(a), Transportation Code, is amended to read as follows:

(a) If on ~~[before]~~ the 60th ~~[30th]~~ day after the date the department sends a second notice under Section 708.151 the person fails to pay the amount of a surcharge on the person's license or fails to enter into an installment payment agreement with the department, the license of the person is automatically suspended. A person's license may not be suspended under this section before the 105th day after the date the surcharge was assessed by the department.

SECTION 15.03. Section 708.153(b), Transportation Code, is amended to read as follows:

(b) A rule under this section:

(1) may not require ~~[permit]~~ a person to:

(A) pay surcharges that total \$500 or more ~~[-a surcharge]~~ over a period of less ~~[more]~~ than 36 consecutive months;

(B) pay surcharges that total more than \$250 but not more than \$499 over a period of less than 24 consecutive months; or

(C) pay surcharges that total \$249 or less over a period of less than 12 consecutive months; and

(2) may provide that if the person fails to make any [a] required monthly installment payment, the department may reestablish the installment plan on receipt of a payment in the amount equal to at least a required monthly installment payment ~~or declare the amount of the unpaid surcharge immediately due and payable~~.

SECTION 15.04. Subchapter D, Chapter 708, Transportation Code, is amended by adding Section 708.158 to read as follows:

Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES.

(a) The department shall waive all surcharges assessed under this chapter for a person who is indigent. For the purposes of this section, a person is considered to be indigent if the person provides the evidence described by Subsection (b) to the court.

(b) A person must provide information to the court in which the person is convicted of the offense that is the basis for the surcharge to establish that the person is indigent. The following documentation may be used as proof:

(1) a copy of the person's most recent federal income tax return that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines;

(2) a copy of the person's most recent statement of wages that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines; or

(3) documentation from a federal agency, state agency, or school district that indicates that the person or, if the person is a dependent as defined by Section 152, Internal Revenue Code of 1986, the taxpayer claiming the person as a dependent, receives assistance from:

(A) the food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;

(B) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the child health plan program under Chapter 62, Health and Safety Code; or

(E) the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

(2) Add the following appropriately numbered SECTION to ARTICLE 15 of the bill and renumber subsequent SECTIONS of that article accordingly:

SECTION _____. Section 708.157(c), Transportation Code, is amended to read as follows:

(c) The department by rule shall ~~may~~ establish an indigency program for holders of a driver's license on which a surcharge has been assessed for certain offenses, as determined by the department.

(3) In SECTION 15.06 of the bill (page 60, line 27), between "that is assessed" and "on or after", insert "under Chapter 708, Transportation Code,".

(4) In SECTION 15.06 of the bill (page 60, line 28), between "was assessed" and "before", insert "under that chapter".

HINOJOSA
SHAPLEIGH

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 9.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 10

Amend **CSHB 2730** (Senate committee printing) by amending SECTION 4.37 as follows:

SECTION 4.37. Sections 1702.117(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) The board ~~[commission]~~ shall require an applicant for a license under this chapter or the applicant's manager to demonstrate qualifications in the person's license classification, including knowledge of applicable state laws and board ~~[commission]~~ rules, by taking an examination to be determined by the board ~~[commission]~~.

(c) The board ~~[commission]~~ shall set the reexamination fee in an amount not to exceed the amount of the renewal fee for the license classification for which application was made.

(d) The board ~~[commission]~~ shall develop and provide to a person who applies to take the examination under Subsection (a) material containing all applicable state laws and board ~~[commission]~~ rules.

The amendment to **CSHB 2730** was read.

Senator Carona offered the following amendment to Floor Amendment No. 10:

Floor Amendment No. 11

Amend Floor Amendment No. 10 by Hinojosa to **CSHB 2730** as follows:

(1) On page 1, strike lines 1 and 2 of the amendment and substitute the following:

Amend C.S.H.B. No. 2730 (Senate committee printing) as follows:

(1) Strike Section 4.37 of the bill and substitute the following:

(2) On page 1 of the amendment, insert the following immediately after line 17:

(2) Add the following appropriately numbered SECTIONS to Article 4 of the bill and renumber subsequent SECTIONS in that article accordingly:

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 person, 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. The repair or maintenance of a computer does not constitute an investigation for purposes of this section and does not require licensing under this chapter if:

(1) the review or analysis of computer-based data is performed only to diagnose a computer or software problem;

(2) there is no intent to obtain or furnish information described by Subsection (a)(1); and

(3) the discovery of any information described by Subsection (a)(1) is inadvertent.

SECTION 4. _____. Section 1702.324(b), Occupations Code, is amended to read as follows:

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor while selling equipment intended for resale;

(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 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;

(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; or

(16) an employee while performing investigative services that would otherwise be subject to this chapter for an entity regulated by the:

(A) Texas Department of Insurance;

(B) Office of Thrift Supervision;

(C) Securities and Exchange Commission;

(D) Federal Deposit Insurance Corporation;

(E) National Association of Securities Dealers; or

(F) Financial Industry Regulatory Authority.

The amendment to Floor Amendment No. 10 to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 11.

Question recurring on the adoption of Floor Amendment No. 10 to **CSHB 2730**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 10 as amended.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 12

Amend **CSHB 2730** (Senate committee printing) as follows:

(1) In SECTION 4.01 of the bill (page 4, lines 65 through 68), strike the recital to SECTION 4.01 and substitute:

SECTION 4.01. Section 1702.002, Occupations Code, is amended by amending Subdivisions (1), (2), (3), (5), (11), (12), (13), (17), (19), (20), and (21) and adding Subdivisions (3-a) and (6-b) to read as follows:

(2) In SECTION 4.01 of the bill, in amended Section 1702.002, Occupations Code (page 4, between lines 68 and 69), insert the following:

(1) "Alarm system" means:

(A) electronic equipment and devices designed to detect or signal:

(i) an unauthorized entry or attempted entry of a person or object into a residence, business, or area monitored by the system; or

(ii) the occurrence of a robbery or other emergency; or

(B) electronic equipment and devices using a computer or data processor designed to control the access of a person, vehicle, or object through a door, gate, or entrance into the controlled area of a residence or business~~[-or~~

~~[(C) a television camera or still camera system that:~~

~~[(i) records or archives images of property or individuals in a public or private area of a residence or business; or~~

~~[(ii) is monitored by security personnel or services].~~

(3) In SECTION 4.01 of the bill, in amended Section 1702.002, Occupations Code (page 5, between lines 7 and 8), insert the following:

(3-a) "Camera system" means a device or system used to capture still or moving images that are in a format that permits viewing, recording, or archiving, that are monitored by a person covered by this chapter on-site or off-site, and that are used in a public or private place to obtain evidence of possible civil or criminal law violations. The term does not include a device or system used to capture still or moving images that is used exclusively to:

(A) monitor traffic conditions on public roads;

(B) detect motor vehicle violations on public roads;

(C) detect evidence of criminal activity, if the device or system is monitored by a law enforcement agency;

(D) facilitate videoconferencing;

(E) monitor a manufacturing process;

(F) perform medical procedures; or

(G) record or archive testimony or a deposition, if the device or system is used by a court reporter.

(4) In SECTION 4.60 of the bill, in amended Section 1702.221, Occupations Code, strike added Subsection (b) of that section (page 18, line 63, through page 19, line 17) and substitute the following:

(b) An individual must obtain the appropriate endorsement [~~register~~] in accordance with the requirements of this chapter and related administrative rules if the individual:

(1) is employed as:

(A) an alarm instructor;

(B) an alarm systems installer;

(C) an [7] alarm systems monitor;

(D) a camera systems installer;

(E) an [7] electronic access control device installer;

(F) a level 3 classroom or firearm instructor;

(G) a [7] locksmith;

(H) a [7] dog trainer;

(I) a [7] manager or branch office manager;

(J) a [7] noncommissioned security officer;

(K) a level 4 personal protection instructor;

(L) a [7] private investigator;

(M) a [7] private security consultant;

(N) a [~~7-07~~] security salesperson; or

(O) an individual whose duties include performing another activity for which an endorsement is required under Subsection (e); or

(2) is an owner who oversees the security-related aspects of the business, officer, partner, or shareholder of a license holder.

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

SECTION _____. Subchapter F, Chapter 1702, Occupations Code, is amended by adding Section 1702.1057 to read as follows:

Sec. 1702.1057. CAMERA SYSTEMS COMPANY. A person acts as a camera systems company for the purposes of this chapter if the person sells, installs, services, or monitors a camera system.

SECTION _____. 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, camera systems company, courier company, guard company, 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 _____. Subchapter J, Chapter 1702, Occupations Code, is amended by adding Section 1702.2245 to read as follows:

Sec. 1702.2245. CAMERA SYSTEMS INSTALLER. An individual acts as a camera systems installer for purposes of this chapter if the individual installs, maintains, or repairs a camera system.

SECTION _____. Section 1702.328, Occupations Code, is amended to read as follows:

Sec. 1702.328. SECURITY SYSTEMS SALES AND INSTALLATION. This chapter does not apply to:

(1) a person who owns and installs a burglar detection or alarm device, electronic access control device, lock, or camera system on the person's own property or [if the person does not charge for the device or the installation,] installs the device for the protection of the person's personal property located on another person's property and does not, as a normal business practice, install the devices on the property of another, and who does not perform any other act that requires a license or registration under this chapter;

(2) a person in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm, electronic access control device, lock, camera system, or detection device if:

(A) the person is a party to a contract that provides that:

(i) the installation will be performed ~~[under the direct supervision of]~~ and inspected and certified by[~~]~~ a person licensed to install and certify the alarm or detection device, electronic access control device, lock, or camera system; and

(ii) the license holder assumes full responsibility for the installation of the alarm or detection device; and

(B) the person does not service or maintain alarm systems, electronic access control devices, locks, camera systems, [or] detection devices, or any other device or service that requires a license or registration under this chapter;

(3) a person who sells or installs automobile burglar alarm devices and who does not perform any other act that requires a license under this chapter; or

(4) a person who sells exclusively by e-commerce, over the counter transactions, or mail order, alarm systems, electronic access control devices, locks, or detection devices, and who does not perform any other act that requires a license or registration under this chapter.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 12.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 13

Amend **CSHB 2730** (Senate committee printing) as follows:

(1) In SECTION 11.09 of the bill, strike amended Sections 411.187(a) and (c), Government Code (page 48, lines 1-48), and substitute the following:

(a) A license may be suspended under this section if the license holder:

(1) is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(2) ~~[fails to display a license as required by Section 411.205;~~

~~[(2)]~~ fails to notify the department of a change of address or name as required by Section 411.181;

(3) ~~[(4)]~~ carries a concealed handgun under the authority of this subchapter of a different category than the license holder is licensed to carry;

(4) ~~[(5)]~~ fails to return a previously issued license after a license is modified as required by Section 411.184(d);

(5) ~~[(6)]~~ commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or

(6) ~~[(7)]~~ is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.

(c) A license may be suspended under this section:

(1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), (3) ~~[(a)(3)]~~, or (4), ~~[or (5)]~~, except as provided by Subdivision (2) ~~[(3)]~~;

(2) ~~[for 90 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), except as provided by Subdivision (3)]~~;

~~[(3)]~~ for not less than one year and not more than three years if the person's license is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1), and the person's license has been previously suspended for the same reason;

(3) ~~[(4)]~~ until dismissal of the charges if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

(4) ~~[(5)]~~ for the duration of or the period specified by:

(A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection (a)(5) ~~[(a)(6)]~~; or

(B) the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection (a)(6) ~~[(a)(7)]~~.

(2) Add the following appropriately numbered SECTIONS to ARTICLE 11 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 11. __. Section 411.205, Government Code, is amended to read as follows:

Sec. 411.205. REQUIREMENT TO DISPLAY ~~[DISPLAYING]~~ LICENSE~~;~~ ~~PENALTY~~. ~~[(a)]~~ If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. ~~[A person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 411.187.]~~

~~[(b)] A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (a) after previously having had the person's license suspended for a violation of that subsection. An offense under this subsection is a Class B misdemeanor.~~

SECTION 11. __. An offense under Section 411.205, Government Code, may not be prosecuted after the effective date of this article. If, on the effective date of this article, a criminal action is pending for an offense under Section 411.205, Government

Code, the action is dismissed on that date. However, a final conviction for an offense under Section 411.205, Government Code, that exists on the effective date of this article is unaffected by this article.

The amendment to **CSHB 2730** was read.

Senator Hegar withdrew Floor Amendment No. 13.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 14

Amend **CSHB 2730** (Senate committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE __. CRIMINAL HISTORY REPORTING

SECTION __.001. Chapter 60, Code of Criminal Procedure, is amended by adding Article 60.10 to read as follows:

Art. 60.10. DATA REPORTING IMPROVEMENT PLAN. (a) In this article, "disposition completeness percentage" has the meaning assigned by Article 60.21(c).

(b) This article applies only to a county that has an average disposition completeness percentage, including both juvenile and adult dispositions, of less than 90 percent, as reflected in the first report the Department of Public Safety submits under Article 60.21(b)(2) on or after January 1, 2009.

(c) The commissioners court of a county described by Subsection (b) shall establish a local data advisory board as described by Article 60.09 not later than November 1, 2009. A local data advisory board established under this article may include any person described by Article 60.09(b) and must include:

(1) the sheriff of the county, or the sheriff's designee;

(2) an attorney who represents the state in the district courts of the county;

(3) an attorney who represents the state in the county courts of the county;

(4) the clerk for the district courts of the county, or the clerk's designee;

(5) the clerk for the county courts of the county, or the clerk's designee;

(6) the police chief of the municipality with the greatest population located in the county, or the chief's designee;

(7) a representative of the county's automated data processing services, if the county performs those services; and

(8) a representative of an entity with whom the county contracts for automated data processing services, if the county contracts for those services.

(d) In addition to the duties described by Article 60.09(a), a local data advisory board established under this article must prepare a data reporting improvement plan. The data reporting improvement plan must:

(1) describe the manner in which the county intends to improve the county's disposition completeness percentage;

(2) ensure that the county takes the steps necessary for the county's average disposition completeness percentage to be equal to or greater than 90 percent in the first report the Department of Public Safety submits under Article 60.21(b)(2) on or after January 1, 2013; and

(3) include a comprehensive strategy by which the county will permanently maintain the county's disposition completeness percentage at or above 90 percent.

(e) Not later than June 1, 2010, a local data advisory board established under this article shall submit to the Department of Public Safety the data reporting improvement plan prepared for the county. On receipt of a data reporting improvement plan under this article, the department shall post the plan on the Internet website maintained by the department.

(f) The public safety director of the Department of Public Safety may adopt rules concerning the contents and form of a data reporting improvement plan prepared under this article.

(g) This article expires September 1, 2013.

SECTION __.002. Article 60.21, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The Department of Public Safety shall:

(1) monitor the submission of arrest and disposition information by local jurisdictions;

(2) annually submit to the Legislative Budget Board, the governor, the lieutenant governor, the state auditor, and the standing committees in the senate and house of representatives that have primary jurisdiction over criminal justice and the Department of Public Safety ~~council~~ a report regarding the level of reporting by local jurisdictions;

(3) identify local jurisdictions that do not report arrest or disposition information or that partially report information; and

(4) for use in determining the status of outstanding dispositions, publish monthly on the Department of Public Safety's Internet website or on another electronic publication a report listing each arrest by local jurisdiction for which there is no corresponding final court disposition.

(c) The report described by Subsection (b)(2) must contain a disposition completeness percentage for each county in this state. For purposes of this subsection, "disposition completeness percentage" means the percentage of arrest charges a county reports to the Department of Public Safety to be entered in the computerized criminal history system under this chapter that were brought against a person in the county for which a disposition has been subsequently reported and entered into the computerized criminal history system.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 14.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 15

Amend **CSHB 2730** (Senate committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ CRIMINAL HISTORY BACKGROUND CHECKS FOR CERTAIN
EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

SECTION ____ .01. Subchapter B, Chapter 51, Education Code, is amended to read as follows:

SUBCHAPTER B. CRIMINAL HISTORY BACKGROUND CHECKS FOR
POTENTIAL AND CURRENT EMPLOYEES [~~GENERAL PROPERTY
DEPOSITS: INVESTMENT AND USES~~]

Sec. 51.051. DEFINITIONS. In this subchapter:

(1) "National criminal history record information" means criminal history record information obtained from the Department of Public Safety under Subchapter F, Chapter 411, Government Code, and the Federal Bureau of Investigation under Section 411.087, Government Code.

(2) "Governing board" and "institution of higher education" have the meanings assigned by Section 61.003.

Sec. 51.052. APPLICABILITY. This subchapter does not apply to an applicant for employment at or employee of an institution of higher education who is or will be a student enrolled in the institution during the person's employment. This section does not prohibit an institution from conducting a criminal history background check of a student applicant for a security-sensitive position at the institution.

Sec. 51.053. ACCESS TO NATIONAL CRIMINAL HISTORY RECORD INFORMATION BY INSTITUTION. (a) An institution of higher education shall subscribe to the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(b) An institution may obtain from a law enforcement or criminal justice agency any criminal history record information, including information contained in a closed criminal investigation file, that relates to a specific applicant for employment with or an employee of the institution.

Sec. 51.054. PREEMPLOYMENT NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS; RESTRICTIONS ON EMPLOYMENT. (a) An institution of higher education shall condition an offer of employment on obtaining acceptable national criminal history record information under Section 51.053.

(b) An institution of higher education shall reject an application for employment if:

(1) the applicant fails to consent to a national criminal history background check or provide fingerprints necessary to obtain national criminal history record information; or

(2) the applicant's national criminal history record information indicates that the applicant has been convicted of:

(A) a felony of the second degree, a felony of the first degree, or a capital felony under the laws of this state or of an equivalent offense under the laws of another jurisdiction; or

(B) an offense for which registration as a sex offender is required under Chapter 62, Code of Criminal Procedure.

(c) If an applicant's national criminal history record information indicates that the applicant has been convicted of an offense, other than an offense listed under Subsection (b)(2), or arrested for any offense, the institution of higher education shall conduct an analysis under Section 51.058 to determine whether to employ the applicant.

(d) After an analysis under Section 51.058, an institution of higher education may employ an applicant whose national criminal history record information indicates that the applicant has been convicted of a felony, other than an offense listed under Subsection (b)(2), only if employment of the applicant is:

(1) recommended by the person in charge of the department or division to which the applicant has applied; and

(2) approved by the chief executive officer of the institution or the officer's designee.

Sec. 51.055. POST-EMPLOYMENT NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS; TERMINATION OF EMPLOYMENT FOR FAILURE TO PROVIDE INFORMATION. (a) An institution of higher education shall conduct a national criminal history background check of an employee on promotion or transfer of the employee within the institution if the institution has not previously conducted a national criminal history background check of the employee. An institution may conduct additional criminal history background checks as necessary to maintain the integrity of the institution's faculty and staff.

(b) The institution of higher education shall require that every employee of the institution provide the identification information and fingerprints necessary to conduct a national criminal history background check. The institution may immediately terminate the employment of an employee who fails to provide the information or fingerprints.

Sec. 51.056. FALSIFICATION OF CRIMINAL HISTORY; DISCIPLINARY AND OTHER ACTION. (a) An institution of higher education shall reject an application for employment if the applicant knowingly fails to provide or falsifies criminal history record information on an application.

(b) An institution of higher education may take disciplinary action, including termination of employment, against an employee if the employee knowingly failed to provide or falsified criminal history record information on the employee's application for employment, a promotion, or a transfer.

(c) An institution of higher education may make a decision to reject an application for employment under Subsection (a) or take disciplinary action against an employee under Subsection (b) without conducting an analysis under Section 51.058.

Sec. 51.057. INFORMATION REQUIRED TO BE REPORTED BY APPLICANTS AND EMPLOYEES; DISCIPLINARY ACTION. (a) An institution of higher education shall require:

(1) an applicant for employment to report an arrest made after the applicant has submitted the application to the institution and before the institution has notified the applicant of a decision about employment of the applicant; and

(2) an employee to report to a supervisor, within 24 hours of the arrest, charge, or conviction, or at the earliest practicable opportunity after that 24-hour period, the employee's criminal arrest, charge, or conviction, other than for a misdemeanor traffic offense punishable by a fine only.

(b) A supervisor who receives a report from an employee under Subsection (a)(2) shall report the information to the person in charge of the department or division to which the employee is assigned and to the institution's human resources department.

(c) An institution of higher education may take disciplinary action, including termination of employment, against an employee who fails to report as required by Subsection (a)(2).

(d) An institution of higher education's human resources department or, in the case of a faculty member, the provost or provost's designee shall conduct an analysis under Section 51.058 and assist the department or division to which the employee is assigned in determining, for an arrest, charge, or conviction reported under Subsection (a)(2), the appropriate disciplinary action to take against the employee, which may include termination of employment.

(e) An institution of higher education, on learning of an arrest, charge, or conviction reported under Subsection (a)(2), may immediately suspend with pay the employee pending the outcome of an administrative review under Subsection (d).

Sec. 51.058. ANALYSIS OF CRIMINAL HISTORY RECORD INFORMATION AND SUBSEQUENT ACTIONS. (a) Except as provided by Section 51.054(b)(2), before rejecting an application for employment or taking disciplinary action against an employee on the basis of a criminal conviction, an institution of higher education must:

(1) consider the following factors:

(A) the nature and gravity of the offense;

(B) the amount of time that has passed since:

(i) the conviction; and

(ii) the completion of a sentence imposed based on the conviction;

(C) the nature of the job sought or held;

(D) the number of convictions; and

(E) the institution's interest in protecting the safety and welfare of its employees, the general public, state property, and the integrity of the institution; and

(2) determine that:

(A) the conviction is job-related; and

(B) the rejection of the application or disciplinary action against the employee is necessary to properly administer the institution.

(b) Before rejecting an application for employment or taking disciplinary action against an employee on the basis of a criminal arrest, an institution of higher education must:

(1) consider the following factors:

(A) the nature and gravity of the activity resulting in the arrest;

(B) the amount of time that has passed since the arrest;

(C) the nature of the job sought or held;

(D) the number of arrests;

(E) the institution's interest in protecting the safety and welfare of its employees, the general public, state property, and the integrity of the institution;

(F) an explanation of the arrest by the applicant or employee; and

(G) whether the reason for arrest violates an institutional rule, policy, or procedure, regardless of whether the arrest resulted in a conviction; and

(2) determine that:

(A) the alleged misconduct is job-related;

(B) the rejection of an application or disciplinary action is necessary to properly administer the institution; and

(C) the applicant or employee is likely to have engaged in the misconduct that caused the arrest.

Sec. 51.059. APPEALS; DETERMINATION. (a) An applicant for employment may appeal a decision of an institution of higher education under this subchapter to refuse to employ the applicant only on the basis that the institution discriminated against the applicant for an unlawful reason, including the applicant's race, color, national origin, religion, sex, disability, or age.

(b) An applicant alleging unlawful discrimination by the institution of higher education must, not later than the 10th business day after the date an application is rejected, present written data or documentation of the specific actions or basis of the allegation to the appropriate institution employee responsible for equal employment opportunity or the employee's designee.

(c) On receiving the data or documentation, the employee responsible for equal employment opportunity or the employee's designee shall investigate the complaint and issue a written report of findings to the chief executive officer of the institution or the officer's designee.

(d) If the chief executive officer or the officer's designee approves the report under Subsection (b), the officer or designee shall provide a copy of the report to the rejected applicant not later than the 14th day after the date the report is approved.

(e) The governing board of an institution of higher education may adopt a separate appeals process under this section or may use an existing process regarding employee discipline and termination of employment.

Sec. 51.060. USE AND DESTRUCTION OF NATIONAL CRIMINAL HISTORY RECORD INFORMATION. An institution of higher education shall:

(1) use national criminal history record information obtained under this subchapter exclusively to verify employability; and

(2) destroy all national criminal history record information obtained under this subchapter as soon as practicable, consistent with the following:

(A) for an applicant for employment, after the position for which the applicant applied has been filled and the applicant that was hired reports for the first day of work; or

(B) for an employee, after the national criminal history record information has been analyzed and any resulting administrative action has been taken.

Sec. 51.061. POLICIES. Each governing board of an institution of higher education shall adopt policies as necessary for the institution to comply with this subchapter.

Sec. 51.062. NAME-BASED CRIMINAL HISTORY BACKGROUND CHECKS. (a) An institution of higher education may, in lieu of obtaining information under Section 51.053, contract with a private vendor to conduct name-based criminal history background checks on any current employee for which the institution has not previously conducted a national criminal history background check for the sole purpose of verifying continued employability.

(b) An institution of higher education shall destroy name-based criminal history background check information obtained under Subsection (a) as soon as practicable after the information has been analyzed and any resulting administrative action has been taken.

SECTION __.02. Section 411.081(i), Government Code, is amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) the Texas Juvenile Probation Commission;
- (19) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit union commissioner;
- (20) the Texas State Board of Public Accountancy;
- (21) the Texas Department of Licensing and Regulation;
- (22) the Health and Human Services Commission;
- (23) the Department of Aging and Disability Services; ~~and~~
- (24) the Texas Education Agency; and

(25) an institution of higher education, as defined by Section 411.094(a)(1)(A).

SECTION ____ .03. Section 411.094, Government Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding Subsection (c), an institution of higher education, as defined by Subsection (a)(1)(A), is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is employed by or is an applicant for employment at the institution, to the extent the information is necessary for the institution to administer the institution's duties under Subchapter B, Chapter 51, Education Code.

SECTION ____ .04. Section 51.215, Education Code, is repealed.

SECTION ____ .05. As soon as practicable after the effective date of this Act, the governing board of a public institution of higher education shall adopt policies required by Section 51.061, Education Code, as added by this article.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 15.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 16

Amend **CSHB 2730** by adding a new SECTION ____ to read as follows:

SECTION ____ . Subchapter A, Chapter 411, Government Code, is amended by adding a new Section 411.0161 to read as follows:

DONATION OF ACCRUED COMPENSATORY TIME OR ACCRUED ANNUAL LEAVE FOR LEGISLATIVE PURPOSES. Section 411.0161 (a) The director shall allow a department employee to voluntarily transfer to a legislative leave pool up to eight hours of compensatory time or annual leave per year earned by the employee.

(b) The director or designee shall administer the legislative leave pool.

(c) The Public Safety Commission shall adopt rules and prescribe procedures relating to the operation of the legislative leave pool.

(d) The director or designee shall credit the legislative leave pool with the amount of time contributed by an employee and deduct a corresponding amount of time from the employee's earned compensatory time or annual leave as if the employee had used the time for personal purposes.

(e) An employee is entitled to use time contributed to the legislative leave pool if the employee uses the time for legislative leave on behalf of a law enforcement association of at least 2000 active or retired members governed by a board of directors elected directly by department employees.

(f) The director of the pool administrator shall transfer time from the pool to the employee and credit the time to the employee.

(g) an employee may only withdraw time from the legislative leave pool in coordination and with the consent of the president or designee of the law enforcement association described in subsection (e), and may not draw more than 80 hours of time from the pool in a 160-hours work cycle with the maximum time taken not to exceed 480 hours per fiscal year.

(h) In addition to subsection (g), the use of any time from the legislative leave pool must also be in accordance with rules adopted by the Public Safety Commission.

The amendment to **CSHB 2730** was read.

Senator Jackson offered the following amendment to Floor Amendment No. 16:

Floor Amendment No. 17

Amend Floor Amendment No. 16 to **CSHB 2730** as follows:

On page 1, strike lines 21-25 and substitute the following:

(e) An employee is entitled to use time contributed to the legislative leave pool if the employee uses the time for legislative leave on behalf of a law enforcement association of at least 1,000 active or retired members governed by a board of directors.

The amendment to Floor Amendment No. 16 to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 17.

Question recurring on the adoption of Floor Amendment No. 16 to **CSHB 2730**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 16 as amended except as follows:

Nays: Zaffirini.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 18

Amend **CSHB 2730** (Senate committee report) by adding the following appropriately numbered article to the bill and renumbering subsequent articles of the bill accordingly:

ARTICLE ____ . ALTERNATIVE METHODS OF OBTAINING CRIMINAL HISTORY INFORMATION AND REGISTRATION OF PRIVATE VENDORS TO OBTAIN CRIMINAL HISTORY INFORMATION

SECTION __.01. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0852 to read as follows:

Sec. 411.0852. PRIVATE VENDORS PROVIDING CRIMINAL HISTORY RECORD INFORMATION; REGISTRATION OF VENDORS. (a) In this section:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Department" means the Texas Department of Licensing and Regulation.

(3) "Private vendor" means a person registered under this section to obtain both criminal history record information and identity verification through electronic-based data records for an entity authorized or required under the laws of this state to obtain criminal history record information, including national criminal history record information, regarding a person.

(b) An entity authorized or required under the laws of this state to obtain criminal history record information, including national criminal history record information, regarding a person may elect, as an alternative, to contract with a private vendor registered under this section to obtain both the criminal history record information and identity verification through electronic-based data records. If a governmental entity is required to obtain criminal history record information or verify a person's identity using the person's fingerprints, a private vendor with whom the state agency has contracted under this section must obtain the criminal history record information from the Department of Public Safety or verify the person's identity with the Department of Public Safety.

(c) The commission by rule shall develop criteria for a vendor to register with the state to provide criminal history record information and perform identity verification. In developing the criteria, the commission shall consult with law enforcement officials and industry experts to ascertain the latest trends in and technologies available for conducting criminal background checks and identity verification. The commission may annually update the criteria based on the latest trends and the latest technologies available in conducting criminal background checks.

(d) A private vendor may not provide criminal history record information or perform identity verification for any entity authorized or required under the laws of this state to obtain the information or verification unless the vendor is registered in accordance with this section and rules adopted under this section. A vendor must submit to the department on the form prescribed by the department an application requesting registration to provide criminal history record information and perform identity verification for entities required or authorized to obtain criminal history record information.

(e) The commission shall set fees in an amount sufficient to cover the costs to administer this section.

(f) A vendor registered by the department under this section may annually renew the registration by payment of a renewal fee and submitting to the department a renewal application on the form prescribed by the department.

(g) The vendor shall report the results of a criminal background check and identity verification to the contracting entity by e-mail or other method approved by the department. The vendor's report must be viewable to the contracting entity through a secure Internet website.

(h) A person who violates this section or a rule or order issued under this section is subject to administrative penalties, civil penalties, and other penalties and enforcement proceedings under Chapter 51, Occupations Code.

(i) The commission shall issue orders and adopt rules and criminal conviction guidelines necessary to ensure compliance with this section.

SECTION __.02. Not later than April 1, 2010, the Texas Commission of Licensing and Regulation shall develop criteria for registering a vendor to perform criminal background checks and identity verification under Section 411.0852, Government Code, as added by this article.

SECTION __.03. Notwithstanding Section 411.0852(d), Government Code, as added by this article, a private vendor is not required to register with the Texas Department of Licensing and Regulation to provide criminal history record information or perform identity verifications before July 1, 2010.

SECTION __.04. Section 411.0852, Government Code, as added by this Act, applies only to a contract entered into, renewed, or extended, on or after July 1, 2010. A contract entered into, renewed, or extended, before July 1, 2010, is governed by the law in effect when the contract was entered into, renewed, or extended and the former law is continued in effect for that purpose.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 18 except as follows:

Nays: Nelson.

(Senator Carona in Chair)

(Senator Watson in Chair)

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 19

Amend **CSHB 2730** by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS accordingly:

SECTION _____. Subchapter C, Chapter 521, Transportation Code, is amended by adding Section 521.060 to read as follows:

Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM.

(a) The department by rule may establish a driver record monitoring pilot program. The term of the pilot program may not exceed one year.

(b) Under the pilot program, the department may enter into a contract with a person to provide driver record monitoring services, as described by Subsection (c), and certain information from the department's driver's license records to the person, if the person:

(1) is an employer, an insurer, an insurance support organization, an employer support organization, or an entity that self-insures its motor vehicles; and

(2) is eligible to receive the information under Chapter 730.

(c) A contract entered into by the department must require:

(1) the department, during the term of the contract, to:

(A) monitor the driver record of each holder of a driver's license issued by the department that is requested by the person with whom the department has contracted;

(B) identify any change in the status of a driver's license or any conviction for a traffic offense reported to the department during the monitoring period; and

(C) periodically, as specified in the contract, provide reports of those individuals identified as having a change in status or convictions to the person with whom the department has contracted; and

(2) the person with whom the department has contracted:

(A) to purchase under Section 521.046 a copy of the driver record of each individual identified in a report provided under Subdivision (1)(C);

(B) to warrant that:

(i) the person will not directly or indirectly disclose information received from the department under the contract to a third party without the express written consent of the department, except as required by law or legal process; and

(ii) if a disclosure is required by law or legal process, the person will immediately notify the department so that the department may seek to oppose, limit, or restrict the required disclosure; and

(C) if the person is an insurance support organization, to warrant that the person will not seek to obtain information about a holder of a driver's license under the contract unless the license holder is insured by a client of the organization, and that the person will provide the department with the name of each client to whom the insurance support organization provides information received from the department under the contract.

(d) The attorney general may file a suit against a person with whom the department has contracted under this section for:

(1) injunctive relief to prevent or restrain the person from violating a term of the contract or from directly or indirectly disclosing information received from the department under the contract in a manner that violates the terms of the contract; or

(2) a civil penalty in an amount not to exceed \$2,000 for each disclosure in violation of those terms.

(e) If the attorney general brings an action against a person under Subsection (d) and an injunction is granted against the person or the person is found liable for a civil penalty, the attorney general may recover reasonable expenses, court costs, investigative costs, and attorney's fees. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under Subsection (d).

(f) A violation of the terms of a contract entered into with the department by the person with whom the department has contracted is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17, Business & Commerce Code.

(g) A civil action brought under this section shall be filed in a district court:

(1) in Travis County; or

(2) in any county in which the violation occurred.

(h) A person with whom the department has contracted under this section commits an offense if the person directly or indirectly discloses information received from the department under the contract in a manner that violates the terms of the contract. An offense under this subsection is a Class B misdemeanor. If conduct constituting an offense under this subsection also constitutes an offense under another law, the actor may be prosecuted under this subsection, the other law, or both.

(i) The department shall impose a fee on each person with whom the department contracts under this section for the services provided by the department under the contract. The fee must be reasonable and be not less than the amount necessary to allow the department to recover all reasonable costs to the department associated with entering into the contract and providing services to the person under the contract, including direct, indirect, and administrative costs and costs related to the development and deployment of the pilot program.

(j) The department may establish a reasonable deadline by which a person must apply to enter into a contract with the department under this section and may not enter into a contract with a person who fails to apply before that deadline.

(k) To the fullest extent practicable, the services of the department under a contract entered into under this section shall be provided by, through, or in conjunction with the interactive system established under Section 521.055.

(l) At the conclusion of the term of the pilot program, and on the recommendation of the department, the commission may authorize the department to implement the pilot program as a permanent program.

(m) Before the department recommends that the pilot program be implemented as a permanent program, the department shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that contains an analysis of the scope, effectiveness, and cost benefits of the pilot program. The report must include:

(1) a list of each insurance support organization with which the department has contracted under this section; and

(2) a list of each client to whom the insurance support organization has provided information received from the department under this section.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 19.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 20

Amend **CSHB 2730** (Senate committee printing) by adding the following ARTICLE, appropriately numbered, and renumbering ARTICLES as necessary:

ARTICLE ____ . SCHOOL BUS MONITORING SYSTEM

SECTION ____ . Section 545.066, Transportation Code, is amended by adding Subsection (g) to read as follows:

(g) An image recorded by the monitoring system authorized by Section 547.701(b)(3) may be used in the administrative adjudication of a violation under this section if the image:

(1) is otherwise admissible;

(2) clearly shows the vehicle, including the license plate attached to the vehicle, at the time the offense is alleged to have occurred; and

(3) is accompanied by an affidavit executed by a peace officer stating that the image is authentic and that establishes probable cause that a violation occurred.

SECTION ____ . Chapter 545, Transportation Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. SCHOOL BUS MONITORING SYSTEM

Sec. 545.451. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that has a population of more than 325,000 and that is located adjacent to:

(1) an international border; and

(2) a county that has a population of more than 550,000.

Sec. 545.452. DEFINITIONS. In this subchapter:

(1) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country.

(2) "Recorded image" means a live or recorded photographic, electronic, video, or digital image that depicts a motor vehicle.

(3) "School bus monitoring system" means a system authorized by Section 547.701(b)(3).

Sec. 545.453. AUTHORITY TO PROVIDE FOR PENALTY. (a) The board of trustees of a school district by resolution may impose a financial penalty on the registered owner of a vehicle that is operated in a manner that violates Section 545.066 within the school district.

(b) The resolution adopted under this section must:

(1) provide for a penalty of not less than \$1 or more than \$250;

(2) authorize an attorney employed by the school district or an attorney with whom the school district contracts to bring suit to collect the penalty;

(3) provide for notice of the violation to the registered owner of the motor vehicle that committed the violation;

(4) provide that a person against whom the school district seeks to impose a penalty is entitled to an administrative adjudication hearing;

(5) designate the department, agency, or office of the school district responsible for the enforcement and administration of the resolution or provide that the entity with which the school district enters into an interlocal agreement of understanding under Section 545.454(3) is responsible for the enforcement and administration of the resolution;

(6) provide regulations for the use of live or recorded images recorded by the school bus monitoring system; and

(7) provide for other procedures that the board determines are necessary for the imposition of any penalty authorized by this section.

(c) Except as otherwise provided:

(1) by this subchapter, an image recorded by the monitoring system authorized by Section 547.701(b)(3) that is not used in the prosecution of an offense under this section shall be destroyed by the owner of the school bus; or

(2) by Section 545.066(g), an image recorded by the monitoring system authorized by Section 547.701(b)(3) may not be sold or distributed to another person.

(d) Penalties collected under this section may be used by a school district only to cover the cost of:

(1) installing, operating, and maintaining the school bus monitoring system;

(2) collecting a penalty imposed under this section;

(3) developing and implementing a program that promotes student safety; or

(4) complying with Section 547.701(e) relating to three point seatbelts for school buses.

Sec. 545.454. INSTALLATION AND OPERATION OF SCHOOL BUS MONITORING SYSTEM. A school district that implements a school bus monitoring system and adopts a resolution imposing a penalty under this subchapter may:

(1) contract for the administration and enforcement of the system;

(2) install and operate the system or contract for the installation or operation of the system;

(3) enter into an interlocal agreement with a municipality or county in which the school district is located regarding administrative adjudication hearings required by a resolution adopted under this subchapter; or

(4) enter into an interlocal agreement with another school district regarding the administration, enforcement, installation, or operation of the system.

Sec. 545.455. GENERAL SURVEILLANCE PROHIBITED; OFFENSE. (a) A school district shall operate a monitoring system authorized by Section 547.701(b)(3) only for the purpose of detecting a violation or suspected violation of Section 545.066 within the school district.

(b) A person commits an offense if the person uses a school bus monitoring system to produce a recorded image other than in the manner and for the purpose specified by a resolution adopted under Section 545.453.

(c) An offense under this section is a Class A misdemeanor.

Sec. 545.456. EFFECT ON OTHER ENFORCEMENT. (a) The implementation of a school bus monitoring system by a school district under this subchapter does not:

(1) preclude the application or enforcement within the school district of Section 545.066 in the manner prescribed by Chapter 543; or

(2) prohibit a peace officer from arresting a violator of Section 545.066 as provided by Chapter 543 or from issuing the violator a citation and notice to appear as provided by that chapter.

(b) A school district may not impose a penalty under this subchapter on the owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation and notice to appear by a peace officer for the same violation of Section 545.066 recorded by the school bus monitoring system.

Sec. 545.457. NOTICE OF VIOLATION; CONTENTS. (a) The imposition of a penalty under this subchapter is initiated by the mailing of a notice of violation to the owner of the motor vehicle against whom the school district seeks to impose the penalty.

(b) Not later than the 30th day after the date the violation is alleged to have occurred, the designated department, agency, or office of the school district or the entity with which the school district enters into an interlocal agreement under Section 545.454(3) shall mail the notice of violation to the owner of the motor vehicle at:

(1) the owner's address as shown on the registration records of the Texas Department of Transportation; or

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Transportation.

(c) The notice of violation must contain:

(1) a description of the violation alleged;

(2) the location where the violation occurred;

(3) the date and time of the violation;

(4) the name and address of the owner of the vehicle involved in the violation;

(5) the registration number displayed on the license plate of the vehicle involved in the violation;

(6) a copy of a recorded image of the violation that includes a depiction of the registration number displayed on the license plate of the vehicle involved in the violation;

(7) the amount of the penalty for which the owner is liable;

(8) the number of days the person has in which to pay or contest the imposition of the penalty;

(9) a statement that the owner of the vehicle in the notice of violation may elect to pay the penalty instead of appearing at the time and place of the administrative adjudication hearing; and

(10) information that informs the owner of the vehicle named in the notice of violation:

(A) of the owner's right to contest the imposition of the penalty against the person in an administrative adjudication hearing;

(B) that imposition of the penalty may be contested by submitting a written request for an administrative adjudication hearing before the expiration of the period specified under Subdivision (8); and

(C) that failure to pay the penalty or to contest liability for the penalty in a timely manner is an admission of liability.

(d) A notice of violation is presumed to have been received on the fifth day after the date the notice is mailed.

Sec. 545.458. PRESUMPTION. (a) It is presumed that the owner of the motor vehicle committed the violation alleged in the notice of violation mailed to the person if the motor vehicle depicted in a recorded image taken by a school bus monitoring system belongs to the owner of the motor vehicle.

(b) If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in a recorded image taken by a school bus monitoring system was owned by a person in the business of selling, renting, or leasing motor vehicles or by a person who was not the person named in the notice of violation, the presumption under Subsection (a) is rebutted on the presentation of evidence establishing that the vehicle was at that time:

(1) being test driven by another person;

(2) being rented or leased by the vehicle's owner to another person; or

(3) owned by a person who was not the person named in the notice of violation.

(c) Notwithstanding Section 545.459, the presentation of evidence under Subsection (b) by a person who is in the business of selling, renting, or leasing motor vehicles or did not own the vehicle at the time of the violation must be made by affidavit, through testimony at the administrative adjudication hearing under Section 545.459, or by a written declaration under penalty of perjury. The affidavit or written declaration may be submitted by mail to the school district or the entity with which the school district contracts under Section 545.454(1).

(d) If the presumption established by Subsection (a) is rebutted under Subsection (b), a penalty may not be imposed on the owner of the vehicle or the person named in the notice of violation, as applicable.

(e) If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in the recorded image taken by the school bus monitoring system was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, the owner of the motor vehicle shall provide to the school district or the entity with which the school district contracts under Section 545.454(1) the name and address of the individual who was renting or leasing the motor vehicle depicted in the recorded image and a statement of the date and times during which that individual was renting or leasing the vehicle. The owner shall provide the information required by this subsection not later than the 30th day after the date the notice of violation is received. If the owner provides the required information, it is presumed that the individual renting or leasing the motor vehicle committed the violation alleged in the notice of violation and the school district or contractor may send a notice of violation to that individual at an address provided by the owner of the motor vehicle or from motor vehicle registration records.

Sec. 545.459. ADMINISTRATIVE ADJUDICATION HEARING. (a) A person who receives a notice of violation under this subchapter may contest the imposition of the penalty specified in the notice of violation by filing a written request for an administrative adjudication hearing. The request for a hearing must be filed on or before the date specified in the notice of violation, which may not be earlier than the 30th day after the date the notice of violation was mailed.

(b) On receipt of a timely request for an administrative adjudication hearing, the school district shall notify the person of the date and time of the hearing.

(c) An administrative adjudication hearing under this subchapter may be conducted by any justice of the peace court in a county where the alleged violation of Section 545.066 within the school district occurred. For purpose of establishing jurisdiction for justice of the peace courts to conduct administrative adjudication hearings under this subchapter only a violation of this subchapter is a case under Article 4.11(a), Code of Criminal Procedure.

(d) In an administrative adjudication hearing, the issues must be proven by a preponderance of the evidence.

(e) The reliability of the school bus monitoring system used to produce the recorded image of the motor vehicle involved in the violation may be attested to by affidavit of an officer or employee of the school district or of the entity with which the school district contracts under Section 545.454(1) who is responsible for inspecting and maintaining the system.

(f) An affidavit of a peace officer that alleges a violation based on an inspection of the applicable recorded image is:

- (1) admissible in the administrative adjudication hearing; and
- (2) evidence of the facts contained in the affidavit.

(g) At the conclusion of the administrative adjudication hearing, the hearing officer shall enter a finding of liability for the penalty or a finding of no liability for the penalty. A finding under this subsection must be in writing and be signed and dated by the hearing officer.

(h) A finding of liability for a penalty must specify the amount of the penalty for which the person is liable. If the hearing officer enters a finding of no liability, a penalty for the violation may not be imposed against the person.

(i) A finding of liability or a finding of no liability entered under this section may:

(1) be filed with a person designated by the board of trustees of the school district; and

(2) be recorded on microfilm or microfiche or using data processing techniques.

Sec. 545.460. IMPOSITION OF PENALTY NOT A CONVICTION. The imposition of a penalty under this subchapter is not a conviction and may not be considered a conviction for any purpose.

Sec. 545.461. FAILURE TO PAY PENALTY. (a) If the owner of the motor vehicle fails to timely pay the amount of the penalty imposed against the owner:

(1) an arrest warrant may not be issued for the owner; and

(2) the imposition of the penalty may not be recorded on the owner's driving record.

(b) Notice of Subsection (a) must be included in the notice of violation required by Section 545.456.

SECTION _____. Subsection (b), Section 547.701, Transportation Code, is amended to read as follows:

(b) A school bus may be equipped with:

(1) rooftop warning lamps:

(A) that conform to and are placed on the bus in accordance with specifications adopted under Section 34.002, Education Code; and

(B) that are operated under rules adopted by the school district; ~~and~~

(2) movable stop arms:

(A) that conform to regulations adopted under Section 34.002, Education Code; and

(B) that may be operated only when the bus is stopped to load or unload students; and

(3) a monitoring system that:

(A) is capable of taking live or recorded photographic, electronic, video, or digital images of vehicles that pass the bus when the bus is operating a visual signal as required by this section;

(B) conforms to regulations adopted under Section 34.002, Education Code; and

(C) is capable of producing a live or recorded visual image of a person inside the bus that may be viewed from another location or of taking photographic, electronic, video, or digital images of a person inside the bus.

(c) When a school bus is being stopped or is stopped on a highway to permit students to board or exit the bus, the operator of the bus shall activate all flashing warning signal lights and other equipment on the bus designed to warn other drivers that the bus is stopping to load or unload children. A person may not operate such a light or other equipment except when the bus is being stopped or is stopped on a highway to permit students to board or exit the bus.

(d) The exterior of a school bus may not bear advertising or another paid announcement directed at the public if the advertising or announcement distracts from the effectiveness of required safety warning equipment. The department shall adopt rules to implement this subsection. A school bus that violates this section or rules adopted under this section shall be placed out of service until it complies.

(e) In this subsection, "bus" includes a school bus and a school activity bus. A bus operated by or contracted for use by a school district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This subsection applies to:

(1) each bus purchased by a school district on or after September 1, 2010, for the transportation of schoolchildren; and

(2) each school-chartered bus contracted for use by a school district on or after September 1, 2011, for the transportation of schoolchildren.

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

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

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

SECTION _____. Except as provided by subsection (e) and (f) of Section 547.701, Transportation Code, this ARTICLE expires September 1, 2013

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 20.

Senator West offered the following amendment to the bill:

Floor Amendment No. 21

Amend **CSHB 2730** (Senate committee report) by adding the following appropriately numbered article to the bill and renumbering subsequent articles of the bill accordingly:

ARTICLE __. DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION REGARDING PUBLIC SCHOOL EMPLOYEES

SECTION _____.01. Section 411.084, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (c) to read as follows:

(a) Criminal history record information obtained from the department under this subchapter, including any identification information that could reveal the identity of a person about whom criminal history record information is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

(1) is for the exclusive use of the authorized recipient of the information; and

(2) may be disclosed or used by the recipient only if, and only to the extent that, disclosure or use is authorized or directed by:

- (A) this subchapter;
- (B) another statute;
- (C) a rule adopted under a statute; or
- (D) an order of a court of competent jurisdiction.

(a-1) The term criminal history record information under Subsection (a) does not refer to any specific document produced to comply with this subchapter but to the information contained, wholly or partly, in a document's original form or any subsequent form or use.

(c) An agency or individual may not confirm the existence or nonexistence of criminal history record information to any person that is not eligible to receive the information.

SECTION _____.02. Sections 411.090(b) and (c), Government Code, are amended to read as follows:

(b) Criminal history record information obtained by the board in the original form or any subsequent form ~~[under Subsection (a)]~~:

(1) may be used only for a ~~[any]~~ purpose related to the issuance, denial, suspension, or cancellation of a certificate issued by the board;

(2) may not be released to any person except:

(A) the person who is the subject of the information;

(B) the Texas Education Agency;

(C) a local or regional educational entity as provided by Section 411.097; or

(D) by ~~[on]~~ court order ~~[or with the consent of the applicant for a certificate]; ~~[and]~~~~

(3) is not subject to disclosure as provided by Chapter 552; and

(4) shall be destroyed by the board after the information is used for the authorized purposes.

(c) The department shall notify the State Board for Educator Certification of the arrest of any educator, as defined by Section 5.001, Education Code, who has fingerprints on file with the department. Any record of the notification and any information contained in the notification is not subject to disclosure as provided by Chapter 552.

SECTION _____.03. Section 411.0901, Government Code, is amended to read as follows:

Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who:

(1) is employed or is an applicant for employment by a school district or open-enrollment charter school;

(2) is employed or is an applicant for employment by a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present; or

(3) is employed or is an applicant for employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement if:

(A) the employee or applicant has or will have continuing duties relating to the contracted services; and

(B) the employee or applicant has or will have direct contact with students.

(b) Criminal history record information obtained by the agency in the original form or any subsequent form:

(1) may be used only for a purpose authorized by the Education Code;

(2) may not be released to any person except:

(A) the person who is the subject of the information;

(B) the State Board for Educator Certification;

(C) a local or regional educational entity as provided by Section 411.097; or

(D) by court order;

(3) is not subject to disclosure as provided by Chapter 552; and

(4) shall be destroyed by the agency after the information is used for the authorized purposes.

SECTION _____.04. Section 411.097, Government Code, is amended by amending Subsection (d) and adding Subsection (f) to read as follows:

(d) Criminal history record information obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement in the original form or any subsequent form:

(1) [~~under Subsection (a), (b), or (c)~~] may not be released [~~or disclosed~~] to any person except:

(A) [~~other than~~] the individual who is the subject of the information;

(B) [~~5~~] the Texas Education Agency;

(C) [~~5~~] the State Board for Educator Certification;

(D) [~~5 or~~] the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2); or

(E) by court order;

(2) is not subject to disclosure as provided by Chapter 552; and

(3) shall be destroyed by the school district, charter school, private school, service center, commercial transportation company, or shared services arrangement on the earlier of:

(A) the first anniversary of the date the information was originally obtained; or

(B) the date the information is used for the authorized purpose.

(f) An employee of a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement may request from the employer a copy of any criminal history record information relating to that employee that the employer has obtained as provided by Subchapter C, Chapter 22, Education Code. The

employer may charge a fee to an employee requesting a copy of the information in an amount not to exceed the actual cost of copying the requested criminal history record information.

SECTION ____ .05. Subchapter C, Chapter 22, Education Code, is amended by adding Section 22.08391 to read as follows:

Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a) Information collected about a person to comply with this subchapter, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records:

(1) may not be released except:

(A) to comply with this subchapter;

(B) by court order; or

(C) with the consent of the person who is the subject of the information;

(2) is not subject to disclosure as provided by Chapter 552, Government Code; and

(3) shall be destroyed by the requestor or any subsequent holder of the information not later than the first anniversary of the date the information is received.

(b) Any criminal history record information received by the State Board for Educator Certification as provided by this subchapter is subject to Section 411.090(b), Government Code.

(c) Any criminal history record information received by the agency as provided by this subchapter is subject to Section 411.0901(b), Government Code.

(d) Any criminal history record information received by a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by this subchapter is subject to Section 411.097(d), Government Code.

SECTION ____ .06. The change in law made by this article applies to information collected, assembled, or maintained before, on, or after the effective date of this article.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 21.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 22

Amend **CSHB 2730** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION ____ . Section 548.005, Transportation Code, is amended to read as follows:

Sec. 548.005. INSPECTION ONLY BY STATE-CERTIFIED AND SUPERVISED INSPECTION STATION. A compulsory inspection under this chapter may be made only by an inspection station, except that the department may:

(1) permit inspection to be made by an inspector under terms and conditions the department prescribes; ~~and~~

(2) authorize the acceptance in this state of a certificate of inspection and approval issued in another state having a similar inspection law; and

(3) authorize the acceptance in this state of a certificate of inspection and approval issued in compliance with 49 C.F.R. Part 396 to a motor bus, as defined by Section 502.001, that is registered in this state but is not domiciled in this state.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 22.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 23

Amend **CSHB 2730** (Senate committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE ____ . TRANSFER OF REGULATORY PROGRAMS RELATING TO DISPENSING CONTROLLED SUBSTANCES BY PRESCRIPTION

SECTION ____ .01. (a) The director of the Department of Public Safety or the director's designee, the executive director of the Texas State Board of Pharmacy or the executive director's designee, and the executive director of the Texas Medical Board or the executive director's designee shall meet as an interagency council to develop a transition plan for the orderly transfer from the Department of Public Safety to the Texas State Board of Pharmacy of certain records and regulatory functions relating to dispensing controlled substances by prescription under Chapter 481, Health and Safety Code.

(b) In developing the transition plan, the council shall:

(1) consult with the Health and Human Services Commission, the Department of State Health Services, and other health and human services agencies that contract with a third party for data collection;

(2) specify the records and regulatory functions to be transferred;

(3) create a time frame within which the specified records and functions will be transferred;

(4) ensure the Department of Public Safety's continued access for law enforcement purposes to prescription drug information obtained under Chapter 481, Health and Safety Code;

(5) develop a plan for the transfer of relevant database information;

(6) make recommendations for improvements to data transmission, including examining the feasibility of implementing an electronic data transmission system for use by registrants and the Department of Public Safety or the Texas State Board of Pharmacy;

(7) estimate the fiscal impact of the transfer, including an estimate of the costs associated with any necessary staff increase;

(8) minimize disruptions to the professions affected by the transfer;

(9) identify any obstacles to the transfer and make recommendations to address those obstacles; and

(10) address any other consideration the council determines is appropriate.

(c) Not later than January 1, 2011, the council shall submit its recommendations to the legislature on the transition plan developed by the council.

(d) The Department of Public Safety may not enter into any contract or otherwise take any action that would prevent, delay, or hinder a potential transfer to the Texas State Board of Pharmacy occurring on or after September 1, 2011, of certain records and regulatory functions relating to dispensing controlled substances by prescription.

(e) This section expires September 1, 2011.

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 23.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 24

Amend **CSHB 2730** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

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

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 24.

Senator Hinojosa moved to postpone further consideration of **CSHB 2730** to a time certain of 9:00 p.m. today.

The motion prevailed.

Question — Shall **CSHB 2730** as amended be passed to third reading?

COMMITTEE SUBSTITUTE HOUSE BILL 469 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration **CSHB 469** at this time on its second reading:

CSHB 469, Relating to the establishment of incentives by this state for the implementation of certain projects to capture and sequester in geological formations carbon dioxide that would otherwise be emitted into the atmosphere.

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

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

Nays: Duncan, Hinojosa, Ogden, Patrick, Uresti.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 469** (Senate engrossment) as follows:

(1) In SECTION 4 of the bill (page 1, line 36), between "shall" and "issue", insert "make a decision whether to".

(2) In SECTION 4 of the bill (page 1, line 37), strike "after" and insert "where".

(3) In SECTION 4 of the bill (page 1, line 44), strike "and".

(4) In SECTION 4 of the bill (page 1, line 50), add subsections (b)(5) and (b)(6) and renumber subsequent SECTIONS of the bill accordingly.

"(5) The project's owners or operators have signed an interconnection agreement with the Electric Reliability Commission of Texas; and

(6) The comptroller has determined that the project has the likelihood to generate taxable income within a reasonable time sufficient to substantially repay any franchise tax credits issued under this act".

The amendment to **CSHB 469** was read and was adopted by a viva voce vote.

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

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 469** (Senate engrossment) as follows:

(1) In SECTION 4 of the bill (page 2, line 5), after the words, "generated by the project." add, "Prior to the assignment of franchise tax credits under this section, the assigning entity must inform the comptroller in writing by a method to be determined by the comptroller the names and identifying information of all persons and entities receiving the credits."

The amendment to **CSHB 469** was read and was adopted by a viva voce vote.

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

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 469** (Senate committee report) as follows:

(1) Strike SECTIONS 1, 2, and 3 of the bill (page 1, lines 15-29).

(2) Strike the recital to SECTION 4 of the bill (page 1, lines 30 and 31) and substitute the following:

SECTION 1. Chapter 490, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. CLEAN ENERGY PROJECTS

Sec. 490.351. DEFINITION. In this subchapter, "clean energy project" has the meaning assigned by Section 120.001, Natural Resources Code.

(3) In SECTION 4 of the bill, strike the heading to added Section 490.305, Government Code (page 1, lines 32 and 33), and substitute the following:

Sec. 490.352. FRANCHISE TAX CREDIT FOR CLEAN ENERGY PROJECT.

(4) At the end of SECTION 4 of the bill, immediately following added Section 490.305, Government Code (page 2, between lines 8 and 9), insert the following:

Sec. 490.353. USE OF MONEY FOR CLEAN ENERGY PROJECTS. (a) Notwithstanding Section 490.102, the governor may allocate under this section proceeds deposited in the fund to eligible applicants if the governor has the express written agreement of the lieutenant governor and the speaker of the house of representatives to do so.

(b) An allocation under this section may take the form of an investment in the form of equity, a convertible note, a debt instrument, a grant, a matching grant, or any combination of those methods.

(c) Before making an allocation under this subchapter, the governor shall enter into a written agreement with the entity to which the allocation is to be awarded.

(d) An applicant for an allocation under this section must provide any information considered necessary by the governor to determine whether the applicant qualifies for an allocation.

(e) In addition to any other provisions of this chapter, a clean energy project constitutes an opportunity for emerging technology suitable for consideration for an allocation under this section. Sections 490.102 and 490.103 and Subchapters D, E, and F do not apply to an allocation made pursuant to this section.

(5) In SECTION 5 of the bill, strike added Section 120.001(2)(B), Natural Resources Code (page 2, lines 21-30), and substitute the following:

(B) meet the emissions profile for an advanced clean energy project under Section 382.003(1-a)(B), Health and Safety Code;

(6) In SECTION 5 of the bill, in added Section 120.003(a), Natural Resources Code (page 2, line 66), strike "490.305(b)(4)" and substitute "490.352(b)(4)".

(7) In SECTION 5 of the bill, in added Section 120.003(b)(5), Natural Resources Code (page 3, line 10), strike "Section 490.305(b)(4)" and substitute "Section 490.352(b)(4)".

(8) In SECTION 6 of the bill, in the heading to added Section 151.334, Tax Code (page 3, line 40), strike "GEOLOGIC".

(9) In SECTION 6 of the bill, in added Section 151.334(2), Tax Code (page 3, line 50), strike "geologically".

(10) In SECTION 6 of the bill, in added Section 151.334(2)(B), Tax Code (page 3, line 57), strike "injected".

(11) Strike SECTION 7 of the bill (page 3, lines 59-68).

(12) In SECTION 8 of the bill (page 4, line 1), strike "490.305" and substitute "490.352".

(13) Add the following SECTIONS to the bill, appropriately numbered:

SECTION _____. Section 382.003(1-a), Health and Safety Code, is amended to read as follows:

(1-a) "Advanced clean energy project" means a project for which an application for a permit or for an authorization to use a standard 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, whether the project is implemented in connection with the construction of a new facility or in connection with the modification of an existing facility and whether the project involves the entire emissions stream from the facility or only a portion of the emissions stream from the facility;

(B) with regard to the portion of the emissions stream from the facility that is associated with the project, is capable of achieving:

(i) on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions or, if the project is designed for the use of feedstock substantially all of which is subbituminous coal, an emission rate of 0.04 pounds or less of sulfur dioxide per million British thermal units as determined by a 30-day average;

(ii) on an annual basis[7] a 95 percent or greater reduction of mercury emissions;

(iii) [~~and~~] an annual average emission rate for nitrogen oxides of:

(a) 0.05 pounds or less per million British thermal units; or

(b) if the project uses gasification technology, 0.034 pounds or less per million British thermal units; and

(iv) an annual average emission rate for filterable particulate matter of 0.015 pounds or less per million British thermal units; and

(C) captures not less than 50 percent of the [~~renders~~] carbon dioxide in the portion of the emissions stream from the facility that is associated with the project and sequesters that captured carbon dioxide by geologic storage or other means [~~capable of capture, sequestration, or abatement if any carbon dioxide is produced by the project~~].

SECTION _____. Subsections (a) and (d), Section 202.0545, Tax Code, are amended to read as follows:

(a) Subject to the limitations provided by this section, until [~~the later of~~] the 30th [~~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.

(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.

SECTION _____. Subdivision (4), Section 313.021, Tax Code, is amended to read as follows:

(4) "Qualifying time period" means:

(A) the first two tax years that begin on or after the date a person's application for a limitation on appraised value under this subchapter is approved, except as provided by Paragraph (B) or (C); ~~or~~

(B) in connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner; or

(C) in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, the first five tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.

SECTION _____. Subchapter M, Chapter 5, Water Code, is amended by adding Section 5.559 to read as follows:

Sec. 5.559. ADVANCED CLEAN ENERGY PROJECT PERMITTING PROCEDURE. (a) In this section, "advanced clean energy project" has the meaning assigned by Section 382.003, Health and Safety Code.

(b) As authorized by federal law, not later than nine months after the executive director declares an application for a permit under Chapter 26 for an advanced clean energy project to be administratively complete, the executive director shall complete the technical review of the application.

(c) 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.

(d) The permit process authorized by this section is subject to the requirements relating to a contested case hearing under this chapter or Subchapters C-G, Chapter 2001, Government Code, as applicable.

(e) The commission shall adopt rules to implement this section.

SECTION _____. (a) Not later than September 1, 2010, September 1, 2012, and September 1, 2016, the Texas Commission on Environmental Quality shall make recommendations to the legislature on whether the emissions profile set out in Sections 120.001(2)(B) and (C), Natural Resources Code, as added by this Act, and Sections 382.003(1-a)(B) and (C), Health and Safety Code, as amended by this Act, should be adjusted to increase or decrease elements of the emissions profile. Before making its recommendations, the commission shall determine whether any commercially demonstrated electric generating facility operating in the United States that meets the criteria and emissions profile specified by Section 120.001(2), Natural Resources Code, as added by this Act, is capturing and sequestering a greater percentage of the carbon dioxide in the emissions stream from the facility than would be required to meet the emissions profile set out in that subdivision and whether any commercially demonstrated electric generating facility operating in the United States that meets the criteria and emissions profile specified by Sections 382.003(1-a)(A), (B), and (C), Health and Safety Code, as amended by this Act, is capturing and sequestering a greater percentage of the carbon dioxide in the emissions stream from the facility than would be required to meet the emissions profile set out in those paragraphs. If at least one such facility exists, the commission shall recommend raising the minimum percentage of carbon dioxide in the emissions stream from a facility that is required to be captured and sequestered for the facility to qualify as a clean energy project or advanced clean energy project to the highest percentage of carbon dioxide that is being captured and sequestered by such a facility.

(b) Factors that must be considered in the assessment of the emissions profile include:

(1) the technical and economic feasibility of meeting all of the elements of the emissions profile set out in Sections 120.001(2)(B) and (C), Natural Resources Code, as added by this Act, or Sections 382.003(1-a)(A), (B), and (C), Health and Safety Code, as amended by this Act, 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, or similar legislation that becomes law, to continue to attract investment in and federal funding for clean energy projects and 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 do not apply to an application considered administratively complete on or before the date the adjustment takes effect.

SECTION _____. Not later than January 1, 2010, the Texas Commission on Environmental Quality shall adopt rules as necessary to implement Section 382.003, Health and Safety Code, as amended by this Act, and Section 5.559, Water Code, as added by this Act.

SECTION _____. The Railroad Commission of Texas may adopt rules as necessary to implement Section 202.0545, Tax Code, as amended by this Act.

SECTION _____. The comptroller of public accounts may adopt rules as necessary to implement Section 202.0545, Tax Code, as amended by this Act.

(14) Renumber the existing SECTIONS of the bill accordingly.

The amendment to **CSHB 469** was read and was adopted by a viva voce vote.

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

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

CSHB 469 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 469 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 469** be placed on its third reading and final passage.

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

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

HOUSE CONCURRENT RESOLUTION 22 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **HCR 22** at this time on its second reading:

HCR 22, Granting the Chishty family permission to sue the State of Texas, the Department of Aging and Disability Services, and the Denton State School.

The motion prevailed by the following vote: Yeas 23, Nays 8.

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

Nays: Duncan, Fraser, Harris, Jackson, Nichols, Patrick, Shapiro, Williams.

The resolution was read second time and was adopted by the following vote: Yeas 25, Nays 6.

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

Nays: Fraser, Harris, Jackson, Nichols, Shapiro, Williams.

HOUSE BILL 3827 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3827** at this time on its second reading:

HB 3827, Relating to the delivery of regulated substances into underground storage tanks; providing a penalty.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3827** (Senate committee printing) by adding the appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter F, Chapter 7, Water Code, is amended by adding Sec. 16.007 to read as follows:

Sec. 7.257. DEFENSE TO MANUFACTURE OF REGULATED SUBSTANCE. (a) Notwithstanding any other law, a manufacturer of a substance delivered into a tank regulated under Sec. 7.156 may raise as an affirmative defense to any claims for responsibility for the properties of the substance that the substance was manufactured in strict accordance with state or federal specifications.

The amendment to **HB 3827** was read and was adopted by a viva voce vote.

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

Senator Nichols offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3827** (Senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly

SECTION __. (a) As soon as practicable after the effective date of this Act, the Texas Commission on Environmental Quality shall adopt rules regulating the surface facilities associated with new commercial wells that propose to accept nonhazardous industrial waste for which a permit has not been issued on or before the effective date of this Act. In this section:

(1) "Commercial well" means a Class I injection well, as defined by commission rule, that a person may use to dispose of hazardous or nonhazardous industrial solid wastes for a charge. The term does not include:

(A) an injection well that is part of an integrated waste management unit of a captured facility; or

(B) an injection well at which only waste from facilities owned or effectively controlled by the same person is disposed.

(2) "Captured facility" means a manufacturing or production facility that generates an industrial solid waste or hazardous waste that is routinely stored, processed, or disposed of on a shared basis in an integrated waste management unit owned by, operated by, and located within a contiguous manufacturing complex.

(b) The rules adopted under Subsection (a) of this section may not apply to an application for a permit for an injection well:

(1) used solely for the sequestration or capture of carbon dioxide; or

(2) for which the surface facilities are associated with a well for which a permit is issued before the effective date of this Act.

(c) The Texas Commission on Environmental Quality shall provide that the rules adopted under Subsection (a) apply to every application for a permit for a new commercial underground injection control well that proposes to accept industrial or municipal waste that is filed on or after the effective date of this Act.

The amendment to **HB 3827** was read and was adopted by a viva voce vote.

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

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

HB 3827 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3827 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3827** be placed on its third reading and final passage.

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

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

RECESS

On motion of Senator Williams, the Senate at 7:48 p.m. recessed until 8:20 p.m. today.

AFTER RECESS

The Senate met at 8:38 p.m. and was called to order by Senator Watson.

COMMITTEE SUBSTITUTE

HOUSE BILL 3335 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3335** at this time on its second reading:

CSHB 3335, Relating to the creation and powers of certain groundwater and surface water districts.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3335** (Senate committee printing) as follows:

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

ARTICLE ____ EDWARDS AQUIFER AUTHORITY

SECTION ____.01. Subsection (b), Section 1.25, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The authority, in conjunction with the South Central Texas Water Advisory Committee, the Texas Water Development Board, and underground water conservation districts within the authority's boundaries, shall develop a 20-year plan for providing alternative supplies of water to the region, with five-year goals and objectives, to be implemented by the authority and reviewed annually by the appropriate state agencies and the standing committees of the senate and house of representatives with primary jurisdiction over natural resources [~~Edwards Aquifer Legislative Oversight Committee~~]. The authority, advisory committee, Texas Water Development Board, and districts, in developing the plan, shall:

- (1) thoroughly investigate all alternative technologies;
- (2) investigate mechanisms for providing financial assistance for alternative supplies through the Texas Water Development Board; and
- (3) perform a cost-benefit analysis and an environmental analysis.

SECTION _____.02. Section 3.01, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is repealed.

SECTION _____.03. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2009.

(2) In SECTION 3.01(a) of the bill (page 13, line 16), between "this section" and the comma, insert "or otherwise provided by this Act".

The amendment to **CSHB 3335** was read.

Senator Averitt withdrew Floor Amendment No. 1.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3335** (Senate committee report) by adding the following appropriately numbered SECTIONS to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION _____. Subchapter A, Chapter 67, Water Code, is amended by adding Sections 67.0061, 67.0062, and 67.0063 to read as follows:

Sec. 67.0061. DIRECTOR NOMINATIONS. (a) To be listed on the ballot as a candidate for election to a director's position, a person must file with the corporation an application that includes:

- (1) the person's written consent to serve, if elected;
- (2) biographical information about the person; and
- (3) a statement of the person's qualifications, including:
 - (A) a statement that the person meets the requirements of Sections 11.002(1), (3), and (4), Election Code; and
 - (B) whether the person is a member of the corporation.

(b) The application must be filed with the corporation not later than the 70th day before the date of the annual meeting.

(c) The corporation shall make available director candidate application forms at the main office of the corporation.

Sec. 67.0062. BALLOT FOR ELECTION OF DIRECTORS. The secretary-treasurer of the board shall:

(1) have the names of all candidates for each director's position printed on the ballot; and

(2) not later than the 45th day before the date of the annual meeting, mail the ballot to each person who is a member or shareholder, along with a statement of the number of directors to be elected and the biographical information about each candidate, including the candidate's qualifications as provided by each candidate for director in the candidate's application.

Sec. 67.0063. ELECTION OF DIRECTORS. (a) A member or shareholder may vote:

(1) in person at the annual meeting;

(2) by delivering a completed ballot to the member's proxy to submit at the annual meeting;

(3) by mailing a completed ballot postmarked not later than the sixth day before the date of the annual meeting to the office of the independent election auditor selected by the members or shareholders at the preceding annual meeting; or

(4) by delivering a completed ballot to the main office of the corporation not later than noon of the day before the date of the annual meeting.

(b) The corporation shall place each ballot received under Subsection (a)(4) in a sealed envelope and shall deliver the sealed envelopes to the independent election auditor at the annual meeting.

(c) No person, including the corporation, may use any type of incentive to encourage a member or shareholder to authorize the corporation, a committee of the corporation, or another person to act as the member's proxy in casting the vote of the member in a director's election. The corporation may provide incentives to obtain proxies or to encourage attendance at an annual or special meeting of the members solely for the purpose of establishing a quorum.

(d) The independent election auditor shall receive and count the ballots before the annual meeting is adjourned.

(e) For each director's position, the nominee who receives the highest number of votes is elected.

(f) If two or more candidates for a director's position tie for the highest number of votes for that position, those candidates shall draw lots under the direction of the independent election auditor to determine who is elected.

(g) The independent election auditor shall provide the board with a written report of the election results.

(h) The board may adopt rules as needed to implement this section, including rules to ensure the fairness, integrity, and openness of the voting process.

SECTION ____. Section 67.007, Water Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The board shall adopt written procedures for conducting an annual or special meeting of the members or shareholders, which shall include the following:

(1) notification to eligible members or shareholders of the proposed agenda, location, and date of the meeting;

(2) establishment of a quorum consisting of proxies and the votes of members or shareholders present;

(3) nomination and election procedures;

(4) procedures for selecting an independent election auditor required by Section 67.0063;

(5) approval of the proxy and ballot form to be used; and

(6) ~~(5)~~ validation of eligible voters, proxies, ballots, and election results.

(d) An independent election auditor must be selected at each annual meeting for the following annual meeting at which one or more directors are scheduled to be elected. The independent auditor is not required to be an experienced election judge or auditor and may serve as an unpaid volunteer. At the time of selection and while serving in the capacity of an independent election auditor, the independent election auditor may not be associated with the corporation as:

(1) an employee or independent contractor; or

(2) a director or candidate for director.

SECTION _____. Subchapter A, Chapter 67, Water Code, is amended by adding Section 67.0085 to read as follows:

Sec. 67.0085. AUDIT REQUIREMENTS. Subchapter G, Chapter 49, applies to a corporation with 500 or more members in the same manner that it applies to a district under that chapter. For purposes of applying that subchapter to a corporation:

(1) "board" means the board of directors of a corporation; and

(2) "district" means a corporation.

SECTION _____. A water supply or sewer service corporation operating under Chapter 67, Water Code, is subject to the audit requirements of Section 67.0085, Water Code, as added by this Act, beginning with the first fiscal year of the corporation that begins on or after September 1, 2009.

SECTION _____. The board of directors of a water supply or sewer service corporation operating under Chapter 67, Water Code, shall select an independent election auditor at least 30 days before the scheduled date of the 2010 annual meeting of the corporation.

The amendment to **CSHB 3335** was read and was adopted by a viva voce vote.

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

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3335** (Senate committee report) by inserting the following appropriately numbered SECTION of the bill and by renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 642, Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Section 1A to read as follows:

Sec. 1A. To help facilitate the statewide and regional goals of making efficient and responsible use of the state's water resources, the Upper Guadalupe River Authority may contract to provide any Kerr County entity, and may otherwise use in Kerr County, water for municipal use under Permit No. 5394A, which was issued to

the Upper Guadalupe River Authority by the Texas Natural Resource Conservation Commission, the predecessor agency to the Texas Commission on Environmental Quality. This section supersedes Permit No. 5394A, and specifically Special Condition No. 5D.i of the permit, to the extent of any conflict.

The amendment to **CSHB 3335** was read and was adopted by a viva voce vote.

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

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3335** (Senate committee report) by adding the following appropriately numbered SECTIONS to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 1. ____ Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1165 to read as follows:

Sec. 36.1165. RESTRICTION ON DRILLING OF WELLS NEAR CERTAIN RIVERS AND THEIR TRIBUTARIES. A person may not drill a well in the portion of the territory of a district that is located within 100 feet of the gradient boundary of the Frio, North Llano, South Llano, Llano, West Nueces, Nueces, or San Saba River, or any tributary of one of those rivers that is a perennial stream, unless the well is:

(1) exempt from permitting under Section 36.117(b)(1); and

(2) drilled, completed, or equipped so that it is incapable of producing more

than:

(A) 10 gallons of groundwater per minute; or

(B) 16 acre-feet of groundwater per year.

SECTION 1. ____ The changes in law made by Section 36.1165, Water Code, as added by this Act, apply only to a well for which drilling is commenced on or after the effective date of this Act. A well for which drilling is commenced before the effective date of this Act is subject to the law in effect on the date drilling is commenced, and that law is continued in effect for that purpose.

The amendment to **CSHB 3335** was read and was adopted by a viva voce vote.

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

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 3335** (Senate committee report) as follows:

(1) Insert the following appropriately numbered SECTIONS to the bill:

SECTION ____ Section 54.016(f), Water Code, is amended to read as follows:

(f) This subsection does not apply to a city or a district that is located in whole or in part in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million. A city may provide in its written consent for the inclusion of land in a district that a contract ("allocation

agreement") between the district and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the district. The allocation agreement shall contain the following provisions:

(1) a method by which the district shall continue to exist following the annexation of all territory within the district by the city, if the district is initially located outside the corporate limits of the city;

(2) an allocation of the taxes or revenues of the district or the city which will assure that, following the date of the inclusion of all the district's territory within the corporate limits of the city, the total annual ad valorem taxes collected by the city and the district from taxable property within the district does not exceed an amount greater than the city's ad valorem tax upon such property;

(3) an allocation of governmental services to be provided by the city or the district following the date of the inclusion of all of the district's territory within the corporate limits of the city;

(4) such other terms and conditions as may be deemed appropriate by the city.

SECTION __. The legislature finds that an agreement entered into prior to the effective date of this Act between a municipality and a municipal utility district that are located in whole or in part in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million is an allocation agreement only if the agreement strictly complies with the requirements of Section 54.016(f), Water Code, and is identified as an "allocation agreement" by specific reference in the agreement to Section 54.016(f), Water Code.

(2) Renumber SECTIONS of the bill appropriately.

The amendment to **CSHB 3335** was read.

Senator Patrick temporarily withdrew Floor Amendment No. 5.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 3335** (Senate committee report) by inserting new SECTION ____ to read as follows and renumber the subsequent sections appropriately:

SECTION _____. Section 49.280 is added to the Water Code to read as follows:
RESOLUTIONS (a) Notwithstanding Section 361.8065, (a)(1)(B), Health and Safety Code, if a retail public utility in a county of 3.3 million population or more does not inform the executive director that it has passed a resolution opposing an application within the later of 120 days from the date of receipt of the notice filed subject to 361.804, Health and Safety Code, or 120 days from the effective date of this Act, the executive director shall deem the retail public utility to have passed a resolution in support of the application.

The amendment to **CSHB 3335** was read.

Senator Patrick withdrew Floor Amendment No. 6.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 3335** (Senate committee report) as follows:

In SECTION 1.03 of the bill (page 3, line 37), add the following:

(h) The board of directors of a district may declare moot and remove from the ballot a measure on which it had ordered an election. The board of directors of a district may cancel an election it had ordered.

(i) Notwithstanding the requirements of Section 141.040, Election Code, a notice required by that Section shall be posted at the public place established by the district under Section 49.063 not later than the 30th day before the deadline for a candidate to file an application for a place on the ballot of a district director election.

The amendment to **CSHB 3335** was read.

Senator Patrick withdrew Floor Amendment No. 7.

Senator Averitt moved to adopt the following Floor Amendments Nos. 8 through 22 to the bill:

Floor Amendment No. 8 by Deuell

Amend **CSHB 3335** (Senate committee printing) as follows:

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

ARTICLE ____ . HUNT COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

SECTION ____ .01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8341 to read as follows:

CHAPTER 8341. HUNT COUNTY MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8341.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Hunt County Municipal Utility District No. 1.

Sec. 8341.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8341.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

(b) If the creation of the district is not confirmed at a confirmation election held under this section before September 1, 2013:

(1) the district is dissolved December 31, 2013, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Hunt County or the City of Greenville, as mutually determined by the governing bodies of Hunt County and the City of Greenville; 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, 2016.

Sec. 8341.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8341.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8341.005. DEVELOPMENT AGREEMENT REQUIRED. (a) The temporary directors may not hold an election under Section 8341.003 until a development agreement, as described by Section 212.172, Local Government Code, covering the land described by the article creating this chapter, is executed by the owners of the land covered by the development agreement and by the City of Greenville.

(b) The district may not annex land until:

(1) the land proposed for annexation is covered by a development agreement executed by the owners of the land and the City of Greenville; or

(2) the governing bodies of the City of Greenville and Hunt County consent by ordinance or resolution to the annexation.

(c) Notwithstanding the requirement under Section 212.172(b), Local Government Code, that a development agreement apply only to land located in the extraterritorial jurisdiction of a municipality, a development agreement described by this section may cover land outside the extraterritorial jurisdiction of the City of Greenville.

(d) Section 212.172(d), Local Government Code, does not apply to a development agreement described by this section, and the term of the development agreement may be renewed or extended as mutually agreed to by the owners of the land covered by the agreement and the City of Greenville.

Sec. 8341.006. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

(c) The creation of the district is in the public interest and is essential to accomplish the purposes of Section 52-a, Article III, Texas Constitution, and to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public; and

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center.

(e) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 8341.007. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by the article creating this chapter.

(b) The boundaries and field notes contained in the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8341.008-8341.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8341.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8341.052, directors serve staggered four-year terms.

Sec. 8341.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Jason Claunch;

(2) Jon Smalling;

(3) Spencer Taylor;

(4) Derek Rogers; and

(5) Rome Barnes.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8341.003; or

(2) September 1, 2013.

(c) If permanent directors have not been elected under Section 8341.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8341.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8341.053-8341.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8341.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8341.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8341.103. WATER AND WASTEWATER FACILITIES AND SERVICES. (a) The district shall make available any district water or wastewater facility to each person that holds a certificate of convenience and necessity to which any land in the district is subject.

(b) The district may not provide retail water or wastewater services.

Sec. 8341.104. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may acquire, construct, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8341.105. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must:

(1) meet all construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located that apply to the construction, improvement, maintenance, repair, or operation of the road project; and

(2) comply with the development agreement required by Section 8341.005.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) The district shall pay all costs associated with the maintenance or operation of a road project.

(d) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8341.106. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8341.107. ANNEXATION BY CITY OF GREENVILLE. The City of Greenville may annex a district created under this chapter on the earlier of:

(1) the date that water, sanitary sewer, drainage, and road improvements and roads have been constructed to serve 90 percent of the land in the district; or

(2) the 15th anniversary of the date of the election held to confirm the creation of the district or any new district created by the division of the district.

Sec. 8341.108. RAIL FACILITIES. The district may construct, acquire, improve, maintain, and operate rail facilities and improvements in aid of those facilities.

Sec. 8341.109. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 8341.104; or

(2) a recreational facility as defined by Section 49.462, Water Code.

Sec. 8341.110. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if:

(1) the district has no outstanding bonded debt;

(2) the district is not imposing ad valorem taxes; and

(3) the requirements of Subsection (i) are satisfied.

(b) This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by the article creating this chapter.

(d) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section 8341.003 to confirm the district's creation.

(f) An order dividing the district shall:

(1) name each new district;

(2) include the metes and bounds description of the territory of each new district;

(3) appoint temporary directors for each new district; and

(4) provide for the division of assets and liabilities between or among the new districts.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the Texas Commission on Environmental Quality and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8341.003.

(i) If the district is located wholly or partly in the corporate limits or the extraterritorial jurisdiction of a municipality, the district may not divide under this section unless the municipality by resolution or ordinance first consents to the division of the district. If the district is not located wholly or partly in the corporate limits or the extraterritorial jurisdiction of a municipality, the district may not divide under this section unless the commissioners court of each county in which the district is wholly or partly located first adopts a resolution or order in support of the division of the district.

(j) Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

[Sections 8341.111-8341.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8341.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8341.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8341.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8341.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8341.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8341.154-8341.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8341.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, revenue from economic development agreements under Chapter 380, Local Government Code, other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8341.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8341.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

Sec. 8341.204. LIMIT ON REFINANCING DEBT. The district may not refinance any debt incurred on behalf of the district more than one time without the prior written consent of the City of Greenville.

[Sections 8341.205-8341.250 reserved for expansion]

SUBCHAPTER F. DISSOLUTION

Sec. 8341.251. DISSOLUTION FOLLOWING ANNEXATION BY CITY OF GREENVILLE. (a) On annexation of the district by the City of Greenville, the district is dissolved in accordance with the ordinance of the City of Greenville authorizing the annexation.

(b) Section 43.075(d), Local Government Code, applies to the City of Greenville on the date the municipality adopts an ordinance described by Subsection (a).

Sec. 8341.252. COLLECTION OF REVENUE OTHER THAN AD VALOREM TAXES. If at the time of dissolution the district has outstanding bonds or other obligations secured by and payable from revenue described by Section 8341.201 other than ad valorem taxes, the municipality succeeds to the rights and obligations of the district regarding enforcement and collection of the revenue and shall enforce and collect revenue as necessary to pay for:

(1) the bonds or other obligations issued by the district when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the City of Greenville to refund the outstanding bonds or obligations.

Sec. 8341.253. ASSUMPTION OF ASSETS AND LIABILITIES. (a) The City of Greenville assumes the obligations of the district after dissolution, including any bonds or other indebtedness payable from revenue described by Section 8341.201.

(b) On dissolution of the district, ownership of all district property is transferred to Hunt County or the City of Greenville as mutually determined by the governing bodies of Hunt County and the City of Greenville.

SECTION __.02. The Hunt County Municipal Utility District No. 1 initially includes all the territory contained in the following area:

TRACT 1

BEING A 668.169 ACRE TRACT OF LAND SITUATED IN THE JAMES MOORE SURVEY, ABSTRACT NO. 654, GEO VAN CLEAVE SURVEY, ABSTRACT NO. 1074 AND WILLIAM KIZER SURVEY, ABSTRACT NO. 575, HUNT COUNTY, TEXAS, AND BEING ALL OF A 305.706 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1489, PAGE 637, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING ALL OF A 157.467 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1489, PAGE 647, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING ALL 31.979 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1795, PAGE 231, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING ALL OF A 173.016 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1463, PAGE 539, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS. SAID 668.169 ACRE TRACT WITH BEARING BASIS GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984). BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID 305.706 ACRE TRACT AND THE SOUTHEAST CORNER OF A CALLED 66 ACRE TRACT OF LAND CONVEYED AS "TRACT ONE" TO J.B. McNATT BY DEED RECORDED IN VOLUME 576, PAGE 535, DEED RECORDS, HUNT COUNTY, TEXAS AND

BEING ON THE WEST LINE OF A CALLED 36.178 ACRE TRACT OF LAND CONVEYED AS TRACT III TO LAWRENCE R. THOMAS BY DEED RECORDED IN VOLUME 250, PAGE 229, DEED RECORDS, HUNT COUNTY, TEXAS AND BEING AT THE INTERSECTION OF THE APPROXIMATE CENTERLINES OF HUNT COUNTY ROAD 1080 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY) AND HUNT COUNTY ROAD 1079 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY) FROM WHICH A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS BEARS SOUTH 51 DEGREES 58 MINUTES 38 SECONDS WEST, A DISTANCE OF 29.31 FEET;

THENCE SOUTH 00 DEGREES 42 MINUTES 26 SECONDS WEST, ALONG THE EAST LINE OF SAID 305.706 ACRE TRACT AND THE COMMON WEST LINE OF SAID 36.178 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD 1079, A DISTANCE OF 1564.57 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

THENCE, CONTINUING ALONG THE EAST LINE OF SAID 305.706 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 88 DEGREES 23 MINUTES 01 SECONDS EAST, A DISTANCE OF 11.20 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 00 DEGREES 18 MINUTES 24 SECONDS WEST, A DISTANCE OF 3035.27 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 89 DEGREES 02 MINUTES 48 SECONDS WEST, A DISTANCE OF 59.18 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE INTERIOR ELL CORNER OF SAID 305.706 ACRE TRACT AND BEING THE NORTHWEST CORNER OF A CALLED 20.000 ACRE TRACT OF LAND CONVEYED TO MIKE BITTLE AND WIFE, BONNIE BITTLE, AS RECORDED IN VOLUME 409, PAGE 731, DEED RECORDS, HUNT COUNTY, TEXAS;

SOUTH 00 DEGREES 00 MINUTES 02 SECONDS EAST, ALONG THE WEST LINE OF SAID 20.000 ACRE TRACT AND PASSING AT A DISTANCE OF 206.34 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A SOUTHEAST CORNER OF SAID 305.706 ACRE TRACT AND THE NORTHEAST CORNER OF AFORESAID 157.467 ACRE TRACT, AND CONTINUING ALONG THE EAST LINE OF SAID 157.467 ACRE TRACT AND THE WEST LINE OF SAID 20.000 ACRE TRACT, IN ALL A TOTAL DISTANCE OF 2178.64 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 157.467 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 20.000 ACRE TRACT AND BEING ON THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 1071 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, NORTH 89 DEGREES 59 MINUTES 21 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 157.467 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD 1771,

PASSING AT A DISTANCE OF 1307.23 FEET A 1/2 INCH IRON ROD FOUND, CONTINUING IN ALL A TOTAL DISTANCE OF 1311.67 FEET TO A POINT FOR AN INTERIOR ELL CORNER OF SAID 157.467 ACRE TRACT AND BEING AT THE INTERSECTION OF THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD 1071 AND HUNT COUNTY ROAD NO. 1074 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY), FROM WHICH A 3/8 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF A CALLED 22.0 ACRE TRACT OF LAND CONVEYED TO GERALD HENRY CLEMENTS, AS RECORDED IN VOLUME 1014, PAGE 495, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, BEARS SOUTH 69 DEGREES 22 MINUTES 52 SECONDS WEST, A DISTANCE OF 6.90 FEET;

THENCE, SOUTH 00 DEGREES 37 MINUTES 07 SECONDS EAST, WITH THE EAST LINE OF SAID 157.467 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD 1074, A DISTANCE OF 538.77 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 22.0 ACRE TRACT AND THE NORTHWEST CORNER OF AFORESAID 173.016 ACRE TRACT;

THENCE, NORTH 89 DEGREES 41 MINUTES 33 SECONDS EAST, ALONG THE NORTH LINE OF SAID 173.016 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 22.0 ACRE TRACT, PASSING AT A DISTANCE OF 19.91 FEET A 1/2" IRON ROD FOUND WITH CAP STAMPED "WISDOM R.P.L.S. 3646" FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1778.50 FEET TO A 1/2 INCH IRON ROD FOUND WITH CAP STAMPED "WISDOM R.P.L.S. 3646" FOR THE NORTHEAST CORNER OF SAID 173.016 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 22.0 ACRE TRACT, SAID POINT BEING IN THE WEST LINE OF A CALLED 97.784 ACRE TRACT OF LAND CONVEYED TO PAUL WIRTZBERGER BY DEED RECORDED IN VOLUME 575, PAGE 179, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE EAST LINE OF SAID 173.016 ACRE TRACT AND THE WEST LINE OF SAID 97.784 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 00 DEGREES 07 MINUTES 57 SECONDS WEST, A DISTANCE OF 2019.66 FEET TO A 3/8 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 22 MINUTES 50 SECONDS WEST, A DISTANCE OF 388.78 FEET TO A 3/8 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 07 MINUTES 29 SECONDS WEST, A DISTANCE OF 2053.44 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 173.016 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 97.784 ACRE TRACT, SAID POINT ALSO BEING IN THE NORTH RIGHT-OF-WAY LINE OF FARM TO MARKET ROAD NO. 1569 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE, ALONG THE SOUTH LINE OF SAID 173.016 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY LINE OF SAID FARM TO MARKET ROAD NO. 1569, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 89 DEGREES 33 MINUTES 34 SECONDS WEST, A DISTANCE OF 1000.94 FEET TO A BROKEN CONCRETE MONUMENT FOUND FOR CORNER;

SOUTH 84 DEGREES 33 MINUTES 30 SECONDS WEST, A DISTANCE OF 112.36 FEET TO A BROKEN CONCRETE MONUMENT FOUND FOR CORNER AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 89 DEGREES 34 MINUTES 36 SECONDS, A RADIUS OF 532.96 FEET, A LONG CHORD THAT BEARS, NORTH 45 DEGREES 39 MINUTES 26 SECONDS WEST, A DISTANCE OF 750.93 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 833.23 FEET TO A BROKEN CONCRETE MONUMENT FOUND FOR CORNER;

THENCE, ALONG THE WEST LINE OF SAID 173.016 ACRE TRACT AND THE COMMON EAST RIGHT-OF-WAY LINE OF SAID FARM TO MARKET ROAD NO. 1569, THE FOLLOWING COURSES AND DISTANCES:

NORTH 01 DEGREES 01 MINUTES 34 SECONDS WEST, A DISTANCE OF 797.09 FEET TO A BROKEN CONCRETE MONUMENT FOUND FOR CORNER;

NORTH 01 DEGREES 12 MINUTES 32 SECONDS WEST, A DISTANCE OF 1152.33 FEET TO A BROKEN CONCRETE MONUMENT FOUND FOR CORNER;

NORTH 04 DEGREES 02 MINUTES 50 SECONDS EAST, A DISTANCE OF 100.47 FEET TO A BROKEN CONCRETE MONUMENT FOUND FOR CORNER;

NORTH 01 DEGREES 20 MINUTES 07 SECONDS WEST, A DISTANCE OF 209.81 FEET TO A BROKEN CONCRETE MONUMENT FOUND FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 10 DEGREES 10 MINUTES 52 SECONDS, A RADIUS OF 622.96 FEET, A LONG CHORD THAT BEARS, NORTH 06 DEGREES 25 MINUTES 33 SECONDS WEST, A DISTANCE OF 110.55 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 110.70 FEET TO A POINT FOR CORNER;

NORTH 00 DEGREES 57 MINUTES 59 SECONDS WEST, A DISTANCE OF 282.19 FEET TO A BROKEN CONCRETE MONUMENT FOUND FOR AN INTERIOR ELL CORNER OF SAID 173.016 ACRE TRACT;

SOUTH 88 DEGREES 39 MINUTES 13 SECONDS WEST, A DISTANCE OF 39.92 FEET TO A 1/2 INCH IRON ROD FOUND FOR AN EXTERIOR ELL CORNER OF SAID 173.016 ACRE TRACT AND THE SOUTHEAST CORNER OF A CALLED 2.001 ACRE TRACT CONVEYED TO DONALD C. CASH, AS RECORDED IN VOLUME 1058, PAGE 698, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, SAID POINT BEING IN THE APPROXIMATE CENTERLINE OF COUNTY ROAD NO. 1074 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, ALONG THE WEST LINE OF SAID 173.016 ACRE TRACT AND THE COMMON EAST LINE OF SAID 2.001 ACRE TRACT, WITH THE GENERAL DIRECTION OF THE APPROXIMATE CENTERLINE OF SAID COUNTY ROAD NO. 1074, THE FOLLOWING COURSES AND DISTANCES:

NORTH 01 DEGREES 32 MINUTES 05 SECONDS WEST, A DISTANCE OF 122.14 FEET TO A 1/2 INCH IRON ROD FOUND WITH CAP STAMPED "WISDOM R.P.L.S. 3646" FOR CORNER, FROM WHICH A 1/2 INCH IRON ROD FOUND WITH CAP STAMPED "WISDOM R.P.L.S. 3646" FOUND FOR WITNESS BEARS SOUTH 89 DEGREES 46 MINUTES 19 SECONDS EAST, A DISTANCE OF 14.82 FEET;

NORTH 01 DEGREES 39 MINUTES 50 SECONDS WEST, A DISTANCE OF 302.03 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 2.001 ACRE TRACT AND THE SOUTHEAST CORNER OF A CALLED 3.500 ACRE TRACT CONVEYED TO LISA MARIE ROBLES BY DEED RECORDED IN VOLUME 1097, PAGE 595, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS;

THENCE, CONTINUING ALONG THE WEST LINE OF SAID 173.016 ACRE TRACT AND THE COMMON EAST LINE OF SAID 3.500 ACRE TRACT, WITH THE GENERAL DIRECTION OF THE APPROXIMATE CENTERLINE OF SAID COUNTY ROAD NO. 1074, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 08 MINUTES 49 SECONDS EAST, A DISTANCE OF 282.96 FEET TO A 3/8 INCH IRON ROD FOUND FOR CORNER, FROM WHICH A 1/2 INCH IRON ROD FOUND WITH CAP STAMPED "WISDOM R.P.L.S. 3646" FOUND FOR WITNESS BEARS SOUTH 89 DEGREES 45 MINUTES 56 SECONDS EAST, A DISTANCE OF 20.04 FEET;

NORTH 01 DEGREES 11 MINUTES 16 SECONDS WEST, A DISTANCE OF 234.74 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID 3.500 ACRE TRACT AND A SOUTHEAST CORNER OF AFORESAID 31.979 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 35 MINUTES 54 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 31.979 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 3.500 ACRE TRACT, PASSING AT A DISTANCE OF 20.00 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 302.92 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 3.500 ACRE TRACT;

THENCE, SOUTH 01 DEGREES 24 MINUTES 06 SECONDS EAST, ALONG THE EAST LINE OF SAID 31.979 ACRE TRACT AND THE COMMON WEST LINE OF SAID 3.500 ACRE TRACT, A DISTANCE OF 517.78 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 3.500 ACRE TRACT, SAID POINT BEING ON THE NORTH LINE OF AFORESAID 2.001 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 23 MINUTES 58 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 31.979 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 2.001 ACRE TRACT, A DISTANCE OF 81.14 FEET TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED "STOVALL & ASSOC"

FOUND FOR THE NORTHWEST CORNER OF SAID 2.001 ACRE TRACT AND BEING ON THE EAST LINE OF A 3.907 ACRE TRACT OF LAND CONVEYED TO TRAVIS HOBBS BY DEED RECORDED IN VOLUME 1388, PAGE 105, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 35 DEGREES 06 MINUTES 00 SECONDS EAST, ALONG A WEST LINE OF SAID 31.979 ACRE TRACT AND THE COMMON EAST LINE OF SAID 3.907 ACRE TRACT, A DISTANCE OF 78.00 FEET TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED "STOVALL & ASSOC" FOUND FOR THE NORTHEAST CORNER OF SAID 3.907 ACRE TRACT;

THENCE, SOUTH 86 DEGREES 04 MINUTES 36 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 31.979 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 3.907 ACRE TRACT, A DISTANCE OF 770.20 FEET TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED "STOVALL & ASSOC" FOUND FOR THE NORTHWEST CORNER OF SAID 3.907 ACRE TRACT;

THENCE, SOUTH 01 DEGREES 46 MINUTES 57 SECONDS WEST, ALONG AN EAST LINE OF SAID 31.979 ACRE TRACT AND THE COMMON WEST LINE OF SAID 3.907 ACRE TRACT, A DISTANCE OF 223.89 FEET TO A 1/2 INCH IRON ROD WITH PLASTIC CAP STAMPED "STOVALL & ASSOC" FOUND FOR THE SOUTHWEST CORNER OF SAID 3.907 ACRE TRACT AND BEING ON THE COMMON NORTH RIGHT-OF-WAY LINE OF AFORESAID FARM TO MARKET ROAD NO. 1569;

THENCE, SOUTH 89 DEGREES 20 MINUTES 25 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 31.979 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY LINE OF SAID FARM TO MARKET ROAD NO. 1569, A DISTANCE OF 558.27 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

THENCE, NORTH 03 DEGREES 10 MINUTES 24 SECONDS EAST, ALONG A WEST LINE OF SAID 31.979 ACRE TRACT, OVER AND ACROSS A TRACT OF LAND CONVEYED TO W.G. MARTIN BY DEED RECORDED IN VOLUME 650, PAGE 283, DEED RECORDS, HUNT COUNTY, TEXAS A DISTANCE OF 470.89 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN INTERIOR ELL CORNER OF SAID 31.979 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 31 MINUTES 54 SECONDS WEST, ALONG A SOUTH LINE OF SAID 31.979 ACRE TRACT, CONTINUING OVER AND ACROSS SAID W.G. MARTIN TRACT, PASSING AT A DISTANCE OF 353.37 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 372.37 FEET TO A POINT FOR A SOUTHWEST CORNER OF SAID 31.979 ACRE TRACT, SAID POINT ALSO BEING ON THE EAST LINE OF A 39.791 ACRE TRACT OF LAND CONVEYED BY DEED TO NORMAN HALL, AS RECORDED IN VOLUME 203, PAGE 619, DEED RECORDS, HUNT COUNTY, TEXAS AND THE APPROXIMATE CENTERLINE OF COUNTY ROAD NO. 1075 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, ALONG THE WEST LINE OF SAID 31.979 ACRE TRACT, THE COMMON EAST LINE OF SAID 39.791 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF SAID COUNTY ROAD NO. 1075, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 46 MINUTES 29 SECONDS WEST, A DISTANCE OF 457.72 FEET TO A POINT FOR CORNER;

NORTH 09 DEGREES 57 MINUTES 20 SECONDS EAST, A DISTANCE OF 69.13 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 31.979 ACRE TRACT AND THE SOUTHWEST CORNER OF AFORESAID 157.467 ACRE TRACT;

THENCE, ALONG THE WEST LINE OF SAID 157.467 ACRE TRACT, THE COMMON EAST LINE OF SAID 39.791 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF SAID COUNTY ROAD NO. 1075, THE FOLLOWING COURSES AND DISTANCES:

NORTH 09 DEGREES 57 MINUTES 20 SECONDS EAST, A DISTANCE OF 30.33 FEET TO A POINT FOR CORNER;

NORTH 27 DEGREES 51 MINUTES 02 SECONDS EAST, A DISTANCE OF 617.11 FEET TO A POINT FOR CORNER;

NORTH 75 DEGREES 30 MINUTES 15 SECONDS EAST, A DISTANCE OF 152.78 FEET TO A POINT FOR CORNER;

NORTH 40 DEGREES 43 MINUTES 36 SECONDS EAST, A DISTANCE OF 59.14 FEET TO A POINT FOR CORNER;

NORTH 08 DEGREES 29 MINUTES 05 SECONDS WEST, A DISTANCE OF 242.89 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 39.791 ACRE TRACT AND THE SOUTHEAST CORNER OF A 101.55 ACRE TRACT OF LAND CONVEYED TO DOROTHY JEAN SANCHEZ AND HUSBAND, MANUEL RICHARD SANCHEZ, AS RECORDED IN VOLUME 568, PAGE 86, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 57 MINUTES 57 SECONDS WEST, CONTINUING ALONG THE WEST LINE OF SAID 157.467 ACRE TRACT, THE COMMON EAST LINE OF SAID 101.55 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD 1075, A DISTANCE OF 1734.56 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 157.467 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 101.55 ACRE TRACT AND BEING AT THE APPROXIMATE CENTERLINE INTERSECTION OF SAID HUNT COUNTY ROAD 1075 AND AFORESAID HUNT COUNTY ROAD 1074;

THENCE, NORTH 89 DEGREES 35 MINUTES 14 SECONDS EAST, ALONG THE NORTH LINE OF SAID 157.467 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD 1074, A DISTANCE OF 970.56 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE OCCUPIED SOUTHEAST CORNER OF A CALLED 80 ACRE TRACT OF LAND CONVEYED AS "TRACT ONE" TO NORMAN AND LINDA OLIVER LIVING

TRUST, AS RECORDED IN VOLUME 1331, PAGE 540, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING THE SOUTHWEST CORNER OF AFORSAID 305.706 ACRE TRACT;

THENCE, NORTH 00 DEGREES 17 MINUTES 44 SECONDS WEST, ALONG THE WEST LINE OF SAID 305.706 ACRE TRACT AND THE COMMON EAST LINE OF SAID 80 ACRE TRACT, A DISTANCE OF 1846.41 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 80 ACRE TRACT;

THENCE, NORTH 89 DEGREES 52 MINUTES 27 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 305.706 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 80 ACRE TRACT, PASSING AT A DISTANCE OF 1975.47 FEET A 3/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1993.80 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 80 ACRE TRACT AND BEING ON THE EAST LINE OF A 115.5 ACRE TRACT OF LAND CONVEYED AS "TRACT TWO" TO NORMAN AND LINDA OLIVER LIVING TRUST, AS RECORDED IN VOLUME 1331, PAGE 540, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING ON THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD 1074;

THENCE, NORTH 00 DEGREES 00 MINUTES 17 SECONDS WEST, ALONG THE WEST LINE OF SAID 305.706 ACRE TRACT AND THE COMMON EAST LINE OF SAID 115.5 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD 1074, A DISTANCE OF 1099.92 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID 115.5 ACRE TRACT;

THENCE, SOUTH 89 DEGREES 36 MINUTES 33 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 305.706 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 115.5 ACRE TRACT, PASSING AT A DISTANCE OF 21.33 FEET A 3/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1997.32 FEET TO FENCE CORNER POST FOUND FOR THE NORTHWEST CORNER OF SAID 115.5 ACRE TRACT AND BEING ON THE EAST LINE OF A 50 ACRE TRACT OF LAND CONVEYED TO DOYLE FAMILY REVOCABLE LIVING TRUST, AS RECORDED IN VOLUME 902, PAGE 681, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 01 DEGREES 11 MINUTES 31 SECONDS WEST, ALONG THE WEST LINE OF SAID 305.706 ACRE TRACT AND THE EAST LINE OF SAID 50 ACRE TRACT, A DISTANCE OF 564.66 FEET TO A FENCE CORNER POST FOUND FOR THE SOUTHWEST CORNER OF A CALLED 143.51 ACRE TRACT OF LAND CONVEYED TO JACKY G. LEINART AND JERRY L. LEINART, AS RECORDED IN VOLUME 136, PAGE 557, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 89 DEGREES 16 MINUTES 24 SECONDS EAST, ALONG THE NORTH LINE OF SAID 305.706 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 143.51 ACRE TRACT, PASSING AT A DISTANCE OF 1991.01 FEET A 3/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING

IN ALL A TOTAL DISTANCE OF 2009.13 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 143.51 ACRE TRACT AND BEING ON AFORESAID HUNT COUNTY ROAD NO. 1074;

THENCE, NORTH 00 DEGREES 00 MINUTES 17 SECONDS WEST, ALONG THE WEST LINE OF SAID 305.706 ACRE TRACT AND THE COMMON EAST LINE OF SAID 143.51 ACRE TRACT, A DISTANCE OF 205.79 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF A 17.75 ACRE TRACT OF LAND CONVEYED AS "TRACT THREE" TO SHERMAN A. GREEN, AS RECORDED IN VOLUME 603, PAGE 120, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE NORTH LINE OF SAID 305.706 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD 1080, THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 45 MINUTES 23 SECONDS EAST, ALONG THE COMMON SOUTH LINE OF SAID 17.75 ACRE TRACT AND THE COMMON SOUTH LINE OF A 22.304 ACRE TRACT OF LAND CONVEYED AS "TRACT TWO" TO J.B. McNATT, AS RECORDED IN VOLUME 576, PAGE 535, DEED RECORDS, HUNT COUNTY, TEXAS AND THE COMMON SOUTH LINE OF A 66 ACRE TRACT OF LAND CONVEYED AS "TRACT ONE" TO J.B. McNATT, AS RECORDED IN VOLUME 576, PAGE 535, DEED RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 1984.50 FEET TO A POINT FOR CORNER, FROM WHICH A 3/8 INCH IRON ROD FOUND FOR WITNESS BEARS, SOUTH 00 DEGREES 17 MINUTES 11 SECONDS EAST, A DISTANCE OF 21.19 FEET;

NORTH 89 DEGREES 42 MINUTES 49 SECONDS EAST, CONTINUING ALONG THE COMMON SOUTH LINE OF SAID 66 ACRE TRACT, A DISTANCE OF 1087.57 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID 66 ACRE TRACT;

THENCE, NORTH 00 DEGREES 14 MINUTES 29 SECONDS WEST, ALONG THE WEST LINE OF SAID 305.706 ACRE TRACT, A COMMON EAST LINE OF SAID 66 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD 1080, A DISTANCE OF 1040.80 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A NORTHWEST CORNER OF SAID 305.706 ACRE TRACT AND THE INTERIOR ELL CORNER OF SAID 66 ACRE TRACT;

THENCE, NORTH 89 DEGREES 45 MINUTES 31 SECONDS EAST, ALONG THE NORTH LINE OF SAID 305.706 ACRE TRACT, THE COMMON SOUTH LINE OF SAID 66 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD 1080, A DISTANCE OF 932.78 FEET TO THE POINT OF BEGINNING AND CONTAINING 668.169 ACRES OF LAND, MORE OR LESS.

TRACT 2

BEING A 36.077 ACRE TRACT OF LAND SITUATED IN THE JAMES MOORE SURVEY, ABSTRACT NO. 654, AND THE JULIET PORTER SURVEY, ABSTRACT NO. 819, HUNT COUNTY, TEXAS, AND BEING ALL OF A 36.077

ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1489, PAGE 637, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS. SAID 36.077 ACRE TRACT WITH BEARING BASIS GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984). BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH CAPPED IRON ROD STAMPED "USA INC" FOUND FOR THE SOUTHWEST CORNER OF AFORESAID 36.077 ACRE TRACT AND BEING A SOUTHEAST CORNER OF A 20.000 ACRE TRACT OF LAND CONVEYED TO MIKE BITTLE AND WIFE, BONNIE BITTLE, AS RECORDED IN VOLUME 409, PAGE 731, DEED RECORDS, HUNT COUNTY, TEXAS AND BEING ON THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD 1071 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, NORTH 00 DEGREES 00 MINUTES 36 SECONDS EAST, ALONG THE WEST LINE OF SAID 36.077 ACRE TRACT AND THE COMMON EAST LINE OF SAID 20.000 ACRE TRACT, A DISTANCE OF 1465.20 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 36.077 ACRE TRACT AND BEING THE INTERIOR ELL CORNER OF SAID 20.000 ACRE TRACT;

THENCE, NORTH 89 DEGREES 47 MINUTES 49 SECONDS EAST, ALONG THE NORTH LINE OF SAID 36.077 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 20.000 ACRE TRACT, A DISTANCE OF 1080.73 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 36.077 ACRE TRACT AND A SOUTHEAST CORNER OF SAID 20.000 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 38 MINUTES 52 SECONDS WEST, ALONG THE EAST LINE OF SAID 36.077 ACRE TRACT, PASSING AT A DISTANCE OF 1439.34 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1465.34 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 36.077 ACRE TRACT AND BEING IN THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD 1071;

THENCE, SOUTH 89 DEGREES 47 MINUTES 48 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 36.077 ACRE TRACT AND WITH THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD 1071, A DISTANCE OF 1064.42 FEET TO THE POINT OF BEGINNING, AND CONTAINING 36.077 ACRES OF LAND, MORE OR LESS.

TRACT 3

BEING A 1742.436 ACRE TRACT OF LAND SITUATED IN THE JESSE BILLINGSLEY SURVEY, ABSTRACT NO. 37, THE T.H. FREESE SURVEY, ABSTRACT NO. 336, THE ENOS MURPHY SURVEY, ABSTRACT NO. 647, THE JAMES MOORE SURVEY, ABSTRACT NO. 654, THE M.E.P. & R.R.R.

SURVEY, ABSTRACT NO. 772, THE JULIET PORTER SURVEY, ABSTRACT NO. 819, THE NANCY K. WOODSON SURVEY, ABSTRACT NO. 1100, THE S.K. WOODSON SURVEY, ABSTRACT NO. 1101, THE WILLIAM C. YOUNG SURVEY, ABSTRACT NO. 1181, HUNT COUNTY, TEXAS, AND BEING ALL OF A 34.984 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1652, PAGE 439, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, ALL OF A 240.184 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1662, PAGE 597, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, ALL OF A 133.764 ACRE TRACT CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1681, PAGE 508, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, ALL OF A 71.177 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1783, PAGE 172, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, ALL OF A 30.000 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO GARY R. PICKETT, AS RECORDED IN VOLUME 1074, PAGE 569, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, ALL OF A 41.562 ACRE TRACT OF LAND CONVEYED AS "TRACT 5" TO GARY R. PICKETT, AS RECORDED IN VOLUME 1075, PAGE 269, OFFICIAL RECORDS, HUNT COUNTY, TEXAS ALL OF A 829.635 ACRE TRACT OF LAND CONVEYED AS "TRACT B" AND ALL OF A 51.548 ACRE TRACT OF LAND CONVEYED AS "TRACT C" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1637, PAGE 551, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, ALL OF A 96.166 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1682, PAGE 467, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, ALL OF A 24.973 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1682, PAGE 462, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, ALL OF A 95.781 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO VICKI MAYABB, AS RECORDED IN VOLUME 1074, PAGE 573, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, ALL OF A 15.000 ACRE TRACT OF LAND CONVEYED TO VICKI MAYABB, AS RECORDED IN VOLUME 1535, PAGE 30, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, AND ALL OF A 75.574 ACRE TRACT OF LAND CONVEYED TO BILLY DON EUDY, AS RECORDED IN VOLUME 245, PAGE 58, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS. SAID 1742.436 ACRE TRACT WITH BEARING BASIS GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984). BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 34.984 ACRE TRACT AND BEING THE NORTHWEST CORNER OF A 34.871 ACRE TRACT OF LAND CONVEYED TO EDWIN N.

KIRKENDOLL, AS RECORDED IN VOLUME 936, PAGE 560, DEED RECORDS, HUNT COUNTY, TEXAS AND BEING ON THE SOUTH RIGHT-OF-WAY OF F.M. 1569 (A VARIABLE WIDTH RIGHT-OF-WAY); THENCE, SOUTH 00 DEGREES 39 MINUTES 19 SECONDS EAST, ALONG THE EAST LINE OF SAID 34.984 ACRE TRACT AND THE COMMON WEST LINE OF SAID 34.871 ACRE TRACT, A DISTANCE OF 1574.58 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 34.984 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 34.871 ACRE TRACT AND BEING ON THE NORTH LINE OF A 80.561 ACRE TRACT OF LAND CONVEYED TO DORTHY JEAN SANCHEZ, AS RECORDED IN VOLUME 1353, PAGE 597, OFFICIAL RECORDS, HUNT COUNTY, TEXAS; THENCE, SOUTH 89 DEGREES 52 MINUTES 12 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 34.984 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 80.561 ACRE TRACT, A DISTANCE OF 958.06 FEET TO A 1/2 INCH IRON ROD WITH A PLASTIC CAP STAMPED "STOVALL" FOUND FOR THE NORTHWEST CORNER OF SAID 80.561 ACRE TRACT SAID POINT BEING ON THE EAST LINE OF AFORESAID 240.184 ACRE TRACT, FROM WHICH A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID 34.984 ACRE TRACT AND BEING IN THE APPROXIMATE CENTERLINE OF A CLOSED COUNTY ROAD, BEARS SOUTH 89 DEGREES 52 MINUTES 12 SECONDS WEST, A DISTANCE OF 12.85 FEET; THENCE, SOUTH 01 DEGREES 11 MINUTES 18 SECONDS EAST, ALONG THE EAST LINE OF SAID 240.184 ACRE TRACT AND THE COMMON WEST LINE OF SAID 80.561 ACRE TRACT, A DISTANCE OF 1769.48 FEET TO A 1/2 INCH IRON ROD WITH A PLASTIC CAP STAMPED "STOVALL" FOUND FOR THE SOUTHEAST CORNER OF SAID 240.184 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 80.561 ACRE TRACT, SAID POINT BEING ON THE NORTH LINE OF AFORESAID 133.764 ACRE TRACT; THENCE, NORTH 89 DEGREES 50 MINUTES 44 SECONDS EAST, ALONG THE NORTH LINE OF SAID 133.764 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 80.561 ACRE TRACT, A DISTANCE OF 1437.36 FEET TO A 1/2 INCH IRON ROD WITH A PLASTIC CAP STAMPED "STOVALL" FOUND FOR THE NORTHEAST CORNER OF SAID 133.764 ACRE TRACT THENCE, SOUTH 00 DEGREES 33 MINUTES 13 SECONDS EAST, ALONG THE EAST LINE OF SAID 133.764 ACRE TRACT AND THE COMMON WEST LINE OF A 30.007 ACRE TRACT OF LAND CONVEYED TO JAMES HORACE COTTON, AS RECORDED IN VOLUME 672, PAGE 610, DEED RECORDS, HUNT COUNTY, TEXAS, PASSING AT A DISTANCE OF 2113.47 FEET A 1 INCH IRON PIPE FOUND FOR THE SOUTHWEST CORNER OF SAID 30.007 ACRE TRACT AND THE NORTHEAST CORNER OF A 31 ACRE TRACT OF LAND CONVEYED TO TOMMY L. MANLEY, AS RECORDED IN VOLUME 391, PAGE 797, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, CONTINUING ALONG THE EAST LINE OF SAID 133.764 ACRE TRACT AND THE COMMON WEST LINE OF SAID 31 ACRE TRACT, IN ALL A TOTAL DISTANCE OF 2545.93 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP

STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID 133.764 ACRE TRACT AND THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED AS "TRACT 1" TO CURTIS ELLENBURG AND WIFE, DONNA ELLENBURG, AS RECORDED IN VOLUME 360, PAGE 46, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 34 MINUTES 11 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 134.897 ACRE TRACT AND THE COMMON NORTH LINE OF SAID TRACT 1 AND THE COMMON NORTH LINE OF A TRACT OF LAND CONVEYED AS "TRACT 2" TO CURTIS ELLENBURG AND WIFE, DONNA ELLENBURG, AS RECORDED IN VOLUME 360, PAGE 46, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 1321.99 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID TRACT 2;

THENCE, SOUTH 00 DEGREES 03 MINUTES 53 SECONDS WEST, ALONG THE WEST LINE OF SAID TRACT 2, PASSING AT A DISTANCE OF 6.30 FEET A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF AFORESAID 71.177 ACRE TRACT, CONTINUING ALONG AN EAST LINE OF SAID 71.177 ACRE TRACT, AND THE COMMON WEST LINE OF SAID TRACT 2, AND ALONG THE APPROXIMATE CENTER LINE OF COUNTY ROAD NO. 1061 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY), PASSING AT A DISTANCE OF 658.46 FEET TO A 5/8 INCH IRON WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A SOUTHEAST CORNER OF SAID 71.177 ACRE TRACT, CONTINUING OVER AND ACROSS A REMAINDER OF A CALLED 71.734 ACRE TRACT OF LAND CONVEYED TO JAMES LAMM, AS RECORDED IN VOLUME 981, PAGE 434, DEED RECORDS, HUNT COUNTY, TEXAS, IN ALL A TOTAL DISTANCE OF 781.06 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 71.734 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 18 MINUTES 27 SECONDS WEST, CONTINUING OVER AND ACROSS SAID 71.734 ACRE TRACT, A DISTANCE OF 273.07 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER ON AN EAST LINE OF SAID 71.177 ACRE TRACT AND THE COMMON WEST LINE OF A 5.535 ACRE TRACT OF LAND CONVEYED TO TOMMY L. MANLEY, AS RECORDED IN VOLUME 1290, PAGE 184, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 00 DEGREES 32 MINUTES 09 SECONDS EAST, ALONG AN EAST LINE OF SAID 177.177 ACRE TRACT AND THE COMMON WEST LINE OF SAID 5.535 ACRE TRACT, A DISTANCE OF 377.78 FEET TO A 5/8 INCH IRON WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID 71.177 ACRE TRACT AND THE NORTHEAST CORNER OF A 19.999 ACRE TRACT OF LAND CONVEYED AS "SECOND TRACT" TO TOMMY L. MANLEY, AS RECORDED IN VOLUME 891, PAGE 794, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 38 MINUTES 29 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 71.177 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 19.999 ACRE TRACT, A DISTANCE OF 1031.57 FEET

TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF AFORESAID 30.000 ACRE PICKETT TRACT AND THE COMMON NORTHWEST CORNER OF SAID 19.999 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 29 MINUTES 16 SECONDS EAST, ALONG THE EAST LINE OF SAID 30.000 ACRE PICKETT TRACT AND THE COMMON WEST LINE OF SAID 19.999 ACRE TRACT, PASSING AT A DISTANCE OF 865.72 FEET THE SOUTHWEST CORNER OF SAID 19.999 ACRE TRACT AND THE COMMON NORTHWEST CORNER OF 84.296 ACRE TRACT OF LAND CONVEYED TO JOHN RANDALL COOPER, JOE G. COOPER, JOHN S. COOPER, AND THOMAS E. COOPER, AS RECORDED IN VOLUME 541, PAGE 42, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, AND CONTINUING ALONG THE EAST LINE OF SAID 30.000 ACRE PICKETT TRACT AND THE COMMON WEST LINE OF SAID 84.296 ACRE TRACT, IN ALL A TOTAL DISTANCE OF 917.05 FEET TO A 1/2 INCH IRON ROD FOUND FOR A SOUTHEAST CORNER OF SAID 30.000 ACRE PICKETT TRACT AND A NORTHEAST CORNER OF A REMAINDER OF 53.351 ACRE TRACT OF LAND CONVEYED TO W.G. MCNATT, AS RECORDED IN VOLUME 506, PAGE 568, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 32 MINUTES 19 SECONDS WEST, ALONG A SOUTH LINE OF SAID 30.000 ACRE PICKETT TRACT AND THE COMMON NORTH LINE OF SAID 53.351 ACRE TRACT, PASSING AT A DISTANCE OF 306.01 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A 25 FOOT OFFSET OF BRIAR CREEK, AND CONTINUING IN ALL A TOTAL DISTANCE OF 331.01 FEET TO A POINT FOR CORNER BEING ON THE APPROXIMATE CENTER LINE OF SAID BRIAR CREEK;

THENCE, ALONG THE EAST LINE OF AFORESAID 41.562 ACRE PICKETT TRACT AND THE COMMON WEST LINE OF SAID 53.351 ACRE TRACT, AND ALONG THE APPROXIMATE CENTERLINE OF BRIAR CREEK, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 59 DEGREES 51 MINUTES 41 SECONDS WEST, A DISTANCE OF 36.32 FEET TO A POINT FOR CORNER;

SOUTH 43 DEGREES 45 MINUTES 27 SECONDS WEST, A DISTANCE OF 34.44 FEET TO A POINT FOR CORNER;

SOUTH 08 DEGREES 39 MINUTES 46 SECONDS EAST, A DISTANCE OF 40.56 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 12 MINUTES 36 SECONDS WEST, A DISTANCE OF 107.91 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 08 MINUTES 39 SECONDS WEST, A DISTANCE OF 42.29 FEET TO A POINT FOR CORNER;

SOUTH 01 DEGREES 41 MINUTES 29 SECONDS WEST, A DISTANCE OF 49.28 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 48 MINUTES 54 SECONDS EAST, A DISTANCE OF 116.15 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 04 MINUTES 17 SECONDS EAST, A DISTANCE OF 27.87 FEET TO A POINT FOR CORNER;

SOUTH 07 DEGREES 55 MINUTES 23 SECONDS EAST, A DISTANCE OF 90.52 FEET TO A POINT FOR CORNER;

SOUTH 03 DEGREES 27 MINUTES 17 SECONDS WEST, A DISTANCE OF 39.78 FEET TO A POINT FOR CORNER;

SOUTH 30 DEGREES 20 MINUTES 01 SECONDS WEST, A DISTANCE OF 35.81 FEET TO A POINT FOR CORNER;

SOUTH 01 DEGREES 29 MINUTES 33 SECONDS WEST, A DISTANCE OF 86.37 FEET TO A POINT FOR CORNER;

SOUTH 09 DEGREES 16 MINUTES 14 SECONDS EAST, A DISTANCE OF 46.31 FEET TO A POINT FOR CORNER;

SOUTH 05 DEGREES 53 MINUTES 35 SECONDS EAST, A DISTANCE OF 136.91 FEET TO A POINT FOR CORNER;

SOUTH 08 DEGREES 28 MINUTES 25 SECONDS WEST, A DISTANCE OF 84.67 FEET TO A POINT FOR CORNER;

SOUTH 07 DEGREES 49 MINUTES 52 SECONDS EAST, A DISTANCE OF 26.80 FEET TO A POINT FOR CORNER;

SOUTH 09 DEGREES 08 MINUTES 50 SECONDS EAST, A DISTANCE OF 91.47 FEET TO A POINT FOR CORNER;

SOUTH 06 DEGREES 24 MINUTES 04 SECONDS EAST, A DISTANCE OF 52.11 FEET TO A POINT FOR CORNER;

SOUTH 02 DEGREES 31 MINUTES 18 SECONDS WEST, A DISTANCE OF 62.07 FEET TO A POINT FOR CORNER;

SOUTH 03 DEGREES 21 MINUTES 04 SECONDS EAST, A DISTANCE OF 150.58 FEET TO A POINT FOR CORNER;

SOUTH 11 DEGREES 04 MINUTES 07 SECONDS WEST, A DISTANCE OF 28.98 FEET TO A POINT FOR CORNER;

SOUTH 15 DEGREES 12 MINUTES 45 SECONDS WEST, A DISTANCE OF 9.50 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 41.562 ACRE PICKETT TRACT, SAID POINT BEING ON THE APPROXIMATE CENTER LINE OF HUNT COUNTY ROAD NO. 1057, (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, SOUTH 89 DEGREES 26 MINUTES 39 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 41.562 ACRE PICKETT TRACT AND WITH THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 1057, A DISTANCE OF 37.92 FEET TO A POINT FOR CORNER;

THENCE, SOUTH 10 DEGREES 58 MINUTES 46 SECONDS EAST, OVER AND ACROSS SAID HUNT COUNTY ROAD NO. 1057, PASSING AT A DISTANCE OF 18.09 FEET A 1/2 INCH IRON ROD FOUND FOR A NORTHEAST CORNER OF AFORESAID 829.635 ACRE TRACT AND THE NORTHWEST CORNER OF A 119.988 ACRE TRACT OF LAND CONVEYED TO JAN C. MORGAN, CHRISTIAN A. COOPER AND MARK E. COOPER, AS RECORDED IN VOLUME 908, PAGE 680, DEED RECORDS, HUNT COUNTY, TEXAS, CONTINUING ALONG AN EAST LINE OF SAID 829.635 ACRE TRACT AND THE COMMON WEST LINE OF SAID 119.988 ACRE TRACT, IN ALL A TOTAL

DISTANCE OF 1905.02 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER AN INTERIOR ELL CORNER OF SAID 829.635 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 119.988 ACRE TRACT;

THENCE, NORTH 89 DEGREES 46 MINUTES 06 SECONDS EAST, ALONG A NORTH LINE OF SAID 829.635 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 119.988 ACRE TRACT, PASSING AT A DISTANCE OF 2171.15 FEET A 1/2 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 2194.88 FEET TO A 1/2 INCH IRON ROD FOUND FOR A NORTHEAST CORNER OF SAID 829.635 ACRE TRACT, AND BEING IN THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 1064 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, ALONG THE EAST LINE OF SAID 829.635 ACRE TRACT AND WITH THE APPROXIMATE CENTER LINE OF SAID HUNT COUNTY ROAD NO. 1064, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 00 DEGREES 27 MINUTES 14 SECONDS EAST, A DISTANCE OF 2708.36 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 03 MINUTES 14 SECONDS EAST, A DISTANCE OF 2332.91 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 829.635 ACRE TRACT, BEING ON THE NORTH RIGHT-OF-WAY OF KANSAS CITY SOUTHERN RAILROAD (A 100' RIGHT-OF-WAY), FROM WHICH A 1/2 INCH CAPPED IRON ROD FOUND BEARS, SOUTH 00 DEGREES 04 MINUTES 02 SECONDS EAST, A DISTANCE OF 0.89 FEET AND 1/2 INCH CAPPED IRON ROD FOUND FOR WITNESS BEARS, NORTH 86 DEGREES 41 MINUTES 52 SECONDS WEST, A DISTANCE OF 20.41 FEET;

THENCE, NORTH 84 DEGREES 05 MINUTES 43 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 829.635 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY LINE OF SAID KANSAS CITY SOUTHERN RAILROAD, A DISTANCE OF 1626.28 FEET TO A POINT FOR CORNER IN THE APPROXIMATE CENTERLINE OF EAST CADDO CREEK, FROM WHICH A 1/2 INCH CAPPED IRON ROD FOUND BEARS, SOUTH 83 DEGREES 33 MINUTES 20 SECONDS EAST, A DISTANCE OF 25.34 FEET;

THENCE, ALONG THE SOUTH LINE OF SAID 829.635 ACRE TRACT AND ALONG THE APPROXIMATE CENTERLINE OF SAID EAST CADDO CREEK, THE FOLLOWING COURSES AND DISTANCES:

NORTH 39 DEGREES 38 MINUTES 11 SECONDS WEST, A DISTANCE OF 11.69 FEET TO A POINT FOR CORNER;

NORTH 48 DEGREES 01 MINUTES 48 SECONDS WEST, A DISTANCE OF 27.72 FEET TO A POINT FOR CORNER;

NORTH 42 DEGREES 24 MINUTES 43 SECONDS WEST, A DISTANCE OF 26.99 FEET TO A POINT FOR CORNER;

NORTH 33 DEGREES 41 MINUTES 23 SECONDS WEST, A DISTANCE OF 47.22 FEET TO A POINT FOR CORNER;

NORTH 49 DEGREES 57 MINUTES 15 SECONDS WEST, A DISTANCE OF 60.41 FEET TO A POINT FOR CORNER;

NORTH 67 DEGREES 40 MINUTES 57 SECONDS WEST, A DISTANCE
OF 43.94 FEET TO A POINT FOR CORNER;
NORTH 52 DEGREES 48 MINUTES 04 SECONDS WEST, A DISTANCE
OF 74.31 FEET TO A POINT FOR CORNER;
SOUTH 56 DEGREES 01 MINUTES 56 SECONDS WEST, A DISTANCE
OF 55.51 FEET TO A POINT FOR CORNER;
NORTH 76 DEGREES 12 MINUTES 55 SECONDS WEST, A DISTANCE
OF 24.91 FEET TO A POINT FOR CORNER;
NORTH 34 DEGREES 05 MINUTES 29 SECONDS WEST, A DISTANCE
OF 33.59 FEET TO A POINT FOR CORNER;
NORTH 49 DEGREES 09 MINUTES 27 SECONDS WEST, A DISTANCE
OF 32.85 FEET TO A POINT FOR CORNER;
NORTH 58 DEGREES 13 MINUTES 14 SECONDS WEST, A DISTANCE
OF 42.71 FEET TO A POINT FOR CORNER;
NORTH 51 DEGREES 42 MINUTES 35 SECONDS WEST, A DISTANCE
OF 21.22 FEET TO A POINT FOR CORNER;
NORTH 38 DEGREES 57 MINUTES 36 SECONDS WEST, A DISTANCE
OF 29.55 FEET TO A POINT FOR CORNER;
NORTH 16 DEGREES 51 MINUTES 31 SECONDS WEST, A DISTANCE
OF 69.18 FEET TO A POINT FOR CORNER;
NORTH 67 DEGREES 13 MINUTES 59 SECONDS WEST, A DISTANCE
OF 29.78 FEET TO A POINT FOR CORNER;
NORTH 87 DEGREES 23 MINUTES 44 SECONDS WEST, A DISTANCE
OF 75.97 FEET TO A POINT FOR CORNER;
NORTH 56 DEGREES 54 MINUTES 08 SECONDS WEST, A DISTANCE
OF 41.83 FEET TO A POINT FOR CORNER;
NORTH 27 DEGREES 26 MINUTES 04 SECONDS WEST, A DISTANCE
OF 17.08 FEET TO A POINT FOR CORNER;
NORTH 07 DEGREES 24 MINUTES 41 SECONDS WEST, A DISTANCE
OF 15.00 FEET TO A POINT FOR CORNER;
NORTH 31 DEGREES 33 MINUTES 02 SECONDS EAST, A DISTANCE
OF 66.75 FEET TO A POINT FOR CORNER;
NORTH 40 DEGREES 30 MINUTES 16 SECONDS WEST, A DISTANCE
OF 22.11 FEET TO A POINT FOR CORNER;
NORTH 89 DEGREES 18 MINUTES 44 SECONDS WEST, A DISTANCE
OF 40.53 FEET TO A POINT FOR CORNER;
NORTH 59 DEGREES 53 MINUTES 46 SECONDS WEST, A DISTANCE
OF 26.70 FEET TO A POINT FOR CORNER;
NORTH 41 DEGREES 19 MINUTES 43 SECONDS WEST, A DISTANCE
OF 19.93 FEET TO A POINT FOR CORNER;
NORTH 24 DEGREES 27 MINUTES 15 SECONDS EAST, A DISTANCE
OF 15.25 FEET TO A POINT FOR CORNER;
NORTH 54 DEGREES 28 MINUTES 35 SECONDS EAST, A DISTANCE
OF 30.17 FEET TO A POINT FOR CORNER;
NORTH 45 DEGREES 05 MINUTES 08 SECONDS EAST, A DISTANCE
OF 17.94 FEET TO A POINT FOR CORNER;

NORTH 08 DEGREES 15 MINUTES 10 SECONDS EAST, A DISTANCE OF 42.47 FEET TO A POINT FOR CORNER;

NORTH 24 DEGREES 06 MINUTES 40 SECONDS WEST, A DISTANCE OF 11.22 FEET TO A POINT FOR CORNER;

NORTH 65 DEGREES 13 MINUTES 25 SECONDS WEST, A DISTANCE OF 13.65 FEET TO A POINT FOR CORNER;

NORTH 80 DEGREES 18 MINUTES 50 SECONDS WEST, A DISTANCE OF 22.82 FEET TO A POINT FOR CORNER;

SOUTH 89 DEGREES 44 MINUTES 41 SECONDS WEST, A DISTANCE OF 4.48 FEET TO A POINT FOR CORNER;

THENCE, NORTH 01 DEGREES 24 MINUTES 46 SECONDS WEST, ALONG A WEST LINE OF SAID 829.635 ACRE TRACT, PASSING AT A DISTANCE OF 25.54 FEET A 1/2 INCH CAPPED IRON ROD FOUND, CONTINUING IN ALL A TOTAL DISTANCE OF 1024.73 FEET, A 1/2 INCH CAPPED IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 829.635 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 53 MINUTES 22 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 829.635 ACRE TRACT, PASSING AT A DISTANCE OF 858.52 FEET, A 1/2 INCH CAPPED IRON ROD FOUND, CONTINUING IN ALL A TOTAL DISTANCE OF 914.50 FEET TO A POINT FOR CORNER IN THE APPROXIMATE CENTERLINE OF AFORESAID EAST CADDO CREEK;

THENCE, ALONG THE SOUTH LINE OF SAID 829.635 ACRE TRACT AND ALONG THE APPROXIMATE CENTERLINE OF SAID EAST CADDO CREEK, THE FOLLOWING COURSES AND DISTANCES:

NORTH 32 DEGREES 42 MINUTES 15 SECONDS EAST, A DISTANCE OF 20.10 FEET TO A POINT FOR CORNER;

NORTH 64 DEGREES 06 MINUTES 05 SECONDS EAST, A DISTANCE OF 34.97 FEET TO A POINT FOR CORNER;

NORTH 33 DEGREES 30 MINUTES 05 SECONDS EAST, A DISTANCE OF 21.58 FEET TO A POINT FOR CORNER;

NORTH 04 DEGREES 23 MINUTES 16 SECONDS WEST, A DISTANCE OF 20.43 FEET TO A POINT FOR CORNER;

NORTH 23 DEGREES 59 MINUTES 15 SECONDS WEST, A DISTANCE OF 28.47 FEET TO A POINT FOR CORNER;

NORTH 69 DEGREES 32 MINUTES 05 SECONDS WEST, A DISTANCE OF 37.40 FEET TO A POINT FOR CORNER;

NORTH 59 DEGREES 06 MINUTES 41 SECONDS WEST, A DISTANCE OF 53.90 FEET TO A POINT FOR CORNER;

NORTH 43 DEGREES 07 MINUTES 34 SECONDS WEST, A DISTANCE OF 30.77 FEET TO A POINT FOR CORNER;

NORTH 16 DEGREES 49 MINUTES 06 SECONDS WEST, A DISTANCE OF 15.98 FEET TO A POINT FOR CORNER;

SOUTH 85 DEGREES 39 MINUTES 54 SECONDS WEST, A DISTANCE OF 16.69 FEET TO A POINT FOR CORNER;

SOUTH 76 DEGREES 21 MINUTES 35 SECONDS WEST, A DISTANCE OF 18.08 FEET TO A POINT FOR CORNER;

NORTH 82 DEGREES 23 MINUTES 17 SECONDS WEST, A DISTANCE
OF 15.67 FEET TO A POINT FOR CORNER;
SOUTH 65 DEGREES 12 MINUTES 47 SECONDS WEST, A DISTANCE
OF 23.32 FEET TO A POINT FOR CORNER;
SOUTH 25 DEGREES 25 MINUTES 43 SECONDS WEST, A DISTANCE
OF 18.58 FEET TO A POINT FOR CORNER;
SOUTH 04 DEGREES 04 MINUTES 20 SECONDS WEST, A DISTANCE
OF 14.39 FEET TO A POINT FOR CORNER;
SOUTH 27 DEGREES 45 MINUTES 32 SECONDS WEST, A DISTANCE
OF 12.05 FEET TO A POINT FOR CORNER;
SOUTH 11 DEGREES 59 MINUTES 02 SECONDS EAST, A DISTANCE
OF 45.59 FEET TO A POINT FOR CORNER;
SOUTH 03 DEGREES 50 MINUTES 31 SECONDS WEST, A DISTANCE
OF 45.56 FEET TO A POINT FOR CORNER;
SOUTH 08 DEGREES 27 MINUTES 37 SECONDS EAST, A DISTANCE
OF 20.59 FEET TO A POINT FOR CORNER;
SOUTH 14 DEGREES 10 MINUTES 14 SECONDS WEST, A DISTANCE
OF 10.46 FEET TO A POINT FOR CORNER;
SOUTH 50 DEGREES 42 MINUTES 27 SECONDS WEST, A DISTANCE
OF 11.73 FEET TO A POINT FOR CORNER;
NORTH 89 DEGREES 21 MINUTES 04 SECONDS WEST, A DISTANCE
OF 12.16 FEET TO A POINT FOR CORNER;
NORTH 71 DEGREES 21 MINUTES 52 SECONDS WEST, A DISTANCE
OF 29.42 FEET TO A POINT FOR CORNER;
NORTH 75 DEGREES 57 MINUTES 57 SECONDS WEST, A DISTANCE
OF 35.31 FEET TO A POINT FOR CORNER;
NORTH 50 DEGREES 13 MINUTES 47 SECONDS WEST, A DISTANCE
OF 30.02 FEET TO A POINT FOR CORNER;
NORTH 09 DEGREES 33 MINUTES 41 SECONDS WEST, A DISTANCE
OF 30.97 FEET TO A POINT FOR CORNER;
NORTH 20 DEGREES 10 MINUTES 17 SECONDS WEST, A DISTANCE
OF 30.58 FEET TO A POINT FOR CORNER;
NORTH 34 DEGREES 07 MINUTES 43 SECONDS WEST, A DISTANCE
OF 83.05 FEET TO A POINT FOR CORNER;
NORTH 73 DEGREES 00 MINUTES 39 SECONDS WEST, A DISTANCE
OF 10.29 FEET TO A POINT FOR CORNER;
NORTH 32 DEGREES 53 MINUTES 40 SECONDS WEST, A DISTANCE
OF 46.35 FEET TO A POINT FOR CORNER;
NORTH 42 DEGREES 09 MINUTES 43 SECONDS WEST, A DISTANCE
OF 18.54 FEET TO A POINT FOR CORNER;
NORTH 69 DEGREES 46 MINUTES 51 SECONDS WEST, A DISTANCE
OF 27.20 FEET TO A POINT FOR CORNER;
SOUTH 83 DEGREES 22 MINUTES 43 SECONDS WEST, A DISTANCE
OF 22.51 FEET TO A POINT FOR CORNER;
SOUTH 64 DEGREES 30 MINUTES 57 SECONDS WEST, A DISTANCE
OF 20.44 FEET TO A POINT FOR CORNER;

SOUTH 27 DEGREES 29 MINUTES 26 SECONDS WEST, A DISTANCE OF 36.96 FEET TO A POINT FOR CORNER;

SOUTH 40 DEGREES 19 MINUTES 38 SECONDS WEST, A DISTANCE OF 38.88 FEET TO A POINT FOR CORNER;

SOUTH 26 DEGREES 37 MINUTES 05 SECONDS WEST, A DISTANCE OF 33.90 FEET TO A POINT FOR CORNER;

SOUTH 44 DEGREES 38 MINUTES 03 SECONDS WEST, A DISTANCE OF 13.16 FEET TO A POINT FOR CORNER;

SOUTH 86 DEGREES 32 MINUTES 11 SECONDS WEST, A DISTANCE OF 38.52 FEET TO A POINT FOR CORNER;

NORTH 68 DEGREES 33 MINUTES 11 SECONDS WEST, A DISTANCE OF 21.22 FEET TO A POINT FOR CORNER;

NORTH 56 DEGREES 34 MINUTES 13 SECONDS WEST, A DISTANCE OF 32.71 FEET TO A POINT FOR CORNER;

NORTH 51 DEGREES 13 MINUTES 35 SECONDS WEST, A DISTANCE OF 43.49 FEET TO A POINT FOR CORNER;

NORTH 21 DEGREES 19 MINUTES 29 SECONDS WEST, A DISTANCE OF 25.76 FEET TO A POINT FOR CORNER;

NORTH 00 DEGREES 28 MINUTES 27 SECONDS EAST, A DISTANCE OF 31.48 FEET TO A POINT FOR CORNER;

NORTH 11 DEGREES 53 MINUTES 02 SECONDS EAST, A DISTANCE OF 3.44 FEET TO A POINT FOR CORNER;

THENCE, NORTH 86 DEGREES 16 MINUTES 58 SECONDS WEST, CONTINUING ALONG THE SOUTH LINE OF SAID 829.635 ACRE TRACT, PASSING AT A DISTANCE OF 22.16 FEET, A 1/2 INCH CAPPED IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE A DISTANCE OF 214.57 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR CORNER ON THE NORTH RIGHT-OF-WAY OF HUNT COUNTY ROAD NO. 1065;

THENCE, NORTH 89 DEGREES 28 MINUTES 19 SECONDS WEST, CONTINUING ALONG THE SOUTH LINE OF SAID 829.635 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY LINE OF SAID HUNT COUNTY ROAD NO. 1065, PASSING AT A DISTANCE OF 2465.01 FEET, A 1/2 INCH CAPPED IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 2605.22 FEET TO A POINT FOR CORNER ON THE EAST LINE OF AFORESAID 51.548 ACRE TRACT, FROM WHICH A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHEAST CORNER OF SAID 51.548 ACRE TRACT BEARS, NORTH 01 DEGREES 01 MINUTES 03 SECONDS WEST, A DISTANCE OF 98.80 FEET; THENCE, SOUTH 01 DEGREES 01 MINUTES 03 SECONDS EAST, ALONG THE EAST LINE OF SAID 51.548 ACRE TRACT, A DISTANCE OF 1360.94 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 51.548 ACRE TRACT AND BEING ON THE NORTH RIGHT-OF-WAY LINE OF AFORESAID KANSAS CITY SOUTHERN RAILROAD, FROM WHICH A 1/2 INCH CAPPED IRON ROD FOUND BEARS, SOUTH 01 DEGREES 01 MINUTES 03 SECONDS EAST, A DISTANCE OF 0.27 FEET;

THENCE, NORTH 84 DEGREES 05 MINUTES 43 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 51.548 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY OF SAID KANSAS CITY SOUTHERN RAILROAD, A DISTANCE OF 1573.55 FEET TO A CONCRETE HIGHWAY MONUMENT (BROKEN) FOUND FOR THE SOUTHWEST CORNER OF SAID 51.548 ACRE TRACT, BEING ON THE EAST RIGHT-OF-WAY LINE OF F.M. 903 (A VARIABLE WIDTH RIGHT-OF-WAY) CONVEYED AS "TRACT 1" TO THE STATE OF TEXAS, AS RECORDED IN VOLUME 496, PAGE 327, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE WEST LINE OF SAID 51.548 ACRE TRACT AND THE COMMON EAST RIGHT-OF-WAY LINE OF SAID F.M. 903, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 27 MINUTES 39 SECONDS EAST, A DISTANCE OF 1275.21 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR CORNER;

NORTH 52 DEGREES 10 MINUTES 40 SECONDS EAST, A DISTANCE OF 128.01 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR CORNER;

NORTH 00 DEGREES 23 MINUTES 49 SECONDS EAST, A DISTANCE OF 39.97 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 51.548 ACRE TRACT, BEING IN THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD NO. 1065;

THENCE, NORTH 00 DEGREES 28 MINUTES 45 SECONDS EAST, CONTINUING ALONG THE EAST RIGHT-OF-WAY LINE OF SAID F.M. 903, OVER AND ACROSS SAID HUNT COUNTY ROAD NO. 1065, A DISTANCE OF 17.85 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR THE SOUTHWEST CORNER OF AFORESAID 829.635 ACRE TRACT, BEING ON THE NORTH RIGHT-OF-WAY LINE OF SAID HUNT COUNTY ROAD NO. 1065;

THENCE, ALONG THE WEST LINE OF SAID 829.635 ACRE TRACT AND THE COMMON EAST RIGHT-OF-WAY LINE OF SAID F.M. 903, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 29 MINUTES 22 SECONDS WEST, A DISTANCE OF 23.34 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 47 DEGREES 28 MINUTES 10 SECONDS WEST, A DISTANCE OF 135.78 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 00 DEGREES 28 MINUTES 01 SECONDS EAST, A DISTANCE OF 2689.93 FEET TO A 3/8 INCH IRON ROD FOUND FOR AN EXTERIOR ELL CORNER OF SAID 829.635 ACRE TRACT AND THE SOUTHWEST CORNER OF A 1.500 ACRE TRACT OF LAND CONVEYED TO GLENDA SUE LANDRUM, AS RECORDED IN VOLUME 850, PAGE 407, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 19 MINUTES 39 SECONDS EAST, ALONG A NORTH LINE OF SAID 829.635 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 1.500 ACRE TRACT, A DISTANCE OF 260.41 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN INTERIOR ELL CORNER OF SAID 829.635 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 1.500 ACRE TRACT;
THENCE, NORTH 00 DEGREES 39 MINUTES 31 SECONDS EAST, ALONG THE WEST LINE OF SAID 829.635 ACRE TRACT AND THE COMMON EAST LINE OF SAID 1.500 ACRE TRACT, A DISTANCE OF 249.64 FEET TO A 5/8 INCH IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 829.635 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 1.500 ACRE TRACT;
THENCE, NORTH 89 DEGREES 19 MINUTES 39 SECONDS WEST, ALONG A SOUTH LINE OF SAID 829.635 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 1.500 ACRE TRACT, A DISTANCE OF 260.41 FEET TO A POINT FOR AN EXTERIOR ELL CORNER OF SAID 829.635 ACRE TRACT AND THE NORTHWEST CORNER OF SAID 1.500 ACRE TRACT, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF AFORESAID F.M. 903;
THENCE, NORTH 00 DEGREES 26 MINUTES 44 SECONDS EAST, ALONG THE WEST LINE OF SAID 829.635 ACRE TRACT AND THE COMMON EAST RIGHT-OF-WAY LINE OF SAID F.M. 903, A DISTANCE OF 753.66 FEET TO A 5/8 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 829.635 ACRE TRACT AND THE SOUTHWEST CORNER OF AFORESAID 96.166 ACRE TRACT;
THENCE, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID F.M. 903, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 26 MINUTES 58 SECONDS EAST, ALONG THE WEST LINE OF SAID 96.166 ACRE TRACT, A DISTANCE OF 639.66 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 00 DEGREES 13 MINUTES 02 SECONDS WEST, CONTINUING ALONG THE WEST LINE OF SAID 96.166 ACRE TRACT, PASSING AT A DISTANCE OF 725.62 FEET, A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 96.166 ACRE TRACT AND THE SOUTHWEST CORNER OF AFORESAID 24.973 ACRE TRACT, CONTINUING ALONG THE WEST LINE OF SAID 24.973 ACRE TRACT, IN ALL A TOTAL DISTANCE OF 1298.17 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 24.973 ACRE TRACT AND THE SOUTHWEST CORNER OF A 10.00 ACRE TRACT OF LAND CONVEYED TO JASON BROOKS AND JENIFER BROOKS, AS RECORDED IN VOLUME 1267, PAGE 298, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, FROM WHICH A 1/2 INCH CAPPED IRON ROD FOUND BEARS SOUTH 84 DEGREES 46 MINUTES 14 SECONDS WEST, A DISTANCE OF 0.39 FEET;

THENCE, ALONG THE NORTH LINE OF SAID 24.973 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 10.00 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 87 DEGREES 37 MINUTES 55 SECONDS EAST, A DISTANCE OF 421.99 FEET TO A FENCE CORNER FOUND FOR CORNER;

SOUTH 29 DEGREES 14 MINUTES 49 SECONDS EAST, A DISTANCE OF 54.38 FEET TO A FENCE CORNER FOUND FOR CORNER;

NORTH 88 DEGREES 06 MINUTES 03 SECONDS EAST, A DISTANCE OF 123.18 FEET TO A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 82 DEGREES 16 MINUTES 58 SECONDS EAST, A DISTANCE OF 249.36 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 10.00 ACRE TRACT AND A SOUTHWEST CORNER OF AFORESAID 15.000 ACRE MAYABB TRACT;

THENCE, NORTH 20 DEGREES 19 MINUTES 00 SECONDS WEST, ALONG THE WEST LINE OF SAID 15.000 ACRE MAYABB TRACT AND THE COMMON EAST LINE OF SAID 10.00 ACRE TRACT, A DISTANCE OF 670.02 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 10.00 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 15.000 ACRE MAYABB TRACT AND BEING IN THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 1062 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY) AND BEING ON THE SOUTH LINE OF A 131.1 ACRE TRACT OF LAND CONVEYED TO J.B. MCNATT AND WIFE, ELIZABETH MCNATT, AS RECORDED IN VOLUME 604, PAGE 138, OFFICIAL RECORDS, HUNT COUNTY, TEXAS

THENCE, ALONG THE NORTH LINE OF SAID 15.000 ACRE MAYABB TRACT AND THE COMMON SOUTH LINE OF SAID 131.1 ACRE TRACT AND THE COMMON SOUTH LINE OF A 15.51 ACRE TRACT OF LAND CONVEYED TO BARRY TIPPER MCNATT AND WIFE, CINDY GAYE MCNATT, AS RECORDED IN VOLUME 474, PAGE 681, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE COMMON SOUTH LINE OF A REMAINDER OF A CALLED 99.682 ACRE TRACT OF LAND CONVEYED TO BARRY TIPPER MCNATT, AS RECORDED IN VOLUME 426, PAGE 111, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 1062, THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 15 MINUTES 59 SECONDS EAST, A DISTANCE OF 281.76 FEET TO A POINT FOR CORNER;

NORTH 87 DEGREES 16 MINUTES 25 SECONDS EAST, A DISTANCE OF 338.48 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR CORNER;

SOUTH 86 DEGREES 29 MINUTES 35 SECONDS EAST, A DISTANCE OF 296.28 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR CORNER;

NORTH 89 DEGREES 52 MINUTES 34 SECONDS EAST, A DISTANCE OF 295.25 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 15.000 ACRE MAYABB TRACT AND THE NORTHWEST CORNER OF AFORESAID 95.781 ACRE MAYABB TRACT;

THENCE, NORTH 89 DEGREES 38 MINUTES 00 SECONDS EAST, ALONG THE NORTH LINE OF SAID 95.781 ACRE MAYABB TRACT AND THE COMMON SOUTH LINE OF LEGACY PARK ESTATES, AN ADDITION TO HUNT COUNTY, AS RECORDED IN CABINET E, PAGE 223, PLAT RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 2535.62 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 95.781 ACRE MAYABB TRACT AND BEING ON THE WEST LINE OF AFORESAID 30.000 ACRE PICKETT TRACT AND BEING THE SOUTHEAST CORNER OF SAID LEGACY PARK ESTATES AND BEING AT THE INTERSECTION OF THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD NO. 1057 AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 1062;

THENCE, NORTH 00 DEGREES 39 MINUTES 15 SECONDS WEST, ALONG THE WEST LINE OF SAID 30.000 ACRE PICKETT TRACT, THE COMMON EAST LINE OF SAID LEGACY PARK ESTATES AND WITH THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 1057, A DISTANCE OF 501.72 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 30.000 ACRE PICKETT TRACT AND THE SOUTHWEST CORNER OF AFORESAID 71.177 ACRE TRACT;

THENCE, NORTH 00 DEGREES 14 MINUTES 01 SECONDS WEST, ALONG THE WEST LINE OF SAID 71.177 ACRE TRACT, THE COMMON EAST LINE OF SAID LEGACY PARK ESTATES AND WITH THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 1057, A DISTANCE OF 1077.24 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 71.177 ACRE TRACT AND THE NORTHEAST CORNER OF SAID LEGACY PARK ESTATES, SAID POINT BEING ON THE SOUTH LINE OF AFORESAID 75.574 ACRE EUDY TRACT, SAID POINT ALSO BEING IN THE APPROXIMATE INTERSECTION OF SAID HUNT COUNTY ROAD 1057 AND AFORESAID HUNT COUNTY ROAD NO. 1061;

THENCE, SOUTH 89 DEGREES 32 MINUTES 48 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 75.574 ACRE EUDY TRACT, A DISTANCE OF 600.55 FEET TO A POINT FOR CORNER;

THENCE, NORTH 01 DEGREES 20 MINUTES 36 SECONDS WEST, ALONG THE WEST LINE OF SAID 75.574 ACRE EUDY TRACT, A DISTANCE OF 1350.27 FEET TO A POINT FOR CORNER;

THENCE, ALONG THE NORTH LINE OF SAID 75.574 ACRE EUDY TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 26 MINUTES 45 SECONDS EAST, A DISTANCE OF 1124.18 FEET TO A POINT FOR CORNER;

SOUTH 01 DEGREES 34 MINUTES 39 SECONDS EAST, A DISTANCE OF 428.71 FEET TO A POINT FOR CORNER;

NORTH 88 DEGREES 26 MINUTES 38 SECONDS EAST, A DISTANCE OF 300.07 FEET TO A POINT FOR CORNER;

NORTH 04 DEGREES 23 MINUTES 33 SECONDS EAST, A DISTANCE OF 210.91 FEET TO A POINT FOR CORNER;

NORTH 86 DEGREES 56 MINUTES 44 SECONDS EAST, A DISTANCE OF 697.44 FEET TO A POINT FOR CORNER;

SOUTH 03 DEGREES 26 MINUTES 48 SECONDS EAST, A DISTANCE OF 147.74 FEET TO A POINT FOR CORNER;

NORTH 89 DEGREES 54 MINUTES 21 SECONDS EAST, A DISTANCE OF 228.29 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A SOUTHWEST OF AFORESAID 133.764 ACRE TRACT AND BEING A SOUTHEAST OF A 83.811 ACRE TRACT OF LAND CONVEYED TO JOANNE COLEMAN, AS RECORDED IN VOLUME 363, PAGE 521, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 15 MINUTES 33 SECONDS EAST, ALONG THE WEST LINE OF SAID 133.764 ACRE TRACT AND THE COMMON EAST LINE OF SAID 83.811 ACRE TRACT A DISTANCE OF 1441.67 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN INTERIOR ELL CORNER OF SAID 133.764 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 83.811 ACRE TRACT;

THENCE, NORTH 89 DEGREES 04 MINUTES 07 SECONDS WEST, ALONG A SOUTH LINE OF SAID 133.764 ACRE TRACT AND A COMMON NORTH LINE OF SAID 83.811 ACRE TRACT, PASSING AT A DISTANCE OF 61.46 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN EXTERIOR ELL CORNER OF SAID 133.764 ACRE TRACT AND A SOUTHEAST CORNER OF AFORESAID 240.184 ACRE TRACT, CONTINUING ALONG THE NORTH LINE OF SAID 83.811 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 240.184 ACRE TRACT, A DISTANCE OF 1261.61 FEET TO A POINT FOR THE SOUTHWEST CORNER OF SAID 240.184 ACRE TRACT AND BEING A NORTHWEST CORNER OF SAID 83.811 ACRE TRACT, FROM WHICH A 1" BUGGY AXLE (DISTURBED) BEARS NORTH 28 DEGREES 18 MINUTES 03 SECONDS WEST, A DISTANCE OF 0.42 FEET;

THENCE, NORTH 01 DEGREES 07 MINUTES 48 SECONDS WEST, ALONG THE WEST LINE OF SAID 240.184 ACRE TRACT, PASSING AT A DISTANCE OF 640.99 FEET A 3/8 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF HOMEPLACE ESTATES, AN ADDITION TO HUNT COUNTY, AS RECORDED IN CABINET E, PAGE 186, PLAT RECORDS, HUNT COUNTY, TEXAS AND BEING THE SOUTHEAST CORNER OF A 23.000 ACRE TRACT OF LAND CONVEYED TO MARVIN LEROY FARROW, AS RECORDED IN VOLUME 817, PAGE 677, DEED RECORDS, HUNT COUNTY, TEXAS, CONTINUING ALONG THE WEST LINE OF SAID 240.184 ACRE TRACT AND THE COMMON EAST LINE OF SAID 23.000 ACRE TRACT AND THE COMMON EAST LINE OF A 16.882 ACRE TRACT OF LAND CONVEYED DARRELL M. FARROW, AS RECORDED IN VOLUME 817, PAGE 690, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, IN ALL A TOTAL DISTANCE OF 1289.67 FEET TO A 12 INCH HACKBERRY TREE FOUND FOR THE SOUTHEAST CORNER OF SAID 70 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 16.882 ACRE TRACT;

THENCE, NORTH 89 DEGREES 49 MINUTES 02 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 240.184 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 16.882 ACRE TRACT, A DISTANCE OF 1503.02 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID 240.184 ACRE TRACT AND BEING THE SOUTHEAST CORNER OF A 51.222 ACRE TRACT OF LAND CONVEYED TO W. HOMER MARTIN, AS RECORDED IN VOLUME 207, PAGE 67, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 18 MINUTES 05 SECONDS WEST, ALONG THE WEST LINE OF SAID 240.184 ACRE TRACT AND THE COMMON EAST LINE OF SAID 51.222 ACRE TRACT, PASSING A 1/2 INCH IRON ROD FOUND AT A DISTANCE OF 1998.17 FEET, CONTINUING IN ALL A TOTAL DISTANCE OF 1998.86 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 240.184 ACRE TRACT AND NORTHEAST CORNER OF SAID 51.222 ACRE TRACT AND BEING ON THE SOUTH RIGHT-OF-WAY OF AFORESAID F.M. 1569;

THENCE, ALONG THE NORTH LINE OF SAID 240.184 ACRE TRACT AND THE COMMON SOUTH RIGHT-OF-WAY OF SAID F.M. 1569, THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 58 MINUTES 22 SECONDS EAST, A DISTANCE OF 363.01 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 05 DEGREES 27 MINUTES 22 SECONDS, A RADIUS OF 5769.58 FEET, A CHORD BEARING OF NORTH 87 DEGREES 14 MINUTES 41 SECONDS EAST, A CHORD LENGTH OF 549.22 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC LENGTH OF 549.43 FEET, TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 84 DEGREES 31 MINUTES 00 SECONDS EAST, A DISTANCE OF 94.39 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 88 DEGREES 30 MINUTES 25 SECONDS EAST, A DISTANCE OF 26.77 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER ON THE WEST LINE OF A TRACT OF LAND CONVEYED TO BOBBY FISCHER, AS RECORDED IN VOLUME 855, PAGE 643, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 00 DEGREES 18 MINUTES 51 SECONDS EAST, ALONG THE WEST LINE OF SAID BOBBY FISCHER TRACT, A DISTANCE OF 455.54 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID BOBBY FISCHER TRACT;

THENCE, NORTH 89 DEGREES 41 MINUTES 09 SECONDS EAST, ALONG THE SOUTH LINE OF SAID BOBBY FISCHER TRACT, A DISTANCE OF 450.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID BOBBY FISCHER TRACT;

THENCE, NORTH 00 DEGREES 18 MINUTES 51 SECONDS WEST, ALONG THE EAST LINE TO SAID BOBBY FISCHER TRACT, A DISTANCE OF 478.04 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER ON THE SOUTH RIGHT-OF-WAY OF SAID F.M. 1569;

THENCE, ALONG THE NORTH LINE OF SAID 240.184 ACRE TRACT AND THE COMMON SOUTH RIGHT-OF-WAY OF SAID F.M. 1569, THE FOLLOWING COURSES AND DISTANCES:

NORTH 84 DEGREES 31 MINUTES 00 SECONDS EAST, A DISTANCE OF 118.80 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 81 DEGREES 31 MINUTES 10 SECONDS EAST, A DISTANCE OF 191.26 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 84 DEGREES 31 MINUTES 00 SECONDS EAST, A DISTANCE OF 665.50 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 04 DEGREES 44 MINUTES 38 SECONDS, A RADIUS OF 5679.58 FEET, A CHORD BEARING OF NORTH 86 DEGREES 53 MINUTES 19 SECONDS EAST, A CHORD LENGTH OF 470.10 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC LENGTH OF 470.24 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 89 DEGREES 15 MINUTES 37 SECONDS EAST, A DISTANCE OF 816.41 FEET TO A CONCRETE RIGHT-OF-WAY MONUMENT FOUND FOR THE NORTHEAST CORNER OF SAID 240.184 ACRE TRACT AND BEING ON THE EAST LINE OF AFORESAID 34.984 ACRE TRACT;

THENCE, NORTH 00 DEGREES 39 MINUTES 57 SECONDS WEST, ALONG THE WEST LINE OF SAID 34.984 ACRE TRACT AND ALONG THE COMMON SOUTH RIGHT-OF-WAY OF SAID F.M. 1569, A DISTANCE OF 10.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHWEST CORNER OF SAID 34.984 ACRE TRACT AND BEING ON THE SOUTH RIGHT-OF-WAY OF SAID F.M. 1569, FROM WHICH A CONCRETE RIGHT-OF-WAY MONUMENT (DISTURBED) BEARS, SOUTH 00 DEGREES 39 MINUTES 56 SECONDS EAST, A DISTANCE OF 0.75 FEET;

THENCE, NORTH 89 DEGREES 15 MINUTES 37 SECONDS EAST, ALONG THE NORTH LINE OF SAID 34.984 ACRE TRACT AND THE COMMON SOUTH RIGHT-OF-WAY OF SAID F.M. 1569, A DISTANCE OF 971.15 FEET TO THE POINT OF BEGINNING, CONTAINING 1742.436 ACRES OF LAND, MORE OR LESS.

TRACT 4

BEING A 2012.391 ACRE TRACT OF LAND SITUATED IN THE JESSE BILLINGSLEY SURVEY, ABSTRACT NO. 37, THE P.B. CORZINE SURVEY, ABSTRACT NO. 197, THE E. HILLBURN SURVEY, ABSTRACT NO. 486, THE ENOS MURPHY SURVEY, ABSTRACT NO. 647, , THE ALEXANDER McBANE SURVEY, ABSTRACT NO. 670, THE R.W. McBANE SURVEY, ABSTRACT NO. 671 AND THE JOHN YEARY SURVEY, ABSTRACT NO. 1182, HUNT COUNTY, TEXAS, AND BEING ALL OF A 1139.667 ACRE TRACT OF LAND CONVEYED AS "TRACT A" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1578, PAGE 398, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS, ALL OF A 616.275 ACRE TRACT OF LAND CONVEYED AS "TRACT TWO" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1637, PAGE 620, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND ALL OF A 255.411 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1720, PAGE 155, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS. SAID 2012.391 ACRE TRACT WITH BEARING BASIS GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984). BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 1139.667 ACRE TRACT AND THE SOUTHWEST CORNER OF A 57.960 ACRE TRACT OF LAND CONVEYED TO RAY A. ROCKHILL, AS RECORDED IN VOLUME 1366, PAGE 634, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND BEING THE AT THE INTERSECTION OF THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 1114 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY) AND THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 1115 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, NORTH 89 DEGREES 01 MINUTES 44 SECONDS EAST, ALONG A NORTH LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 57.960 ACRE TRACT AND THE COMMON SOUTH LINE OF A 30.275 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO JAIME FERNANDES, AS RECORDED IN VOLUME 1174, PAGE 370, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE COMMON SOUTH LINE OF A 4.781 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO JAIME FERNANDES, AS RECORDED IN VOLUME 1174, PAGE 370, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 1114, A DISTANCE OF 2007.34 FEET TO

A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF A 1.610 ACRE TRACT OF LAND CONVEYED TO FELIX A. LEWIS, AS RECORDED VOLUME 120, PAGE 35, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;
THENCE, SOUTH 00 DEGREES 36 MINUTES 33 SECONDS EAST, ALONG THE WEST LINE OF SAID 1.610 ACRE TRACT, A DISTANCE OF 1354.32 FEET TO A 1/2 INCH IRON ROD FOUND FOR A SOUTHWEST CORNER OF SAID 1.610 ACRE TRACT;
THENCE, NORTH 89 DEGREES 39 MINUTES 19 SECONDS EAST, ALONG THE SOUTH LINE OF SAID 1.610 ACRE TRACT, A DISTANCE OF 1555.16 FEET TO A 1/2 INCH IRON ROD FOUND FOR A NORTHWEST CORNER OF A 137.824 ACRE TRACT OF LAND CONVEYED AS "TRACT A-2" TO SPEIR INVESTMENTS, LTD., AS RECORDED IN VOLUME 760, PAGE 57, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;
THENCE, SOUTH 00 DEGREES 01 MINUTES 25 SECONDS EAST, ALONG A EAST LINE OF SAID 1169.667 ACRE TRACT AND THE COMMON WEST LINE OF SAID 137.824 ACRE TRACT, A DISTANCE OF 1421.40 FEET TO A 3/8 INCH IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 1139.667 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 137.824 ACRE TRACT;
THENCE, SOUTH 88 DEGREES 20 MINUTES 26 SECONDS EAST, ALONG A NORTH LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 137.824 ACRE TRACT, A DISTANCE OF 1936.78 FEET TO A 3/8 INCH IRON ROD FOUND FOR A NORTHEAST CORNER OF SAID 1139.667 ACRE TRACT AND THE NORTHWEST CORNER OF A 0.864 ACRE TRACT OF LAND CONVEYED TO SPEIR INVESTMENTS, LTD., AS RECORDED IN VOLUME 1222, PAGE 4, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;
THENCE, SOUTH 00 DEGREES 54 MINUTES 20 SECONDS WEST, ALONG AN EAST LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON WEST LINE OF SAID 0.864 ACRE TRACT, A DISTANCE OF 227.27 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 0.864 ACRE TRACT;
THENCE, SOUTH 89 DEGREES 21 MINUTES 06 SECONDS EAST, ALONG THE SOUTH LINE OF SAID 0.864 ACRE TRACT, A DISTANCE OF 33.49 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF A 1.546 ACRE TRACT OF LAND CONVEYED TO WILLIAM F. SMITH AND SHERRY LYNN SMITH, AS RECORDED IN VOLUME 826, PAGE 156, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;
THENCE, SOUTH 00 DEGREES 55 MINUTES 56 SECONDS WEST, ALONG AN EAST LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON WEST LINE OF SAID 1.546 ACRE TRACT, A DISTANCE OF 517.17 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 1.546 ACRE TRACT;
THENCE, SOUTH 87 DEGREES 58 MINUTES 43 SECONDS EAST, ALONG THE SOUTH LINE OF SAID 1.546 ACRE TRACT, A DISTANCE OF 129.59 FEET TO A 3/8 INCH IRON ROD FOUND FOR A NORTHEAST CORNER OF SAID 1139.667 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 1.546

ACRE TRACT AND BEING ON THE WEST RIGHT-OF-WAY OF F.M. 903 (A VARIABLE WIDTH RIGHT-OF-WAY) CONVEYED AS "TRACT 2" TO THE STATE OF TEXAS, AS RECORDED IN VOLUME 496, PAGE 327, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE EAST LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON WEST RIGHT-OF-WAY LINE OF SAID F.M. 903, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 01 DEGREES 10 MINUTES 28 SECONDS WEST, A DISTANCE OF 983.32 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 12 DEGREES 29 MINUTES 22 SECONDS WEST, A DISTANCE OF 102.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 01 DEGREES 10 MINUTES 22 SECONDS WEST, A DISTANCE OF 300.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER FROM WHICH A 1/2 INCH IRON ROD FOUND BEARS NORTH 00 DEGREES 15 MINUTES 12 SECONDS EAST, A DISTANCE OF 2.55 FEET;

SOUTH 10 DEGREES 08 MINUTES 38 SECONDS EAST, A DISTANCE OF 102.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 01 DEGREES 10 MINUTES 22 SECONDS WEST, A DISTANCE OF 1373.30 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 00 DEGREES 11 MINUTES 38 SECONDS EAST, A DISTANCE OF 427.70 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 42 DEGREES 04 MINUTES 22 SECONDS WEST, A DISTANCE OF 148.70 FEET TO A 3/8 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 11 MINUTES 38 SECONDS EAST, PASSING AT A DISTANCE OF 20.00 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID 1139.667 ACRE TRACT AND BEING ON THE NORTH RIGHT-OF-WAY LINE OF HUNT COUNTY ROAD NO. 1116 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY), CONTINUING OVER AND ACROSS SAID HUNT COUNTY ROAD, AND PASSING AT A DISTANCE OF 19.98 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHEAST CORNER OF AFORESAID 616.275 ACRE TRACT, CONTINUING ALONG THE EAST LINE OF SAID 616.275 ACRE TRACT, IN ALL A TOTAL DISTANCE OF 80.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

THENCE, ALONG THE EAST LINE OF SAID 616.275 ACRE TRACT AND THE COMMON WEST RIGHT-OF-WAY LINE OF SAID F.M. 903, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 47 DEGREES 28 MINUTES 38 SECONDS EAST, A DISTANCE OF 88.40 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 00 DEGREES 11 MINUTES 38 SECONDS EAST, A DISTANCE OF 250.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 10 DEGREES 29 MINUTES 36 SECONDS EAST, A DISTANCE OF 204.85 FEET TO A 5/8 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 13 MINUTES 16 SECONDS EAST, A DISTANCE OF 1368.46 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 27 MINUTES 57 SECONDS WEST, A DISTANCE OF 1231.78 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 03 DEGREES 18 MINUTES 18 SECONDS WEST, A DISTANCE OF 200.20 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 25 MINUTES 41 SECONDS WEST, A DISTANCE OF 700.23 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 02 DEGREES 28 MINUTES 50 SECONDS EAST, A DISTANCE OF 200.29 FEET TO A 60D NAIL FOUND FOR CORNER;

SOUTH 00 DEGREES 28 MINUTES 43 SECONDS WEST, A DISTANCE OF 2050.49 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 28 DEGREES 58 MINUTES 33 SECONDS WEST, A DISTANCE OF 41.90 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 89 DEGREES 32 MINUTES 27 SECONDS WEST, A DISTANCE OF 80.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 00 DEGREES 27 MINUTES 33 SECONDS WEST, A DISTANCE OF 80.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 49 DEGREES 46 MINUTES 27 SECONDS EAST, A DISTANCE OF 130.10 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 27 MINUTES 33 SECONDS WEST, A DISTANCE OF 1100.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 45 DEGREES 58 MINUTES 56 SECONDS WEST, A DISTANCE OF 139.69 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 00 DEGREES 16 MINUTES 06 SECONDS WEST, PASSING AT A DISTANCE OF 29.28 FEET, A 1/2 INCH IRON ROD FOUND, CONTINUING IN ALL A TOTAL DISTANCE OF 30.76 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 616.275 ACRE TRACT BEING ON THE NORTH RIGHT-OF-WAY OF HUNT COUNTY ROAD NO. 1156 (A 30' PRESCRIPTIVE WIDTH RIGHT-OF-WAY), BEING 130.00 FEET FROM THE CENTERLINE OF KANSAS CITY SOUTHERN RAILROAD (A 100' RIGHT-OF-WAY);

THENCE, NORTH 84 DEGREES 06 MINUTES 14 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 203.348 ACRE TRACT AND THE COMMON NORTH LINE OF SAID HUNT COUNTY ROAD NO. 1156, PASSING AT A DISTANCE OF 2405.39 FEET, A POINT IN THE APPROXIMATE CENTERLINE OF ELM CREEK FOR THE SOUTHWEST CORNER OF SAID 616.275 ACRE TRACT AND THE SOUTHEAST CORNER OF AFORESAID 255.411 ACRE TRACT, FROM WHICH A 1/2 INCH IRON ROD FOUND FOR WITNESS BEARS SOUTH 85 DEGREES 12 MINUTES 09 SECONDS EAST, A DISTANCE 44.39 FEET, CONTINUING ALONG THE SOUTH LINE OF SAID 255.411 ACRE TRACT, IN ALL A TOTAL DISTANCE OF 5879.63 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID 255.411 ACRE TRACT, SAID POINT BEING ON THE EAST LINE OF A 75.344 ACRE TRACT OF LAND CONVEYED TO ROBERT GRAHAM ELIZABETH GRAHAM, AND CHRISTOPHER BILL GRAHAM, AS RECORDED IN VOLUME 556, PAGE 518, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 18 MINUTES 42 SECONDS WEST, ALONG THE WEST LINE OF SAID 255.411 ACRE TRACT AND THE COMMON EAST LINE OF SAID 75.344 ACRE TRACT, A DISTANCE OF 3523.60 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHEAST CORNER OF SAID 75.344 ACRE TRACT AND THE COMMON SOUTHEAST CORNER OF A 100 ACRE TRACT OF LAND CONVEYED TO DAVE W. BELL, WILLIAM HIXSON, AND DENNIS W. BELL, AS RECORDED IN VOLUME 128, PAGE 18, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 31 MINUTES 21 SECONDS WEST, CONTINUING ALONG THE WEST LINE OF SAID 255.411 ACRE TRACT AND THE COMMON EAST LINE OF SAID 100 ACRE TRACT, A DISTANCE OF 1061.59 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 255.411 ACRE TRACT AND THE COMMON SOUTHWEST CORNER OF A 70.000 ACRE TRACT OF LAND CONVEYED AS "TRACT 1", TO GESSELL MARTINEZ, AS RECORDED IN VOLUME 1483, PAGE 212, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 89 DEGREES 41 MINUTES 12 SECONDS EAST, ALONG THE NORTH LINE OF SAID 255.411 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 70.000 ACRE TRACT, PASSING AT A DISTANCE OF 843.85 FEET TO A 1/2 INCH IRON ROD WITH A RED PLASTIC CAP STAMPED "OWENS" FOUND FOR THE SOUTHEAST CORNER OF SAID 70.000 ACRE TRACT AND THE SOUTHWEST CORNER OF A 53.127 ACRE TRACT OF LAND CONVEYED TO J. SCOTT HOLLAND AND NATALIE HUDGINS, AS RECORDED IN VOLUME 861, PAGE 628, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, AND CONTINUING ALONG THE SOUTH LINE OF SAID 53.127 ACRE TRACT, IN ALL A TOTAL DISTANCE OF 1323.37 FEET TO A POINT FOR CORNER ON THE WEST LINE OF AFORESAID 616.275 ACRE TRACT, SAID POINT BEING ON THE APPROXIMATE CENTER LINE OF ELM CREEK;

THENCE, NORTH 34 DEGREES 26 MINUTES 51 SECONDS WEST, ALONG THE WEST LINE OF SAID 616.275 ACRE TRACT, A DISTANCE OF 2.35 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 616.275 ACRE TRACT;

THENCE, NORTH 89 DEGREES 49 MINUTES 12 SECONDS EAST, ALONG A NORTH LINE OF SAID 616.275 ACRE TRACT AND BEING ON THE SOUTH LINE OF SAID AFORESAID 53.127 ACRE TRACT, PASSING AT A DISTANCE OF 63.24 FEET, A 1/2 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1251.53 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 53.127 ACRE TRACT AND AN INTERIOR ELL CORNER OF SAID 616.275 ACRE TRACT;

THENCE, NORTH 00 DEGREES 05 MINUTES 55 SECONDS WEST, ALONG THE WEST LINE OF SAID 616.275 ACRE TRACT AND THE COMMON EAST LINE OF SAID 53.127 ACRE TRACT, PASSING AT A DISTANCE OF 2477.60 FEET A 1/2 INCH IRON ROD FOUND FOR WITNESS AND PASSING AT A DISTANCE OF 2498.79 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHWEST CORNER OF SAID 616.275 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 53.127 ACRE TRACT AND BEING IN THE APPROXIMATE CENTER LINE OF AFORESAID HUNT COUNTY ROAD NO. 1116, CONTINUING OVER AND ACROSS SAID HUNT COUNTY ROAD IN ALL A TOTAL DISTANCE OF 2518.29 FEET TO A POINT FOR CORNER ON THE SOUTH LINE OF AFORESAID 1139.667 ACRE TRACT AND THE NORTH RIGHT-OF-WAY LINE OF SAID HUNT COUNTY ROAD NO. 1116;

THENCE, SOUTH 89 DEGREES 29 MINUTES 54 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 1139.667 ACRE TRACT AND THE NORTH RIGHT-OF-WAY LINE OF SAID HUNT COUNTY ROAD NO. 1116, A DISTANCE OF 60.76 FEET TO A POINT FOR THE SOUTHWEST CORNER OF SAID 1139.667 ACRE TRACT;

THENCE, ALONG THE WEST LINE OF SAID 1139.667 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 18 MINUTES 55 SECONDS WEST, PASSING AT A DISTANCE OF 7.29 FEET, A 1/2 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1570.39 FEET TO A FENCE CORNER POST FOUND FOR CORNER;

NORTH 79 DEGREES 11 MINUTES 19 SECONDS WEST, A DISTANCE OF 32.79 FEET TO A FENCE CORNER POST FOUND FOR CORNER ON THE EAST LINE OF A CALLED 32.210 ACRE TRACT OF LAND CONVEYED AS "TRACT 4" TO KENNETH R. BUTLER AND GENELLE L. BUTLER, AS RECORDED IN VOLUME 1230, PAGE 407, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

NORTH 00 DEGREES 14 MINUTES 12 SECONDS WEST, ALONG THE COMMON EAST LINE OF SAID 32.210 ACRE TRACT, A DISTANCE OF 1728.39 FEET TO A FENCE CORNER POST FOUND FOR CORNER;

NORTH 86 DEGREES 12 MINUTES 13 SECONDS WEST, A DISTANCE OF 55.07 FEET TO A FENCE CORNER POST FOUND FOR CORNER;

NORTH 00 DEGREES 17 MINUTES 59 SECONDS WEST, ALONG THE COMMON EAST LINE OF SAID 32.210 ACRE TRACT, A DISTANCE OF 626.72 FEET TO A FENCE CORNER POST FOUND FOR THE NORTHEAST CORNER OF SAID 32.210 ACRE TRACT;

THENCE, SOUTH 89 DEGREES 49 MINUTES 42 SECONDS WEST, ALONG A SOUTH LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 32.210 ACRE TRACT, THE COMMON NORTH LINE OF A 11.859 ACRE TRACT OF LAND CONVEYED TO BOBBY G. BUTLER, AS RECORDED IN VOLUME 55, PAGE 184, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE COMMON NORTH LINE OF A 11.859 ACRE TRACT OF LAND CONVEYED TO DONALD H. BUTLER, AS RECORDED IN VOLUME 55, PAGE 190, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, PASSING AT A DISTANCE OF 1956.80 FEET A 1/2 INCH CAPPED IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1973.46 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR A SOUTHWEST CORNER OF SAID 1139.667 ACRE TRACT AND BEING ON THE EAST LINE OF A 93.89 ACRE TRACT OF LAND CONVEYED AS "TRACT A-1" TO SPEIR INVESTMENTS, LTD., AS RECORDED IN VOLUME 760, PAGE 57, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND BEING IN THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD NO. 1115;

THENCE, NORTH 00 DEGREES 11 MINUTES 24 SECONDS WEST, ALONG A WEST LINE OF SAID 1139.667 ACRE TRACT, THE COMMON EAST LINE OF SAID 93.89 ACRE TRACT, THE COMMON EAST LINE OF A 7.9 ACRE TRACT OF LAND CONVEYED TO DAVID L. TRAYNHAM AND MARIA A. TRAYNHAM, AS RECORDED IN VOLUME 657, PAGE 402, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 1115, A DISTANCE OF 1143.48 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 7.9 ACRE TRACT;

THENCE, SOUTH 89 DEGREES 48 MINUTES 44 SECONDS WEST, ALONG A SOUTH LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 7.9 ACRE TRACT, A DISTANCE OF 914.22 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

THENCE, SOUTH 89 DEGREES 47 MINUTES 54 SECONDS WEST, CONTINUING ALONG A SOUTH LINE OF SAID 1139.667 ACRE TRACT, THE COMMON NORTH LINE OF SAID 7.9 ACRE TRACT AND THE COMMON NORTH LINE OF A 93.886 ACRE TRACT OF LAND CONVEYED TO THE REDEEMED CHRISTIAN CHURCH OF GOD (NORTH AMERICA), INC., AS RECORDED IN VOLUME 1374, PAGE 57, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 809.78 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

THENCE, NORTH 89 DEGREES 21 MINUTES 24 SECONDS WEST, CONTINUING ALONG A SOUTH LINE OF SAID 1139.667 ACRE TRACT, THE COMMON NORTH LINE OF SAID 93.886 ACRE TRACT AND A COMMON NORTH LINE OF A 243.597 ACRE TRACT OF LAND CONVEYED TO VAN K.

DAVIS, TRUSTEE, AS RECORDED IN VOLUME 928, PAGE 539, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 859.21 FEET TO A 1/2 INCH IRON ROD FOUND FOR AN EXTERIOR ELL CORNER OF SAID 1139.667 ACRE TRACT AND AN INTERIOR ELL CORNER OF SAID 243.597 ACRE TRACT;

THENCE, NORTH 00 DEGREES 14 MINUTES 41 SECONDS WEST, ALONG A WEST LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON EAST LINE OF SAID 243.597 ACRE TRACT, A DISTANCE OF 882.25 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 243.597 ACRE TRACT;

THENCE, NORTH 89 DEGREES 47 MINUTES 35 SECONDS WEST, ALONG A SOUTH LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 243.597 ACRE TRACT, A DISTANCE OF 844.09 FEET TO A 1/2 INCH IRON ROD FOUND FOR AN EXTERIOR ELL CORNER OF SAID 1139.667 ACRE TRACT AND THE SOUTHEAST CORNER OF A 60.0 ACRE TRACT OF LAND CONVEYED TO RONALD MIKE TREVINO, ALBERT JOE TREVINO AND VICTOR TREVINO, AS RECORDED IN VOLUME 259, PAGE 234, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 13 MINUTES 54 SECONDS WEST, ALONG THE WEST LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON EAST LINE OF SAID 60.0 ACRE TRACT, A DISTANCE OF 1609.31 FEET TO A 3/8 INCH IRON ROD FOUND FOR CORNER;

THENCE, NORTH 00 DEGREES 30 MINUTES 31 SECONDS WEST, CONTINUING ALONG THE WEST LINE OF SAID 1139.667 ACRE TRACT, THE COMMON EAST LINE OF A 82.616 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO JAMES H. BLAKEMORE AND EDITH L. BLAKEMORE, AS RECORDED IN VOLUME 707, PAGE 331, DEED RECORDS, HUNT COUNTY, TEXAS AND THE COMMON EAST LINE OF A 40 ACRE TRACT OF LAND CONVEYED TO J.H. BLAKEMORE AND WIFE, EDITH L. BLAKEMORE, AS RECORDED IN VOLUME 540, PAGE 623, DEED RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 2189.68 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 40 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 59 MINUTES 44 SECONDS WEST, ALONG A SOUTH LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 40 ACRE TRACT, A DISTANCE OF 1548.59 FEET TO A POINT CORNER IN THE APPROXIMATE CENTERLINE OF MIDDLE CADDO CREEK; THENCE, ALONG THE WEST LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON APPROXIMATE CENTERLINE OF SAID MIDDLE CADDO CREEK, THE FOLLOWING COURSES AND DISTANCES:

NORTH 21 DEGREES 00 MINUTES 15 SECONDS WEST, A DISTANCE OF 6.21 FEET TO A POINT FOR CORNER;

NORTH 34 DEGREES 09 MINUTES 23 SECONDS EAST, A DISTANCE OF 63.91 FEET TO A POINT FOR CORNER;

NORTH 12 DEGREES 40 MINUTES 10 SECONDS EAST, A DISTANCE OF 26.28 FEET TO A POINT FOR CORNER;

NORTH 26 DEGREES 12 MINUTES 21 SECONDS WEST, A DISTANCE OF 6.32 FEET TO A POINT FOR CORNER;
NORTH 20 DEGREES 42 MINUTES 04 SECONDS WEST, A DISTANCE OF 38.17 FEET TO A POINT FOR CORNER;
NORTH 21 DEGREES 26 MINUTES 17 SECONDS WEST, A DISTANCE OF 39.25 FEET TO A POINT FOR CORNER;
NORTH 35 DEGREES 13 MINUTES 45 SECONDS EAST, A DISTANCE OF 31.01 FEET TO A POINT FOR CORNER;
NORTH 60 DEGREES 49 MINUTES 41 SECONDS EAST, A DISTANCE OF 38.89 FEET TO A POINT FOR CORNER;
NORTH 32 DEGREES 52 MINUTES 06 SECONDS EAST, A DISTANCE OF 66.78 FEET TO A POINT FOR CORNER;
NORTH 06 DEGREES 16 MINUTES 43 SECONDS EAST, A DISTANCE OF 25.14 FEET TO A POINT FOR CORNER;
NORTH 29 DEGREES 02 MINUTES 56 SECONDS WEST, A DISTANCE OF 26.91 FEET TO A POINT FOR CORNER;
NORTH 46 DEGREES 27 MINUTES 41 SECONDS WEST, A DISTANCE OF 52.95 FEET TO A POINT FOR CORNER;
NORTH 65 DEGREES 10 MINUTES 49 SECONDS WEST, A DISTANCE OF 44.93 FEET TO A POINT FOR CORNER;
NORTH 26 DEGREES 06 MINUTES 17 SECONDS WEST, A DISTANCE OF 29.56 FEET TO A POINT FOR CORNER;
NORTH 13 DEGREES 19 MINUTES 05 SECONDS EAST, A DISTANCE OF 61.59 FEET TO A POINT FOR CORNER;
NORTH 65 DEGREES 47 MINUTES 32 SECONDS EAST, A DISTANCE OF 62.65 FEET TO A POINT FOR CORNER;
NORTH 51 DEGREES 18 MINUTES 24 SECONDS EAST, A DISTANCE OF 37.86 FEET TO A POINT FOR CORNER;
NORTH 34 DEGREES 49 MINUTES 10 SECONDS EAST, A DISTANCE OF 67.22 FEET TO A POINT FOR CORNER;
NORTH 00 DEGREES 09 MINUTES 44 SECONDS WEST, A DISTANCE OF 28.50 FEET TO A POINT FOR CORNER;
NORTH 44 DEGREES 55 MINUTES 39 SECONDS WEST, A DISTANCE OF 36.21 FEET TO A POINT FOR CORNER;
NORTH 85 DEGREES 07 MINUTES 33 SECONDS WEST, A DISTANCE OF 26.04 FEET TO A POINT FOR CORNER;
NORTH 83 DEGREES 48 MINUTES 09 SECONDS WEST, A DISTANCE OF 81.95 FEET TO A POINT FOR CORNER;
NORTH 65 DEGREES 20 MINUTES 02 SECONDS WEST, A DISTANCE OF 52.40 FEET TO A POINT FOR CORNER;
NORTH 70 DEGREES 02 MINUTES 58 SECONDS WEST, A DISTANCE OF 61.21 FEET TO A POINT FOR CORNER;
NORTH 50 DEGREES 53 MINUTES 09 SECONDS WEST, A DISTANCE OF 27.81 FEET TO A POINT FOR CORNER;
NORTH 09 DEGREES 48 MINUTES 38 SECONDS WEST, A DISTANCE OF 94.86 FEET TO A POINT FOR CORNER;

NORTH 52 DEGREES 21 MINUTES 14 SECONDS WEST, A DISTANCE
OF 47.81 FEET TO A POINT FOR CORNER;
SOUTH 88 DEGREES 07 MINUTES 56 SECONDS WEST, A DISTANCE
OF 46.23 FEET TO A POINT FOR CORNER;
NORTH 82 DEGREES 46 MINUTES 51 SECONDS WEST, A DISTANCE
OF 60.70 FEET TO A POINT FOR CORNER;
NORTH 00 DEGREES 54 MINUTES 56 SECONDS WEST, A DISTANCE
OF 34.95 FEET TO A POINT FOR CORNER;
NORTH 06 DEGREES 26 MINUTES 19 SECONDS EAST, A DISTANCE
OF 33.86 FEET TO A POINT FOR CORNER;
NORTH 19 DEGREES 52 MINUTES 12 SECONDS EAST, A DISTANCE
OF 75.18 FEET TO A POINT FOR CORNER;
NORTH 08 DEGREES 51 MINUTES 47 SECONDS EAST, A DISTANCE
OF 21.98 FEET TO A POINT FOR CORNER;
NORTH 51 DEGREES 14 MINUTES 55 SECONDS WEST, A DISTANCE
OF 15.56 FEET TO A POINT FOR CORNER;
NORTH 67 DEGREES 44 MINUTES 23 SECONDS WEST, A DISTANCE
OF 48.94 FEET TO A POINT FOR CORNER;
NORTH 44 DEGREES 48 MINUTES 26 SECONDS WEST, A DISTANCE
OF 46.84 FEET TO A POINT FOR CORNER;
NORTH 71 DEGREES 56 MINUTES 01 SECONDS WEST, A DISTANCE
OF 56.21 FEET TO A POINT FOR CORNER;
NORTH 56 DEGREES 30 MINUTES 17 SECONDS WEST, A DISTANCE
OF 64.81 FEET TO A POINT FOR CORNER;
NORTH 24 DEGREES 20 MINUTES 05 SECONDS WEST, A DISTANCE
OF 54.93 FEET TO A POINT FOR CORNER;
NORTH 64 DEGREES 45 MINUTES 50 SECONDS EAST, A DISTANCE
OF 59.42 FEET TO A POINT FOR CORNER;
NORTH 79 DEGREES 49 MINUTES 14 SECONDS EAST, A DISTANCE
OF 30.85 FEET TO A POINT FOR CORNER;
NORTH 59 DEGREES 46 MINUTES 01 SECONDS EAST, A DISTANCE
OF 42.98 FEET TO A POINT FOR CORNER;
NORTH 44 DEGREES 48 MINUTES 48 SECONDS WEST, A DISTANCE
OF 52.64 FEET TO A POINT FOR CORNER;
NORTH 57 DEGREES 08 MINUTES 41 SECONDS WEST, A DISTANCE
OF 61.18 FEET TO A POINT FOR CORNER;
NORTH 25 DEGREES 48 MINUTES 00 SECONDS EAST, A DISTANCE
OF 67.83 FEET TO A POINT FOR CORNER;
NORTH 33 DEGREES 37 MINUTES 31 SECONDS EAST, A DISTANCE
OF 61.74 FEET TO A POINT FOR CORNER;
NORTH 75 DEGREES 17 MINUTES 59 SECONDS EAST, A DISTANCE
OF 41.29 FEET TO A POINT FOR CORNER;
NORTH 87 DEGREES 23 MINUTES 13 SECONDS EAST, A DISTANCE
OF 49.41 FEET TO A POINT FOR CORNER;
NORTH 38 DEGREES 47 MINUTES 16 SECONDS EAST, A DISTANCE
OF 37.99 FEET TO A POINT FOR CORNER;

NORTH 69 DEGREES 48 MINUTES 22 SECONDS EAST, A DISTANCE OF 67.94 FEET TO A POINT FOR CORNER;
NORTH 23 DEGREES 59 MINUTES 27 SECONDS EAST, A DISTANCE OF 40.40 FEET TO A POINT FOR CORNER;
NORTH 33 DEGREES 58 MINUTES 09 SECONDS WEST, A DISTANCE OF 20.48 FEET TO A POINT FOR CORNER;
NORTH 44 DEGREES 20 MINUTES 14 SECONDS WEST, A DISTANCE OF 23.31 FEET TO A POINT FOR CORNER;
SOUTH 74 DEGREES 13 MINUTES 43 SECONDS WEST, A DISTANCE OF 35.67 FEET TO A POINT FOR CORNER;
SOUTH 87 DEGREES 53 MINUTES 22 SECONDS WEST, A DISTANCE OF 58.07 FEET TO A POINT FOR CORNER;
NORTH 64 DEGREES 32 MINUTES 24 SECONDS WEST, A DISTANCE OF 62.27 FEET TO A POINT FOR CORNER;
NORTH 03 DEGREES 53 MINUTES 53 SECONDS WEST, A DISTANCE OF 66.73 FEET TO A POINT FOR CORNER;
NORTH 84 DEGREES 44 MINUTES 09 SECONDS EAST, A DISTANCE OF 62.95 FEET TO A POINT FOR CORNER;
SOUTH 72 DEGREES 08 MINUTES 47 SECONDS EAST, A DISTANCE OF 54.95 FEET TO A POINT FOR CORNER;
NORTH 74 DEGREES 09 MINUTES 16 SECONDS EAST, A DISTANCE OF 32.84 FEET TO A POINT FOR CORNER;
NORTH 62 DEGREES 27 MINUTES 21 SECONDS EAST, A DISTANCE OF 55.15 FEET TO A POINT FOR CORNER;
SOUTH 89 DEGREES 34 MINUTES 47 SECONDS EAST, A DISTANCE OF 41.41 FEET TO A POINT FOR CORNER;
NORTH 50 DEGREES 52 MINUTES 18 SECONDS EAST, A DISTANCE OF 39.73 FEET TO A POINT FOR CORNER;
NORTH 35 DEGREES 47 MINUTES 05 SECONDS WEST, A DISTANCE OF 39.52 FEET TO A POINT FOR CORNER;
NORTH 53 DEGREES 11 MINUTES 28 SECONDS WEST, A DISTANCE OF 56.58 FEET TO A POINT FOR CORNER;
NORTH 01 DEGREES 29 MINUTES 22 SECONDS EAST, A DISTANCE OF 29.58 FEET TO A POINT FOR CORNER;
NORTH 34 DEGREES 19 MINUTES 05 SECONDS EAST, A DISTANCE OF 40.10 FEET TO A POINT FOR CORNER;
NORTH 33 DEGREES 35 MINUTES 40 SECONDS WEST, A DISTANCE OF 43.80 FEET TO A POINT FOR CORNER;
NORTH 54 DEGREES 45 MINUTES 11 SECONDS WEST, A DISTANCE OF 58.64 FEET TO A POINT FOR CORNER;
NORTH 59 DEGREES 06 MINUTES 28 SECONDS WEST, A DISTANCE OF 53.89 FEET TO A POINT FOR CORNER;
NORTH 66 DEGREES 44 MINUTES 26 SECONDS WEST, A DISTANCE OF 64.30 FEET TO A POINT FOR CORNER;
NORTH 20 DEGREES 21 MINUTES 59 SECONDS WEST, A DISTANCE OF 47.18 FEET TO A POINT FOR CORNER;

NORTH 04 DEGREES 17 MINUTES 58 SECONDS WEST, A DISTANCE OF 49.47 FEET TO A POINT FOR CORNER;

NORTH 60 DEGREES 05 MINUTES 12 SECONDS EAST, A DISTANCE OF 23.20 FEET TO A POINT FOR CORNER;

SOUTH 85 DEGREES 17 MINUTES 54 SECONDS EAST, A DISTANCE OF 10.58 FEET TO A POINT FOR CORNER;

NORTH 61 DEGREES 55 MINUTES 20 SECONDS EAST, A DISTANCE OF 12.40 FEET TO A POINT FOR CORNER;

NORTH 10 DEGREES 07 MINUTES 13 SECONDS EAST, A DISTANCE OF 59.37 FEET TO A POINT FOR CORNER;

NORTH 03 DEGREES 06 MINUTES 12 SECONDS EAST, A DISTANCE OF 71.13 FEET TO A POINT FOR CORNER;

NORTH 07 DEGREES 53 MINUTES 39 SECONDS WEST, A DISTANCE OF 37.89 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 1139.667 ACRE TRACT AND ON THE SOUTH LINE OF WOLFE RUN ESTATES AN ADDITION RECORDED IN CABINET D, PAGE 359, PLAT RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE NORTH LINE OF SAID 1139.667 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 89 DEGREES 50 MINUTES 52 SECONDS EAST, ALONG THE COMMON SOUTH LINE OF SAID WOLFE RUN ESTATES, THE COMMON SOUTH LINE OF A 20.491 ACRE TRACT OF LAND CONVEYED TO LUTHER BENNETT SANDLIN, JR., AS RECORDED IN VOLUME 624, PAGE 497, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE COMMON SOUTH LINE OF A 67.158 ACRE TRACT OF LAND CONVEYED TO ROBERT MEREDITH SPENCE, AS RECORDED IN VOLUME 602, PAGE 351, DEED RECORDS, HUNT COUNTY, TEXAS, PASSING AT A DISTANCE OF 25.00 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 2488.67 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 64 DEGREES 25 MINUTES 54 SECONDS EAST, CONTINUING ALONG THE SOUTH LINE OF SAID 67.158 ACRE TRACT, A DISTANCE OF 208.32 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

SOUTH 89 DEGREES 05 MINUTES 27 SECONDS EAST, CONTINUING ALONG THE SOUTH LINE OF SAID 67.158 ACRE TRACT AND THE COMMON SOUTH LINE OF A 36.408 ACRE TRACT OF LAND CONVEYED TO ROYCE G. SUMROW, AS RECORDED IN VOLUME 85, PAGE 893, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, DESCRIBED IN VOLUME 561, PAGE 230, DEED RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 2565.21 FEET TO A 1/2 INCH IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 1139.667 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 36.408 ACRE TRACT;

THENCE, NORTH 00 DEGREES 06 MINUTES 59 SECONDS EAST, ALONG A WEST LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON EAST LINE OF SAID 36.408 ACRE TRACT, A DISTANCE OF 702.67 FEET TO A 5/8 INCH

IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER ON THE SOUTH RIGHT-OF-WAY OF F.M. 1569 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE, ALONG THE NORTH LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON SOUTH RIGHT-OF-WAY OF SAID F.M. 1569, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 68 DEGREES 29 MINUTES 14 SECONDS EAST, A DISTANCE OF 40.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 76 DEGREES 30 MINUTES 46 SECONDS EAST, A DISTANCE OF 164.09 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID 1139.667 ACRE TRACT AND THE NORTHWEST CORNER OF A 81.665 ACRE TRACT OF LAND CONVEYED TO J. BURKE YOUNG AND FRANCES ANNE YOUNG, AS RECORDED IN VOLUME 947, PAGE 82, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 00 DEGREES 41 MINUTES 20 SECONDS EAST, ALONG AN EAST LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON WEST LINE OF SAID 81.665 ACRE TRACT, PASSING AT A DISTANCE OF 3.29 FEET A 1/2 INCH CAPPED IRON ROD FOUND FOR WITNESS, CONTINUING A TOTAL DISTANCE OF 646.60 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER; THENCE, SOUTH 86 DEGREES 00 MINUTES 27 SECONDS WEST, A DISTANCE OF 147.76 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER; THENCE, SOUTH 00 DEGREES 45 MINUTES 00 SECONDS EAST, ALONG AN EAST LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON WEST LINE OF SAID 81.665 ACRE TRACT, A DISTANCE OF 2736.59 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 81.665 ACRE TRACT AND BEING ON THE NORTH LINE OF AFORESAID 57.960 ACRE TRACT;

THENCE, SOUTH 89 DEGREES 10 MINUTES 10 SECONDS WEST, ALONG A SOUTH LINE OF SAID 1139.667 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 57.960 ACRE TRACT, A DISTANCE OF 55.88 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 57.960 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 03 MINUTES 22 SECONDS WEST, ALONG AN EAST LINE OF SAID 597.419 ACRE TRACT AND THE COMMON WEST LINE OF SAID 57.960 ACRE TRACT, A DISTANCE OF 2115.22 FEET TO THE POINT OF BEGINNING AND CONTAINING 2012.391 ACRES OF LAND, MORE OR LESS.

TRACT 5

BEING A 625.044 ACRE TRACT OF LAND SITUATED IN THE M.F. JONES SURVEY, ABSTRACT NO. 542, THE NEEDHAM HAM SURVEY, ABSTRACT NO. 427, THE A. ROUSETTE SURVEY, ABSTRACT NO. 882, AND THE MARTIN MOORE SURVEY, ABSTRACT NO. 762, HUNT COUNTY, TEXAS, AND BEING ALL OF A 607.070 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1780, PAGE 53, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING

ALL OF A 17.974 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1778, PAGE 265, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS. SAID 625.044 ACRE TRACT, WITH BEARING BASIS OF GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD WITH AN ALUMINUM TXDOT MONUMENT FOUND FOR A NORTHEAST CORNER OF SAID 607.070 ACRE TRACT AND THE NORTHWEST CORNER OF A 13.6509 ACRE TRACT OF LAND CONVEYED AS "PARCEL 27" TO THE STATE OF TEXAS, AS RECORDED IN VOLUME 1581, PAGE 81, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND BEING THE SOUTHWEST CORNER OF A 16.7163 ACRE TRACT OF LAND CONVEYED AS "PARCEL 26" TO THE STATE OF TEXAS, AS RECORDED IN VOLUME 1617, PAGE 466, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, SAID POINT BEING ON THE SOUTH LINE OF A 40.089 ACRE TRACT OF LAND CONVEYED TO AREY FAMILY LIVING TRUST, AS RECORDED IN VOLUME 756, PAGE 263, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE NORTHEAST LINE OF SAID 607.070 ACRE TRACT AND THE COMMON SOUTHWEST LINE OF SAID 13.6509 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 55 DEGREES 38 MINUTES 54 SECONDS EAST, A DISTANCE OF 845.18 FEET TO A 5/8 INCH IRON ROD WITH A ALUMINUM TXDOT MONUMENT FOUND FOR CORNER;

SOUTH 66 DEGREES 49 MINUTES 36 SECONDS EAST, A DISTANCE OF 715.68 FEET TO A POINT FOR CORNER;

SOUTH 33 DEGREES 17 MINUTES 28 SECONDS EAST, A DISTANCE OF 166.66 FEET TO A 5/8 INCH IRON ROD WITH AN ALUMINUM TXDOT MONUMENT FOUND FOR THE SOUTHEAST CORNER OF SAID 13.6509 ACRE TRACT AND BEING ON THE WEST RIGHT-OF-WAY LINE OF F.M. 36 (A 80' RIGHT-OF-WAY);

THENCE, ALONG THE EAST LINE OF SAID 607.070 ACRE TRACT AND THE COMMON WEST RIGHT-OF-WAY LINE OF SAID F.M. 36, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 01 DEGREES 28 MINUTES 32 SECONDS WEST, A DISTANCE OF 793.59 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 16 DEGREES 00 MINUTES 31 SECONDS, A RADIUS OF 858.51 FEET, A CHORD BEARING OF SOUTH 06 DEGREES 31 MINUTES 43 SECONDS EAST, A CHORD LENGTH OF 239.09 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC LENGTH OF 239.87 FEET, TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 14 DEGREES 31 MINUTES 58 SECONDS EAST, A DISTANCE OF 47.39 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 00 DEGREES 02 MINUTES 56 SECONDS WEST, A DISTANCE OF 663.21 FEET TO A 100D NAIL SET FOR CORNER;

SOUTH 89 DEGREES 57 MINUTES 04 SECONDS EAST, A DISTANCE OF 73.00 FEET TO A POINT FOR CORNER;

SOUTH 88 DEGREES 57 MINUTES 04 SECONDS EAST, A DISTANCE OF 100.00 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 14 DEGREES 31 MINUTES 58 SECONDS EAST, A DISTANCE OF 326.40 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 15 DEGREES 06 MINUTES 41 SECONDS, A RADIUS OF 778.51 FEET, A CHORD BEARING OF SOUTH 06 DEGREES 58 MINUTES 38 SECONDS EAST, A CHORD LENGTH OF 204.73 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC LENGTH OF 205.33 FEET, TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 00 DEGREES 34 MINUTES 43 SECONDS WEST, A DISTANCE OF 402.61 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING TO A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 27 DEGREES 09 MINUTES 57 SECONDS, A RADIUS OF 358.31 FEET, A CHORD BEARING OF SOUTH 13 DEGREES 00 MINUTES 16 SECONDS EAST, A CHORD LENGTH OF 168.30 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC LENGTH OF 169.89 FEET, TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 01 DEGREES 08 MINUTES 05 SECONDS EAST, A DISTANCE OF 190.32 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

THENCE, SOUTH 00 DEGREES 15 MINUTES 30 SECONDS WEST, CONTINUING ALONG THE EAST LINE OF SAID 607.070 ACRE TRACT AND WITH THE GENERAL DIRECTION OF AN OLD FENCE LINE, A DISTANCE OF 2549.04 FEET TO A PK NAIL SET IN A TREE FOR THE NORTHWEST CORNER OF A 10.019 ACRE TRACT OF LAND CONVEYED TO JAMES PATTERSON, AS RECORDED IN VOLUME 932, PAGE 677, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 01 DEGREES 22 MINUTES 14 SECONDS WEST, CONTINUING ALONG THE EAST LINE OF SAID 607.070 ACRE TRACT AND THE COMMON WEST LINE OF SAID 10.019 ACRE TRACT, A DISTANCE OF

241.56 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 607.070 ACRE TRACT AND THE NORTHEAST CORNER OF A 81.772 ACRE TRACT OF LAND CONVEYED TO LAVERNE BATTLE AND LARRY L. BRYANT, AS RECORDED IN VOLUME 120, PAGE 836, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 15 MINUTES 58 SECONDS WEST, ALONG A SOUTH LINE OF SAID 607.070 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 81.772 ACRE TRACT, PASSING AT A DISTANCE OF 926.30 FEET A 3/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 953.76 FEET TO A POINT FOR CORNER IN THE APPROXIMATE CENTERLINE OF MIDDLE CADDO CREEK AND BEING ON THE EAST LINE OF A 14.95 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO LAVERNE SWANSON, AS RECORDED IN VOLUME 786, PAGE 526, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE APPROXIMATE CENTERLINE OF SAID MIDDLE CADDO CREEK, A COMMON WEST LINE OF SAID 607.070 ACRE TRACT, THE COMMON EAST LINE OF SAID 14.95 ACRE TRACT AND THE COMMON EAST LINE OF A 14.902 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO LAVERNE SWANSON, AS RECORDED IN VOLUME 786, PAGE 526, DEED RECORDS, HUNT COUNTY, TEXAS, THE FOLLOWING COURSES AND DISTANCES;

NORTH 35 DEGREES 19 MINUTES 43 SECONDS EAST, A DISTANCE OF 32.43 FEET TO A POINT FOR CORNER;

NORTH 04 DEGREES 44 MINUTES 28 SECONDS WEST, A DISTANCE OF 12.04 FEET TO A POINT FOR CORNER;

NORTH 18 DEGREES 14 MINUTES 20 SECONDS WEST, A DISTANCE OF 58.51 FEET TO A POINT FOR CORNER;

NORTH 48 DEGREES 59 MINUTES 25 SECONDS WEST, A DISTANCE OF 51.15 FEET TO A POINT FOR CORNER;

NORTH 45 DEGREES 47 MINUTES 00 SECONDS WEST, A DISTANCE OF 49.01 FEET TO A POINT FOR CORNER;

NORTH 71 DEGREES 36 MINUTES 24 SECONDS WEST, A DISTANCE OF 35.27 FEET TO A POINT FOR CORNER;

SOUTH 58 DEGREES 01 MINUTES 28 SECONDS WEST, A DISTANCE OF 22.70 FEET TO A POINT FOR CORNER;

SOUTH 37 DEGREES 24 MINUTES 39 SECONDS WEST, A DISTANCE OF 38.48 FEET TO A POINT FOR CORNER;

SOUTH 75 DEGREES 41 MINUTES 15 SECONDS WEST, A DISTANCE OF 66.86 FEET TO A POINT FOR CORNER;

NORTH 77 DEGREES 21 MINUTES 13 SECONDS WEST, A DISTANCE OF 34.94 FEET TO A POINT FOR CORNER;

NORTH 61 DEGREES 45 MINUTES 32 SECONDS WEST, A DISTANCE OF 38.57 FEET TO A POINT FOR CORNER;

NORTH 39 DEGREES 22 MINUTES 01 SECONDS WEST, A DISTANCE OF 93.52 FEET TO A POINT FOR CORNER;

NORTH 56 DEGREES 25 MINUTES 32 SECONDS WEST, A DISTANCE OF 57.54 FEET TO A POINT FOR CORNER;

NORTH 44 DEGREES 35 MINUTES 18 SECONDS WEST, A DISTANCE OF 77.04 FEET TO A POINT FOR CORNER;

NORTH 57 DEGREES 44 MINUTES 48 SECONDS EAST, A DISTANCE OF 53.22 FEET TO A POINT FOR CORNER;

NORTH 77 DEGREES 24 MINUTES 26 SECONDS EAST, A DISTANCE OF 35.27 FEET TO A POINT FOR CORNER;

NORTH 22 DEGREES 54 MINUTES 14 SECONDS EAST, A DISTANCE OF 66.74 FEET TO A POINT FOR CORNER;

NORTH 29 DEGREES 11 MINUTES 55 SECONDS WEST, A DISTANCE OF 43.53 FEET TO A POINT FOR CORNER;

NORTH 35 DEGREES 59 MINUTES 06 SECONDS WEST, A DISTANCE OF 76.01 FEET TO A POINT FOR CORNER;

NORTH 27 DEGREES 19 MINUTES 05 SECONDS WEST, A DISTANCE OF 43.04 FEET TO A POINT FOR CORNER;

NORTH 24 DEGREES 46 MINUTES 51 SECONDS WEST, A DISTANCE OF 28.29 FEET TO A POINT FOR CORNER;

SOUTH 57 DEGREES 56 MINUTES 21 SECONDS WEST, A DISTANCE OF 20.27 FEET TO A POINT FOR CORNER;

SOUTH 32 DEGREES 17 MINUTES 50 SECONDS WEST, A DISTANCE OF 46.40 FEET TO A POINT FOR CORNER;

NORTH 47 DEGREES 34 MINUTES 53 SECONDS WEST, A DISTANCE OF 55.40 FEET TO A POINT FOR CORNER;

NORTH 09 DEGREES 39 MINUTES 26 SECONDS EAST, A DISTANCE OF 58.82 FEET TO A POINT FOR CORNER;

NORTH 37 DEGREES 47 MINUTES 09 SECONDS WEST, A DISTANCE OF 47.95 FEET TO A POINT FOR CORNER;

NORTH 41 DEGREES 23 MINUTES 24 SECONDS WEST, A DISTANCE OF 32.90 FEET TO A POINT FOR CORNER;

SOUTH 81 DEGREES 25 MINUTES 04 SECONDS WEST, A DISTANCE OF 25.71 FEET TO A POINT FOR CORNER;

SOUTH 45 DEGREES 03 MINUTES 09 SECONDS WEST, A DISTANCE OF 45.32 FEET TO A POINT FOR CORNER;

SOUTH 37 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 37.17 FEET TO A POINT FOR CORNER;

SOUTH 31 DEGREES 32 MINUTES 29 SECONDS WEST, A DISTANCE OF 49.31 FEET TO A POINT FOR CORNER;

SOUTH 62 DEGREES 05 MINUTES 02 SECONDS WEST, A DISTANCE OF 40.08 FEET TO A POINT FOR CORNER;

NORTH 31 DEGREES 51 MINUTES 45 SECONDS WEST, A DISTANCE OF 26.72 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID 14.902 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 41 MINUTES 00 SECONDS WEST, ALONG A SOUTH LINE OF SAID 607.070 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 14.902 ACRE TRACT, PASSING AT A DISTANCE OF 26.37 FEET

A 5/8 INCH IRON WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, PASSING AT A DISTANCE 1364.67 FEET TO A 3/8 INCH IRON FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1385.72 FEET TO A POINT FOR AN EXTERIOR ELL CORNER OF SAID 607.070 ACRE TRACT AND THE NORTHWEST CORNER OF SAID 14.902 ACRE TRACT, SAID POINT ALSO BEING ON THE WEST LINE OF SKY MEADOWS ADDITION, PHASE 1 AN ADDITION TO HUNT COUNTY, AS RECORDED IN CABINET E, PAGE 218, PLAT RECORDS, HUNT COUNTY, TEXAS AND BEING IN THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 2726 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, NORTH 00 DEGREES 34 MINUTES 53 SECONDS EAST, ALONG A WEST LINE OF SAID 607.070 ACRE TRACT, THE COMMON EAST LINE OF SAID SKY MEADOWS ADDITION AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2726, A DISTANCE OF 363.20 FEET TO A POINT FOR AN INTERIOR ELL CORNER OF SAID 607.070 ACRE TRACT AND BEING THE NORTHEAST CORNER OF SAID SKY MEADOW ADDITION, PHASE I;

THENCE, ALONG THE SOUTH LINE OF SAID 607.070 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 89 DEGREES 50 MINUTES 37 SECONDS WEST, ALONG THE COMMON NORTH LINE OF SAID SKY MEADOWS ADDITION, PHASE I AND THE COMMON NORTH LINE OF SKY MEADOWS ADDITION, PHASE III, AN ADDITION TO HUNT COUNTY, AS RECORDED IN CABINET F, PAGE 278, PLAT RECORDS, HUNT COUNTY, TEXAS, PASSING AT A DISTANCE OF 30.74 FEET, A 1/2 INCH IRON ROD WITH A PLASTIC CAP STAMPED "OWENS" FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1467.81 FEET TO A 1/2 INCH IRON FOUND FOR CORNER;

SOUTH 89 DEGREES 57 MINUTES 38 SECONDS WEST, CONTINUING ALONG THE COMMON NORTH LINE OF SAID SKY MEADOWS ADDITION, PHASE III, A DISTANCE OF 834.04 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID SKY MEADOW PHASE III ADDITION AND THE NORTHEAST CORNER OF CADDO CREEK, AN ADDITION TO HUNT COUNTY, AS RECORDED IN CABINET E, PAGE 121, PLAT RECORDS, HUNT COUNTY, TEXAS;

SOUTH 89 DEGREES 50 MINUTES 09 SECONDS WEST, ALONG THE COMMON NORTH LINE OF SAID CADDO CREEK ADDITION, PASSING AT A DISTANCE OF 1403.36 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1423.37 FEET TO A POINT FOR THE SOUTHWEST CORNER OF SAID 607.070 ACRE TRACT, SAID POINT BEING IN THE APPROXIMATE CENTERLINE OF WEST CADDO CREEK;

THENCE, ALONG THE WEST LINE OF SAID 607.070 ACRE TRACT AND THE APPROXIMATE OLD CENTERLINE OF WEST CADDO CREEK, THE FOLLOWING COURSES AND DISTANCES:

NORTH 02 DEGREES 00 MINUTES 28 SECONDS WEST, A DISTANCE OF 130.96 FEET TO A POINT FOR CORNER;

NORTH 02 DEGREES 51 MINUTES 19 SECONDS EAST, A DISTANCE OF 21.79 FEET TO A POINT FOR CORNER;

NORTH 31 DEGREES 48 MINUTES 31 SECONDS EAST, A DISTANCE OF 12.17 FEET TO A POINT FOR CORNER;

NORTH 38 DEGREES 07 MINUTES 26 SECONDS EAST, A DISTANCE OF 24.09 FEET TO A POINT FOR CORNER;

NORTH 63 DEGREES 39 MINUTES 59 SECONDS EAST, A DISTANCE OF 30.05 FEET TO A POINT FOR CORNER;

NORTH 75 DEGREES 44 MINUTES 49 SECONDS EAST, A DISTANCE OF 93.62 FEET TO A POINT FOR CORNER;

NORTH 72 DEGREES 48 MINUTES 52 SECONDS EAST, A DISTANCE OF 49.52 FEET TO A POINT FOR CORNER;

NORTH 39 DEGREES 15 MINUTES 53 SECONDS EAST, A DISTANCE OF 36.53 FEET TO A POINT FOR CORNER;

NORTH 15 DEGREES 50 MINUTES 15 SECONDS WEST, A DISTANCE OF 7.70 FEET TO A POINT FOR CORNER;

NORTH 69 DEGREES 08 MINUTES 47 SECONDS WEST, A DISTANCE OF 79.10 FEET TO A POINT FOR CORNER;

SOUTH 89 DEGREES 51 MINUTES 37 SECONDS WEST, A DISTANCE OF 66.20 FEET TO A POINT FOR CORNER;

NORTH 26 DEGREES 37 MINUTES 52 SECONDS WEST, A DISTANCE OF 79.12 FEET TO A POINT FOR CORNER;

NORTH 25 DEGREES 39 MINUTES 20 SECONDS WEST, A DISTANCE OF 62.19 FEET TO A POINT FOR CORNER;

NORTH 04 DEGREES 50 MINUTES 22 SECONDS WEST, A DISTANCE OF 43.76 FEET TO A POINT FOR CORNER;

NORTH 08 DEGREES 57 MINUTES 12 SECONDS EAST, A DISTANCE OF 23.56 FEET TO A POINT FOR CORNER;

NORTH 41 DEGREES 54 MINUTES 48 SECONDS EAST, A DISTANCE OF 65.89 FEET TO A POINT FOR CORNER;

NORTH 89 DEGREES 12 MINUTES 34 SECONDS EAST, A DISTANCE OF 67.47 FEET TO A POINT FOR CORNER;

NORTH 89 DEGREES 43 MINUTES 05 SECONDS EAST, A DISTANCE OF 51.82 FEET TO A POINT FOR CORNER;

NORTH 69 DEGREES 05 MINUTES 27 SECONDS EAST, A DISTANCE OF 68.73 FEET TO A POINT FOR CORNER;

NORTH 51 DEGREES 57 MINUTES 29 SECONDS EAST, A DISTANCE OF 18.31 FEET TO A POINT FOR CORNER;

NORTH 54 DEGREES 15 MINUTES 42 SECONDS EAST, A DISTANCE OF 61.08 FEET TO A POINT FOR CORNER;

SOUTH 79 DEGREES 05 MINUTES 08 SECONDS EAST, A DISTANCE
OF 50.99 FEET TO A POINT FOR CORNER;
SOUTH 75 DEGREES 40 MINUTES 48 SECONDS EAST, A DISTANCE
OF 65.18 FEET TO A POINT FOR CORNER;
SOUTH 80 DEGREES 18 MINUTES 26 SECONDS EAST, A DISTANCE
OF 60.73 FEET TO A POINT FOR CORNER;
NORTH 59 DEGREES 23 MINUTES 19 SECONDS EAST, A DISTANCE
OF 26.08 FEET TO A POINT FOR CORNER;
NORTH 20 DEGREES 24 MINUTES 11 SECONDS EAST, A DISTANCE
OF 32.35 FEET TO A POINT FOR CORNER;
NORTH 17 DEGREES 22 MINUTES 55 SECONDS WEST, A DISTANCE
OF 26.34 FEET TO A POINT FOR CORNER;
NORTH 23 DEGREES 30 MINUTES 16 SECONDS WEST, A DISTANCE
OF 18.16 FEET TO A POINT FOR CORNER;
NORTH 40 DEGREES 03 MINUTES 17 SECONDS WEST, A DISTANCE
OF 36.62 FEET TO A POINT FOR CORNER;
NORTH 85 DEGREES 15 MINUTES 57 SECONDS WEST, A DISTANCE
OF 100.19 FEET TO A POINT FOR CORNER;
NORTH 80 DEGREES 48 MINUTES 00 SECONDS WEST, A DISTANCE
OF 51.12 FEET TO A POINT FOR CORNER;
NORTH 50 DEGREES 45 MINUTES 05 SECONDS WEST, A DISTANCE
OF 53.06 FEET TO A POINT FOR CORNER;
NORTH 00 DEGREES 03 MINUTES 01 SECONDS WEST, A DISTANCE
OF 46.80 FEET TO A POINT FOR CORNER;
NORTH 73 DEGREES 42 MINUTES 35 SECONDS EAST, A DISTANCE
OF 131.79 FEET TO A POINT FOR CORNER;
NORTH 60 DEGREES 21 MINUTES 56 SECONDS EAST, A DISTANCE
OF 42.38 FEET TO A POINT FOR CORNER;
NORTH 46 DEGREES 35 MINUTES 35 SECONDS EAST, A DISTANCE
OF 119.09 FEET TO A POINT FOR CORNER;
NORTH 61 DEGREES 32 MINUTES 05 SECONDS WEST, A DISTANCE
OF 26.80 FEET TO A POINT FOR CORNER;
NORTH 50 DEGREES 07 MINUTES 23 SECONDS WEST, A DISTANCE
OF 92.16 FEET TO A POINT FOR CORNER;
SOUTH 67 DEGREES 22 MINUTES 47 SECONDS WEST, A DISTANCE
OF 39.68 FEET TO A POINT FOR CORNER;
SOUTH 44 DEGREES 51 MINUTES 31 SECONDS WEST, A DISTANCE
OF 65.57 FEET TO A POINT FOR CORNER;
SOUTH 66 DEGREES 34 MINUTES 53 SECONDS WEST, A DISTANCE
OF 59.47 FEET TO A POINT FOR CORNER;
NORTH 71 DEGREES 04 MINUTES 02 SECONDS WEST, A DISTANCE
OF 13.47 FEET TO A POINT FOR CORNER;
NORTH 17 DEGREES 41 MINUTES 28 SECONDS WEST, A DISTANCE
OF 31.58 FEET TO A POINT FOR CORNER;
NORTH 03 DEGREES 59 MINUTES 42 SECONDS EAST, A DISTANCE
OF 71.47 FEET TO A POINT FOR CORNER;

NORTH 10 DEGREES 35 MINUTES 38 SECONDS WEST, A DISTANCE OF 53.43 FEET TO A POINT FOR CORNER;
NORTH 33 DEGREES 10 MINUTES 20 SECONDS WEST, A DISTANCE OF 46.50 FEET TO A POINT FOR CORNER;
NORTH 65 DEGREES 43 MINUTES 58 SECONDS WEST, A DISTANCE OF 8.59 FEET TO A POINT FOR CORNER;
NORTH 72 DEGREES 36 MINUTES 49 SECONDS WEST, A DISTANCE OF 70.31 FEET TO A POINT FOR CORNER;
NORTH 21 DEGREES 57 MINUTES 32 SECONDS EAST, A DISTANCE OF 106.82 FEET TO A POINT FOR CORNER;
NORTH 02 DEGREES 20 MINUTES 24 SECONDS EAST, A DISTANCE OF 45.20 FEET TO A POINT FOR CORNER;
NORTH 15 DEGREES 36 MINUTES 13 SECONDS WEST, A DISTANCE OF 51.30 FEET TO A POINT FOR CORNER;
NORTH 33 DEGREES 52 MINUTES 33 SECONDS WEST, A DISTANCE OF 72.87 FEET TO A POINT FOR CORNER;
SOUTH 85 DEGREES 17 MINUTES 29 SECONDS WEST, A DISTANCE OF 29.18 FEET TO A POINT FOR CORNER;
SOUTH 56 DEGREES 20 MINUTES 50 SECONDS WEST, A DISTANCE OF 65.17 FEET TO A POINT FOR CORNER;
SOUTH 07 DEGREES 42 MINUTES 17 SECONDS WEST, A DISTANCE OF 54.43 FEET TO A POINT FOR CORNER;
SOUTH 03 DEGREES 48 MINUTES 43 SECONDS EAST, A DISTANCE OF 42.92 FEET TO A POINT FOR CORNER;
SOUTH 62 DEGREES 49 MINUTES 17 SECONDS WEST, A DISTANCE OF 31.86 FEET TO A POINT FOR CORNER;
SOUTH 78 DEGREES 31 MINUTES 03 SECONDS WEST, A DISTANCE OF 52.28 FEET TO A POINT FOR CORNER;
NORTH 58 DEGREES 13 MINUTES 10 SECONDS WEST, A DISTANCE OF 64.99 FEET TO A POINT FOR CORNER;
NORTH 04 DEGREES 10 MINUTES 08 SECONDS WEST, A DISTANCE OF 124.57 FEET TO A POINT FOR CORNER;
NORTH 49 DEGREES 05 MINUTES 10 SECONDS EAST, A DISTANCE OF 83.05 FEET TO A POINT FOR CORNER;
NORTH 37 DEGREES 41 MINUTES 13 SECONDS EAST, A DISTANCE OF 85.12 FEET TO A POINT FOR CORNER;
NORTH 05 DEGREES 42 MINUTES 52 SECONDS EAST, A DISTANCE OF 53.27 FEET TO A POINT FOR CORNER;
NORTH 22 DEGREES 26 MINUTES 03 SECONDS EAST, A DISTANCE OF 28.15 FEET TO A POINT FOR CORNER ON THE SOUTH LINE OF A 38.533 ACRE TRACT OF LAND CONVEYED TO BILLY JOE DAVIS AND HARRY FRED TIBBALS, AS RECORDED IN VOLUME 836, PAGE 209, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, DESCRIBED IN VOLUME 684, PAGE 470, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 11 MINUTES 00 SECONDS EAST, ALONG A NORTH LINE OF SAID 607.070 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 38.533 ACRE TRACT, PASSING AT A DISTANCE OF 31.06 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 708.22 FEET TO A 1/2 INCH IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 607.070 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 38.533 ACRE TRACT;

THENCE, NORTH 00 DEGREES 49 MINUTES 00 SECONDS EAST, ALONG THE WEST LINE OF SAID 607.070 ACRE TRACT AND THE COMMON EAST LINE OF SAID 38.533 ACRE TRACT, A DISTANCE OF 1613.33 FEET TO A 1/2 INCH IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 110.324 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 38.533 ACRE TRACT, SAID POINT ALSO BEING IN THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 2740 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, ALONG A SOUTH LINE OF SAID 607.070 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2740, THE FOLLOWING COURSE AND DISTANCES:

SOUTH 89 DEGREES 34 MINUTES 20 SECONDS WEST, A DISTANCE OF 537.65 FEET TO A POINT FOR CORNER;

SOUTH 83 DEGREES 57 MINUTES 48 SECONDS WEST, A DISTANCE OF 398.68 FEET TO A POINT FOR CORNER;

NORTH 80 DEGREES 49 MINUTES 30 SECONDS WEST, A DISTANCE OF 142.84 FEET TO A POINT FOR THE SOUTHEAST CORNER OF A 39.937 ACRE TRACT OF LAND CONVEYED TO CHRISTOPHER MILES, AS RECORDED IN VOLUME 819, PAGE 435, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, SAID POINT ALSO BEING IN THE APPROXIMATE CENTERLINE OF SAID WEST CADDO CREEK;

THENCE, ALONG THE WEST LINE OF SAID 607.070 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID WEST CADDO CREEK, THE FOLLOWING COURSES AND DISTANCES:

NORTH 14 DEGREES 31 MINUTES 58 SECONDS EAST, A DISTANCE OF 48.15 FEET TO A POINT FOR CORNER;

NORTH 09 DEGREES 58 MINUTES 54 SECONDS EAST, A DISTANCE OF 100.58 FEET TO A POINT FOR CORNER;

NORTH 12 DEGREES 29 MINUTES 19 SECONDS EAST, A DISTANCE OF 80.29 FEET TO A POINT FOR CORNER;

NORTH 15 DEGREES 35 MINUTES 43 SECONDS EAST, A DISTANCE OF 70.32 FEET TO A POINT FOR CORNER;

NORTH 29 DEGREES 31 MINUTES 02 SECONDS EAST, A DISTANCE OF 53.82 FEET TO A POINT FOR CORNER;

NORTH 54 DEGREES 22 MINUTES 53 SECONDS EAST, A DISTANCE OF 58.42 FEET TO A POINT FOR CORNER;

NORTH 11 DEGREES 18 MINUTES 16 SECONDS EAST, A DISTANCE OF 26.04 FEET TO A POINT FOR CORNER;

NORTH 05 DEGREES 31 MINUTES 13 SECONDS WEST, A DISTANCE
OF 57.43 FEET TO A POINT FOR CORNER;
NORTH 02 DEGREES 02 MINUTES 32 SECONDS EAST, A DISTANCE
OF 71.20 FEET TO A POINT FOR CORNER;
NORTH 03 DEGREES 27 MINUTES 24 SECONDS WEST, A DISTANCE
OF 12.53 FEET TO A POINT FOR CORNER;
SOUTH 78 DEGREES 10 MINUTES 47 SECONDS WEST, A DISTANCE
OF 23.52 FEET TO A POINT FOR CORNER;
NORTH 77 DEGREES 37 MINUTES 59 SECONDS WEST, A DISTANCE
OF 55.19 FEET TO A POINT FOR CORNER;
NORTH 83 DEGREES 12 MINUTES 05 SECONDS WEST, A DISTANCE
OF 42.66 FEET TO A POINT FOR CORNER;
NORTH 30 DEGREES 53 MINUTES 58 SECONDS WEST, A DISTANCE
OF 45.39 FEET TO A POINT FOR CORNER;
NORTH 33 DEGREES 52 MINUTES 21 SECONDS WEST, A DISTANCE
OF 35.49 FEET TO A POINT FOR CORNER;
NORTH 72 DEGREES 18 MINUTES 26 SECONDS WEST, A DISTANCE
OF 19.38 FEET TO A POINT FOR CORNER;
SOUTH 63 DEGREES 09 MINUTES 44 SECONDS WEST, A DISTANCE
OF 30.55 FEET TO A POINT FOR CORNER;
SOUTH 77 DEGREES 42 MINUTES 07 SECONDS WEST, A DISTANCE
OF 24.33 FEET TO A POINT FOR CORNER;
NORTH 42 DEGREES 20 MINUTES 23 SECONDS WEST, A DISTANCE
OF 29.39 FEET TO A POINT FOR CORNER;
NORTH 10 DEGREES 26 MINUTES 52 SECONDS EAST, A DISTANCE
OF 57.86 FEET TO A POINT FOR CORNER;
NORTH 10 DEGREES 44 MINUTES 38 SECONDS EAST, A DISTANCE
OF 64.68 FEET TO A POINT FOR CORNER;
NORTH 13 DEGREES 26 MINUTES 19 SECONDS EAST, A DISTANCE
OF 71.97 FEET TO A POINT FOR CORNER;
NORTH 07 DEGREES 43 MINUTES 36 SECONDS EAST, A DISTANCE
OF 52.66 FEET TO A POINT FOR CORNER;
NORTH 03 DEGREES 31 MINUTES 02 SECONDS EAST, A DISTANCE
OF 51.00 FEET TO A POINT FOR CORNER;
NORTH 11 DEGREES 38 MINUTES 31 SECONDS WEST, A DISTANCE
OF 36.07 FEET TO A POINT FOR CORNER;
NORTH 40 DEGREES 58 MINUTES 30 SECONDS WEST, A DISTANCE
OF 20.34 FEET TO A POINT FOR CORNER;
NORTH 62 DEGREES 11 MINUTES 09 SECONDS WEST, A DISTANCE
OF 39.68 FEET TO A POINT FOR CORNER;
SOUTH 65 DEGREES 05 MINUTES 00 SECONDS WEST, A DISTANCE
OF 42.01 FEET TO A POINT FOR CORNER;
SOUTH 28 DEGREES 35 MINUTES 21 SECONDS WEST, A DISTANCE
OF 39.18 FEET TO A POINT FOR CORNER;
SOUTH 51 DEGREES 00 MINUTES 40 SECONDS WEST, A DISTANCE
OF 43.43 FEET TO A POINT FOR CORNER;

NORTH 80 DEGREES 11 MINUTES 22 SECONDS WEST, A DISTANCE
OF 29.03 FEET TO A POINT FOR CORNER;
NORTH 18 DEGREES 14 MINUTES 32 SECONDS WEST, A DISTANCE
OF 19.90 FEET TO A POINT FOR CORNER;
NORTH 18 DEGREES 11 MINUTES 37 SECONDS EAST, A DISTANCE
OF 15.05 FEET TO A POINT FOR CORNER;
NORTH 05 DEGREES 35 MINUTES 59 SECONDS EAST, A DISTANCE
OF 22.89 FEET TO A POINT FOR CORNER;
NORTH 08 DEGREES 19 MINUTES 31 SECONDS EAST, A DISTANCE
OF 50.21 FEET TO A POINT FOR CORNER;
NORTH 11 DEGREES 14 MINUTES 40 SECONDS WEST, A DISTANCE
OF 39.02 FEET TO A POINT FOR CORNER;
NORTH 25 DEGREES 20 MINUTES 27 SECONDS WEST, A DISTANCE
OF 26.68 FEET TO A POINT FOR CORNER;
NORTH 87 DEGREES 04 MINUTES 15 SECONDS WEST, A DISTANCE
OF 31.38 FEET TO A POINT FOR CORNER;
SOUTH 38 DEGREES 36 MINUTES 57 SECONDS WEST, A DISTANCE
OF 21.48 FEET TO A POINT FOR CORNER;
SOUTH 29 DEGREES 53 MINUTES 52 SECONDS WEST, A DISTANCE
OF 44.40 FEET TO A POINT FOR CORNER;
NORTH 88 DEGREES 20 MINUTES 51 SECONDS WEST, A DISTANCE
OF 28.85 FEET TO A POINT FOR CORNER;
NORTH 76 DEGREES 13 MINUTES 19 SECONDS WEST, A DISTANCE
OF 44.97 FEET TO A POINT FOR CORNER;
NORTH 58 DEGREES 26 MINUTES 12 SECONDS WEST, A DISTANCE
OF 32.11 FEET TO A POINT FOR CORNER;
NORTH 30 DEGREES 33 MINUTES 46 SECONDS EAST, A DISTANCE
OF 58.33 FEET TO A POINT FOR CORNER;
NORTH 40 DEGREES 06 MINUTES 28 SECONDS EAST, A DISTANCE
OF 56.14 FEET TO A POINT FOR CORNER;
NORTH 32 DEGREES 00 MINUTES 34 SECONDS EAST, A DISTANCE
OF 43.76 FEET TO A POINT FOR CORNER;
NORTH 05 DEGREES 36 MINUTES 07 SECONDS EAST, A DISTANCE
OF 24.80 FEET TO A POINT FOR CORNER;
NORTH 33 DEGREES 24 MINUTES 42 SECONDS WEST, A DISTANCE
OF 32.46 FEET TO A POINT FOR CORNER;
SOUTH 87 DEGREES 56 MINUTES 08 SECONDS WEST, A DISTANCE
OF 39.42 FEET TO A POINT FOR CORNER;
NORTH 81 DEGREES 29 MINUTES 55 SECONDS WEST, A DISTANCE
OF 26.17 FEET TO A POINT FOR CORNER;
NORTH 07 DEGREES 37 MINUTES 11 SECONDS WEST, A DISTANCE
OF 50.76 FEET TO A POINT FOR CORNER;
NORTH 08 DEGREES 16 MINUTES 22 SECONDS WEST, A DISTANCE
OF 43.32 FEET TO A POINT FOR CORNER;
NORTH 37 DEGREES 45 MINUTES 11 SECONDS WEST, A DISTANCE
OF 48.91 FEET TO A POINT FOR CORNER;

NORTH 42 DEGREES 30 MINUTES 47 SECONDS WEST, A DISTANCE OF 51.91 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 607.070 ACRE TRACT, SAID POINT ALSO BEING ON THE SOUTH LINE OF CREEKSIDE ESTATES, AN ADDITION TO HUNT COUNTY, AS RECORDED IN CABINET A, PAGE 168, PLAT RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE NORTH LINE OF SAID 607.070 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 88 DEGREES 50 MINUTES 00 SECONDS EAST, ALONG THE COMMON SOUTH LINE OF SAID CREEKSIDE ESTATES, PASSING AT A DISTANCE OF 13.99 FEET, A 3/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1479.20 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF DIXIELAND ESTATES, AN ADDITION TO HUNT COUNTY, AS RECORDED IN CABINET B, PAGE 193, PLAT RECORDS, HUNT COUNTY, TEXAS;

SOUTH 88 DEGREES 59 MINUTES 50 SECONDS EAST, ALONG THE COMMON SOUTH LINE OF SAID DIXIELAND ESTATES, PASSING AT A DISTANCE OF 633.48 FEET, A 3/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 649.77 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID DIXIELAND ESTATES AND BEING IN THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 2744 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

SOUTH 00 DEGREES 32 MINUTES 44 SECONDS EAST, ALONG THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2744, A DISTANCE OF 2.77 FEET TO A POINT FOR THE SOUTHWEST CORNER OF A 16.286 ACRE TRACT OF LAND CONVEYED TO SONA ESTATES, LLC, AS RECORDED IN VOLUME 1301, PAGE 187, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

SOUTH 89 DEGREES 22 MINUTES 07 SECONDS EAST, PASSING AT A DISTANCE OF 23.56 FEET, A 2 INCH IRON PIPE FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1468.35 FEET TO A 3/8 INCH IRON ROD FOUND FOR A NORTHEAST FOR CORNER OF SAID 607.070 ACRE TRACT;

THENCE, SOUTH 12 DEGREES 56 MINUTES 26 SECONDS EAST, ALONG AN EAST LINE OF SAID 607.070 ACRE TRACT, PASSING AT A DISTANCE OF 1345.74 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1370.60 FEET TO A POINT FOR CORNER IN THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2740 AND BEING ON THE OCCUPIED NORTH LINE OF A 58.103 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO LARRY BRYANT AND LAVERNE BATTLE, AS RECORDED IN VOLUME 1076, PAGE 269, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 89 DEGREES 56 MINUTES 42 SECONDS WEST, ALONG A SOUTH LINE OF SAID 607.070 ACRE TRACT, THE COMMON NORTH LINE OF SAID 58.103 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2740, A DISTANCE OF 860.42 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 58.103 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 13 MINUTES 46 SECONDS WEST, ALONG THE EAST LINE OF SAID 607.070 ACRE TRACT AND THE COMMON WEST LINE OF SAID 58.103 ACRE TRACT, PASSING AT A DISTANCE OF 20.04 FEET, A 1/2 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1711.67 FEET TO A PK NAIL SET IN CONCRETE AT THE OCCUPIED SOUTHWEST CORNER OF SAID 58.103 ACRE TRACT AND BEING AN INTERIOR ELL CORNER OF SAID 607.070 ACRE TRACT;

THENCE, NORTH 89 DEGREES 54 MINUTES 27 SECONDS EAST, ALONG A NORTH LINE OF SAID 607.070 ACRE TRACT, THE COMMON OCCUPIED SOUTH LINE OF SAID 58.103 ACRE TRACT AND THE OCCUPIED SOUTH LINE OF A 0.760 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO LARRY BRYANT AND LAVERNE BATTLE, AS RECORDED IN VOLUME 1076, PAGE 269, DEED RECORDS, HUNT COUNTY, TEXAS, PASSING AT A DISTANCE OF 1459.68 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1479.65 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 0.760 ACRE TRACT AND BEING IN THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2726;

THENCE, NORTH 00 DEGREES 20 MINUTES 25 SECONDS EAST, ALONG THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2726, A DISTANCE OF 53.41 FEET TO A POINT FOR THE SOUTHWEST CORNER OF A 25.232 ACRE TRACT OF LAND CONVEYED TO HENRY BATTLE, AS RECORDED IN VOLUME 875, PAGE 24, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 88 DEGREES 41 MINUTES 02 SECONDS EAST, ALONG A NORTH LINE OF SAID 607.070 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 25.232 ACRE TRACT, PASSING AT A DISTANCE OF 20.12 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS AND PASSING AT A DISTANCE OF 677.92 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 727.92 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 25.232 ACRE TRACT, SAID POINT BEING IN THE APPROXIMATE CENTERLINE OF MIDDLE CADDO CREEK;

THENCE, ALONG THE WEST LINE OF SAID 607.070 ACRE TRACT, THE COMMON EAST LINE OF SAID 25.232 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID MIDDLE CADDO CREEK, THE FOLLOWING COURSES AND DISTANCES:

NORTH 27 DEGREES 58 MINUTES 28 SECONDS WEST, A DISTANCE OF 59.92 FEET TO A POINT FOR CORNER;

NORTH 08 DEGREES 20 MINUTES 01 SECONDS WEST, A DISTANCE OF 70.06 FEET TO A POINT FOR CORNER;
NORTH 21 DEGREES 11 MINUTES 21 SECONDS WEST, A DISTANCE OF 63.88 FEET TO A POINT FOR CORNER;
NORTH 81 DEGREES 53 MINUTES 48 SECONDS WEST, A DISTANCE OF 14.55 FEET TO A POINT FOR CORNER;
SOUTH 10 DEGREES 46 MINUTES 05 SECONDS WEST, A DISTANCE OF 28.38 FEET TO A POINT FOR CORNER;
SOUTH 58 DEGREES 06 MINUTES 15 SECONDS WEST, A DISTANCE OF 29.41 FEET TO A POINT FOR CORNER;
NORTH 74 DEGREES 33 MINUTES 35 SECONDS WEST, A DISTANCE OF 27.08 FEET TO A POINT FOR CORNER;
NORTH 57 DEGREES 46 MINUTES 13 SECONDS WEST, A DISTANCE OF 35.19 FEET TO A POINT FOR CORNER;
SOUTH 87 DEGREES 10 MINUTES 49 SECONDS WEST, A DISTANCE OF 35.35 FEET TO A POINT FOR CORNER;
SOUTH 81 DEGREES 58 MINUTES 10 SECONDS WEST, A DISTANCE OF 43.35 FEET TO A POINT FOR CORNER;
NORTH 58 DEGREES 43 MINUTES 52 SECONDS WEST, A DISTANCE OF 19.00 FEET TO A POINT FOR CORNER;
NORTH 19 DEGREES 25 MINUTES 54 SECONDS WEST, A DISTANCE OF 41.00 FEET TO A POINT FOR CORNER;
NORTH 23 DEGREES 37 MINUTES 45 SECONDS EAST, A DISTANCE OF 20.48 FEET TO A POINT FOR CORNER;
NORTH 66 DEGREES 41 MINUTES 24 SECONDS EAST, A DISTANCE OF 32.79 FEET TO A POINT FOR CORNER;
NORTH 42 DEGREES 19 MINUTES 40 SECONDS EAST, A DISTANCE OF 25.58 FEET TO A POINT FOR CORNER;
NORTH 02 DEGREES 19 MINUTES 46 SECONDS WEST, A DISTANCE OF 17.41 FEET TO A POINT FOR CORNER;
NORTH 52 DEGREES 54 MINUTES 35 SECONDS WEST, A DISTANCE OF 20.52 FEET TO A POINT FOR CORNER;
SOUTH 86 DEGREES 47 MINUTES 44 SECONDS WEST, A DISTANCE OF 24.56 FEET TO A POINT FOR CORNER;
NORTH 42 DEGREES 32 MINUTES 55 SECONDS WEST, A DISTANCE OF 30.93 FEET TO A POINT FOR CORNER;
NORTH 08 DEGREES 06 MINUTES 27 SECONDS EAST, A DISTANCE OF 22.79 FEET TO A POINT FOR CORNER;
NORTH 34 DEGREES 07 MINUTES 54 SECONDS EAST, A DISTANCE OF 8.78 FEET TO A POINT FOR CORNER;
NORTH 60 DEGREES 09 MINUTES 21 SECONDS EAST, A DISTANCE OF 87.63 FEET TO A POINT FOR CORNER;
NORTH 61 DEGREES 36 MINUTES 53 SECONDS WEST, A DISTANCE OF 21.89 FEET TO A POINT FOR CORNER;
NORTH 15 DEGREES 17 MINUTES 11 SECONDS EAST, A DISTANCE OF 19.48 FEET TO A POINT FOR CORNER;

SOUTH 87 DEGREES 48 MINUTES 45 SECONDS EAST, A DISTANCE OF 80.03 FEET TO A POINT FOR CORNER;
NORTH 35 DEGREES 55 MINUTES 56 SECONDS WEST, A DISTANCE OF 35.95 FEET TO A POINT FOR CORNER;
SOUTH 86 DEGREES 55 MINUTES 12 SECONDS WEST, A DISTANCE OF 66.08 FEET TO A POINT FOR CORNER;
NORTH 85 DEGREES 00 MINUTES 46 SECONDS WEST, A DISTANCE OF 71.69 FEET TO A POINT FOR CORNER;
NORTH 31 DEGREES 13 MINUTES 44 SECONDS WEST, A DISTANCE OF 24.20 FEET TO A POINT FOR CORNER;
NORTH 22 DEGREES 33 MINUTES 19 SECONDS EAST, A DISTANCE OF 46.25 FEET TO A POINT FOR CORNER;
NORTH 52 DEGREES 09 MINUTES 50 SECONDS EAST, A DISTANCE OF 19.76 FEET TO A POINT FOR CORNER;
NORTH 81 DEGREES 46 MINUTES 20 SECONDS EAST, A DISTANCE OF 34.00 FEET TO A POINT FOR CORNER;
NORTH 84 DEGREES 20 MINUTES 04 SECONDS EAST, A DISTANCE OF 124.21 FEET TO A POINT FOR CORNER;
NORTH 66 DEGREES 32 MINUTES 42 SECONDS EAST, A DISTANCE OF 61.04 FEET TO A POINT FOR CORNER;
NORTH 48 DEGREES 42 MINUTES 13 SECONDS EAST, A DISTANCE OF 90.94 FEET TO A POINT FOR CORNER;
NORTH 11 DEGREES 45 MINUTES 07 SECONDS EAST, A DISTANCE OF 39.76 FEET TO A POINT FOR CORNER;
NORTH 01 DEGREES 46 MINUTES 13 SECONDS EAST, A DISTANCE OF 75.46 FEET TO A POINT FOR CORNER;
NORTH 72 DEGREES 03 MINUTES 20 SECONDS WEST, A DISTANCE OF 14.32 FEET TO A POINT FOR CORNER;
SOUTH 66 DEGREES 20 MINUTES 07 SECONDS WEST, A DISTANCE OF 42.28 FEET TO A POINT FOR CORNER;
SOUTH 17 DEGREES 47 MINUTES 12 SECONDS WEST, A DISTANCE OF 27.48 FEET TO A POINT FOR CORNER;
SOUTH 15 DEGREES 41 MINUTES 48 SECONDS WEST, A DISTANCE OF 29.71 FEET TO A POINT FOR CORNER;
SOUTH 63 DEGREES 16 MINUTES 46 SECONDS WEST, A DISTANCE OF 25.10 FEET TO A POINT FOR CORNER;
NORTH 69 DEGREES 08 MINUTES 15 SECONDS WEST, A DISTANCE OF 38.77 FEET TO A POINT FOR CORNER;
NORTH 28 DEGREES 07 MINUTES 58 SECONDS WEST, A DISTANCE OF 54.77 FEET TO A POINT FOR CORNER;
NORTH 06 DEGREES 06 MINUTES 29 SECONDS EAST, A DISTANCE OF 38.69 FEET TO A POINT FOR CORNER;
NORTH 52 DEGREES 38 MINUTES 37 SECONDS EAST, A DISTANCE OF 36.29 FEET TO A POINT FOR CORNER;
SOUTH 80 DEGREES 49 MINUTES 15 SECONDS EAST, A DISTANCE OF 33.25 FEET TO A POINT FOR CORNER;

NORTH 58 DEGREES 56 MINUTES 02 SECONDS EAST, A DISTANCE
OF 32.09 FEET TO A POINT FOR CORNER;
NORTH 03 DEGREES 18 MINUTES 59 SECONDS WEST, A DISTANCE
OF 34.86 FEET TO A POINT FOR CORNER;
NORTH 55 DEGREES 14 MINUTES 49 SECONDS WEST, A DISTANCE
OF 18.25 FEET TO A POINT FOR CORNER;
NORTH 76 DEGREES 15 MINUTES 01 SECONDS WEST, A DISTANCE
OF 32.83 FEET TO A POINT FOR CORNER;
SOUTH 64 DEGREES 29 MINUTES 28 SECONDS WEST, A DISTANCE
OF 24.10 FEET TO A POINT FOR CORNER;
SOUTH 80 DEGREES 41 MINUTES 01 SECONDS WEST, A DISTANCE
OF 36.05 FEET TO A POINT FOR CORNER;
NORTH 49 DEGREES 13 MINUTES 41 SECONDS WEST, A DISTANCE
OF 30.68 FEET TO A POINT FOR CORNER;
NORTH 00 DEGREES 51 MINUTES 37 SECONDS EAST, A DISTANCE
OF 43.28 FEET TO A POINT FOR CORNER;
NORTH 30 DEGREES 13 MINUTES 43 SECONDS WEST, A DISTANCE
OF 80.54 FEET TO A POINT FOR CORNER;
NORTH 47 DEGREES 53 MINUTES 35 SECONDS WEST, A DISTANCE
OF 57.16 FEET TO A POINT FOR CORNER;
NORTH 87 DEGREES 31 MINUTES 40 SECONDS WEST, A DISTANCE
OF 45.47 FEET TO A POINT FOR CORNER;
NORTH 70 DEGREES 45 MINUTES 18 SECONDS WEST, A DISTANCE
OF 28.51 FEET TO A POINT FOR CORNER;
NORTH 35 DEGREES 53 MINUTES 06 SECONDS WEST, A DISTANCE
OF 22.87 FEET TO A POINT FOR CORNER;
NORTH 01 DEGREES 00 MINUTES 54 SECONDS WEST, A DISTANCE
OF 49.51 FEET TO A POINT FOR CORNER;
NORTH 08 DEGREES 13 MINUTES 21 SECONDS EAST, A DISTANCE
OF 38.25 FEET TO A POINT FOR CORNER;
NORTH 08 DEGREES 56 MINUTES 09 SECONDS EAST, A DISTANCE
OF 30.49 FEET TO A POINT FOR CORNER;
NORTH 14 DEGREES 19 MINUTES 45 SECONDS WEST, A DISTANCE
OF 72.16 FEET TO A POINT FOR CORNER;
NORTH 25 DEGREES 40 MINUTES 17 SECONDS WEST, A DISTANCE
OF 25.99 FEET TO A POINT FOR CORNER;
NORTH 40 DEGREES 07 MINUTES 54 SECONDS WEST, A DISTANCE
OF 38.60 FEET TO A POINT FOR CORNER;
NORTH 30 DEGREES 50 MINUTES 22 SECONDS WEST, A DISTANCE
OF 46.60 FEET TO A POINT FOR CORNER;
NORTH 77 DEGREES 14 MINUTES 40 SECONDS EAST, A DISTANCE
OF 45.22 FEET TO A POINT FOR CORNER;
NORTH 51 DEGREES 22 MINUTES 33 SECONDS EAST, A DISTANCE
OF 47.17 FEET TO A POINT FOR CORNER;
SOUTH 49 DEGREES 41 MINUTES 47 SECONDS EAST, A DISTANCE
OF 31.93 FEET TO A POINT FOR CORNER;

SOUTH 00 DEGREES 24 MINUTES 54 SECONDS EAST, A DISTANCE OF 44.07 FEET TO A POINT FOR CORNER;
SOUTH 35 DEGREES 43 MINUTES 01 SECONDS EAST, A DISTANCE OF 32.32 FEET TO A POINT FOR CORNER;
SOUTH 59 DEGREES 59 MINUTES 35 SECONDS EAST, A DISTANCE OF 30.34 FEET TO A POINT FOR CORNER;
NORTH 82 DEGREES 08 MINUTES 38 SECONDS EAST, A DISTANCE OF 48.35 FEET TO A POINT FOR CORNER;
NORTH 21 DEGREES 27 MINUTES 13 SECONDS EAST, A DISTANCE OF 28.23 FEET TO A POINT FOR CORNER;
NORTH 05 DEGREES 01 MINUTES 00 SECONDS WEST, A DISTANCE OF 63.46 FEET TO A POINT FOR CORNER;
NORTH 35 DEGREES 42 MINUTES 55 SECONDS EAST, A DISTANCE OF 40.28 FEET TO A POINT FOR CORNER;
SOUTH 38 DEGREES 59 MINUTES 29 SECONDS EAST, A DISTANCE OF 38.97 FEET TO A POINT FOR CORNER;
SOUTH 38 DEGREES 40 MINUTES 17 SECONDS EAST, A DISTANCE OF 71.78 FEET TO A POINT FOR CORNER;
SOUTH 54 DEGREES 31 MINUTES 47 SECONDS EAST, A DISTANCE OF 63.58 FEET TO A POINT FOR CORNER;
NORTH 87 DEGREES 25 MINUTES 38 SECONDS EAST, A DISTANCE OF 85.26 FEET TO A POINT FOR CORNER;
NORTH 31 DEGREES 16 MINUTES 02 SECONDS EAST, A DISTANCE OF 29.92 FEET TO A POINT FOR CORNER;
NORTH 41 DEGREES 02 MINUTES 30 SECONDS WEST, A DISTANCE OF 33.52 FEET TO A POINT FOR CORNER;
NORTH 56 DEGREES 02 MINUTES 49 SECONDS WEST, A DISTANCE OF 115.98 FEET TO A POINT FOR CORNER;
NORTH 23 DEGREES 58 MINUTES 56 SECONDS WEST, A DISTANCE OF 27.56 FEET TO A POINT FOR CORNER;
NORTH 18 DEGREES 38 MINUTES 39 SECONDS EAST, A DISTANCE OF 40.32 FEET TO A POINT FOR CORNER;
NORTH 36 DEGREES 51 MINUTES 02 SECONDS EAST, A DISTANCE OF 76.38 FEET TO A POINT FOR CORNER;
NORTH 53 DEGREES 57 MINUTES 35 SECONDS EAST, A DISTANCE OF 91.34 FEET TO A POINT FOR CORNER;
NORTH 01 DEGREES 12 MINUTES 05 SECONDS EAST, A DISTANCE OF 72.26 FEET TO A POINT FOR CORNER;
NORTH 58 DEGREES 45 MINUTES 11 SECONDS WEST, A DISTANCE OF 46.75 FEET TO A POINT FOR CORNER;
SOUTH 65 DEGREES 33 MINUTES 44 SECONDS WEST, A DISTANCE OF 29.09 FEET TO A POINT FOR CORNER;
SOUTH 44 DEGREES 50 MINUTES 59 SECONDS WEST, A DISTANCE OF 41.06 FEET TO A POINT FOR CORNER;
NORTH 33 DEGREES 14 MINUTES 16 SECONDS WEST, A DISTANCE OF 23.85 FEET TO A POINT FOR CORNER;

NORTH 36 DEGREES 28 MINUTES 00 SECONDS WEST, A DISTANCE OF 75.44 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID 25.232 ACRE TRACT AND BEING IN THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2740;

THENCE, ALONG A NORTH LINE OF SAID 607.070 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2740, THE FOLLOWING COURSES AND DISTANCES:

NORTH 87 DEGREES 23 MINUTES 19 SECONDS EAST, A DISTANCE OF 457.22 FEET TO A POINT FOR CORNER;

NORTH 89 DEGREES 46 MINUTES 30 SECONDS EAST, A DISTANCE OF 193.03 FEET TO A POINT FOR THE SOUTHEAST CORNER OF A TRACT OF LAND CONVEYED AS "TRACT 1" TO LARRY L. BRYANT, AS RECORDED IN VOLUME 491, PAGE 507, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 18 DEGREES 51 MINUTES 07 SECONDS WEST, ALONG A SOUTHWEST LINE OF SAID 607.070 ACRE TRACT, THE COMMON NORTHEAST LINE OF SAID BRYANT TRACT 1 TRACT AND THE COMMON NORTHEAST LINE OF A TRACT OF LAND CONVEYED AS "TRACT 2" TO LARRY L. BRYANT, AS RECORDED IN VOLUME 491, PAGE 507, DEED RECORDS, HUNT COUNTY, TEXAS, PASSING AT A DISTANCE OF 27.02 FEET, A WOOD FENCE CORNER POST FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 2768.37 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A NORTHWEST CORNER OF SAID 607.070 ACRE TRACT AND THE NORTHEAST CORNER OF SAID BRYANT TRACT 2, SAID POINT ALSO BEING ON THE SOUTH LINE OF AFORESAID 40.089 ACRE TRACT;

THENCE, SOUTH 89 DEGREES 57 MINUTES 22 SECONDS EAST, ALONG THE NORTH LINE OF SAID 607.070 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 40.089 ACRE TRACT, A DISTANCE OF 891.69 FEET TO THE POINT OF BEGINNING, AND CONTAINING 625.044 ACRES OF LAND, MORE OR LESS.

TRACT 6

BEING A 1.172 ACRE TRACT OF LAND SITUATED IN THE M.F. JONES SURVEY, ABSTRACT NO. 542, HUNT COUNTY, TEXAS, AND BEING ALL OF A 1.172 ACRE TRACT OF LAND, CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1780, PAGE 53, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS. SAID 1.172 ACRE TRACT, WITH BEARING BASIS OF GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD WITH AN ALUMINUM TXDOT MONUMENT FOUND FOR THE NORTHWEST CORNER OF SAID 1.172 ACRE TRACT, A NORTHEAST CORNER OF A 13.6509 ACRE TRACT OF LAND

CONVEYED AS "PARCEL 27" TO THE STATE OF TEXAS, AS RECORDED IN VOLUME 1581, PAGE 81, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE SOUTHEAST CORNER OF A 16.7163 ACRE TRACT OF LAND CONVEYED AS "PARCEL 26" TO THE STATE OF TEXAS, AS RECORDED IN VOLUME 1617, PAGE 466, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, SAID POINT ALSO BEING ON THE SOUTH LINE OF A 40.089 ACRE TRACT OF LAND CONVEYED TO AREY FAMILY LIVING TRUST, AS RECORDED IN VOLUME 756, PAGE 263, DEED RECORDS, HUNT COUNTY, TEXAS; THENCE, SOUTH 89 DEGREES 57 MINUTES 22 SECONDS EAST, ALONG THE NORTH LINE OF SAID 1.172 ACRE TRACT, THE COMMON SOUTH LINE OF SAID 40.089 ACRE TRACT, THE COMMON SOUTH LINE OF A 2.162 ACRE TRACT OF LAND CONVEYED TO RICHARD A. HAGOOD, AS RECORDED IN VOLUME 879, PAGE 524, DEED RECORDS, HUNT COUNTY, TEXAS AND THE COMMON SOUTH LINE OF A 1.003 ACRE TRACT OF LAND CONVEYED TO PEGGY ELLIOTT, AS RECORDED IN VOLUME 778, PAGE 405, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 425.81 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHEAST CORNER OF SAID 1.172 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 1.003 ACRE TRACT, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF F.M. 36 (A 80' RIGHT-OF-WAY); THENCE, SOUTH 00 DEGREES 26 MINUTES 28 SECONDS EAST, ALONG THE EAST LINE OF SAID 1.172 ACRE TRACT AND THE COMMON WEST RIGHT-OF-WAY LINE OF SAID F.M. 36, A DISTANCE OF 159.69 FEET TO A 5/8 INCH IRON ROD WITH A ALUMINUM TXDOT MONUMENT FOUND FOR A SOUTHEAST CORNER OF SAID 1.172 ACRE TRACT AND A NORTHEAST CORNER OF SAID 13.6509 ACRE TRACT; THENCE, ALONG THE SOUTH LINE OF SAID 1.172 ACRE TRACT AND THE COMMON NORTHEAST LINE OF SAID 13.6509 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 60 DEGREES 25 MINUTES 29 SECONDS WEST, A DISTANCE OF 97.50 FEET TO A POINT FOR CORNER;

NORTH 58 DEGREES 41 MINUTES 38 SECONDS WEST, A DISTANCE OF 400.56 FEET TO THE POINT OF BEGINNING, CONTAINING 1.172 ACRES OF LAND, MORE OR LESS.

TRACT 7

BEING A 255.975 ACRE TRACT OF LAND SITUATED IN THE ENOS MURPHY SURVEY, ABSTRACT NO. 647, HUNT COUNTY, TEXAS, AND BEING ALL OF A 255.975 ACRE TRACT OF LAND CONVEYED AS "TRACT ONE" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1637, PAGE 620, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS (O.R.H.C.T.), SAID 255.975 ACRE TRACT WITH REFERENCE BEARING OF GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004,

CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 255.975 ACRE TRACT AND THE SOUTHWEST CORNER OF A 1.548 ACRE TRACT OF LAND CONVEYED TO BILLY CAUSEY, AS RECORDED IN VOLUME 1423, PAGE 135, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND BEING ON THE NORTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 380 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE, ALONG THE SOUTH LINE OF SAID 255.975 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 380, THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 21 MINUTES 30 SECONDS WEST, A DISTANCE OF 1216.11 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 39 DEGREES 00 MINUTES 38 SECONDS, A RADIUS OF 2025.45 FEET, A CHORD BEARING OF NORTH 69 DEGREES 51 MINUTES 10 SECONDS WEST, A CHORD LENGTH OF 1352.57 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC LENGTH OF 1379.06 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

NORTH 50 DEGREES 20 MINUTES 51 SECONDS WEST, A DISTANCE OF 2810.50 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 255.975 ACRE TRACT;

THENCE, NORTH 00 DEGREES 00 MINUTES 39 SECONDS EAST, ALONG THE WEST LINE OF SAID 255.975 ACRE TRACT, THE COMMON EAST LINE OF A TRACT OF LAND CONVEYED TO FLOYD INDEPENDENT SCHOOL DISTRICT, AS RECORDED IN VOLUME 389, PAGE 415, DEED RECORDS, HUNT COUNTY, TEXAS AND THE COMMON EAST LINE OF A TRACT OF LAND CONVEYED TO BLAND I.S.D., AS RECORDED IN VOLUME 147, PAGE 216, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, PASSING AT A DISTANCE OF 1075.86 FEET A 1/2 INCH IRON ROD FOUND, CONTINUING IN ALL A TOTAL DISTANCE OF 1077.01 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 255.975 ACRE TRACT AND THE NORTHEAST CORNER OF SAID BLAND I.S.D. TRACT, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF KANSAS CITY SOUTHERN RAILROAD (A 100' RIGHT-OF-WAY);

THENCE, SOUTH 84 DEGREES 06 MINUTES 14 SECONDS EAST, ALONG A NORTH LINE OF SAID 255.975 ACRE TRACT AND THE COMMON SOUTH RIGHT-OF-WAY LINE OF SAID KANSAS CITY SOUTHERN RAILROAD, A DISTANCE OF 4359.60 FEET TO A POINT FOR A NORTHEAST CORNER OF SAID 255.975 ACRE TRACT AND THE NORTHWEST CORNER OF A 2.001 ACRE TRACT OF LAND CONVEYED TO GEORGE S. WILSON, AS RECORDED IN VOLUME 1247, PAGE 514, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 00 DEGREES 11 MINUTES 51 SECONDS EAST, ALONG AN EAST LINE OF SAID 255.975 ACRE TRACT AND THE COMMON WEST LINE OF SAID 2.001 ACRE TRACT, PASSING AT A DISTANCE OF 0.45 FEET, A 1/2 INCH IRON ROD FOUND, CONTINUING IN ALL A TOTAL DISTANCE OF 296.81 FEET TO A 3/8 INCH IRON ROD FOUND FOR A INTERIOR ELL CORNER OF SAID 255.975 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 2.001 ACRE TRACT;

THENCE, SOUTH 84 DEGREES 06 MINUTES 47 SECONDS EAST, ALONG A NORTH LINE OF SAID 255.975 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 2.001 ACRE TRACT, A DISTANCE OF 295.50 FEET TO A 1/2 INCH IRON ROD FOUND FOR A NORTHEAST CORNER OF SAID 255.975 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 2.001 ACRE TRACT, SAID POINT BEING ON THE WEST LINE OF PALO VERDE RANCH, AN ADDITION TO HUNT COUNTY, AS RECORDED IN CABINET C, PAGE 239, PLAT RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 00 DEGREES 24 MINUTES 04 SECONDS EAST, ALONG AN EAST LINE OF SAID 255.975 ACRE TRACT, THE COMMON WEST LINE OF SAID PALO VERDE RANCH AND THE COMMON WEST LINE OF AFORESAID 1.548 ACRE TRACT, A DISTANCE OF 2575.08 FEET TO THE POINT OF BEGINNING, AND CONTAINING 255.975 ACRES OF LAND MORE OR LESS.

TRACT 8

BEING A 144.638 ACRE TRACT OF LAND SITUATED IN THE ENOS MURPHY SURVEY, ABSTRACT NO. 647, HUNT COUNTY, TEXAS, AND BEING ALL OF A 144.638 ACRE TRACT OF LAND CONVEYED AS "TRACT D" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1637, PAGE 551, OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS. SAID 144.638 ACRE TRACT WITH REFERENCE BEARING OF GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2 INCH CAPPED IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 144.638 ACRE TRACT AND THE SOUTHEAST CORNER OF A 99.45 ACRE TRACT OF LAND CONVEYED TO DAWN MORGAN AND COLLEEN ANDREWS, AS RECORDED IN VOLUME 81, PAGE 830, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND BEING ON THE NORTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 380 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE, NORTH 01 DEGREES 18 MINUTES 23 SECONDS WEST, ALONG THE WEST LINE OF SAID 144.638 ACRE TRACT AND THE COMMON EAST LINE OF SAID 99.45 ACRE TRACT, A DISTANCE OF 572.27 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR CORNER;

THENCE, SOUTH 88 DEGREES 41 MINUTES 42 SECONDS WEST, ALONG A SOUTH LINE OF SAID 144.638 ACRE TRACT AND A COMMON NORTH LINE OF SAID 99.45 ACRE TRACT, A DISTANCE OF 164.47 FEET TO A 3/8 INCH IRON ROD FOUND FOR CORNER;

THENCE, NORTH 00 DEGREES 10 MINUTES 33 SECONDS EAST, ALONG THE WEST LINE OF SAID 144.638 ACRE TRACT AND THE COMMON EAST LINE OF SAID 99.45 ACRE TRACT, PASSING AT A DISTANCE OF 2003.03 FEET A 1/2 INCH CAPPED IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 2003.56 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 144.638 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 99.45 ACRE TRACT, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF KANSAS CITY SOUTHERN RAILROAD (A 100' RIGHT-OF-WAY);

THENCE, SOUTH 84 DEGREES 05 MINUTES 43 SECONDS EAST, ALONG THE NORTH LINE OF SAID 144.638 ACRE TRACT AND THE COMMON SOUTH RIGHT-OF-WAY LINE OF SAID KANSAS CITY SOUTHERN RAILROAD, A DISTANCE OF 2964.04 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID 144.638 ACRE TRACT, SAID POINT BEING IN THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 1065 (A VARIABLE WIDTH RIGHT-OF-WAY), FROM WHICH A 1/2 INCH CAPPED IRON ROD FOUND BEARS, NORTH 84 DEGREES 43 MINUTES 30 SECONDS WEST, A DISTANCE OF 26.47 FEET AND A 1/2 INCH CAPPED IRON ROD FOUND BEARS, SOUTH 00 DEGREES 52 MINUTES 45 SECONDS EAST, A DISTANCE OF 0.28 FEET;

THENCE, SOUTH 00 DEGREES 52 MINUTES 45 SECONDS EAST, ALONG THE EAST LINE OF SAID 144.638 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 1065, A DISTANCE OF 1061.49 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR A SOUTHEAST CORNER OF SAID 144.638 ACRE TRACT AND THE NORTHEAST CORNER OF A 2.500 ACRE TRACT OF LAND CONVEYED TO GARY SLACK AND SANDRA SLACK, AS RECORDED IN VOLUME 276, PAGE 581, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 27 MINUTES 55 SECONDS WEST, ALONG A SOUTH LINE OF SAID 144.638 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 2.500 ACRE TRACT, A DISTANCE OF 686.05 FEET TO A 3/8 INCH IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 144.638 ACRE TRACT AND THE NORTHWEST CORNER OF SAID 2.500 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 24 MINUTES 09 SECONDS EAST, ALONG THE EAST LINE SAID 144.638 ACRE TRACT, A DISTANCE OF 1260.19 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 144.638 ACRE TRACT AND THE SOUTHWEST CORNER OF A 2.326 ACRE TRACT OF LAND CONVEYED TO WALTER WILLIAMS AND DIANNA WILLIAMS, AS RECORDED IN VOLUME 450, PAGE 169, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND BEING ON THE NORTH RIGHT-OF-WAY LINE OF AFORESAID U.S. HIGHWAY 380;

THENCE, NORTH 89 DEGREES 40 MINUTES 04 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 144.638 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY LINE OF SAID U.S. 380, A DISTANCE OF 695.21 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF A 0.99 ACRE TRACT OF LAND CONVEYED TO KELLY HARDIN AND BEITA HARDIN, AS RECORDED IN VOLUME 164, PAGE 205, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 02 DEGREES 16 MINUTES 10 SECONDS EAST, ALONG THE EAST LINE OF SAID 0.99 ACRE TRACT, A DISTANCE OF 303.40 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 0.99 ACRE TRACT;

THENCE, NORTH 89 DEGREES 00 MINUTES 12 SECONDS WEST, ALONG THE NORTH LINE OF SAID 0.99 ACRE TRACT, A DISTANCE OF 128.78 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 0.99 ACRE TRACT;

THENCE, SOUTH 06 DEGREES 37 MINUTES 33 SECONDS WEST, ALONG THE WEST LINE OF SAID 0.99 ACRE TRACT, A DISTANCE OF 307.57 FEET TO A 3/8 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 0.99 ACRE TRACT, SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF AFORESAID U.S. HIGHWAY 380;

THENCE, ALONG THE SOUTH LINE OF SAID 144.638 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 380, THE FOLLOWING COURSES AND DISTANCES:

NORTH 87 DEGREES 51 MINUTES 23 SECONDS WEST, A DISTANCE OF 965.93 FEET TO A 5/8 INCH CAPPED IRON ROD WITH A YELLOW PLACTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 82 DEGREES 08 MINUTES 45 SECONDS WEST, A DISTANCE OF 100.50 FEET TO A 5/8 INCH CAPPED IRON ROD WITH A YELLOW PLACTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 87 DEGREES 51 MINUTES 23 SECONDS WEST, A DISTANCE OF 129.20 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR CORNER AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 00 DEGREES 44 MINUTES 25 SECONDS, A RADIUS OF 5789.71 FEET, A CHORD BEARING OF NORTH 88 DEGREES 13 MINUTES 36 SECONDS WEST, A CHORD LENGTH OF 74.79 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC LENGTH OF 74.79 FEET, TO THE POINT OF BEGINNING, AND CONTAINING 144.638 ACRES OF LAND, MORE OR LESS.

TRACT 9

BEING A 1036.347 ACRE TRACT OF LAND SITUATED IN THE A.J. DAVIS SURVEY, ABSTRACT NO. 273, THE WILLIAM EARL SURVEY, ABSTRACT NO. 287 AND THE HIRAM THOMPSON SURVEY, ABSTRACT NO. 1030, HUNT COUNTY, TEXAS, AND BEING ALL OF A 49.640 ACRE TRACT OF LAND, CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1717, PAGE 264, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND

BEING ALL OF A 160.531 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1551, PAGE 268, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING ALL OF A 107.419 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1777, PAGE 456, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING ALL OF A 109.434 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1729, PAGE 261, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING PART OF A 486.151 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1632, PAGE 199, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING ALL OF A 130.725 ACRE TRACT OF LAND CONVEYED TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1551, PAGE 268, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS. SAID 1036.347 ACRE TRACT, WITH REFERENCE BEARING OF GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID 49.640 ACRE TRACT AND THE SOUTHEAST CORNER OF A 45 ACRE TRACT OF LAND CONVEYED TO ALTON WEATHERLY AND WIFE, BEULAH WEATHERLY, AS RECORDED IN VOLUME 649, PAGE 485, DEED RECORDS, HUNT COUNTY, TEXAS, SAID POINT BEING ON THE NORTHWEST RIGHT-OF-WAY LINE OF THE NORTHEAST TEXAS RURAL RAIL TRANSPORTATION DISTRICT RIGHT-OF-WAY (A 100' RIGHT-OF-WAY), AS RECORDED IN VOLUME 987, PAGE 38, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 02 MINUTES 59 SECONDS WEST, ALONG THE WEST LINE OF SAID 49.640 ACRE TRACT, THE COMMON EAST LINE OF SAID 45 ACRE TRACT AND THE COMMON EAST LINE OF A 60 ACRE TRACT OF LAND CONVEYED AS "TRACT 1" TO ALTON RAY WEATHERLY, AS RECORDED IN VOLUME 233, PAGE 778, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 1408.34 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHWEST CORNER OF SAID 49.640 ACRE TRACT AND AN INTERIOR ELL CORNER OF SAID 60 ACRE TRACT;

THENCE, NORTH 88 DEGREES 41 MINUTES 55 SECONDS EAST, ALONG THE NORTH LINE OF SAID 49.640 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 60 ACRE TRACT, A DISTANCE OF 990.55 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID 60 ACRE TRACT AND A SOUTHWEST CORNER OF AFORESAID 160.531 ACRE TRACT;

THENCE, NORTH 00 DEGREES 19 MINUTES 00 SECONDS WEST, ALONG THE WEST LINE OF SAID 160.531 ACRE TRACT AND THE COMMON EAST LINE OF SAID 60 ACRE TRACT, PASSING AT A DISTANCE OF 2033.82 FEET A 1/2 INCH IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "STOVALL" FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 2064.15 FEET TO A 1/2 INCH IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 160.531 ACRE TRACT, SAID POINT BEING IN THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 2152 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, ALONG THE SOUTH LINE OF SAID 160.531 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2152, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 83 DEGREES 19 MINUTES 04 SECONDS WEST, A DISTANCE OF 235.03 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 89 DEGREES 03 MINUTES 33 SECONDS WEST, A DISTANCE OF 1005.35 FEET TO A 1/2 INCH IRON ROD FOUND FOR A SOUTHWEST CORNER OF SAID 160.531 ACRE TRACT AND THE NORTHWEST CORNER OF AFORESAID 60 ACRE TRACT, SAID POINT BEING ON THE EAST LINE OF A 101.94 ACRE TRACT OF LAND CONVEYED TO MARTHA FAYE MAREK "TRUSTEE", AS RECORDED IN VOLUME 920, PAGE 216, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 03 MINUTES 33 SECONDS EAST, ALONG THE WEST LINE OF SAID 160.531 ACRE TRACT AND THE COMMON EAST LINE OF SAID 101.94 ACRE TRACT, A DISTANCE OF 1568.33 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHWEST CORNER OF SAID 160.531 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 101.94 ACRE TRACT, SAID POINT BEING ON THE SOUTH LINE OF A 145.49 ACRE TRACT OF LAND CONVEYED TO BILL WAIDELICH AND DAWN WAIDELICH, AS RECORDED IN VOLUME 1214, PAGE 633, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 14 MINUTES 06 SECONDS EAST, ALONG THE NORTH LINE OF SAID 160.531 ACRE TRACT, A DISTANCE OF 2777.03 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A SOUTHWEST CORNER OF AFORESAID 107.419 ACRE TRACT, SAID POINT BEING ON THE EAST LINE OF A 46.704 ACRE TRACT OF LAND CONVEYED TO WILLIAM C. WAIDELICH AND WIFE, DAWN L. WAIDELICH BY DEED RECORDED IN VOLUME 1465, PAGE 250, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE WEST LINE OF SAID 107.419 ACRE TRACT AND THE COMMON EAST LINE OF SAID 46.704 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 16 MINUTES 59 SECONDS WEST, A DISTANCE OF 1702.68 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN INTERIOR ELL CORNER OF SAID 107.419 ACRE TRACT AND A NORTHEAST CORNER OF SAID 46.704 ACRE TRACT;

SOUTH 89 DEGREES 43 MINUTES 02 SECONDS WEST, A DISTANCE OF 427.44 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A SOUTHWEST CORNER OF SAID 107.419 ACRE TRACT AND AN INTERIOR ELL CORNER OF SAID 46.704 ACRE TRACT;

NORTH 00 DEGREES 17 MINUTES 12 SECONDS WEST, PASSING AT A DISTANCE OF 476.12 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 501.12 FEET TO A POINT FOR THE NORTHWEST CORNER OF SAID 107.419 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 46.704 ACRE TRACT, SAID POINT BEING ON THE SOUTH LINE OF A 63.75 ACRE TRACT OF LAND CONVEYED TO WILLIAM DALE SIEBERT AND DEBBIE LYNN SIEBERT, AS RECORDED IN VOLUME 1298, PAGE 608, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND BEING IN THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 2150 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, SOUTH 89 DEGREES 34 MINUTES 56 SECONDS EAST, ALONG THE NORTH LINE OF SAID 107.419 ACRE TRACT, THE COMMON SOUTH LINE OF SAID 63.75 ACRE TRACT AND THE COMMON SOUTH LINE OF A 96.68 ACRE TRACT OF LAND CONVEYED TO BO AUSTIN MOSELEY, AS RECORDED IN VOLUME 771, PAGE 60, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, PASSING AT A DISTANCE OF 371.38 FEET, A 5/8 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF A SAID 63.75 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 96.68 ACRE TRACT, CONTINUING IN ALL A TOTAL DISTANCE OF 2078.98 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID 107.419 ACRE TRACT AND THE NORTHWEST CORNER OF AFORESAID 109.434 ACRE TRACT, FROM WHICH A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS BEARS, SOUTH 00 DEGREES 32 MINUTES 36 SECONDS WEST, A DISTANCE OF 25.00 FEET;

THENCE, SOUTH 89 DEGREES 34 MINUTES 50 SECONDS EAST, ALONG THE NORTH LINE OF SAID 109.434 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 96.68 ACRE TRACT, PASSING AT A DISTANCE OF 1898.82 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHEAST CORNER OF SAID 109.434 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 96.68 ACRE TRACT, CONTINUING IN ALL A TOTAL DISTANCE OF 1909.26 FEET, A 1/2 INCH IRON ROD FOUND ON THE WEST LINE OF AFORESAID 486.151 ACRE TRACT;

THENCE, NORTH 01 DEGREES 11 MINUTES 20 SECONDS EAST, A DISTANCE OF 105.38 FEET TO A POINT FOR A NORTHWEST CORNER OF SAID 486.151 ACRE TRACT AND THE SOUTHWEST CORNER OF A 141.842 ACRE TRACT OF LAND CONVEYED AS "TRACT 3" TO THOMAS BETHELL OLIVER, AS RECORDED IN VOLUME 1331, PAGE 543, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, ALONG THE NORTH LINE OF SAID 486.151 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 141.842 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 89 DEGREES 57 MINUTES 59 SECONDS EAST, PASSING AT A DISTANCE OF 20.80 FEET, A 3/8 INCH IRON ROD FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1883.17 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 89 DEGREES 47 MINUTES 39 SECONDS EAST, A DISTANCE OF 2130.29 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN INTERIOR ELL CORNER OF SAID 486.151 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 141.842 ACRE TRACT;

THENCE, NORTH 00 DEGREES 25 MINUTES 08 SECONDS EAST, ALONG THE WEST LINE OF SAID 486.151 ACRE TRACT, THE COMMON EAST LINE OF SAID 141.842 ACRE TRACT AND THE COMMON EAST LINE OF A 100.078 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO THOMAS BETHELL OLIVER, AS RECORDED IN VOLUME 1331, PAGE 543, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 3352.95 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A NORTHWEST CORNER OF SAID 486.151 ACRE TRACT AND A NORTHEAST CORNER OF SAID 100.078 ACRE TRACT, SAID POINT BEING ON THE SOUTH LINE OF A 1.6 ACRE TRACT OF LAND CONVEYED TO WILLIAM RENOLD SCHWENE AND WIFE, BETTY MARIE SCHWENE, AS RECORDED IN VOLUME 741, PAGE 167, DEED RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 89 DEGREES 40 MINUTES 23 SECONDS EAST, ALONG A NORTH LINE OF SAID 486.151 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 1.6 ACRE TRACT, A DISTANCE OF 91.11 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHEAST CORNER OF SAID 1.6 ACRE TRACT;

THENCE, NORTH 00 DEGREES 19 MINUTES 37 SECONDS WEST, ALONG A WEST LINE OF SAID 486.151 ACRE TRACT AND THE COMMON EAST LINE OF SAID 1.6 ACRE TRACT, A DISTANCE OF 191.25 FEET TO A POINT FOR CORNER ON THE SOUTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 380 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE, OVER AND ACROSS SAID 486.151 ACRE TRACT, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 380, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 88 DEGREES 09 MINUTES 41 SECONDS EAST, A DISTANCE OF 101.10 FEET TO A POINT FOR CORNER;

SOUTH 89 DEGREES 53 MINUTES 20 SECONDS EAST, A DISTANCE OF 1840.99 FEET TO A POINT FOR CORNER IN THE APPROXIMATE CENTERLINE OF EAST CADDO CREEK;

THENCE, ALONG THE EAST LINE OF SAID 486.151 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID EAST CADDO CREEK, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 25 DEGREES 36 MINUTES 22 SECONDS EAST, A DISTANCE OF 35.71 FEET TO A POINT FOR CORNER;

SOUTH 25 DEGREES 40 MINUTES 23 SECONDS EAST, A DISTANCE OF 50.12 FEET TO A POINT FOR CORNER;

SOUTH 45 DEGREES 18 MINUTES 51 SECONDS EAST, A DISTANCE OF 54.74 FEET TO A POINT FOR CORNER;

SOUTH 40 DEGREES 46 MINUTES 48 SECONDS EAST, A DISTANCE OF 55.18 FEET TO A POINT FOR CORNER;

SOUTH 23 DEGREES 12 MINUTES 03 SECONDS EAST, A DISTANCE OF 49.94 FEET TO A POINT FOR CORNER;

SOUTH 22 DEGREES 37 MINUTES 02 SECONDS EAST, A DISTANCE OF 56.38 FEET TO A POINT FOR CORNER;

SOUTH 35 DEGREES 48 MINUTES 36 SECONDS EAST, A DISTANCE OF 34.90 FEET TO A POINT FOR CORNER;

SOUTH 46 DEGREES 25 MINUTES 52 SECONDS EAST, A DISTANCE OF 109.50 FEET TO A POINT FOR CORNER;

SOUTH 20 DEGREES 12 MINUTES 36 SECONDS EAST, A DISTANCE OF 52.08 FEET TO A POINT FOR CORNER;

SOUTH 16 DEGREES 48 MINUTES 12 SECONDS WEST, A DISTANCE OF 57.47 FEET TO A POINT FOR CORNER;

SOUTH 30 DEGREES 57 MINUTES 58 SECONDS WEST, A DISTANCE OF 49.17 FEET TO A POINT FOR CORNER;

NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 25.53 FEET TO A POINT FOR CORNER;

NORTH 83 DEGREES 21 MINUTES 07 SECONDS WEST, A DISTANCE OF 59.04 FEET TO A POINT FOR CORNER;

NORTH 71 DEGREES 47 MINUTES 41 SECONDS WEST, A DISTANCE OF 158.23 FEET TO A POINT FOR CORNER;

SOUTH 64 DEGREES 21 MINUTES 25 SECONDS WEST, A DISTANCE OF 41.64 FEET TO A POINT FOR CORNER;

SOUTH 34 DEGREES 31 MINUTES 50 SECONDS WEST, A DISTANCE OF 47.87 FEET TO A POINT FOR CORNER;

SOUTH 62 DEGREES 09 MINUTES 54 SECONDS WEST, A DISTANCE OF 40.28 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 52 MINUTES 02 SECONDS WEST, A DISTANCE OF 36.85 FEET TO A POINT FOR CORNER;

NORTH 45 DEGREES 36 MINUTES 47 SECONDS WEST, A DISTANCE OF 47.60 FEET TO A POINT FOR CORNER;

SOUTH 50 DEGREES 27 MINUTES 29 SECONDS WEST, A DISTANCE
OF 33.95 FEET TO A POINT FOR CORNER;
SOUTH 15 DEGREES 27 MINUTES 50 SECONDS WEST, A DISTANCE
OF 44.64 FEET TO A POINT FOR CORNER;
SOUTH 25 DEGREES 23 MINUTES 54 SECONDS EAST, A DISTANCE
OF 56.80 FEET TO A POINT FOR CORNER;
SOUTH 70 DEGREES 28 MINUTES 51 SECONDS EAST, A DISTANCE
OF 65.46 FEET TO A POINT FOR CORNER;
SOUTH 56 DEGREES 46 MINUTES 51 SECONDS EAST, A DISTANCE
OF 37.55 FEET TO A POINT FOR CORNER;
SOUTH 73 DEGREES 19 MINUTES 16 SECONDS EAST, A DISTANCE
OF 81.91 FEET TO A POINT FOR CORNER;
SOUTH 64 DEGREES 09 MINUTES 46 SECONDS EAST, A DISTANCE
OF 73.55 FEET TO A POINT FOR CORNER;
SOUTH 22 DEGREES 23 MINUTES 30 SECONDS WEST, A DISTANCE
OF 28.48 FEET TO A POINT FOR CORNER;
SOUTH 34 DEGREES 23 MINUTES 46 SECONDS WEST, A DISTANCE
OF 90.07 FEET TO A POINT FOR CORNER;
SOUTH 80 DEGREES 24 MINUTES 39 SECONDS WEST, A DISTANCE
OF 62.13 FEET TO A POINT FOR CORNER;
SOUTH 10 DEGREES 45 MINUTES 23 SECONDS WEST, A DISTANCE
OF 48.93 FEET TO A POINT FOR CORNER;
SOUTH 29 DEGREES 44 MINUTES 38 SECONDS EAST, A DISTANCE
OF 92.80 FEET TO A POINT FOR CORNER;
SOUTH 02 DEGREES 05 MINUTES 57 SECONDS EAST, A DISTANCE
OF 36.82 FEET TO A POINT FOR CORNER;
SOUTH 34 DEGREES 45 MINUTES 50 SECONDS WEST, A DISTANCE
OF 30.29 FEET TO A POINT FOR CORNER;
SOUTH 70 DEGREES 15 MINUTES 44 SECONDS WEST, A DISTANCE
OF 38.39 FEET TO A POINT FOR CORNER;
SOUTH 86 DEGREES 21 MINUTES 32 SECONDS WEST, A DISTANCE
OF 41.41 FEET TO A POINT FOR CORNER;
SOUTH 46 DEGREES 48 MINUTES 17 SECONDS WEST, A DISTANCE
OF 36.43 FEET TO A POINT FOR CORNER;
SOUTH 04 DEGREES 24 MINUTES 19 SECONDS EAST, A DISTANCE
OF 68.88 FEET TO A POINT FOR CORNER;
SOUTH 33 DEGREES 46 MINUTES 04 SECONDS EAST, A DISTANCE
OF 49.33 FEET TO A POINT FOR CORNER;
NORTH 71 DEGREES 58 MINUTES 56 SECONDS EAST, A DISTANCE
OF 137.16 FEET TO A POINT FOR CORNER;
SOUTH 41 DEGREES 28 MINUTES 06 SECONDS EAST, A DISTANCE
OF 47.36 FEET TO A POINT FOR CORNER;
SOUTH 21 DEGREES 37 MINUTES 14 SECONDS EAST, A DISTANCE
OF 51.95 FEET TO A POINT FOR CORNER;
SOUTH 61 DEGREES 12 MINUTES 01 SECONDS EAST, A DISTANCE
OF 52.64 FEET TO A POINT FOR CORNER;

SOUTH 44 DEGREES 50 MINUTES 44 SECONDS EAST, A DISTANCE OF 45.41 FEET TO A POINT FOR CORNER;
SOUTH 27 DEGREES 09 MINUTES 55 SECONDS EAST, A DISTANCE OF 48.59 FEET TO A POINT FOR CORNER;
SOUTH 24 DEGREES 25 MINUTES 45 SECONDS WEST, A DISTANCE OF 36.62 FEET TO A POINT FOR CORNER;
SOUTH 59 DEGREES 09 MINUTES 28 SECONDS WEST, A DISTANCE OF 22.19 FEET TO A POINT FOR CORNER;
NORTH 53 DEGREES 25 MINUTES 12 SECONDS WEST, A DISTANCE OF 62.19 FEET TO A POINT FOR CORNER;
SOUTH 88 DEGREES 37 MINUTES 00 SECONDS WEST, A DISTANCE OF 64.81 FEET TO A POINT FOR CORNER;
SOUTH 67 DEGREES 02 MINUTES 28 SECONDS WEST, A DISTANCE OF 68.99 FEET TO A POINT FOR CORNER;
SOUTH 21 DEGREES 27 MINUTES 30 SECONDS WEST, A DISTANCE OF 59.43 FEET TO A POINT FOR CORNER;
SOUTH 24 DEGREES 42 MINUTES 37 SECONDS EAST, A DISTANCE OF 47.30 FEET TO A POINT FOR CORNER;
SOUTH 38 DEGREES 19 MINUTES 33 SECONDS EAST, A DISTANCE OF 57.09 FEET TO A POINT FOR CORNER;
SOUTH 43 DEGREES 23 MINUTES 35 SECONDS EAST, A DISTANCE OF 58.17 FEET TO A POINT FOR CORNER;
SOUTH 14 DEGREES 33 MINUTES 05 SECONDS WEST, A DISTANCE OF 33.68 FEET TO A POINT FOR CORNER;
SOUTH 36 DEGREES 58 MINUTES 45 SECONDS WEST, A DISTANCE OF 38.64 FEET TO A POINT FOR CORNER;
SOUTH 72 DEGREES 11 MINUTES 16 SECONDS WEST, A DISTANCE OF 51.29 FEET TO A POINT FOR CORNER;
SOUTH 71 DEGREES 13 MINUTES 55 SECONDS WEST, A DISTANCE OF 38.54 FEET TO A POINT FOR CORNER;
SOUTH 08 DEGREES 07 MINUTES 42 SECONDS EAST, A DISTANCE OF 43.84 FEET TO A POINT FOR CORNER;
SOUTH 08 DEGREES 59 MINUTES 59 SECONDS EAST, A DISTANCE OF 41.61 FEET TO A POINT FOR CORNER;
SOUTH 16 DEGREES 27 MINUTES 12 SECONDS WEST, A DISTANCE OF 44.05 FEET TO A POINT FOR CORNER;
SOUTH 85 DEGREES 01 MINUTES 38 SECONDS WEST, A DISTANCE OF 39.94 FEET TO A POINT FOR CORNER;
NORTH 62 DEGREES 51 MINUTES 43 SECONDS WEST, A DISTANCE OF 66.82 FEET TO A POINT FOR CORNER;
SOUTH 61 DEGREES 17 MINUTES 22 SECONDS WEST, A DISTANCE OF 33.01 FEET TO A POINT FOR CORNER;
SOUTH 20 DEGREES 41 MINUTES 04 SECONDS WEST, A DISTANCE OF 53.28 FEET TO A POINT FOR CORNER;
SOUTH 15 DEGREES 11 MINUTES 21 SECONDS EAST, A DISTANCE OF 50.90 FEET TO A POINT FOR CORNER;

SOUTH 28 DEGREES 52 MINUTES 22 SECONDS EAST, A DISTANCE OF 55.94 FEET TO A POINT FOR CORNER;
SOUTH 07 DEGREES 28 MINUTES 58 SECONDS WEST, A DISTANCE OF 48.60 FEET TO A POINT FOR CORNER;
SOUTH 69 DEGREES 40 MINUTES 09 SECONDS WEST, A DISTANCE OF 39.87 FEET TO A POINT FOR CORNER;
NORTH 70 DEGREES 51 MINUTES 40 SECONDS WEST, A DISTANCE OF 63.99 FEET TO A POINT FOR CORNER;
SOUTH 56 DEGREES 46 MINUTES 56 SECONDS WEST, A DISTANCE OF 60.62 FEET TO A POINT FOR CORNER;
SOUTH 09 DEGREES 03 MINUTES 25 SECONDS EAST, A DISTANCE OF 56.57 FEET TO A POINT FOR CORNER;
SOUTH 26 DEGREES 27 MINUTES 47 SECONDS WEST, A DISTANCE OF 48.69 FEET TO A POINT FOR CORNER;
NORTH 84 DEGREES 20 MINUTES 44 SECONDS WEST, A DISTANCE OF 75.21 FEET TO A POINT FOR CORNER;
NORTH 74 DEGREES 04 MINUTES 53 SECONDS WEST, A DISTANCE OF 49.73 FEET TO A POINT FOR CORNER;
SOUTH 38 DEGREES 58 MINUTES 17 SECONDS WEST, A DISTANCE OF 72.37 FEET TO A POINT FOR CORNER;
SOUTH 14 DEGREES 20 MINUTES 24 SECONDS WEST, A DISTANCE OF 64.86 FEET TO A POINT FOR CORNER;
SOUTH 66 DEGREES 39 MINUTES 01 SECONDS EAST, A DISTANCE OF 132.16 FEET TO A POINT FOR CORNER;
NORTH 88 DEGREES 52 MINUTES 22 SECONDS EAST, A DISTANCE OF 36.45 FEET TO A POINT FOR CORNER;
SOUTH 65 DEGREES 59 MINUTES 20 SECONDS EAST, A DISTANCE OF 31.29 FEET TO A POINT FOR CORNER;
SOUTH 08 DEGREES 20 MINUTES 17 SECONDS WEST, A DISTANCE OF 61.26 FEET TO A POINT FOR CORNER;
SOUTH 58 DEGREES 05 MINUTES 44 SECONDS WEST, A DISTANCE OF 47.27 FEET TO A POINT FOR CORNER;
NORTH 83 DEGREES 06 MINUTES 06 SECONDS WEST, A DISTANCE OF 52.67 FEET TO A POINT FOR CORNER;
SOUTH 63 DEGREES 23 MINUTES 50 SECONDS WEST, A DISTANCE OF 76.84 FEET TO A POINT FOR CORNER;
SOUTH 51 DEGREES 52 MINUTES 35 SECONDS WEST, A DISTANCE OF 37.19 FEET TO A POINT FOR CORNER;
SOUTH 33 DEGREES 08 MINUTES 46 SECONDS WEST, A DISTANCE OF 39.40 FEET TO A POINT FOR CORNER;
SOUTH 18 DEGREES 19 MINUTES 54 SECONDS WEST, A DISTANCE OF 45.83 FEET TO A POINT FOR CORNER;
SOUTH 04 DEGREES 33 MINUTES 41 SECONDS WEST, A DISTANCE OF 49.19 FEET TO A POINT FOR CORNER;
SOUTH 20 DEGREES 10 MINUTES 09 SECONDS WEST, A DISTANCE OF 49.87 FEET TO A POINT FOR CORNER;

SOUTH 57 DEGREES 26 MINUTES 31 SECONDS WEST, A DISTANCE
OF 65.23 FEET TO A POINT FOR CORNER;
SOUTH 75 DEGREES 39 MINUTES 48 SECONDS WEST, A DISTANCE
OF 55.82 FEET TO A POINT FOR CORNER;
SOUTH 10 DEGREES 19 MINUTES 44 SECONDS WEST, A DISTANCE
OF 57.10 FEET TO A POINT FOR CORNER;
SOUTH 54 DEGREES 43 MINUTES 34 SECONDS EAST, A DISTANCE
OF 72.46 FEET TO A POINT FOR CORNER;
SOUTH 85 DEGREES 41 MINUTES 21 SECONDS EAST, A DISTANCE
OF 53.15 FEET TO A POINT FOR CORNER;
SOUTH 73 DEGREES 03 MINUTES 31 SECONDS EAST, A DISTANCE
OF 44.74 FEET TO A POINT FOR CORNER;
SOUTH 54 DEGREES 32 MINUTES 09 SECONDS EAST, A DISTANCE
OF 47.14 FEET TO A POINT FOR CORNER;
SOUTH 06 DEGREES 46 MINUTES 32 SECONDS EAST, A DISTANCE
OF 54.30 FEET TO A POINT FOR CORNER;
SOUTH 16 DEGREES 27 MINUTES 12 SECONDS EAST, A DISTANCE
OF 34.33 FEET TO A POINT FOR CORNER;
SOUTH 39 DEGREES 52 MINUTES 15 SECONDS WEST, A DISTANCE
OF 49.92 FEET TO A POINT FOR CORNER;
SOUTH 82 DEGREES 15 MINUTES 48 SECONDS WEST, A DISTANCE
OF 39.17 FEET TO A POINT FOR CORNER;
SOUTH 70 DEGREES 23 MINUTES 37 SECONDS WEST, A DISTANCE
OF 65.00 FEET TO A POINT FOR CORNER;
SOUTH 78 DEGREES 17 MINUTES 09 SECONDS WEST, A DISTANCE
OF 45.45 FEET TO A POINT FOR CORNER;
SOUTH 79 DEGREES 43 MINUTES 00 SECONDS WEST, A DISTANCE
OF 63.13 FEET TO A POINT FOR CORNER;
SOUTH 66 DEGREES 28 MINUTES 11 SECONDS WEST, A DISTANCE
OF 46.31 FEET TO A POINT FOR CORNER;
SOUTH 16 DEGREES 14 MINUTES 21 SECONDS WEST, A DISTANCE
OF 105.54 FEET TO A POINT FOR CORNER;
SOUTH 13 DEGREES 54 MINUTES 09 SECONDS WEST, A DISTANCE
OF 57.22 FEET TO A POINT FOR CORNER;
SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE
OF 58.30 FEET TO A POINT FOR CORNER;
SOUTH 11 DEGREES 34 MINUTES 33 SECONDS EAST, A DISTANCE
OF 50.34 FEET TO A POINT FOR CORNER;
SOUTH 55 DEGREES 36 MINUTES 10 SECONDS EAST, A DISTANCE
OF 38.21 FEET TO A POINT FOR CORNER;
SOUTH 26 DEGREES 38 MINUTES 22 SECONDS EAST, A DISTANCE
OF 163.01 FEET TO A POINT FOR CORNER;
SOUTH 36 DEGREES 54 MINUTES 37 SECONDS EAST, A DISTANCE
OF 97.24 FEET TO A POINT FOR CORNER;
SOUTH 54 DEGREES 11 MINUTES 55 SECONDS EAST, A DISTANCE
OF 53.65 FEET TO A POINT FOR CORNER;

SOUTH 70 DEGREES 36 MINUTES 58 SECONDS EAST, A DISTANCE
OF 41.54 FEET TO A POINT FOR CORNER;
NORTH 43 DEGREES 27 MINUTES 19 SECONDS EAST, A DISTANCE
OF 101.71 FEET TO A POINT FOR CORNER;
SOUTH 61 DEGREES 22 MINUTES 07 SECONDS EAST, A DISTANCE
OF 80.55 FEET TO A POINT FOR CORNER;
SOUTH 04 DEGREES 18 MINUTES 58 SECONDS EAST, A DISTANCE
OF 176.96 FEET TO A POINT FOR CORNER;
SOUTH 04 DEGREES 48 MINUTES 01 SECONDS WEST, A DISTANCE
OF 37.36 FEET TO A POINT FOR CORNER;
SOUTH 52 DEGREES 35 MINUTES 53 SECONDS WEST, A DISTANCE
OF 56.54 FEET TO A POINT FOR CORNER;
SOUTH 66 DEGREES 24 MINUTES 43 SECONDS WEST, A DISTANCE
OF 35.91 FEET TO A POINT FOR CORNER;
SOUTH 58 DEGREES 18 MINUTES 10 SECONDS WEST, A DISTANCE
OF 54.25 FEET TO A POINT FOR CORNER;
SOUTH 24 DEGREES 03 MINUTES 12 SECONDS WEST, A DISTANCE
OF 84.09 FEET TO A POINT FOR CORNER;
SOUTH 29 DEGREES 49 MINUTES 03 SECONDS WEST, A DISTANCE
OF 38.07 FEET TO A POINT FOR CORNER;
SOUTH 77 DEGREES 36 MINUTES 13 SECONDS EAST, A DISTANCE
OF 68.66 FEET TO A POINT FOR CORNER;
NORTH 87 DEGREES 24 MINUTES 53 SECONDS EAST, A DISTANCE
OF 93.05 FEET TO A POINT FOR CORNER;
NORTH 80 DEGREES 29 MINUTES 04 SECONDS EAST, A DISTANCE
OF 54.50 FEET TO A POINT FOR CORNER;
NORTH 56 DEGREES 17 MINUTES 37 SECONDS EAST, A DISTANCE
OF 49.21 FEET TO A POINT FOR CORNER;
NORTH 46 DEGREES 07 MINUTES 57 SECONDS EAST, A DISTANCE
OF 44.53 FEET TO A POINT FOR CORNER;
SOUTH 66 DEGREES 41 MINUTES 17 SECONDS EAST, A DISTANCE
OF 76.94 FEET TO A POINT FOR CORNER;
SOUTH 31 DEGREES 47 MINUTES 43 SECONDS EAST, A DISTANCE
OF 50.02 FEET TO A POINT FOR CORNER;
SOUTH 00 DEGREES 37 MINUTES 41 SECONDS EAST, A DISTANCE
OF 37.54 FEET TO A POINT FOR CORNER;
SOUTH 50 DEGREES 10 MINUTES 47 SECONDS WEST, A DISTANCE
OF 38.12 FEET TO A POINT FOR CORNER;
SOUTH 03 DEGREES 38 MINUTES 07 SECONDS EAST, A DISTANCE
OF 82.68 FEET TO A POINT FOR CORNER;
SOUTH 07 DEGREES 39 MINUTES 53 SECONDS WEST, A DISTANCE
OF 57.13 FEET TO A POINT FOR CORNER;
SOUTH 05 DEGREES 24 MINUTES 28 SECONDS EAST, A DISTANCE
OF 49.76 FEET TO A POINT FOR CORNER;
SOUTH 37 DEGREES 58 MINUTES 56 SECONDS EAST, A DISTANCE
OF 45.42 FEET TO A POINT FOR CORNER;

SOUTH 50 DEGREES 05 MINUTES 38 SECONDS EAST, A DISTANCE
OF 43.22 FEET TO A POINT FOR CORNER;
SOUTH 34 DEGREES 51 MINUTES 09 SECONDS EAST, A DISTANCE
OF 54.06 FEET TO A POINT FOR CORNER;
SOUTH 02 DEGREES 19 MINUTES 17 SECONDS WEST, A DISTANCE
OF 38.60 FEET TO A POINT FOR CORNER;
SOUTH 66 DEGREES 31 MINUTES 08 SECONDS WEST, A DISTANCE
OF 33.16 FEET TO A POINT FOR CORNER;
SOUTH 73 DEGREES 06 MINUTES 42 SECONDS WEST, A DISTANCE
OF 43.33 FEET TO A POINT FOR CORNER;
SOUTH 85 DEGREES 04 MINUTES 51 SECONDS WEST, A DISTANCE
OF 48.53 FEET TO A POINT FOR CORNER;
SOUTH 71 DEGREES 53 MINUTES 06 SECONDS WEST, A DISTANCE
OF 60.97 FEET TO A POINT FOR CORNER;
SOUTH 63 DEGREES 04 MINUTES 11 SECONDS WEST, A DISTANCE
OF 64.45 FEET TO A POINT FOR CORNER;
SOUTH 71 DEGREES 00 MINUTES 09 SECONDS WEST, A DISTANCE
OF 52.84 FEET TO A POINT FOR CORNER;
SOUTH 41 DEGREES 20 MINUTES 57 SECONDS WEST, A DISTANCE
OF 50.82 FEET TO A POINT FOR CORNER;
SOUTH 42 DEGREES 15 MINUTES 31 SECONDS EAST, A DISTANCE
OF 79.42 FEET TO A POINT FOR CORNER;
SOUTH 67 DEGREES 35 MINUTES 52 SECONDS EAST, A DISTANCE
OF 45.70 FEET TO A POINT FOR CORNER;
SOUTH 53 DEGREES 29 MINUTES 49 SECONDS EAST, A DISTANCE
OF 47.98 FEET TO A POINT FOR CORNER;
SOUTH 33 DEGREES 43 MINUTES 45 SECONDS WEST, A DISTANCE
OF 50.14 FEET TO A POINT FOR CORNER;
SOUTH 27 DEGREES 16 MINUTES 15 SECONDS WEST, A DISTANCE
OF 44.77 FEET TO A POINT FOR CORNER;
SOUTH 29 DEGREES 27 MINUTES 41 SECONDS EAST, A DISTANCE
OF 52.99 FEET TO A POINT FOR CORNER;
SOUTH 58 DEGREES 38 MINUTES 56 SECONDS EAST, A DISTANCE
OF 33.07 FEET TO A POINT FOR CORNER;
SOUTH 73 DEGREES 48 MINUTES 49 SECONDS EAST, A DISTANCE
OF 44.32 FEET TO A POINT FOR CORNER;
SOUTH 52 DEGREES 58 MINUTES 40 SECONDS EAST, A DISTANCE
OF 51.32 FEET TO A POINT FOR CORNER;
SOUTH 29 DEGREES 32 MINUTES 15 SECONDS EAST, A DISTANCE
OF 51.26 FEET TO A POINT FOR CORNER;
SOUTH 09 DEGREES 20 MINUTES 34 SECONDS EAST, A DISTANCE
OF 42.22 FEET TO A POINT FOR CORNER;
SOUTH 14 DEGREES 35 MINUTES 22 SECONDS WEST, A DISTANCE
OF 42.17 FEET TO A POINT FOR CORNER;
SOUTH 35 DEGREES 48 MINUTES 26 SECONDS WEST, A DISTANCE
OF 147.22 FEET TO A POINT FOR CORNER;

SOUTH 64 DEGREES 36 MINUTES 48 SECONDS WEST, A DISTANCE
OF 38.17 FEET TO A POINT FOR CORNER;
SOUTH 84 DEGREES 38 MINUTES 40 SECONDS WEST, A DISTANCE
OF 36.79 FEET TO A POINT FOR CORNER;
SOUTH 44 DEGREES 42 MINUTES 48 SECONDS WEST, A DISTANCE
OF 43.57 FEET TO A POINT FOR CORNER;
SOUTH 08 DEGREES 06 MINUTES 49 SECONDS EAST, A DISTANCE
OF 48.67 FEET TO A POINT FOR CORNER;
SOUTH 24 DEGREES 06 MINUTES 06 SECONDS WEST, A DISTANCE
OF 38.35 FEET TO A POINT FOR CORNER;
SOUTH 52 DEGREES 12 MINUTES 10 SECONDS WEST, A DISTANCE
OF 58.11 FEET TO A POINT FOR CORNER;
NORTH 87 DEGREES 01 MINUTES 39 SECONDS WEST, A DISTANCE
OF 107.40 FEET TO A POINT FOR CORNER;
SOUTH 24 DEGREES 15 MINUTES 49 SECONDS WEST, A DISTANCE
OF 56.46 FEET TO A POINT FOR CORNER;
SOUTH 31 DEGREES 21 MINUTES 37 SECONDS EAST, A DISTANCE
OF 82.11 FEET TO A POINT FOR CORNER;
SOUTH 42 DEGREES 39 MINUTES 43 SECONDS WEST, A DISTANCE
OF 21.72 FEET TO A POINT FOR CORNER;
SOUTH 51 DEGREES 59 MINUTES 02 SECONDS WEST, A DISTANCE
OF 51.81 FEET TO A POINT FOR CORNER;
NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE
OF 45.62 FEET TO A POINT FOR CORNER;
SOUTH 10 DEGREES 17 MINUTES 14 SECONDS WEST, A DISTANCE
OF 56.75 FEET TO A POINT FOR CORNER;
SOUTH 10 DEGREES 29 MINUTES 10 SECONDS EAST, A DISTANCE
OF 39.70 FEET TO A POINT FOR CORNER;
SOUTH 23 DEGREES 08 MINUTES 45 SECONDS EAST, A DISTANCE
OF 96.71 FEET TO A POINT FOR CORNER;
SOUTH 42 DEGREES 05 MINUTES 00 SECONDS EAST, A DISTANCE
OF 93.05 FEET TO A POINT FOR CORNER;
SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE
OF 41.05 FEET TO A POINT FOR CORNER;
SOUTH 29 DEGREES 36 MINUTES 27 SECONDS EAST, A DISTANCE
OF 41.19 FEET TO A POINT FOR CORNER;
SOUTH 75 DEGREES 47 MINUTES 51 SECONDS EAST, A DISTANCE
OF 57.38 FEET TO A POINT FOR CORNER;
SOUTH 34 DEGREES 54 MINUTES 53 SECONDS EAST, A DISTANCE
OF 44.25 FEET TO A POINT FOR CORNER;
SOUTH 23 DEGREES 00 MINUTES 46 SECONDS EAST, A DISTANCE
OF 76.74 FEET TO A POINT FOR CORNER;
NORTH 68 DEGREES 01 MINUTES 59 SECONDS EAST, A DISTANCE
OF 90.86 FEET TO A POINT FOR CORNER;
NORTH 23 DEGREES 09 MINUTES 21 SECONDS EAST, A DISTANCE
OF 52.81 FEET TO A POINT FOR CORNER;

NORTH 04 DEGREES 57 MINUTES 13 SECONDS EAST, A DISTANCE OF 66.00 FEET TO A POINT FOR CORNER;

NORTH 76 DEGREES 05 MINUTES 57 SECONDS EAST, A DISTANCE OF 70.77 FEET TO A POINT FOR CORNER;

SOUTH 65 DEGREES 39 MINUTES 19 SECONDS EAST, A DISTANCE OF 44.96 FEET TO A POINT FOR CORNER;

SOUTH 19 DEGREES 27 MINUTES 06 SECONDS WEST, A DISTANCE OF 42.56 FEET TO A POINT FOR CORNER;

SOUTH 33 DEGREES 37 MINUTES 03 SECONDS WEST, A DISTANCE OF 70.72 FEET TO A POINT FOR CORNER;

SOUTH 21 DEGREES 52 MINUTES 46 SECONDS WEST, A DISTANCE OF 116.52 FEET TO A POINT FOR CORNER;

SOUTH 01 DEGREES 06 MINUTES 28 SECONDS EAST, A DISTANCE OF 55.45 FEET TO A POINT FOR CORNER;

SOUTH 46 DEGREES 26 MINUTES 43 SECONDS EAST, A DISTANCE OF 51.29 FEET TO A POINT FOR CORNER;

SOUTH 61 DEGREES 23 MINUTES 17 SECONDS EAST, A DISTANCE OF 29.07 FEET TO A POINT FOR CORNER;

NORTH 81 DEGREES 11 MINUTES 19 SECONDS EAST, A DISTANCE OF 46.44 FEET TO A POINT FOR CORNER;

NORTH 53 DEGREES 17 MINUTES 44 SECONDS EAST, A DISTANCE OF 55.43 FEET TO A POINT FOR CORNER;

NORTH 47 DEGREES 47 MINUTES 58 SECONDS EAST, A DISTANCE OF 149.42 FEET TO A POINT FOR CORNER;

NORTH 74 DEGREES 16 MINUTES 37 SECONDS EAST, A DISTANCE OF 43.79 FEET TO A POINT FOR CORNER;

SOUTH 65 DEGREES 27 MINUTES 13 SECONDS EAST, A DISTANCE OF 70.18 FEET TO A POINT FOR CORNER;

SOUTH 28 DEGREES 14 MINUTES 31 SECONDS EAST, A DISTANCE OF 43.56 FEET TO A POINT FOR THE SOUTHEAST CORNER OF SAID 486.151 CRE TRACT, SAID POINT BEING ON THE NORTHWEST RAILROAD RIGHT-OF-WAY CONVEYED TO NORTHEAST TEXAS RURAL RAIL TRANSPORTATION DISTRICT BY DEED RECORDED IN VOLUME 987, PAGE 38, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, SOUTH 67 DEGREES 43 MINUTES 16 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 486.151 ACRE TRACT AND THE COMMON NORTHWEST RAILROAD RIGHT-OF-WAY LINE, PASSING AT A DISTANCE OF 157.72 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, PASSING AT A DISTANCE OF 3459.94 FEET, A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR A SOUTHWEST CORNER OF SAID 486.151 ACRE TRACT AND A SOUTHEAST CORNER OF AFORESAID 130.725 ACRE TRACT, CONTINUING ALONG THE SOUTH LINE OF SAID 130.725 ACRE TRACT AND THE COMMON NORTHWEST RAILROAD RIGHT-OF-WAY LINE, IN ALL A TOTAL DISTANCE OF 5455.52 FEET TO A 1/2 INCH IRON ROD WITH A ORANGE PLASTIC CAP STAMPED

"STOVALL" FOUND FOR THE NORTHEAST CORNER OF A 12.50 ACRE TRACT OF LAND CONVEYED TO VETERANS LAND BOARD OF THE STATE OF TEXAS, AS RECORDED IN VOLUME 1298, PAGE 56, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 89 DEGREES 56 MINUTES 05 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 130.725 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 12.50 ACRE TRACT, A DISTANCE OF 1007.97 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER AND BEING THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 91 DEGREES 50 MINUTES 41 SECONDS, WITH A RADIUS OF 135.00 FEET, A CHORD BEARING OF NORTH 44 DEGREES 00 MINUTES 45 SECONDS WEST, A CHORD LENGTH OF 193.97 FEET;

THENCE, ALONG SAID TANGENT CURVE TO THE RIGHT, AND CONTINUING ALONG THE SOUTH LINE OF SAID 130.725 ACRE TRACT, THE COMMON NORTHEAST LINE SAID 12.50 ACRE TRACT AND THE COMMON NORTHEAST LINE OF A 10.0 ACRE TRACT OF LAND CONVEYED TO JOE WESTLEY SCOTT AND DORIS LYNN SCOTT, AS RECORDED IN VOLUME 1297, PAGE 383, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, AN ARC LENGTH OF 216.40 FEET TO A 1/2 INCH IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "STOVALL" FOUND FOR CORNER;

THENCE, NORTH 01 DEGREES 54 MINUTES 36 SECONDS EAST, ALONG THE WEST LINE OF SAID 130.725 ACRE TRACT AND THE COMMON EAST LINE OF SAID 10.0 ACRE SCOTT TRACT, A DISTANCE OF 428.97 FEET TO A 1/2 INCH IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "STOVALL" FOUND FOR THE NORTHEAST CORNER OF SAID 10.0 ACRE SCOTT TRACT AND BEING ON THE SOUTH LINE OF A 10.00 ACRE TRACT OF LAND CONVEYED TO BILL SUDDITH AND LORI SUDDITH, AS RECORDED IN VOLUME 1330, PAGE 337, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 89 DEGREES 46 MINUTES 26 SECONDS EAST, ALONG A NORTH LINE OF SAID 130.725 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 10.00 ACRE SUDDITH TRACT, A DISTANCE OF 10.26 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN INTERIOR ELL CORNER OF SAID 130.725 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 10.00 ACRE SUDDITH TRACT;

THENCE, NORTH 00 DEGREES 41 MINUTES 23 SECONDS EAST, ALONG THE WEST LINE OF SAID 130.725 ACRE TRACT AND THE COMMON EAST LINE OF SAID 10.00 ACRE SUDDITH TRACT, A DISTANCE OF 1147.61 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN INTERIOR ELL CORNER OF SAID 130.725 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 10.00 ACRE SUDDITH TRACT;

THENCE, SOUTH 89 DEGREES 46 MINUTES 17 SECONDS WEST, ALONG A SOUTH LINE OF SAID 130.725 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 10.00 ACRE SUDDITH TRACT, PASSING AT A DISTANCE OF 12.43 FEET, A POINT FOR A SOUTHWEST CORNER OF SAID 130.725 ACRE

TRACT AND THE SOUTHEAST CORNER OF AFORESAID 109.434 ACRE TRACT, CONTINUING ALONG THE SOUTH LINE OF SAID 109.434 ACRE TRACT, THE COMMON NORTH LINE OF SAID 10.00 ACRE SUDDITH TRACT, THE COMMON NORTH LINE OF A 10.00 ACRE TRACT OF LAND CONVEYED TO DUSTY GENE PATE, AS RECORDED IN VOLUME 1492, PAGE 74, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, THE COMMON NORTH LINE OF A 10.00 ACRE TRACT OF LAND CONVEYED TO RASHID Y. NAFIKOV AND WIFE, BECKIE R. NAFIKOV, AS RECORDED IN VOLUME 1466, PAGE 26, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE COMMON NORTH LINE OF A 20.00 ACRE TRACT OF LAND CONVEYED TO MASON TODD SANFORD AND JODEE LYNETTE SANFORD, AS RECORDED IN VOLUME 1588, PAGE 96, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, IN ALL A TOTAL DISTANCE OF 1909.73 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID 109.434 ACRE TRACT AND BEING ON THE EAST LINE OF AFORESAID 107.419 ACRE TRACT, FROM WHICH A 1/2 INCH IRON ROD FOUND, BEARS NORTH 47 DEGREES 34 MINUTES 07 SECONDS EAST, A DISTANCE OF 2.06 FEET;

THENCE, SOUTH 00 DEGREES 32 MINUTES 36 SECONDS WEST, ALONG THE EAST LINE OF SAID 107.419 ACRE TRACT AND THE COMMON WEST LINE OF SAID 20.00 ACRE TRACT, A DISTANCE OF 1137.38 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 107.419 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 20.000 ACRE TRACT AND BEING IN THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD NO. 2152;

THENCE, NORTH 89 DEGREES 54 MINUTES 14 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 107.419 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2152, A DISTANCE OF 587.54 FEET TO A 1/2 INCH CAPPED IRON ROD FOUND FOR A SOUTHWEST CORNER OF SAID 107.419 ACRE TRACT AND BEING THE SOUTHEAST CORNER OF A 10.00 ACRE TRACT OF LAND CONVEYED TO JASON CROOK AND MICHELLE CROOK, AS RECORDED IN VOLUME 1461, PAGE 276, OFFICIAL RECORDS, HUNT COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 24 MINUTES 02 SECONDS EAST, ALONG A WEST LINE OF SAID 107.419 ACRE TRACT AND THE COMMON EAST LINE OF SAID 10.00 ACRE CROOK TRACT, A DISTANCE OF 1466.69 FEET TO A 1/2 INCH IRON ROD FOUND FOR AN INTERIOR ELL CORNER OF SAID 107.419 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 10.00 ACRE CROOK TRACT;

THENCE, NORTH 89 DEGREES 14 MINUTES 06 SECONDS WEST, ALONG A SOUTH LINE OF SAID 107.419 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 10.00 ACRE CROOK TRACT, A DISTANCE OF 596.27 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHEAST CORNER OF AFORESAID 160.531 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 15 MINUTES 33 SECONDS WEST, ALONG THE EAST LINE OF SAID 160.531 ACRE TRACT, PASSING AT A DISTANCE OF 7.11 FEET, A 1/2 INCH IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "STOVALL" FOUND FOR THE NORTHWEST CORNER OF A 10.00 ACRE TRACT OF LAND CONVEYED TO JOSEPH ENGELHARDT AND MELISSA ENGELHARDT, AS RECORDED IN VOLUME 1447, PAGE 578, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, CONTINUING ALONG THE EAST LINE OF SAID 160.531 ACRE TRACT AND THE COMMON WEST LINE OF SAID 10.00 ACRE ENGELHARDT TRACT, PASSING AT A DISTANCE OF 1441.93 FEET A 1/2 INCH IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "STOVALL" FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1471.82 FEET TO A 1/2 INCH IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "STOVALL" FOUND FOR A SOUTHEAST CORNER OF SAID 160.531 ACRE TRACT AND THE SOUTHWEST CORNER OF SAID 10.00 ACRE ENGELHARDT TRACT AND BEING IN THE APPROXIMATE CENTERLINE OF AFORESAID HUNT COUNTY ROAD NO. 2152;

THENCE, NORTH 89 DEGREES 43 MINUTES 39 SECONDS WEST, ALONG A SOUTH LINE OF SAID 160.531 ACRE TRACT, THE COMMON NORTH LINE OF A 26.256 ACRE TRACT OF LAND CONVEYED TO BRENDA JEAN HALL, AS RECORDED IN VOLUME 734, PAGE 246, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, THE COMMON NORTH LINE OF A 27.74 ACRE TRACT OF LAND CONVEYED TO JOHN D. BARNES AND ASHLEY L. BARNES, AS RECORDED IN VOLUME 1487, PAGE 428, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND THE APPROXIMATE CENTERLINE OF SAID HUNT COUNTY ROAD NO. 2152, A DISTANCE OF 928.87 FEET TO A 1/2 INCH IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "STOVALL" FOUND FOR AN INTERIOR ELL CORNER OF SAID 160.531 ACRE TRACT AND THE NORTHWEST CORNER OF SAID 27.74 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 21 MINUTES 44 SECONDS EAST, ALONG THE EAST LINE OF SAID 160.531 ACRE TRACT AND THE COMMON WEST LINE OF SAID 27.74 ACRE TRACT, PASSING AT A DISTANCE OF 29.88 FEET, A 1/2 INCH IRON ROD WITH A ORANGE PLASTIC CAP STAMPED "STOVALL" FOUND FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 1513.70 FEET TO A 1/2 INCH IRON ROD FOUND FOR CORNER;

THENCE, SOUTH 02 DEGREES 28 MINUTES 50 SECONDS EAST, CONTINUING ALONG THE EAST LINE OF SAID 160.531 ACRE TRACT, THE COMMON WEST LINE OF SAID 27.74 ACRE TRACT AND THE COMMON WEST LINE OF A 26.00 ACRE TRACT OF LAND CONVEYED TO TERRY W. MORAN AND WIFE, DONNA K. MORAN, AS RECORDED IN VOLUME 466, PAGE 531, OFFICIAL RECORDS, HUNT COUNTY, TEXAS, A DISTANCE OF 561.44 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 160.531 ACRE TRACT AND AN EXTERIOR ELL CORNER OF SAID 26.00 ACRE TRACT, SAID POINT BEING ON THE NORTH LINE OF AFORESAID 49.640 ACRE TRACT;

THENCE, NORTH 87 DEGREES 29 MINUTES 46 SECONDS EAST, ALONG THE NORTH LINE OF SAID 49.640 ACRE TRACT AND THE COMMON SOUTH LINE OF SAID 26.00 ACRE TRACT, A DISTANCE OF 178.47 FEET TO A 1/2 IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 49.640 ACRE TRACT AND BEING AN INTERIOR ELL CORNER OF SAID 26.00 ACRE TRACT;

THENCE, SOUTH 00 DEGREES 23 MINUTES 40 SECONDS WEST, ALONG THE EAST LINE OF SAID 49.640 ACRE TRACT AND THE COMMON WEST LINE OF SAID 26.00 ACRE TRACT, PASSING AT A DISTANCE OF 520.63 FEET A 1/2 INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 26.00 ACRE TRACT, CONTINUING IN ALL A TOTAL DISTANCE OF 531.79 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER ON THE NORTHWEST RIGHT-OF-WAY LINE OF AFORESAID NORTHEAST TEXAS RURAL RAIL TRANSPORTATION DISTRICT RIGHT-OF-WAY;

THENCE, SOUTH 67 DEGREES 43 MINUTES 16 SECONDS WEST, ALONG THE NORTHWEST RIGHT-OF-WAY LINE OF SAID NORTHEAST TEXAS RURAL RAIL TRANSPORTATION DISTRICT RIGHT-OF-WAY, A DISTANCE OF 2402.00 FEET TO THE POINT OF BEGINNING, AND CONTAINING 1036.347 ACRES OF LAND, MORE OR LESS.

TRACT 10

BEING A 112.809 ACRE TRACT OF LAND SITUATED IN THE HIRAM THOMPSON SURVEY, ABSTRACT NO. 1030, HUNT COUNTY, TEXAS, AND BEING ALL OF A 11.444 ACRE TRACT OF LAND, CONVEYED AS "TRACT 3" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1551, PAGE 268, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS AND BEING ALL OF A 101.365 ACRE TRACT OF LAND CONVEYED AS "TRACT 2" TO WALTON TEXAS, L.P., AS RECORDED IN VOLUME 1632, PAGE 199, OFFICIAL PUBLIC RECORDS, HUNT COUNTY, TEXAS. SAID 112.809 ACRE TRACT, WITH REFERENCE BEARING OF GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DALLAS CORS ARP (PID-DF8984), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID 11.444 ACRE TRACT, SAID POINT BEING ON THE SOUTHEAST RIGHT-OF-WAY LINE CONVEYED TO THE NORTHEAST TEXAS RURAL RAIL TRANSPORTATION DISTRICT, AS RECORDED IN VOLUME 987, PAGE 38, OFFICIAL RECORDS, HUNT COUNTY, TEXAS (A 100' RIGHT-OF-WAY);

THENCE, NORTH 67 DEGREES 43 MINUTES 16 SECONDS EAST, ALONG THE NORTHWEST LINE OF SAID 11.444 ACRE TRACT AND THE COMMON SOUTHEAST RIGHT-OF-WAY LINE OF SAID NORTHEAST TEXAS RURAL RAIL TRANSPORTATION DISTRICT RIGHT-OF-WAY, PASSING AT A DISTANCE OF 1683.23 FEET, A 5/8 INCH IRON ROD WITH A YELLOW

PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHEAST CORNER OF SAID 11.444 ACRE TRACT AND THE NORTHWEST CORNER OF AFORESAID 101.365 ACRE TRACT, CONTINUING ALONG THE SOUTHEAST RIGHT-OF-WAY LINE OF SAID NORTHEAST TEXAS RURAL RAIL TRANSPORTATION DISTRICT RIGHT-OF-WAY AND THE COMMON NORTHWEST LINE OF SAID 101.365 ACRE TRACT, PASSING AT A DISTANCE OF 5025.51 FEET A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR WITNESS, CONTINUING IN ALL A TOTAL DISTANCE OF 5145.89 FEET TO A POINT FOR THE NORTHEAST CORNER OF SAID 101.365 ACRE TRACT, SAID POINT BEING IN THE APPROXIMATE CENTERLINE OF EAST CADDO CREEK;

THENCE, ALONG THE EAST LINE OF SAID 101.365 ACRE TRACT AND THE APPROXIMATE CENTERLINE OF SAID EAST CADDO CREEK, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 01 DEGREES 06 MINUTES 11 SECONDS WEST, A DISTANCE OF 77.37 FEET TO A POINT FOR CORNER;

SOUTH 39 DEGREES 19 MINUTES 04 SECONDS EAST, A DISTANCE OF 57.39 FEET TO A POINT FOR CORNER;

SOUTH 67 DEGREES 30 MINUTES 20 SECONDS EAST, A DISTANCE OF 49.61 FEET TO A POINT FOR CORNER;

NORTH 82 DEGREES 31 MINUTES 08 SECONDS EAST, A DISTANCE OF 52.99 FEET TO A POINT FOR CORNER;

NORTH 50 DEGREES 07 MINUTES 46 SECONDS EAST, A DISTANCE OF 58.06 FEET TO A POINT FOR CORNER;

NORTH 72 DEGREES 36 MINUTES 41 SECONDS EAST, A DISTANCE OF 54.06 FEET TO A POINT FOR CORNER;

NORTH 89 DEGREES 10 MINUTES 22 SECONDS EAST, A DISTANCE OF 52.05 FEET TO A POINT FOR CORNER;

NORTH 82 DEGREES 23 MINUTES 49 SECONDS EAST, A DISTANCE OF 72.80 FEET TO A POINT FOR CORNER;

SOUTH 38 DEGREES 51 MINUTES 56 SECONDS EAST, A DISTANCE OF 41.88 FEET TO A POINT FOR CORNER;

SOUTH 25 DEGREES 40 MINUTES 43 SECONDS EAST, A DISTANCE OF 44.54 FEET TO A POINT FOR CORNER;

SOUTH 28 DEGREES 14 MINUTES 34 SECONDS WEST, A DISTANCE OF 50.94 FEET TO A POINT FOR CORNER;

SOUTH 38 DEGREES 11 MINUTES 06 SECONDS WEST, A DISTANCE OF 43.28 FEET TO A POINT FOR CORNER;

SOUTH 35 DEGREES 50 MINUTES 33 SECONDS WEST, A DISTANCE OF 61.59 FEET TO A POINT FOR CORNER;

SOUTH 21 DEGREES 31 MINUTES 26 SECONDS WEST, A DISTANCE OF 57.18 FEET TO A POINT FOR CORNER;

SOUTH 01 DEGREES 01 MINUTES 51 SECONDS EAST, A DISTANCE OF 48.41 FEET TO A POINT FOR CORNER;

SOUTH 41 DEGREES 05 MINUTES 32 SECONDS EAST, A DISTANCE
OF 49.10 FEET TO A POINT FOR CORNER;
SOUTH 67 DEGREES 02 MINUTES 42 SECONDS EAST, A DISTANCE
OF 48.96 FEET TO A POINT FOR CORNER;
NORTH 74 DEGREES 44 MINUTES 11 SECONDS EAST, A DISTANCE
OF 100.28 FEET TO A POINT FOR CORNER;
NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE
OF 45.35 FEET TO A POINT FOR CORNER;
SOUTH 45 DEGREES 25 MINUTES 08 SECONDS EAST, A DISTANCE
OF 29.77 FEET TO A POINT FOR CORNER;
SOUTH 11 DEGREES 24 MINUTES 08 SECONDS WEST, A DISTANCE
OF 43.39 FEET TO A POINT FOR CORNER;
SOUTH 34 DEGREES 31 MINUTES 44 SECONDS WEST, A DISTANCE
OF 97.07 FEET TO A POINT FOR CORNER;
SOUTH 06 DEGREES 24 MINUTES 26 SECONDS WEST, A DISTANCE
OF 46.36 FEET TO A POINT FOR CORNER;
SOUTH 29 DEGREES 55 MINUTES 06 SECONDS EAST, A DISTANCE
OF 44.26 FEET TO A POINT FOR CORNER;
SOUTH 17 DEGREES 30 MINUTES 45 SECONDS EAST, A DISTANCE
OF 40.07 FEET TO A POINT FOR CORNER;
SOUTH 03 DEGREES 17 MINUTES 08 SECONDS WEST, A DISTANCE
OF 39.72 FEET TO A POINT FOR CORNER;
SOUTH 18 DEGREES 33 MINUTES 58 SECONDS WEST, A DISTANCE
OF 48.81 FEET TO A POINT FOR CORNER;
SOUTH 27 DEGREES 47 MINUTES 44 SECONDS WEST, A DISTANCE
OF 40.47 FEET TO A POINT FOR CORNER;
SOUTH 52 DEGREES 02 MINUTES 46 SECONDS WEST, A DISTANCE
OF 43.72 FEET TO A POINT FOR CORNER;
NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE
OF 36.66 FEET TO A POINT FOR CORNER;
SOUTH 62 DEGREES 48 MINUTES 15 SECONDS WEST, A DISTANCE
OF 36.24 FEET TO A POINT FOR CORNER;
SOUTH 15 DEGREES 48 MINUTES 57 SECONDS EAST, A DISTANCE
OF 24.06 FEET TO A POINT FOR CORNER;
SOUTH 26 DEGREES 01 MINUTES 32 SECONDS EAST, A DISTANCE
OF 78.76 FEET TO A POINT FOR CORNER;
SOUTH 45 DEGREES 13 MINUTES 56 SECONDS EAST, A DISTANCE
OF 38.27 FEET TO A POINT FOR CORNER;
SOUTH 68 DEGREES 38 MINUTES 44 SECONDS EAST, A DISTANCE
OF 45.54 FEET TO A POINT FOR CORNER;
NORTH 62 DEGREES 56 MINUTES 56 SECONDS EAST, A DISTANCE
OF 35.99 FEET TO A POINT FOR CORNER;
NORTH 70 DEGREES 50 MINUTES 10 SECONDS EAST, A DISTANCE
OF 32.56 FEET TO A POINT FOR CORNER;
SOUTH 44 DEGREES 52 MINUTES 57 SECONDS EAST, A DISTANCE
OF 37.35 FEET TO A POINT FOR CORNER;

SOUTH 02 DEGREES 12 MINUTES 49 SECONDS EAST, A DISTANCE OF 31.61 FEET TO A POINT FOR CORNER;
SOUTH 13 DEGREES 07 MINUTES 19 SECONDS WEST, A DISTANCE OF 26.36 FEET TO A POINT FOR CORNER;
NORTH 79 DEGREES 24 MINUTES 48 SECONDS WEST, A DISTANCE OF 33.15 FEET TO A POINT FOR CORNER;
SOUTH 59 DEGREES 15 MINUTES 34 SECONDS WEST, A DISTANCE OF 45.76 FEET TO A POINT FOR CORNER;
SOUTH 66 DEGREES 13 MINUTES 34 SECONDS WEST, A DISTANCE OF 52.78 FEET TO A POINT FOR CORNER;
SOUTH 80 DEGREES 48 MINUTES 29 SECONDS WEST, A DISTANCE OF 63.78 FEET TO A POINT FOR CORNER;
NORTH 86 DEGREES 44 MINUTES 16 SECONDS WEST, A DISTANCE OF 44.24 FEET TO A POINT FOR CORNER;
NORTH 73 DEGREES 30 MINUTES 55 SECONDS WEST, A DISTANCE OF 52.94 FEET TO A POINT FOR CORNER;
NORTH 54 DEGREES 54 MINUTES 24 SECONDS WEST, A DISTANCE OF 109.44 FEET TO A POINT FOR CORNER;
SOUTH 76 DEGREES 27 MINUTES 57 SECONDS WEST, A DISTANCE OF 50.71 FEET TO A POINT FOR CORNER;
SOUTH 39 DEGREES 23 MINUTES 54 SECONDS WEST, A DISTANCE OF 36.91 FEET TO A POINT FOR CORNER;
SOUTH 01 DEGREES 40 MINUTES 47 SECONDS EAST, A DISTANCE OF 45.35 FEET TO A POINT FOR CORNER;
SOUTH 15 DEGREES 28 MINUTES 22 SECONDS EAST, A DISTANCE OF 51.06 FEET TO A POINT FOR CORNER;
SOUTH 04 DEGREES 29 MINUTES 55 SECONDS WEST, A DISTANCE OF 52.89 FEET TO A POINT FOR CORNER;
SOUTH 18 DEGREES 30 MINUTES 16 SECONDS WEST, A DISTANCE OF 52.25 FEET TO A POINT FOR CORNER;
SOUTH 38 DEGREES 36 MINUTES 34 SECONDS WEST, A DISTANCE OF 37.33 FEET TO A POINT FOR CORNER;
SOUTH 70 DEGREES 20 MINUTES 48 SECONDS WEST, A DISTANCE OF 41.98 FEET TO A POINT FOR CORNER;
SOUTH 50 DEGREES 20 MINUTES 56 SECONDS WEST, A DISTANCE OF 46.13 FEET TO A POINT FOR CORNER;
SOUTH 12 DEGREES 39 MINUTES 23 SECONDS WEST, A DISTANCE OF 40.57 FEET TO A POINT FOR CORNER;
SOUTH 10 DEGREES 07 MINUTES 14 SECONDS EAST, A DISTANCE OF 30.63 FEET TO A POINT FOR CORNER;
SOUTH 04 DEGREES 04 MINUTES 36 SECONDS WEST, A DISTANCE OF 31.50 FEET TO A POINT FOR CORNER;
SOUTH 26 DEGREES 30 MINUTES 07 SECONDS WEST, A DISTANCE OF 80.81 FEET TO A POINT FOR CORNER;
SOUTH 21 DEGREES 22 MINUTES 25 SECONDS EAST, A DISTANCE OF 19.98 FEET TO A POINT FOR CORNER;

SOUTH 67 DEGREES 55 MINUTES 36 SECONDS EAST, A DISTANCE OF 86.29 FEET TO A POINT FOR CORNER;

SOUTH 80 DEGREES 26 MINUTES 11 SECONDS EAST, A DISTANCE OF 61.03 FEET TO A POINT FOR CORNER;

SOUTH 32 DEGREES 22 MINUTES 26 SECONDS EAST, A DISTANCE OF 33.59 FEET TO A POINT FOR CORNER;

SOUTH 47 DEGREES 51 MINUTES 48 SECONDS WEST, A DISTANCE OF 71.01 FEET TO A POINT FOR CORNER;

NORTH 81 DEGREES 14 MINUTES 36 SECONDS WEST, A DISTANCE OF 66.86 FEET TO A POINT FOR CORNER;

SOUTH 86 DEGREES 10 MINUTES 14 SECONDS WEST, A DISTANCE OF 52.30 FEET TO A POINT FOR CORNER;

SOUTH 53 DEGREES 48 MINUTES 37 SECONDS WEST, A DISTANCE OF 45.72 FEET TO A POINT FOR CORNER;

SOUTH 14 DEGREES 33 MINUTES 01 SECONDS WEST, A DISTANCE OF 51.11 FEET TO A POINT FOR CORNER;

SOUTH 22 DEGREES 41 MINUTES 08 SECONDS WEST, A DISTANCE OF 36.54 FEET TO A POINT FOR CORNER;

NORTH 78 DEGREES 53 MINUTES 01 SECONDS WEST, A DISTANCE OF 60.46 FEET TO A POINT FOR CORNER;

NORTH 56 DEGREES 40 MINUTES 28 SECONDS WEST, A DISTANCE OF 43.84 FEET TO A POINT FOR CORNER;

NORTH 79 DEGREES 57 MINUTES 46 SECONDS WEST, A DISTANCE OF 41.99 FEET TO A POINT FOR CORNER;

SOUTH 56 DEGREES 41 MINUTES 33 SECONDS WEST, A DISTANCE OF 190.59 FEET TO A POINT FOR CORNER;

SOUTH 29 DEGREES 21 MINUTES 59 SECONDS WEST, A DISTANCE OF 42.58 FEET TO A POINT FOR CORNER;

SOUTH 13 DEGREES 53 MINUTES 55 SECONDS EAST, A DISTANCE OF 40.07 FEET TO A POINT FOR CORNER;

SOUTH 49 DEGREES 06 MINUTES 39 SECONDS EAST, A DISTANCE OF 31.26 FEET TO A POINT FOR CORNER;

SOUTH 85 DEGREES 05 MINUTES 08 SECONDS EAST, A DISTANCE OF 31.57 FEET TO A POINT FOR CORNER;

SOUTH 74 DEGREES 32 MINUTES 37 SECONDS EAST, A DISTANCE OF 34.53 FEET TO A POINT FOR THE SOUTHEAST CORNER OF AFORESAID 101.365 ACRE TRACT AND BEING ON THE NORTH RIGHT-OF-WAY LINE OF F.M. 3211 (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE, ALONG THE SOUTH LINE OF SAID 101.365 ACRE TRACT AND THE COMMON NORTH RIGHT-OF-WAY LINE OF SAID F.M. 3211, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 89 DEGREES 58 MINUTES 29 SECONDS WEST, A DISTANCE OF 85.16 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 84 DEGREES 15 MINUTES 51 SECONDS WEST, A DISTANCE OF 100.50 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 89 DEGREES 58 MINUTES 29 SECONDS WEST, A DISTANCE OF 900.13 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND THE BEGINNING OF TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 18 DEGREES 29 MINUTES 36 SECONDS, A RADIUS OF 1195.92 FEET, A CHORD BEARING OF SOUTH 80 DEGREES 43 MINUTES 41 SECONDS WEST, A CHORD LENGTH OF 384.33 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC LENGTH OF 386.01 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

NORTH 71 DEGREES 18 MINUTES 24 SECONDS WEST, A DISTANCE OF 140.73 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER;

SOUTH 32 DEGREES 55 MINUTES 09 SECONDS WEST, A DISTANCE OF 30.46 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF A 319.1422 ACRE TRACT OF LAND CONVEYED TO R&D AYCOCK, LTD., AS RECORDED IN VOLUME 824, PAGE 358, OFFICIAL RECORDS, HUNT COUNTY, TEXAS AND BEING IN THE APPROXIMATE CENTERLINE OF HUNT COUNTY ROAD NO. 2184 (A VARIABLE WIDTH PRESCRIPTIVE RIGHT-OF-WAY);

THENCE, SOUTH 89 DEGREES 38 MINUTES 39 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 101.365 ACRE TRACT, A DISTANCE OF 1264.32 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE SOUTHWEST CORNER OF SAID 101.365 ACRE TRACT AND THE SOUTHEAST CORNER OF AFORESAID 11.444 ACRE TRACT;

THENCE, NORTH 89 DEGREES 58 MINUTES 53 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 11.444 ACRE TRACT, A DISTANCE OF 1561.08 FEET TO THE POINT OF BEGINNING, AND CONTAINING 112.809 ACRES OF LAND, MORE OR LESS.

SECTION __.03. (a) The legal notice of the intention to introduce this article of this Act, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article 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 article are fulfilled and accomplished.

SECTION __.04. 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, 2009.

(2) In SECTION 3.01(a) of the bill (page 13, line 16), between "this section" and the comma, insert "or otherwise provided by this Act".

Floor Amendment No. 9 by Estes

Amend **CSHB 3335** (Senate committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE __. SIENNA RANCH MUNICIPAL UTILITY DISTRICT NO. 1 OF
COLLIN COUNTY

SECTION __.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8305 to read as follows:

CHAPTER 8305. SIENNA RANCH MUNICIPAL UTILITY DISTRICT NO. 1 OF
COLLIN COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8305.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Sienna Ranch Municipal Utility District No. 1 of
Collin County.

Sec. 8305.002. NATURE OF DISTRICT. The district is a municipal utility
district created under Section 59, Article XVI, Texas Constitution.

Sec. 8305.003. CONFIRMATION AND DIRECTORS' ELECTION
REQUIRED. The temporary directors shall hold an election to confirm the creation
of the district and to elect five permanent directors as provided by Section 49.102,
Water Code.

Sec. 8305.004. CONSENT OF MUNICIPALITY AND ANNEXATION INTO
CORPORATE LIMITS REQUIRED. The temporary directors may not hold an
election under Section 8305.003 until:

(1) the City of Nevada has consented by ordinance or resolution to the
creation of the district and to the inclusion of land in the district; and

(2) all of the territory of the district has been annexed into the corporate
limits of the city of Nevada.

Sec. 8305.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The
district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59,
Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8305.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by the article creating this chapter.

(b) The boundaries and field notes contained in the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8305.007-8305.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8305.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8305.052, directors serve staggered four-year terms.

Sec. 8305.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act creating this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8305.003; or

(2) the fourth anniversary of the effective date of the Act creating this chapter.

(c) If permanent directors have not been elected under Section 8305.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8305.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8305.053-8305.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8305.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8305.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES.

The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8305.103. AUTHORITY FOR ROAD PROJECTS.

Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8305.104. ROAD STANDARDS AND REQUIREMENTS.

(a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8305.105. COMPLIANCE WITH MUNICIPAL CONSENT

ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8305.106. EFFECT OF ANNEXATION BY CITY OF NEVADA.

(a) The City of Nevada may annex part of the territory of the district into its corporate limits without annexing all of the territory of the district under an agreement entered into before the effective date of the Act creating this chapter between the City of Nevada and the landowners of the land being annexed. The district continues in existence following annexation of part of the territory of the district as described by this subsection.

(b) The district shall be dissolved and its debts and obligations assumed by the City of Nevada in accordance with Chapter 43, Local Government Code, including Sections 43.075 and 43.0715, on annexation of all of the territory of the district by the City of Nevada, provided that:

(1) water, sanitary sewer, and drainage improvements, and roads have been constructed to serve at least 95 percent of the territory of the district; or

(2) the board adopts a resolution consenting to the dissolution of the district.

(c) Notwithstanding Section 54.016(f)(2), Water Code, a contract ("Allocation Agreement") between the City of Nevada and the district that provides for the allocation of the taxes or revenues of the district and the city following the date of inclusion of all the district's territory in the corporate limits of the city, may provide that the total annual ad valorem taxes collected by the city and the district from taxable property in the district may exceed the city's ad valorem tax on the property.

Sec. 8305.107. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

- (1) a road project authorized by Section 8305.103; or
- (2) a recreational facility as defined by Section 49.462, Water Code.

[Sections 8305.108-8305.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8305.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

- (1) revenue other than ad valorem taxes; or
- (2) contract payments described by Section 8305.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8305.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8305.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8305.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8305.154-8305.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8305.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8305.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8305.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION __.02. The Sienna Ranch Municipal Utility District No. 1 of Collin County initially includes all the territory contained in the following area:

PARCEL 1

BEING a tract of land situated in the Denton Helmstettler Survey, Abstract No. 378, the Roger Willis Survey, Abstract No. 748, and the Willis Roberts Survey, Abstract No. 790, Collin County, Texas, the subject tract being a portion of that 1473.835 acre tract of land conveyed to Commercial Capital Investments, Inc. by Resolution Trust Corporation according to the Special Warranty Deed recorded in Collin County Clerk File number 94-0058780 of the Land Records Of Collin County Texas (LRCCT), the subject tract further being portions of three subdivision Final Plats filed in said Land Records of Collin County Texas, those being Lake Hills, Phase 1 recorded in Cabinet J, Page 134, Park Meadows Phase 1 recorded in Cabinet J, Page 137, and Sommerset Estates, Revised Phase 1 recorded in Cabinet J, Page 313, said three subdivisions being included within the above mentioned Commercial Capital Investments, Inc. 1473.835 acre tract, the subject total tract being more particularly described as follows;

BEGINNING at a point on the south line of Farm-To-Market Road Number 1778, said south line being the same south line of that 15 feet wide strip of land dedicated by the above mentioned Park Meadows Phase 1 Final Plat (Cab. J, Pg. 137), said Beginning point further being the Northeast corner of Lot 4 of said Park Meadows Phase 1 Final Plat and northwest corner of a tract of land conveyed to Walt C. HSU according to the Warranty Deed recorded in Volume 3201, Page 795 (LRCCT), a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner;

THENCE, along the easterly line of the previously mentioned Park Meadows Phase 1 addition line and along the westerly lines of the following tracts; three tracts of land of land conveyed to Walt C. HSU according to two Warranty Deeds recorded in Volume 3201, Page 795 and Volume 3201, Page 797 (LRCCT), and a tract of land conveyed to Phillip Chen recorded in Volume 3584, Page 166 (LRCCT) the following:

S 00° 48' 47" E, a distance of 571.95 feet to a 60d nail found at corner;

S 00° 38' 46" E, a distance of 354.47 feet to a 60d nail found at corner;

S 00° 50' 29" E, a distance of 489.70 feet to an iron pin found at corner;

S 00° 46' 54" E, a distance of 299.68 feet to a 60d nail found at corner;

S 01° 19' 27" E, a distance of 524.53 feet to an iron pin found at an ell corner of said Commercial Capital Investments, Inc. tract, said corner further being the southwest corner of said Phillip Chen tract;

THENCE, along a north line of said Park Meadows Phase 1 and the south lines of said Phillip Chen tract, a tract conveyed to Charles Sitzes according to the deed recorded in Volume, 5746, Page 4572, (LRCCT), a tract conveyed to John A. Whitson

according to the deed recorded in County Clerk File number 93-0046157 (LRCCT), and a tract conveyed to Jesus Canales according to the deed recorded in Volume 4987, Page 1808 (LRCCT) the following;

South 89° 02' 27" E, a distance of 658.56 feet to an iron pin found at corner;

South 89° 07' 19" E, a distance of 2108.54 feet to another ell corner of said Commercial Capital Investments, Inc. tract and westerly line of Price Creek Estates, an addition to Collin County according to the Final Plat recorded in Cabinet I, Page 517 (LRCCT), a 1/2" iron pin next to a fence corner post found at corner;

THENCE, S 00° 04' 47" E, along the easterly line of said Park Meadows Phase 1 and a westerly line of said Price Creek Estates, a distance of 156.97 feet to an ell corner for both said Final Plats, Price Creek Estates and Park Meadows Phase 1, said point also being on the northerly line of Dearborn Acres Phase 1, an addition to Collin County according to the Final Plat recorded in Cabinet J, Page 145 (LRCCT);

THENCE, with the center of Price Creek and along the common line between said additions, Dearborn Acres Phase 1 and Park Meadows Phase 1 the following;

S 83° 21' 39" W, a distance of 30.84 feet; S 71° 03' 54" W, a distance of 28.06 feet;

S 44° 28' 19" W, a distance of 52.54 feet; S 22° 28' 07" W, a distance of 69.53 feet;

S 60° 04' 07" W, a distance of 43.37 feet; N 86° 00' 18" W, a distance of 25.10 feet;

S 66° 13' 16" W, a distance of 140.26 feet; S 43° 31' 15" W, a distance of 49.79 feet;

S 65° 26' 13" W, a distance of 131.00 feet; S 36° 26' 54" W, a distance of 60.05 feet;

S 72° 04' 37" W, a distance of 111.47 feet; S 85° 25' 43" W, a distance of 212.81 feet;

S 85° 44' 44" W, a distance of 211.15 feet; S 69° 09' 30" W, a distance of 143.03 feet;

S 68° 17' 17" W, a distance of 67.74 feet; N 83° 10' 43" W, a distance of 61.36 feet;

S 58° 50' 34" W, a distance of 164.79 feet; S 52° 22' 44" W, a distance of 44.73 feet;

S 62° 21' 17" W, a distance of 49.51 feet; S 86° 31' 51" W, a distance of 41.24 feet;

S 63° 55' 53" W, a distance of 128.94 feet; S 60° 49' 53" W a distance of 131.62 feet;

S 56° 28' 41" W, a distance of 127.19 feet; S 63° 10' 56" W, a distance of 52.78 feet;

S 80° 45' 54" W, a distance of 50.46 feet; S 72° 01' 10" W, a distance of 126.88 feet to a point on the northerly line of the previously mentioned Lake Hills Phase 1 addition;

THENCE, along a creek and along the northerly and easterly line of said Lake Hills Phase 1 and the southwesterly and westerly line of said Dearborn Acres Phase 1 the following;

S 20° 07' 18" E, a distance of 35.15 feet; N 71° 06' 50" E, a distance of 42.23 feet;

S 40° 32' 52" E, a distance of 24.72 feet; S 78° 01' 18" E, a distance of 109.13 feet;

S 58° 24' 56" E, a distance of 71.87 feet; N 70° 21' 55" E, a distance of 51.93 feet;

S 58° 47' 28" E, a distance of 82.38 feet; S 87° 13' 03" E, a distance of 36.21 feet;

S 39° 30' 42" E, a distance of 38.80 feet; S 84° 53' 40" E, a distance of 32.75 feet;

S 50° 38' 42" E, a distance of 137.16 feet; S 81° 23' 41" E, a distance of feet 61.43 feet;

S 55° 18' 27" E., a distance of 59.33 feet: S 38° 02' 26" E, a distance of 77.63 feet;

S 53° 46' 10" E, a distance of 61.86 feet; S 29° 19' 27" E, a distance of 63.87 feet;

S 62° 43' 45" E, a distance of 15.41 feet; S 75° 09' 51" E, a distance of 75.61 feet;

N 51° 34' 08" E, a distance of 46.71 feet; S 61° 49' 18" E, a distance of 29.41 feet;

S 16° 04' 27" E, a distance of 27.49 feet, S 75° 25' 16" E, a distance of 92.21 feet;

S 65° 45' 26" E, a distance of 135.63 feet; S 58° 05' 24" E, a distance of 108.92 feet;

S 56° 13' 03" E, a distance of 86.50 feet; S 67° 13' 21" E, a distance of 87.18 feet;

S 65° 25' 12" E, a distance of 34.56 feet; S 03° 53' 51" E, a distance of 95.72 feet;

S 52° 16' 17" E, a distance of 69.15 feet; S 06° 27' 15" E, a distance of 67.59 feet;

S 28° 12' 59" E, a distance of 94.16 feet; S 07° 03' 34" E, a distance of 105.29 feet to an iron pin found at corner.

S 14° 12' 13" W, a distance of 566.46 feet to an iron pin found at corner;

S 00° 36' 58" W, a distance of 435.57 feet to a point on the north line of Farm-To-Market Road No. 543, said point being the southeast corner of Lot 12 of said Lake Hills Phase 1 and the southwest corner of Lot 1 of Dearborn Acres Phase 1 to a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner;

THENCE, along the said County Road No. 543 north line the following;

N 89° 24' 42" W, a distance of 2415.58 feet to a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner;

Around a tangent curve to the right having a central angle of 08° 50' 44", a radius of 1849.86 feet and a chord of N 84° 59' 20" W - 285.31 feet, an arc distance of 285.59 feet to a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner;

N 80° 33' 58" W, a distance of 278.01 feet to a point on an easterly line of a tract of land conveyed to the United States of America for Lake Lavon, said point further being on the westerly line of said Lake Hills Phase 1, and located at the southwest corner of Lot 1 of said Lake Hills Phase 1, a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner, from which a 5/8" iron pin found bears S 73° 23' 20" E, a distance of 0.82 feet;

THENCE, N 29° 00' 04" E, along the said Lake Hills Phase 1 westerly line and easterly line of said United States of America property, a distance of 899.16 feet to an ell corner of said United States of America property and Lake Hills Phase 1 westerly line, a concrete Government marker found at corner;

THENCE, N 57° 11' 26" W, along a northerly line of said United States of America property and southerly line of Lot 14 of Lake Hills Phase 1 and southerly line of the previously mentioned Park Meadows Phase 1, a distance of 519.49 feet to a concrete Government marker found at corner;

THENCE, S 89° 16' 26" W, continuing along the northerly line of said USA property and along the said Park Meadows Phase 1 southerly line and a southerly line of the previously mentioned Sommerset Estates Revised Phase 1, a distance of 349.84 feet to an ell corner of said USA property and Sommerset Estates Revised Phase 1, a concrete Government marker found at corner;

THENCE, along a westerly line of said United States of America property and easterly line of said Sommerset Estates Revised Phase 1 the following;

S 42° 57' 42" W, a distance of 779.67 feet to a concrete Government marker found at corner;

S 70° 13' 25" W, a distance of 429.81 feet to a concrete Government marker found at corner;

S 47° 45' 34" W, a distance of 423.23 feet to a point on the northerly line of said Farm-To-Market Road No. 543 as dedicated by the said Final Plat of Sommerset Estates Revised Phase 1, a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

THENCE, along said Farm-To-Market Road No. 543 northerly line the following;

N 87° 26' 57" W, a distance of 437.75 feet to a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

N 86° 45' 05" W, a distance of 328.51 feet to a 1/2" iron pin found at corner;

N 89° 58' 53" W, a distance of 99.89 feet to the southwest corner of Lot 1 of said Sommerset Estates Revised Phase 1, said corner further being on the east line of Rocky Road, a 50 feet wide Right-Of-Way easement, a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

THENCE, N 01° 02' 52" E, along the west line of said Sommerset Estates Revised Phase 1 and said Rocky Road east line, a distance of 1107.07 feet to an ell corner of said Sommerset Estates Revised Phase 1, said corner further being the southwest corner of a tract of land conveyed to Teri L. Beckmeyer by the General Warranty Deed recorded in 94-0033501 (LRCCT), a 5/8" iron pin found at corner;

THENCE, S 88° 17' 44" E, along the south line of said Teri L. Beckmeyer tract and north line of Lot 2 of said Sommerset Estates Revised Phase 1, a distance of 593.43 feet to an ell corner of said Sommerset Estates Revised Phase 1, a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

THENCE, along a west line of said Sommerset Estates Revised Phase 1 and the east line of said Teri, L. Beckmeyer, and the east lines of the following tracts, a tract conveyed to Harry E. Shibler and Teri. L. Beckmeyer according to the Warranty Deed with Vendor's Lien recorded in County Clerk File Number 94-0056623 (LRCCT), two tracts conveyed to John Clentis Simpson, Sr. according to the Special Warranty Deed recorded in Volume 5936, Page 4879 (LRCCT), and that tract conveyed to Carol Chamberlain and Allen Chamberlain according to the Warranty Deed With Vendor's Lien recorded in Volume 4704, Page 1799 the following;

N 00° 47' 24" W, a distance of 296.21 feet to a 1/2" iron pin found at corner;

N 01° 08' 33" W, a distance of 240.54 feet to a 1/2" iron pin found at corner;

N 00° 36' 15" W, a distance of 195.04 feet to a 1/2" iron pin found at corner;

N 01° 29' 49" W, a distance of 193.39 feet to a 1/2" iron pin found at corner;

N 00° 42' 09" W, a distance of 467.62 feet to an ell corner of said Sommerset Estates Revised Phase 1, said corner being on a south line of a tract of land conveyed to JoAnne Gambrell Airhart and Tom Patterson Airhart, according to the Warranty Deed With Vendor's Lien recorded in Volume 4510, Page 1852 (LRCCT), a 1/2" iron pin found at corner;

THENCE, S 89° 17' 05" E, along the south line of said JoAnne Gambrell Airhart and Tom Patterson Airhart tract part of the way, along the south line of a tract of land owned by Karen Webb Bennet Ind Exec according to the deed recorded in Volume 1769, Page 435 (LRCCT) and along a north line of said Sommerset Estates Revised Phase 1, a distance of 1660.39 feet to an ell corner of said Sommerset Estates Revised Phase 1 and southeast corner of said Karen Webb Bennet Ind Exec tract, a 1/2" iron pin found 3.7 feet east of a fence corner post at corner;

THENCE, along the a west line of said Sommerset Estates Revised Phase 1 addition and along the east lines of said Karen Webb Bennet Ind Exec tract, that tract conveyed to Altis L. Powell Et Ux according to the deed recorded in Volume 377, Page 119 (LRCCT), the following;

N 01° 02' 36" E, a distance of 1376.06 feet to a 60d nail found at corner;

N 00° 50' 16" E, a distance of 547.97 feet to a 1/2" iron pin found at corner;

N 00° 48' 18" E, a distance of 340.88 feet to the southwest corner of Lot 1 of said Park Meadows Phase 1, a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner;

THENCE, S 89° 35' 45" E, along the south line of said Lot 1 of Park Meadows Phase 1, a distance of 80.60 feet to a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner;

THENCE, N 86° 52' 56" E, continuing along the said Lot 1 of Park Meadows Phase 1 south line, a distance of 137.15 feet to the southeast corner of said Lot 1 of Park Meadows Phase 1, a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner;

THENCE, N 00° 04' 54" W, along the east line of said Lot 1 of Park Meadows Phase 1, a distance of 414.78 feet to a point on the previously mentioned south line of Farm-To-Market Road No. 1778, a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner;

THENCE, N 86° 24' 17" E, along the said Farm-To-Market Road Number 1778 southerly line, a distance of 811.78 feet to the Place of Beginning with the subject tract containing 15,226,847 Square Feet or 349.5603 acres of land.

PARCEL 2

BEING a tract of land situated in the Silvester Williams Survey, Abstract No. 955 and Willis Roberts Survey, Abstract No. 790, Collin County, Texas, the subject tract being a portion of that 1473.835 acre tract of land conveyed to Commercial Capital Investments, Inc. by Resolution Trust Corporation according to the Special Warranty Deed recorded in Collin County Clerk File number 94-0058780 of the Land Records Of Collin County Texas (LRCCT), the subject tract being more particularly described as follows;

BEGINNING at a point on the southerly line of County Road No. 543 and at the southwest corner of that tract of land conveyed to Collin County (for road purposes) according to the Deed recorded in County Clerk File Number 99-0040895 (LRCCT), said beginning point being on the west line of said Commercial Capital Investments, Inc. 1473.835 acre tract and further being S 01° 04' 17" W, a distance of 61.64 feet from the intersection of the north line of County Road No. 543 and the east line of Rocky Road as shown on the Final Plat of Sommerset Estates, an addition to Collin County according to said Final Plat recorded in Cabinet J, Page 313 (LRCCT), a 1/2" iron pin found at corner;

THENCE, along the said County Road No. 543 southerly line the following;

S 88° 52' 45" E, a distance of 169.88 feet to a 1/2" iron pin found at corner;

S 84° 33' 39" E, a distance of 606.25 feet to a point on an easterly line of said Commercial Capital Investments, Inc. 1473.835 acre tract and northwesterly line of a tract of land conveyed to the United States Of America, a 1/2" iron pin found at corner;

THENCE, S 47° 45' 34" W, along the said Commercial Capital Investments, Inc. 1473.835 acre tract southeasterly line and United States of America tract northwesterly line, a distance of 1750.27 feet to a US Government marker in concrete found at corner;

THENCE, along a southerly and westerly line of said Commercial Capital Investments, Inc. 1473.835 acres tract and a northerly and easterly line of said United States of America tract the following;

N 46° 24' 25" W, a distance of 265.29 feet to a US Government marker in concrete found at corner;

N 12° 08' 44" E, a distance of 594.70 feet to a US Government marker in concrete found at corner;

THENCE, S 84° 49' 00" E, along a northerly line of said Commercial Capital Investments, Inc. 1473.835 acres tract and part of the way along a southerly line of a United States of America tract and south line of a tract of land conveyed to J. B. Justice according to the deed recorded in Volume 645, Page 055 (LRCCT), a distance

of 581.99 feet to the southeast corner of said J. B. Justice tract and an ell corner of said Commercial Capital Investments, Inc. 1473.835 acres tract, a US Government marker in concrete found at corner;

THENCE, N 01° 04' 08" E, along a west line of said Commercial Capital Investments, Inc. 1473.835 acres tract and east line of said J. B. Justice tract, a distance of 525.75 feet to the Place of Beginning with the subject tract containing 654,044 Square Feet or 15.0148 Acres of Land.

PARCEL 3

BEING a tract of land situated in the Roger Willis Survey, Abstract No. 748, and the Silvester Williams Survey, Abstract No. 955 Collin County, Texas, the subject tract being a portion of that 1473.835 acre tract of land conveyed to Commercial Capital Investments, Inc. by Resolution Trust Corporation according to the Special Warranty Deed recorded in Collin County Clerk File number 94-0058780 of the Land Records Of Collin County Texas (LRCCT), the subject tract further being a portion of Shalimar Acres, an addition to Collin County Texas according to the Final Plat recorded in Cabinet J, Page 136, (LRCCT), land in said plat being included in the above mentioned Commercial Capital Investments, Inc. 1473.835 acre tract, the subject tract being more particularly described as follows;

BEGINNING at the intersection of the southerly line of County Road No. 543 and the west line of County Road No. 544, said point further being located at the northeast corner of Lot 1 of said Shalimar Acres, a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

THENCE, S 00° 07' 23" W, along the said County Road No. 544 west line, a distance of 2065.10 feet to the southeast corner of Lot 16, of Shalimar Acres, said corner being located on the north line of a tract of land conveyed to the United States Of America, a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner, from which a US Government marker in concrete found bears N 73° 18' 15" E, a distance of 9.85 feet;

THENCE, along the southerly and westerly line of said Shalimar Acres and a northerly and easterly line of said United States of America tract the following;

S 73° 18'15" W, a distance of 493.72 feet to a US Government marker in concrete found at corner;

N 67° 31' 55" W, a distance of 619.64 feet to a US Government marker in concrete found at corner;

S 89° 05' 23" W, a distance of 570.02 feet to a US Government marker in concrete found at corner;

N 36° 58' 31" E, a distance of 919.31 feet to a US Government marker in concrete found at corner;

N 26° 55' 54" E, a distance of 499.80 feet to a US Government marker in concrete found at corner;

N 64° 31' 34" E, a distance of 464.89 feet to a US Government marker in concrete found at corner;

N 29° 01' 25" E, a distance of 699.51 feet to a point on the previously mentioned County Road No. 543 south line, said point further being the northwest corner of the previously mentioned Lot 1 of Shalimar Acres, a US Government marker in concrete found at corner;

THENCE, S 81° 18' 52" E, along said County Road No. 543 south line, a distance of 82.46 feet to the Place Of Beginning with the subject tract containing 1,820,913 Square Feet or 41.8024 acres of land.

PARCEL 4

BEING a tract of land situated in the Roger Willis Survey, Abstract No. 748, Collin County, Texas, the subject tract being a portion of that 1473.835 acre tract of land conveyed to Commercial Capital Investments, Inc. by Resolution Trust Corporation according to the Special Warranty Deed recorded in Collin County Clerk File number 94-0058780 of the Land Records Of Collin County Texas (LRCCT), the subject tract further being a portion of Shalimar Acres, an addition to Collin County Texas according to the Final Plat recorded in Cabinet J, Page 136, (LRCCT), land in said plat being included in the above mentioned Commercial Capital Investments, Inc. 1473.835 acre tract, the subject tract being more particularly described as follows;

BEGINNING at the intersection of the southerly line of County Road No. 543 and the east line of County Road No. 544 as dedicated by said Shalimar Acres Final Plat, said Beginning Point further being located at the northwest corner of Lot 2 of said Shalimar Acres, a 1/2" iron pin with a red cap stamped Tipton Eng. Inc. set at corner;

THENCE, S 80° 33' 58" E, along the southerly line of said County Road No. 543 a distance of 177.59 feet to a 1/2" iron pin with a red cap stamped Tipton Eng. Inc. set at corner;

THENCE, continuing along said County Road No. 543 southerly and around a tangent curve to the left having a central angle of 08° 34' 08", a radius of 1969.86 feet, and a chord of S 84° 51' 02" E with a distance of 294.33 feet, an arc distance of 294.60 feet to the northeast corner of Lot 4 of said Shalimar Acres and the southwest corner of a tract of land conveyed to Collin County for right-of-way according to the Deed recorded in County Clerk File No. 2000-0070885 (LRCCT), a 1/2" iron pin found at corner;

THENCE, S 00° 36' 54" E, along the east line of said Shalimar Acres and a west line of a tract of land conveyed to John Lindsley McCraw, Jr. and Marjorie Elizabeth Gantt according to the Warranty Deed recorded in Volume 627, page 69 (LRCCT), a distance of 313.35 feet to an ell corner of said Shalimar Acres and John Lindsley McCraw, Jr. and Marjorie Elizabeth Gantt tract, a US Government marker in concrete found at corner);

THENCE, S 88° 28' 08" W, along a south line of said Shalimar Acres and a north line of said John Lindsley McCraw, Jr. and Marjorie Elizabeth Gantt tract, a distance of 472.68 feet to a point on the previously mentioned County Road No. 544, said point further being the southwest corner of Lot 2 of said Shalimar Acres, a 1/2" iron pin with a red cap stamped Tipton Eng. Inc. set at corner;

THENCE, N 00° 07' 23" E, along said County Road No. 544 east line, a distance of 381.49 feet to the Place Of Beginning with the subject tract containing 160,368 Square Feet or 3.6815 Acres of land.

PARCEL 5

BEING a tract of land situated in the Roger Willis Survey, Abstract No. 748, and the Silvester Williams Survey, Abstract No. 955 Collin County, Texas, the subject tract being a portion of that 1473.835 acre tract of land conveyed to Commercial

Capital Investments, Inc. by Resolution Trust Corporation according to the Special Warranty Deed recorded in Collin County Clerk File number 94-0058780 of the Land Records Of Collin County Texas (LRCCT), the subject tract being more particularly described as follows;

COMMENCING at the intersection of the southerly line of County Road No. 543 and the west line of County Road No. 544 as dedicated by said Shalimar Acres Final Plat, said point further being located at the northeast corner of Lot 1 of said Shalimar Acres, a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

THENCE, N 81° 19' 37" W, along the said County Road No. 543 south line, a distance of 82.52 feet to the Place Of Beginning of the here-in described tract of land and northwest corner of said Lot 1 of Shalimar Acres, said corner further being located at an ell corner of a tract of land conveyed to the United States Of America, a US Government marker in concrete found at corner;

THENCE, leaving the addition line of said Shalimar Acres and along a common line between that Commercial Capital Investments, Inc. 1473.835 acres tract and the previously mentioned United States of America tract the following;

N 89° 15' 55" W, a distance of 473.20 feet to a 1/2" iron pin found at corner;

N 00° 45' 29" E, a distance of 92.19 feet to a 1/2" iron pin found at corner;

THENCE, continuing along the previously mentioned common property lines and along the approximate centerline of said County Road No. 543 the following;

N 88° 56' 29" E, a distance of 107.30 feet to a 1/2" iron pin found at corner;

S 84° 41' 46" E, a distance of 286.48 feet;

S 81° 15' 53" E, a distance of 112.04 feet;

THENCE, S 33° 09' 52" E, leaving said County Road No. 543 north line and along a portion of that County Road No. 543 right-of-way dedication by said Shalimar Acres, a distance of 69.05 feet;

THENCE, N 89° 06' 54" W, continuing along said County Road No. 543 right-of-way dedication by said Shalimar Acres, a distance of 69.12 feet to the Place Of Beginning with the subject tract containing 42,403 Square Feet or 0.9734 acres of land.

PARCEL 6

BEING a tract of land situated in the Thomas Toby Survey, Abstract No. 925 in the Sylvester William Survey, Abstract No. 955, Collin County, Texas being all of a called 16.105 acre tract of land conveyed by Angela Olivo Ramos to WYA Lake Lavon Ltd., a Texas limited partnership, according to the General Warranty Deed with Vendor's Lien recorded in County Clerk's File Number 20071126001578660 of the Land Records of Collin County, Texas (LRCCT), the subject tract being more particularly described as follows;

BEGINNING at a 1/2" iron pin found with a red cap in the easterly right-of-way of State Highway No. 78 same being the southwest corner of the subject tract and the northwest corner of a tract of land conveyed to W.B. Montgomery;

THENCE, N 15° 54' 36" W, along the easterly line of said State Highway No. 78, a distance of 453.48 feet to a 1/2" iron pin with a red cap stamped Tipton Eng. Inc. set at corner, from which a wood right-of-way monument bears S 16° 24' 09" E, a distance of 63.19 feet;

THENCE, continuing along the easterly line of said State Highway No. 78 and around a curve to the right having a central angle of $04^{\circ} 27' 04''$, a radius of 1382.93 feet, a chord of $N 13^{\circ} 41' 04'' W - 107.37$ feet, an arc distance of 107.39 feet to a $1/2''$ iron pin with a red cap stamped Tipton Eng. Inc. set at corner;

THENCE, $N 89^{\circ} 45' 00'' E$, along the south line of a tract of land conveyed to Angela Olivo Ramos, according to the Warranty Deed recorded in County Clerk File Number 20060208000171830 (LRCCT), a distance of 1364.23 feet to the northeast corner of the subject tract and a point in the west line of a called 23.764 acres tract of land conveyed by Billy G. Roan and wife, Merle Ann Roan to WYA Lake Lavon Ltd., a Texas limited partnership according to the Special Warranty Deed with Vendor's Lien recorded in County Clerk File Number 20080111000045480 (LRCCT), a $1/2''$ iron pin with a red cap stamped Tipton Eng. Inc set at corner from which a $5/8''$ iron pin found with a red cap stamped "Clark" bears $N 00^{\circ} 09' 30'' W$, a distance of 515.87 feet;

THENCE, $S 00^{\circ} 15' 00'' E$, along the east line of said 16.105 acres WYA Lake Lavon Ltd., tract and west line of said WYA Lake Lavon Ltd. 23.764 acres tract, a distance of 547.75 feet to a $1/2''$ iron pin found at corner;

THENCE, $N 89^{\circ} 05' 05'' W$, along the south line of said WYA Lake Lavon Ltd. 16.105 acres tract and the north line of said WYA Lake Lavon Ltd. 23.764 acres tract, a distance of 205.28 feet to a common northerly corner of said WYA Lake Lavon Ltd. 23.764 acres tract and an 18.8098 acres tract of land conveyed by JDI Investors, LP to WYA Lake Lavon Ltd., a Texas limited partnership according to according to the Special Warranty Deed with Vendor's Lien recorded in CC# 20080702000812420 (LRCCT), a $1/2''$ iron pin found with a red cap stamped "Clark" found 1 foot NW of a fence corner post at corner;

THENCE, $S 89^{\circ} 53' 31'' W$, along the north line of said WYA Lake Lavon Ltd 18.8098 acres tract of land and the south line of the subject WYA Lake Lavon Ltd. 16.105 acres tract of land, passing a $1/2''$ iron pin found at the northeast corner of said Montgomery Tract at a distance of 592.68 feet and continuing along the north line of said Montgomery Tract for a total distance of 1011.65 feet to the PLACE OF BEGINNING with the subject tract containing 701,534 square feet or 16.105 acres of land.

PARCEL 7

BEING a tract of land situated in the Sylvester William Survey, Abstract No. 955, Collin County, Texas and being all of a called 23.764 acres tract of land conveyed by Billy G. Roan and wife, Merle Ann Roan to WYA Lake Lavon Ltd., a Texas limited partnership according to the Special Warranty Deed with Vendor's Lien recorded in County Clerk File Number 20080111000045480 (LRCCT), the subject tract being more particularly described as follows;

BEGINNING at a $5/8''$ iron pin with a red cap stamped "Clark" found for corner at the intersection of the South right-of-way of County Road 543, the west boundary line of said 23.764 acres tract and the east boundary line of a 1.001 acre tract owned by Dario M. Castillo according to the warranty deed recorded in Volume 5734, Page 2748 (LRCCT), said beginning point further being located at the southwest corner of a 0.4622 acre tract described in conveyance from Bill G. Roan to County of Collin, dated May 24, 2000 and recorded in Volume 4677, Page 1545 (LRCCT), said

beginning point further being 1303.91 feet easterly, along said County Road 543 south line, from the point of intersection of the south line of County Road No. 543 (Vol. 4837, Page 725 LRCCT), a variable width ROW and the east line of State Highway Number 78;

THENCE with the south right-of-way of County Road 543 and the south boundary line of said 0.4622 acre tract the following;

S 89° 25' 22" E, a distance of 30.49 feet to a 1/2" iron rod found for corner;

N 89° 06' 30" E, a distance of 430.67 feet to the northeast corner of the said subject 23.764 acres tract, said point further being located on the west line of a 15.23 acres tract conveyed by Emma Nowlin, et al to the United States of America dated September 21, 1972, recorded in Volume 837, Page 367 (LRCCT), a 1/2" iron rod found at corner;

THENCE, S 30° 07' 59" E, a distance of 531.40 feet to a concrete corporation monument found for corner and 1.2 feet north of a fence corner, said corner being an interior corner of the United States of America 15.23 acres tract;

THENCE, along the east line of said WYA Lake Lavon Ltd. 23.764 acres tract and the west line of said United States of America tract the following;

S 57° 08' 27" W, a distance of 564.72 feet to a concrete corporation monument found near a fence corner at corner,

S 30° 05' 11" E, a distance of 310.04 feet to a concrete corporation monument found at corner;

S 06° 02' 06" W, passing a concrete corporation monument found at a distance of 499.80 feet and continuing to make a total distance of 899.52 feet to the most southerly southeast corner of said WYA Lake Lavon Ltd. 23.764 acres tract, a concrete corporation monument found at corner;

THENCE, S 77° 58' 17" W, along the south line of said WYA Lake Lavon Ltd. 23.764 acres tract and the north line of said United States of America 15.23 acres tract, a distance of 530.53 feet to the southwest corner of the subject WYA Lake Lavon Ltd. 23.764 acres tract and the southeast corner of that 18.8098 acres tract of land conveyed by JDI Investors, LP to WYA Lake Lavon Ltd., a Texas limited partnership according to according to the Special Warranty Deed with Vendor's Lien recorded in CC# 20080702000812420 (LRCCT), a 1/2" iron pin with a red cap stamped "Wisdom" found at corner, from which a fence corner post bears S 04° 44' 01" E, a distance of 5.32 feet and a metal pole of a power line bears S 59° 34' 51" E, a distance of 70.91 feet;

THENCE N 00° 12' 05" E, along the east line of said WYA Lake Lavon Ltd. 18.8098 acres tract and the west line of said WYA Lake Lavon Ltd. 23.764 acres tract and generally along or near a barbed wire fence, a distance of 972.68 to a point on the south line of a 16.105 acre tract of land conveyed by Angela Olivo Ramos to WYA Lake Lavon Ltd., a Texas limited partnership, according to the General Warranty Deed with Vendor's Lien recorded in County Clerk's File Number 20071126001578660 of the Land Records of Collin County, Texas (LRCCT), a 1/2" iron pin with a red cap stamped "Clark" found 1 foot NW of a fence corner post at corner;

THENCE, S 89° 05' 05" E, along the north line of the subject WYA Lake Lavon Ltd. 23.764 acres tract and the south line of said WYA Lake Lavon Ltd. 16.105 acres tract, a distance of 205.28 feet to a 1/2" iron pin found at corner;

THENCE, N 00° 15' 00" W, along the subject WYA Lake Lavon Ltd. 23.764 acres tract west line and east lines of the said WYA Lake Lavon Ltd. 16.105 acres tract and that 16.1066 acres tract of land owned by Angela Olivo Ramos, according to the warranty deed recorded in County Clerk's File Number 20060208000171830 (LRCCT), a distance of 970.04 feet to a 1/2" iron pin with a cap stamped Stovall & Associates found at corner;

THENCE, N 00° 03' 27" E, along the east line of said Dario M. Castillo 1.001 acre tract and the west line of the subject WYA Lake Lavon Ltd. 23.764 acres tract, a distance of 93.64 feet to the Place of Beginning with the subject tract containing 1,035,320 Square Feet or 23.7677 acres of land.

PARCEL 8

BEING a tract of land situated in the Thomas Toby Survey, Abstract No. 925 and the Sylvester William Survey, Abstract No. 955, Collin County, Texas, the subject tract being all of that 18.8098 acres tract of land conveyed by JDI Investors, LP to WYA Lake Lavon Ltd., a Texas limited partnership according to according to the Special Warranty Deed with Vendor's Lien recorded in CC# 20080702000812420 of the Land Records of Collin County, Texas (LRCCT), the subject tract being more particularly described as follows;

COMMENCING at the point intersection of the south line of County Road No. 543 (Vol. 4837, Page 725 LRCCT), a variable width ROW at this point and the east line of State Highway Number 78, said point being the most northerly northwest corner of a tract of land conveyed to Alfred Olivo according to the warranty deed recorded in County Clerk's File Number 20060208000171820 (LRCCT), a 1/2" iron pin with a red cap stamped "Boundary Solutions" found at corner, from which a 1/2" iron pin found bears N 31° 40' 42" W, a distance of 176.28 feet;

THENCE, along the said State Highway Number 78 easterly line the following;

S 45° 09' 02" W, a distance of 131.71 feet;

S 00° 36' 13" E, a distance of 184.23 feet;

Around a non-tangent curve to the left having a central angle of 15° 42' 46", a radius of 1382.39 feet and a chord of S 08° 03' 17" E - 377.92 feet, an arc distance of 379.10 feet;

S 15° 54' 36" E, a distance of 453.48 feet to the southwest corner of a 16.105 acres tract of land conveyed to WYA Lake Lavon Ltd., according to the according to the General Warranty Deed With Vendor's Lien recorded in CC# 20071126001578660 (LRCCT);

THENCE, N, 89° 53' 31" E, along the south line of said WYA Lake Lavon Ltd., 16.105 acres tract, a distance of 418.96 feet to the PLACE OF BEGINNING of the herein described tract, said Beginning Point being the most northerly northwest corner of the subject WYA Lake Lavon Ltd., 18.8098 acres tract and the northeast corner of a tract of land conveyed to Willie B. Montgomery according to the deed recorded in Volume 463, Page 496 (LRCCT), a 1/2" iron pin with a red cap stamped "Wisdom" found at corner;

THENCE, N 89° 53' 31" E, along the south line of said WYA Lake Lavon Ltd., 16.105 acres tract and the north line of said WYA Lake Lavon Ltd., 18.8098 acres tract, a distance of 592.69 feet to the northeast corner of said WYA Lake Lavon Ltd., 18.8098 acres tract, said corner also being located at an angle point of a 23.764 acre tract of land conveyed to WYA Lake Lavon Ltd., a Texas limited partnership, according to the Warranty Deed With Vendor's Lien recorded in CC# 20080111000045480 (LRCCT), a 1/2" iron pin with a red cap stamped "Clark" found 1 foot NW of a fence corner post at corner;

THENCE, S 00° 11' 58" W, along the east line of said WYA Lake Lavon Ltd., 18.8098 acres tract and west line of said WYA Lake Lavon Ltd., 23.764 acres tract, and generally along or near a barbed wire fence, a distance of 972.52 feet to the southeast corner of said WYA Lake Lavon Ltd., 18.8098 acres tract, a 1/2" iron pin with a red cap stamped "Wisdom" found at corner, from which a fence corner post bears S 04° 44' 01" E, a distance of 5.32 feet and a metal pole of a power line bears S 59° 34' 51" E, a distance of 70.91 feet;

THENCE, S 89° 52' 50" W, along the south line of said WYA Lake Lavon Ltd., 18.8098 acres tract and the north line of a tract of land conveyed to the United States Of America according to the Condemnation document recorded in Volume 714, page 825 (LRCCT), and proceeding approximately 5.3 feet to 6 feet northerly of a barbed wire fence, a distance of 811.92 feet to a concrete Government marker stamped 1918-1-1 found at corner, from which a fence corner post bears S 02° 51' 19" E, a distance of 6.1 feet;

THENCE, N 04° 36' 49" W, along the westerly line of said WYA Lake Lavon Ltd., 18.8098 acres tract and an easterly line of a tract of land conveyed to the United States Of America and identified as Tract 1918-1 according to the Condemnation document recorded in Volume 755, Page 612 (LRCCT), a distance of 460.09 feet to a concrete Government marker stamped 1918-1-2 found at corner,

THENCE, S 88° 38' 36" W, along a south line of said WYA Lake Lavon Ltd., 18.8098 acres tract and the north line of said United States Of America north line (755, Page 612), a distance of 49.97 feet to a concrete Government marker stamped 1918-1-3 found at corner,

THENCE, along said State Highway No. 78 easterly line and the westerly line of said WYA Lake Lavon Ltd., 18.8098 acres tract the following;

Around a non-tangent curve to the left having a central angle of 13° 07' 52", a radius of 1373.25 feet and a chord of N 09° 20' 40" W - 314.03 feet, an arc distance of 314.72 feet to a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner;

N 15° 54' 36" W, a distance of 89.62 feet to a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner, from which a Highway Department wood monument found bears N 24° 06' E, a distance of 0.28 foot and a 1/2" iron pin with a red cap stamped "Wisdom" found bears S 15° 54' 36" E, a distance of 10.13 feet;

THENCE, N 89° 53' 31" E, along the south line of the previously mentioned Willie B. Montgomery tract and a north line of said WYA Lake Lavon Ltd., 18.8098 acres tract, a distance of 383.16 feet to a 1/2" iron pin with a red cap stamped Tipton Engineering, Inc. set at corner, from which a 60d nail found in top of 3 feet tall power pole bears S 07° 17' 23" E, a distance of 9.94 feet;

THENCE, N 00° 57' 15" E. along a west line of said WYA Lake Lavon Ltd., 18.8098 acres tract and the east line of said Willie B. Montgomery tract, a distance of 118.97 feet to the Place Of Beginning with the subject tract containing 819,355 Square Feet or 18.8098 Acres of Land.

PARCEL 9

BEING a tract of land situated in the Thomas Toby Survey, Abstract No. 925 and the Sylvester William Survey, Abstract No. 955, Collin County, Texas, the subject tract being all of that tract of land conveyed to Alfred Olivo, according to the warranty deed recorded in County Clerk's File Number 20060208000171830 of the Land Records of Collin County, Texas (LRCCT), the subject tract being more particularly described as follows;

BEGINNING at the point intersection of the south line of County Road No. 543 (Vol. 4837, Page 725 LRCCT), a variable width ROW and the east line of State Highway Number 78, said point being the northwest corner of said Alfred Olivo subject tract, a 1/2" iron pin with a red cap stamped "Boundary Solutions" found at corner, from which a 1/2" iron pin found bears N 31° 40' 42" W, a distance of 176.28 feet;

THENCE, along the said County Road No. 543 south line the following;

S 89° 21' 07" E (deed = S 89° 24' 48" E), a distance of 225.74 feet to a 5/8" iron pin with a red cap found at corner;

S 88° 24' 19" E (deed = S 88° 23' 30" E), a distance of 742.45 feet to the most northerly northeast corner of said Alfred Olivo tract and northwest corner of a tract of land owned by Dario M. Castillo according to the warranty deed recorded in Volume 5734, Page 2748 (LRCCT), a 1/2" iron pin with a red cap stamped Tipton Eng., Inc. set at corner, from which a 5/8" iron pin with a red cap stamped " Clark" found bears N 71° 03' 30" W, a distance of 284.97 feet;

THENCE, S 00° 47' 36" W, along an east line of said Alfred Olivo tract and west line of said Dario M. Castillo tract, a distance of 91.56 feet to a 1/2" iron pin with a cap stamped Stovall & Associates found at corner;

THENCE, S 89° 18' 46" E (deed = S 89° 19' 33" E), along a north line of said Alfred Olivo tract and south line of said Dario M. Castillo tract, a distance of 331.89 feet to the most easterly northeast corner of said Alfred Olivo tract, said corner further being located at a point on the west line of a tract of land conveyed by Billy G. Roan and wife, Merle Ann Roan to WYA Lake Lavon Ltd., a Texas limited partnership according to the Special Warranty Deed with Vendor's Lien recorded in County Clerk File Number 20080111000045480 (LRCCT), a 1/2" iron pin with a cap stamped Stovall & Associates found at corner;

THENCE, S 00° 15' 00" E, along the east line of said Alfred Olivo tract and said WYA Lake Lavon Ltd., 23.764 acres tract west line, a distance of 422.28 feet to the southeast corner of said Alfred Olivo tract, a 1/2" iron pin with a red cap stamped Tipton Eng. Inc. found at corner;

THENCE, S 89° 45' 00" W, along the south line of said Alfred Olivo tract and the north line of a tract of land conveyed by Angela Olivo Ramos to WYA Lake Lavon Ltd., a Texas limited partnership, according to the General Warranty Deed with Vendor's Lien recorded in County Clerk's File Number 20071126001578660 (LRCCT), a distance of 1364.23 feet to the southwest corner of said Alfred Olivo tract and a point on the east line of said State Highway No. 78, a 1/2" iron pin with a red cap stamped Tipton Eng. Inc. found at corner, from which a 5/8" iron pin with a yellow cap stamped RPLS 3949 bears S 39° 23' 34" W, a distance of 161.44 feet;

THENCE, along the west line of said Alfred Olivo tract and the east line of said State Highway No. 78 the following,

Around a non-tangent curve to the right having a central angle of 11° 15' 42", a radius of 1382.39 feet and a chord of N 05° 49' 42" W - 271.28 feet, an arc distance of 271.72 feet to a 1/2" iron pin with a red cap stamped "Boundary Solutions" found at corner;

N 00° 36' 13" W (deed = N 00° 11' 36" W - 184.40 feet), a distance of 184.23 feet to a wood monument found at corner, from which the corner of an old house bears N 89° 36' 11" E - 61.68 feet and another wood monument across State Highway No. 78 bears N 78° 09' 24" W, a distance of 224.39 feet;

N 45° 09' 02" E (deed = N 44° 48' 24" E - 130.44 feet), a distance of 131.71 feet to the PLACE OF BEGINNING with the subject tract containing 701,603 square feet or 16.1066 acres of land.

PARCEL 10

BEING a tract of land situated in the Roger Willis Survey, Abstract No. 748, Collin County, Texas, the subject tract being a portion of that 1473.835 acre tract of land conveyed to Commercial Capital Investments, Inc. by Resolution Trust Corporation according to the Special Warranty Deed recorded in Collin County Clerk File number 94-0058780 of the Land Records Of Collin County Texas (LRCCT), the subject tract further being a portion of Wenners Park, an addition to Collin County Texas according to the Final Plat recorded in Cabinet J, Page 136, (LRCCT), which is included in the above mentioned Commercial Capital Investments, Inc. 1473.835 acre tract, the subject tract being more particularly described as follows;

BEGINNING at a point on the south line of County Road No. 543 (a 120' ROW), said point being located at the Northwest corner of Lot 1 of said Wenners Park and the southeast corner of that tract of land conveyed to the County Of Collin for road purposes according to the Deed recorded in County Clerk File No. 2000-0070885 (LRCCT), said Beginning Point further being at the northeast corner of a tract of land owned by John Lindsley McCraw and Marjorie Elizabeth McCraw according to the Warranty deed recorded in Volume 627, Page 69 (LRCCT), a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

THENCE, along the said County Road No. 543 southerly line the following;

S 89° 24' 06" E, a distance of 890.66 feet to a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

Around a tangent curve to the left having a central angle of 14° 46' 02", a radius of 1249.86 feet, and a chord of N 83° 12' 53" E-321.24 feet, an arc distance of 322.13 feet to a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

N 75° 49' 52" E, a distance of 216.93 feet to a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

Around a tangent curve to the right having a central angle of 14° 22' 13", a radius of 1129.86 feet, and a chord of N 83° 00' 59" E-282.64 feet, an arc distance of 283.38 feet to a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

S 89° 47' 55" E, a distance of 817.15 feet to the northeast corner of Lot 12 of said Wenners Park and the southwest corner of a tract of land conveyed to the County Of Collin for road purposes according to the Deed recorded in County Clerk File No. 99-0115447 (LRCCT), a 1/2" iron pin found at corner;

THENCE, along or westerly of the west line of a tract of land conveyed to Boyce Creek Estates Partnership, according to the Warranty Deed recorded in County Clerk File No. 20071205001626340 (LRCCT) and the east line of said Wenners Park the following;

S 00° 48' 53" W, a distance of 913.39 feet to a 1/2" iron pin found at corner;

S 01° 05' 39" W, a distance of 117.27 feet to a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

S 00° 24' 39" E, a distance of 1169.17 feet to a 1/2" iron pin found at corner;

S 01° 16' 49" E, a distance of 426.06 feet to the southeast corner of said Wenners Park, said corner being located on the north line of a tract of land conveyed to Thomas A. Adcox according to the Warranty Deed recorded in County Clerk File No. 93-0055843 (LRCCT), a 1" iron pipe found at corner from which a fence corner post found bears N 58° 58' 10" E - 1.72 feet;

THENCE, N 88° 15' 15" W, a distance of 234.65 feet along the south line of said Wenners Park and south of the found north line of a tract of land conveyed to Thomas A. Adcox according to the Warranty Deed recorded in County Clerk File No. 93-0055843 (LRCCT) to a 5/8" iron pin found at corner;

THENCE, N 88° 28' 43" W, continuing along the Wenners Park south line along the north line of a tract of land conveyed to Ronald D. Townsend according to the Warranty Deed With vendor's Lien recorded in County Clerk File No. 95.0095541 (LRCCT), a distance of 138.01 feet to the northwest corner of said Ronald D. Townsend tract;

THENCE, continuing along the Wenners Park south line and along or north of the north line of a tract of land conveyed to Arapaho East, Inc. according to the Warranty Deed With Vendor's Lien recorded in County Clerk File No. 2007125000110590 the following; N 87° 28' 53" W, a distance of 106.30 feet to a 1/2" iron pin found at corner;

N 89° 09' 24" W, a distance of 660.91 feet;

N 89° 15' 04" W, a distance of 329.10 feet to a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

S 89° 19' 08" W, a distance of 200.98 feet to a point being the northwest corner of said Arapaho East, Inc. tract and the northeast corner of a tract of land conveyed to John Yeager according to the Warranty Deed recorded in County Clerk File No. 95-0018001 (LRCCT), from said point a 1/2" iron pin with a yellow cap stamped R.S.C.I. RPLS 5034 bears N 46° 38' 55" E- 3.09 feet;

THENCE, S 89° 49' 14" W, continuing along said Wenners Park south line, and the north line of said John Yeager tract, a distance of 831.17 feet to a common property corner being the southwest corner of said Wenners Park, a northwesterly corner of said John Yeager tract, and at a corner of a tract of land conveyed to the United States Of America, no monument found at corner.

THENCE, along the west line of said Wenners Park, and part of the way along an east line of said United States of America, and on or near the east line of said John Lindsley McCraw and Marjorie Elizabeth McCraw tract the following;

N 01° 20' 52" W, a distance of 63.19 feet to a US Government monument in concrete found at corner;

N 00° 05' 48" E, a distance of 350.50 feet to a 1/2" iron pin found at corner;

N 00° 00' 20" W, a distance of 428.47 feet to a 1/2" iron pin found at corner;

N 01° 04' 04" W, a distance of 564.64 feet to a 1/2" iron pin with a red cap stamped Tipton Eng, Inc. set at corner;

N 00° 25' 45" W, a distance of 1081.22 feet to the Place of Beginning with the subject tract containing 6,354,268 Square Feet or 145.8739 acres of land.

PARCEL 11

BEING a tract of land situated in the Roger Willis Survey, Abstract No. 748 and the James Osgood Survey, Abstract No. 673, in Collin County, Texas, the subject tract being all of that 122.085 acre tract of land conveyed to Boyce Creek Estates Partnership, a Texas General Partnership according to the Warranty deed recorded in County Clerk File Number 20071205001626340 (LRCCT), the subject tract being more particularly described as follows;

BEGINNING at a point on the south line of County Road No. 543 (a 120' ROW), said point being located at the Northeast corner of Lot 12 of Wenners Park, an addition to Collin County Texas according to the Final Plat recorded in Cabinet J, Page 136, (LRCCT), said point further being the northwest corner of said Boyce Creek Estates Partnership 122.085 acre tract, a 1/2" iron pin found next to a fence corner post at corner,

THENCE, N 89° 42' 04" E, along the south line of said County Road Number 543, a distance of 645.18 feet to the northwest corner of a remaining tract of land conveyed to Commercial Capital Investments, Inc. according to the deed recorded in County Clerk File Number 94-0058780 (LRCCT), a 1/2" iron pin found at corner;

THENCE, S 00° 17' 56" E, along the west line of said Commercial Capital Investments, Inc. tract, a distance of 116.02 feet;

THENCE, N 89° 51' 51" E, along the south line of said Commercial Capital Investments, Inc. tract, a distance of 450.80 feet;

THENCE, N 00° 17' 56" W, along the east line of said Commercial Capital Investments, Inc. tract, a distance of 117.32 feet to a point on the said County Road Number 543 south line, a 1/2" iron pin found at corner;

THENCE, N 89° 42' 04" E, along said County Road Number 543 south line, a distance of 943.24 feet to the northeast corner of said Boyce Creek Estates Partnership tract, said point further being the northwest corner of a 11.430 acre tract of land conveyed to Raymond and Mary Estrello as recorded in Volume 1268, Page 498 (LRCCT);

THENCE, S 00° 13' 19" E, along the west line of said 11.430 acre tract, a distance of 449.65 feet to a 1/2" iron pin found at corner;

THENCE, S 00° 05' 23" W, along a fence, a distance of 1068.33 feet to the existing southwest corner of a 2.600 acre tract of land conveyed to Ray Estrello according to the deed recorded in Collin County Clerk File Number 96-0033461 (LRCCT);

THENCE, S 00° 01' 45" E, along a fence, a distance of 350.10 feet to the southwest corner of an 8.00 acre tract of land conveyed to Keenan and Janice Lusk according to the deed recorded in Collin County Clerk File Number 96-0010294 (LRCCT), a 3/8" iron pin found at corner;

THENCE, S 00° 03' 28" E, along a fence, a distance of 750.92 feet to the southeast corner of said Boyce Creek Estates Partnership tract and the southwest corner of a 14.500 acre tract of land conveyed to Rick and Terry Rabon according to the deed recorded Collin County Clerk File Number 96-0055479 (LRCCT);

THENCE, along the south line of said Boyce Creek Estates Partnership tract the following;

S 88° 49' 18" W, a distance of 322.40 feet to a 3/8" iron pin found at corner;

S 89° 32' 40" W, a distance of 641.39 feet;

S 89° 42' 16" W, a distance of 1073.83 feet to the southwest corner of said Boyce Creek Estates Partnership tract, a 1" iron pipe found at corner, said corner further being the southeast corner of the previously mentioned Wenners Park addition;

THENCE, along the west line of said Boyce Creek Estates Partnership tract the following;

N 00° 42' 50" W, passing 4.2 feet east of an angle point of said Wenners Park at a distance of 426.03 feet and continuing to make a total distance of 837.78 feet;

N 00° 38' 25" W, a distance of 519.80 feet;

N 00° 36' 47" E, passing 4.2 feet east of a 1/2" iron pin with a red cap stamped Tipton Eng., Inc. found at corner at a distance of 237.57 feet and passing 3.2 feet east of a 1/2" iron pin found at a distance of 354.83 feet and continuing to make a total distance of 1268.21 feet to the Place of Beginning with the subject tract containing 5,317,920 Square Feet or 122.0827 acres of land.

SECTION __.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article 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 article are fulfilled and accomplished.

Floor Amendment No. 10 by Watson

Amend **CSHB 3335** (Senate committee printing) as follows:

(1) Add the following appropriately numbered ARTICLE to the bill:

ARTICLE ____ . LAKEWAY MUNICIPAL UTILITY DISTRICT

SECTION ____ .01. DEFINITIONS. In this article:

(1) "Additional voting area" means the territory described by Section ____ .04 of this article.

(2) "Board" means the board of directors of the district.

(3) "District" means the Lakeway Municipal Utility District.

SECTION ____ .02. BOARD OF DIRECTORS. (a) The district is governed by a board of seven directors elected in accordance with Chapters 49 and 54, Water Code.

(b) Except as provided by Section ____ .05 of this article, directors serve staggered terms of four years.

SECTION ____ .03. EFFECT OF ADDITIONAL VOTING AREA ON VOTING RIGHTS, ELIGIBILITY FOR OFFICE, AND TAXING AUTHORITY. (a) The qualified voters residing in the additional voting area are entitled to vote only in district elections for the election of directors. The voters in the additional voting area may not vote on any district bond or tax propositions.

(b) The board by rule shall establish procedures to timely notify qualified voters residing in the additional voting area of the locations of polling places for each election of district directors.

(c) Notwithstanding Section 54.102, Water Code, a resident of the additional voting area is eligible to be a candidate for or to be elected to the board.

(d) The district may not impose a tax on any property in or any resident of the additional voting area.

SECTION ____ .04. ADDITIONAL VOTING AREA. The additional voting area is that territory in certain subdivisions, the plats of which are recorded in the plat records of Travis County, Texas, as follows: Lakeway Section One, recorded in Volume 17, Page 65; Lakeway Section Two, recorded in Volume 17, Page 74; Lakeway Section Three, recorded in Volume 22, Page 20; Lakeway Section Four, recorded in Volume 25, Page 29; Lakeway Section Four-B, recorded in Volume 35, Page 12; Lakeway Section Five, recorded in Volume 30, Page 12; Lakeway Section Six, recorded in Volume 31, Page 30; Lakeway Section Seven, recorded in Volume 32, Page 42; Resubdivision of Lot 434-A, Lakeway Section 7-A, recorded in Volume 71, Page 26; Lakeway Section Eight, recorded in Volume 34, Page 28; Lakeway Section Nine, recorded in Volume 40, Page 2; Resubdivision of Lakeway Section Nine & Thirteen, recorded in Volume 62, Page 16; Lakeway Section Ten, recorded in Volume 44, Page 10; Lakeway Section Eleven, recorded in Volume 41, Page 41; Lakeway Section Twelve, recorded in Volume 46, Page 1; Lakeway Section Thirteen, recorded in Volume 46, Page 16; Lakeway Section Fourteen, recorded in Volume 44, Page 8; Lakeway Section 15, recorded in Volume 77, Page 149; Lakeway Section Sixteen, recorded in Volume 49, Page 39; Lakeway Section 16-A, recorded in Volume 59, Page 19; Lakeway Section Sixteen-B, recorded in Volume 59, Page 65; Lakeway Section 16-C, recorded in Volume 59, Page 18; Lakeway Section 16-D, recorded in Volume 60, Page 57; Lakeway Section Seventeen, recorded in Volume 50, Page 74;

Lakeway Section 17-A, recorded in Volume 54, Page 67; Amendment Plat of Lots 443-A, 444-A & 445-A, Lakeway Section Four-A and Lot 446, Lakeway Section Four, recorded at Volume 91, Page 49; Lakeway Section 4-C, recorded at Volume 38, Page 24; Confirming Plat of Lot 1, Lakeway Section 4-D (310 Seashell), recorded at Volume 98, Page 160; Lakeway Section 4-E, recorded at Volume 82, Page 355; Lakeway Section 16-G, recorded at Volume 88, Page 320; Moore's Treetops a Resubdivision of a Portion of Lakeway Section 4, recorded at Volume 79, Page 320-321; Derby Addition Resubdivision of Lots 270, 271 & 272 Lakeway Section 2, recorded at Volume 82, Page 50.

SECTION __.05. ELECTION OF DIRECTORS IN 2010. (a) Not earlier than the 15th day or later than the sixth day before the date of the first district election held in which the residents of the additional voting area are entitled to vote, the district shall publish notice in the form of a quarter-page advertisement in the newspaper of general circulation in the district notifying the residents that they are eligible to vote in the election and state the location of all polling places for the residents.

(b) On the uniform election date in May 2010, four directors shall be elected to the board. The directors elected to the two additional positions on the board created by this article shall draw lots to determine which director serves a two-year term and which director serves a four-year term.

SECTION __.06. NOTICE. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 has submitted the notice and this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and 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 article are fulfilled and accomplished.

(2) Number the SECTIONS of the added ARTICLE accordingly and make conforming cross-reference changes.

(3) Renumber any subsequent ARTICLES and SECTIONS of the bill accordingly.

Floor Amendment No. 11 by Patrick

Amend **CSHB 3335** (Senate committee report) as follows:

(1) Add the following appropriately numbered ARTICLE to the bill:

ARTICLE __. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 524

SECTION __.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8354 to read as follows:

CHAPTER 8354. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 524SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8354.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Harris County Municipal Utility District No. 524.

Sec. 8354.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8354.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8354.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8354.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8354.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, or improvement of macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

Sec. 8354.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by the article creating this chapter.

(b) The boundaries and field notes contained in the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8354.007-8354.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8354.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8354.052, directors serve staggered four-year terms.

Sec. 8354.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the article creating this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas

Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8354.003; or

(2) the fourth anniversary of the effective date of the article creating this chapter.

(c) If permanent directors have not been elected under Section 8354.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8354.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8354.053-8354.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8354.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8354.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8354.103. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the Texas Commission on Environmental Quality as required by Section 54.234, Water Code.

Sec. 8354.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8354.103 unless:

(1) each municipality or county that will operate and maintain the road has approved the plans and specifications of the road project, if a municipality or county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8354.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8354.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

- (1) a road project authorized by Section 8354.103; or
- (2) a recreational facility as defined by Section 49.462, Water Code.

Sec. 8354.107. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

- (1) has no outstanding bonded debt; and
- (2) is not imposing ad valorem taxes.

(b) This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by the article creating this chapter.

(d) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section 8354.003 to confirm the district's creation.

(f) An order dividing the district:

(1) shall:

- (A) name each new district;
- (B) include the metes and bounds of each new district;
- (C) appoint temporary directors for each new district, or provide that

the owner or owners of a majority of the assessed value of the real property in each new district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition; and

(D) provide for the division of assets and liabilities between or among the new districts; and

(2) is subject to a confirmation election in each new district.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the Texas Commission on Environmental Quality and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8354.003. The results of that election must be filed as required by Sections 49.102(e) and (f), Water Code. If the voters of a new district do not confirm the creation of the new district, the assets, liabilities, territory, and governance of the new district revert to the original district.

(i) Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 8354.004 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

(j) Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

Sec. 8354.108. FIREFIGHTING AND EMERGENCY MEDICAL SERVICES. Subchapter L, Chapter 49, Water Code, applies to the district.

[Sections 8354.109-8354.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8354.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8354.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8354.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8354.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8354.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8354.154-8354.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8354.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8354.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8354.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION __.02. The Harris County Municipal Utility District No. 524 initially includes all the territory contained in the following area: 990.804 acres in 5 non-contiguous tracts out of Sections 9, 10, 15, and 16 of Harris County School Land Survey, Abstract No 332, recorded in Vol 17, Pg 222 of the Deed Records of Harris County, Texas and including within Tracts 1, 2, 3, and 4 an unnamed 66 foot roadway as shown on the plat of said Harris County School Land being granted by Commissioners Award recorded in Vol 7448, Pg 181, HCDR; said roadway does not exist physically on the ground: (All bearings used herein are based on Highway Right-of-Way Maps provided by the Texas Department of Transportation)

Tract 1

A tract or parcel of land containing 255.572 acres (11,132,730 square feet) out of Lots 9, 10, 15, and 16 of Section 9 and Lots 1, 2, 7, & 8 of Section 16 of said Harris County School Land Survey, Abstract No 332, Harris County, Texas; said 255.572 acres being that same tract of land called 257.230 acres described by deed recorded in HCCF No M577056 ("Tract 1", therein) and conveyed to Delta Troy Interests, Ltd by deed recorded in X381657 and more particularly described by metes and bounds as follows:

COMMENCING at a State Department of Highways and Public Transportation Horizontal Control Monument located in the southerly right-of-way line of U.S. 290, 160.00 feet at right angles from the centerline, across from Engineers Station 109+27.74;

THENCE along said southerly right-of-way line, clockwise, following the arc of a 1855.86 foot radius curve-to-the-right, subtending a central angle of 03 degrees 20 min 18 seconds, through an arc length of 108.13 feet (chord bearing of South 66 degrees 23 minutes 38 seconds East, 108.12 feet) to a 5/8 inch iron rod found marking the POINT OF BEGINNING and most northerly Northeast corner of the herein described tract, same being the East corner of that called 12.4147 acre tract of land conveyed to Peter S. Terpstra, Trustee by deed recorded in HCCF No 20060246633;

THENCE continuing along said right-of-way line and said curve, subtending a central angle of 06 degrees 36 minutes 09 seconds, through an arc length of 213.86 feet (chord bearing of South 61 degrees 25 minutes 25 seconds East, 213.74 feet) to a 5/8 inch iron rod set marking the end of said curve; said point being located in the southerly right-of-way line of U.S. 290, 202.32 feet at right angles from the centerline, across from Engineers Station 112+46.53;

THENCE continuing along said right-of-line line, following the arc of a 1963.86 foot radius curve-to-the-left (radius point of said curve falls along a bearing of North 31 degrees 52 minutes 42 seconds East), subtending a central angle of 12 degrees 31

minutes 54 seconds, through an arc length of 429.54 feet (chord bearing of South 64 degrees 23 minutes 15 seconds East, 428.68 feet) to a 5/8 inch iron rod set marking a point-of-tangency in the southerly right-of-way line; said point-of-tangency being located in the southerly right-of-way line of U.S. 290, 249.10 feet at right angles from the centerline, across from Engineers Station 116+72.65;

THENCE South 70 degrees 39 minutes 12 seconds East, along said right-of-way line, a distance of 382.15 feet to a 5/8 inch iron rod set marking the Northerly end of cut-back corner at the southwest corner of the intersection of said U.S. 290 and Binford Road; said corner being located in the southerly right-of-way line of U.S. 290, 249.10 feet at right angles from the centerline, across from Engineers Station 120+54.80;

THENCE South 30 degrees 37 minutes 41 seconds East, along said cut-back, a distance of 95.73 feet to a 5/8 inch iron rod set marking the Southerly end of said cut-back and the most Easterly Northeast corner of the herein described tract; said corner being located in the southerly right-of-way line of U.S. 290, 310.37 feet at right angles from the centerline, across from Engineers Station 121+28.11;

THENCE South 09 degrees 03 minutes 59 seconds East, along the westerly right-of-way of said Binford Road (right-of-way varies at this point), a distance of 452.04 feet to a 5/8 inch iron rod set marking an angle point in said right-of-way line; a 1 inch iron pipe found bears South 03 degrees 41 minutes 58 seconds East, 35.93 feet from said angle point;

THENCE South 02 degrees 39 minutes 08 seconds East, along the westerly right-of-way line of said Binford Road (66' right-of-way) and crossing Lots 9 and 16 of said Section 9 and Lots 1 and 8 of Section 16, a distance of 3953.90 feet (call: 3954.35 feet) to a 5/8 inch iron rod set marking the Southeast corner of the herein described tract, same being the Northwest corner of the intersection of U.S. 290 (old)/State Highway 6 (aka Hempstead Highway) and said Binford Road; a 5/8 inch iron rod found bears North 68 degrees 08 minutes 01 seconds West, 4.54 feet from said corner;

THENCE North 68 degrees 08 minutes 01 seconds West, along the Northerly right-of-way line of said U.S. 290 (old)/State Highway 6 (aka Hempstead Highway) and crossing Lots 8, 7, and 2 of said Section 16, a distance of 2899.51 feet (call: 2897.66 feet) to a 5/8 inch iron set marking the Southwest corner of the herein described tract, same being the Southeast corner of that called 30.213 acre tract of land conveyed to Michael L. Perry and Edna A. Perry by deed recorded in HCCF No U717338; a 5/8 inch iron rod found bears South 02 degrees 24 minutes 55 seconds East, 7.01 feet from said corner;

THENCE North 02 degrees 24 minutes 55 seconds West, along the Easterly line of said 30.213 acres, same being the Westerly line of Lot 2 of said Section 16 and of Lots 15, 10, and 7 of said Section 9, and with the Easterly line of that called 70.801 acre tract conveyed to A.J. Foyt, Jr. by deed recorded in HCCF No U071611 and that called 11.15 acre tract conveyed to L.J. Hakemack and wife, Ney Hakemack, by deed recorded in HCCF No P056681, a distance of 3736.61 feet (call: 3753.11 feet) to a point for corner at the Northwest corner of the herein described tract, same being the Southwest corner of the aforesaid 12.4147 acre Terpstra Tract;

THENCE North 87 degrees 11 minutes 26 seconds East, along the Southerly line of said 12.4147 acre tract, a distance of 1612.53 feet (call: 1623.36 feet) to the Point of Beginning and containing 255.572 Acres (11,132,730 square feet) of land.

Tract 2

A tract or parcel of land containing 440.146 acres (19,172,762 square feet) out of Lots 11-15 of Section 10 and Lots 1-12, 15, & 16 of Section 15 of said Harris County School Land Survey, Abstract No 332, Harris County, Texas; said 440.146 acres out of that same tract of land called 451.6392 acres described by deed recorded in HCCF No M577056 ("Tract 2-A", therein) and conveyed to Delta Troy Interests, Ltd by deed recorded in X381657 and more particularly described by metes and bounds as follows:

COMMENCING at a State Department of Highways and Public Transportation Horizontal Control Monument located in the southerly right-of-way line of U.S. 290, 160.00 feet at right angles from the centerline, across from Engineers Station 109+27.74;

THENCE South 70 degrees 39 minutes 12 seconds East, a distance of 1690.16 feet to a point-of-curvature in the former southerly right-of-way line of said U.S. 290; said point-of-curvature being located 160.00 feet at right angles from the centerline, across from Engineers Station 126+17.90;

THENCE along said former southerly right-of-way line, clockwise, following the arc of a 7479.44 foot radius curve-to-the-right (radius point of said curve falls along a bearing of South 19 degrees 20 minutes 48 seconds West), subtending a central angle of 03 degrees 05 min 32 seconds, through an arc length of 403.66 feet (chord bearing of South 69 degrees 06 minutes 26 seconds East, 403.61 feet) to a 5/8 inch iron rod set in the current Southerly right-of-way line of said U.S. 290 marking the POINT OF BEGINNING and the most Easterly Northwest corner of the herein described tract; said point being located 160.00 feet at right angles from the centerline, across from Engineers Station 130+30.21;

THENCE continuing along said right-of-way line and said curve, subtending a central angle of 13 degrees 42 minutes 56 seconds, through an arc length of 1790.44 feet (chord bearing of South 60 degrees 42 minutes 12 seconds East, 1786.17 feet) to a 5/8 inch iron rod set marking a point-of-tangency in said right-of-way line; said point being located in the southerly right-of-way line of U.S. 290, 160.00 feet at right angles from the centerline, across from Engineers Station 148+59.00;

THENCE South 53 degrees 50 minutes 44 seconds East, along said right-of-way line, a distance of 2795.16 feet (call: 2793.73 feet - TxDOT) to a 5/8 inch iron rod found marking a point-of-curvature in said right-of-way line;

THENCE along said southerly right-of-way line, clockwise, following the arc of a 532.96 foot radius curve-to-the-right, subtending a central angle of 51 degrees 31 min 30 seconds (call: 51 degrees 32 minutes 51 seconds - TxDOT), through an arc length of 478.76 feet (call: 479.28 feet - TxDOT) (chord bearing of South 28 degrees 04 minutes 59 seconds East, 463.29 feet) to a 5/8 inch iron rod found marking a point-of-tangency in said southerly right-of-way line;

THENCE South 02 degrees 19 minutes 14 seconds East (call: South 02 degrees 17 minutes 53 seconds East - TxDOT), along said southerly right-of-way line, a distance of 187.88 feet (call: 188.32 feet - TxDOT) to a 5/8 inch iron rod found marking a point-of-curvature in said southerly right-of-way line;

THENCE counter-clockwise continuing along said right-of-way line and a 612.96 foot radius curve-to-the-left, subtending a central angle of 24 degrees 29 minutes 23 seconds (call: 24 degrees 34 minutes 06 seconds), through an arc length of 261.99 feet (call: 262.84 feet) (chord bearing of South 14 degrees 33 minutes 56 seconds East, 260.00 feet) to a 5/8 inch iron rod set for corner, same being the most Northerly corner of that called 1.939 acre tract of land conveyed to the State of Texas as a Drainage Easement for Highway Purposes by deed recorded in HCCF No R450176 out of that called 30 acre residue of that called 920.21 acre Schindler "First Tract" as described by deed recorded in Vol 2187, Pg 525, HCDR;

THENCE South 63 degrees 11 minutes 23 seconds West (call: South 63 degrees 08 minutes 01 seconds West), along the northwesterly line of said 1.939 acre tract, a distance of 620.23 feet (call: 620.08 feet) to a 5/8 inch iron rod set at the northwesterly corner of said 1.939 acre tract;

THENCE South 02 degrees 19 minutes 14 seconds East (call: South 02 degrees 17 minutes 53 seconds East), along the westerly line of said 1.939 acre tract, passing at a distance of 1102.28 feet (call: 1100.29 feet) a 1/2 inch iron rod found marking the Southwest corner of said 1.939 acre and 30 acre tract and the Northwest corner of that called 10.298 acre tract conveyed to MRJ Wood Products by deed recorded in HCCF No U232228, continuing along the westerly line of said 10.298 acre tract, a total distance of 1502.28 feet (call: 1500.29 feet) to a 5/8 inch iron rod set for corner, same being the southwest corner of said 10.298 acre tract;

THENCE North 87 degrees 40 minutes 46 seconds East (call: North 87 degrees 42 minutes 07 seconds East), along the southerly line of said 10.298 acre tract, a distance of 1121.41 feet to a 5/8 inch iron rod set in the Westerly right-of-way line of Kickapoo Road marking the most Northerly Southeast corner of the herein described tract, same being the southeasterly corner of said 10.298 acre tract;

THENCE South 02 degrees 19 minutes 14 seconds East (call: South 02 degrees 17 minutes 53 seconds East), along the Westerly right-of-way line of said Kickapoo Road, a distance of 939.31 feet (call: 938.70 feet) to a 1 inch iron pipe found for corner, same being the Northeast corner of that called 2.401 acre tract conveyed to Leaman Building Materials by deed recorded in HCCF No X159580 ("Tract One");

THENCE North 68 degrees 08 minutes 01 seconds West, along the northerly line of said 2.401 acre tract, a distance of 597.94 feet (call: 600.00') to a 5/8 inch iron rod set for corner, same being the Northwest corner of said 2.401 acre tract;

THENCE South 02 degrees 19 minutes 14 seconds East, along the westerly line of said 2.401 acre tract and that called 1.804 acre tract also conveyed to said Leaman Building Materials in said HCCF No X159580 ("Tract Two"), a distance of 362.42 feet (call: 363.00 feet) to a 5/8 inch iron rod set in the northerly right-of-way line of U.S. 290 (old)/State Highway 6 (aka Hempstead Highway) marking the most Southerly Southeast corner of the herein described tract; a 1 inch iron rod found bears South 02 degrees 19 minutes 14 seconds East, 2.33 feet from said property corner; a 2

inch iron rod found marking the Northeast corner of the intersection of said Kickapoo Road and said U.S. 290 (old)/State Highway 6 (aka Hempstead Highway) bears South 68 degrees 08 minutes 01 seconds East, 670.29 feet from said property corner;

THENCE North 68 degrees 08 minutes 01 seconds West, along the northerly right-of-way line of said U.S. 290 (old)/State Highway 6 (aka Hempstead Highway), a distance of 5170.99 feet (call: 5167.61 feet) to a 5/8 inch iron rod set marking the Southwest corner of the herein described tract, same being the Northeast corner of the intersection of Binford Road and said U.S. 290 (old)/State Highway 6 (aka Hempstead Highway); a 5/8 inch iron rod set marking the Northwest corner of said intersection bears North 68 degrees 08 minutes 01 seconds West, 72.54 feet from which a 5/8 inch iron rod found bears North 68 degrees 08 minutes 01 seconds West, 4.54 feet;

THENCE North 02 degrees 39 minutes 08 seconds West, along the Easterly right-of-way of said Binford Road (66' right-of-way), a distance of 3983.74 feet (call: 3984.16 feet) to a 5/8 inch iron rod set marking an angle point in said Easterly right-of-way line;

THENCE North 03 degrees 59 minutes 00 seconds East, continuing along the Easterly right-of-way of said Binford Road (right-of-way varies at this point), a distance of 370.66 feet to a 5/8 inch iron rod set marking the Southerly end of cut-back corner at the southeast corner of the intersection of the aforesaid U.S. 290 (new) and said Binford Road; said corner being located in the southerly right-of-way line of U.S. 290, 326.25 feet at right angles from the centerline, across from Engineers Station 123+06.25;

THENCE North 56 degrees 39 minutes 54 seconds East, along said cut-back, a distance of 97.00 feet to a 5/8 inch iron rod set marking the most Northerly Northwest corner of the herein described tract; said corner being located in the southerly right-of-way line of U.S. 290, 249.10 feet at right angles from the centerline, across from Engineers Station 123+65.05;

THENCE South 70 degrees 39 minutes 12 seconds East, along said right-of-way line, a distance of 107.61 feet to a 5/8 inch iron rod set marking a point-of-curvature in said right-of-way line; said point-of-curvature being located in the southerly right-of-way line of U.S. 290, 249.10 feet at right angles from the centerline, across from Engineers Station 124+72.67;

THENCE continuing along said right-of-line line, counter-clockwise, following the arc of a 1963.86 foot radius curve-to-the-left (radius point of said curve falls along a bearing of North 19 degrees 20 minutes 48 seconds East), subtending a central angle of 16 degrees 13 minutes 27 seconds, through an arc length of 556.10 feet (chord bearing of South 78 degrees 45 minutes 56 seconds East, 554.24 feet) to the POINT OF BEGINNING and containing 440.146 acres (19,172,762 square feet) of land.

Tract 3

A tract or parcel of land containing 10.536 acres (458,955 square feet) out of Lot 1 of Section 15 of said Harris County School Land Survey, Abstract No 332, Harris County, Texas; said 10.536 acres being that same tract of land called 10.5483 acres described by deed recorded in HCCF No M577056 ("Tract 3", therein) and conveyed to Delta Troy Interests, Ltd by deed recorded in X381657 and more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found marking the Northwest corner of the intersection of the northerly right-of-way line of U.S. 290 and the westerly right-of-way line of Kickapoo Road (66' right-of-way), same being the Southeast corner of the herein described tract;

THENCE North 87 degrees 42 minutes 07 seconds West, along the northerly right-of-way line of said U.S. 290, a distance of 468.34 feet to a 5/8 inch iron rod set marking a point-of-curvature in said northerly right-of-way line; a 3/8 inch iron rod found bears South 56 degrees 27 minutes 32 seconds East, 2.03 feet from said point-of-curvature;

THENCE clockwise along said northerly right-of-way line and following a 532.96 foot radius curve-to-the-right, subtending a central angle of 38 degrees 27 minutes 09 seconds, through an arc length of 357.68 feet (chord bearing of North 73 degrees 04 minutes 18 seconds West, 351.01 feet) to a 5/8 inch iron rod set marking a point-of-tangency in said northerly right-of-way line; said point-of-tangency being located in the northerly right-of-way line of U.S. 290, 160.00 feet at right angles from the centerline, across from Engineers Station 174+17.41;

THENCE North 53 degrees 50 minutes 44 seconds West, along said northerly right-of-way line, a distance of 595.14 feet (call: 596.40 feet) to a 5/8 inch iron rod set marking the Northwest corner of the herein described tract in the common line of Lot 16 of Section 10 and said Lot 1 of Section 15;

THENCE North 87 degrees 57 minutes 51 seconds East, along said common line, same being the centerline of the aforesaid unnamed 66' roadway, a distance of 1266.25 feet (call: 1266.84 feet) to a 5/8 inch iron rod set in the westerly right-of-way line of said Kickapoo Road marking the Northeast corner of the herein described tract; a 1 inch iron pipe found marking the Southeast corner of the called 78.9245 acre Schindler tract bears North 02 degrees 15 minutes 05 seconds West, 33.00 feet for reference;

THENCE South 02 degrees 15 minutes 05 seconds East, along the westerly right-of-way line of said Kickapoo Road, a distance of 479.89 feet (call: 480.13 feet) to the POINT OF BEGINNING and containing 10.536 acres (458,955 square feet) of land.

Tract 4

A tract or parcel of land containing 283.558 acres (12,351,801 square feet) out of Lots 1, 2, 3, 6-11, 15, & 16 of Section 10 of said Harris County School Land Survey, Abstract No 332, Harris County, Texas; said 283.558 acres being out of that tract of land called 393.3575 acres described by deed recorded in HCCF No M577056 ("Tract 4-A", therein) and conveyed to Delta Troy Interests, Ltd by deed recorded in X381657 and more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod set marking the Northeast corner of the herein described tract, same being the southwest corner of the intersection of Kickapoo Road and said FM 2920 (aka Waller-Tomball Road); a 1 inch iron pipe found bears South 02 degrees 15 minutes 05 seconds East, 0.99 foot from said property corner;

THENCE South 02 degrees 15 minutes 05 seconds East (call: South 02 degrees 17 minutes 53 seconds East), along the westerly right-of-way line of said Kickapoo Road (66' right-of-way), a distance of 2592.60 feet (HCCF No M798918; call: 2593.01 feet-HCCF No M577056) to a 5/8 inch iron rod set marking the most northerly

Southeast corner of the herein described tract, same being in the common line of Lots 8 and 9 of said Section 10 and being the Northeast corner of that called 78.9245 acre Schindler tract of land described in HCCF No M798918 and that called 23.6773 acre tract out of same conveyed to Michael McDonald and wife, Kimela McDonald, by deed recorded in HCCF No X611580; a 5/8 inch iron rod found bears North 87 degrees 33 minutes 33 seconds East, 2.99 feet from said corner;

Thence South 87 degrees 33 minutes 33 seconds West, along the common line of said Lots 8 and 9, same being the northerly line of said 78.9245 acre Schindler tract, a distance of 1316.56 feet (call: 1316.44 feet - HCCF No M798918) to a 1 inch iron pipe found for corner, same being the common corner of Lots 7, 8, 9, and 10 of said Section 10 and the Northwest corner of said 78.9245 acre Schindler tract; a capped iron rod found bears North 41 degrees 57 minutes 18 seconds East, 12.64 feet from said corner;

THENCE South 02 degrees 31 minutes 48 seconds East, along the common line of Lots 9, 10, 15, and 16 of said Section 10, same being the westerly line of said 78.9245 acre Schindler tract, passing at a distance of 2618.58 feet (call: 2617.89 feet- HCCF No M798918) a 1 inch iron pipe found marking the most Southwest corner of said 78.9245 acre Schindler tract, same being in the northerly line of the aforesaid unnamed 66' roadway, continuing a total distance of 2621.94 feet (call: 2631.01 feet) to a 5/8 inch iron rod set in the northerly right-of-way line of the aforesaid U.S. 290 marking the most southerly Southeast corner of the herein described tract;

THENCE North 53 degrees 50 minutes 44 seconds West, along the northerly right-of-way line of said U.S. 290, a distance of 1915.33 feet (call: 1917.64 feet) to a 5/8 inch iron rod set marking a point-of-curvature in the northerly right-of-way line of U.S. 290, 160.00 feet at right angles from the centerline, across from Engineers Station 148+59.00;

THENCE along said northerly right-of-way line, counter-clockwise, following the arc of a 7799.44 foot radius curve-to-the-left, subtending a central angle of 04 degrees 50 min 53 seconds, through an arc length of 659.96 feet (chord bearing of North 55 degrees 16 minutes 11 seconds West, 659.76 feet) to the Southwest corner of the herein described tract, same being the Southeast corner of that called 107.6370 acre tract conveyed to Peter S. Terpstra by deed recorded in HCCF No 20070033123; a 3/8 inch iron rod found bears South 79 degrees 56 minutes 25 seconds West, 0.88 foot from said corner;

THENCE North 02 degrees 18 minutes 00 seconds West, crossing Lots 11, 6, and 3 of said Section 10 and along the easterly line of said 107.6370 acre tract, a distance of 3638.55 feet (call: 3639.80 feet) to a 5/8 inch iron rod set in the southerly right-of-way line of FM 2920 (aka Waller-Tomball Road - 100' right-of-way) marking the Northwest corner of the herein described tract, same being the Northeast corner of said 107.6370 acres; 5/8 inch iron rods found marking the northeast and northwest corners of a 10'x20' SWBT easement dedicated by instrument recorded in HCCF No H844991 bear South 87 degrees 42 minutes 00 seconds West, along said southerly right-of-way line at 379.81 feet and 399.81 feet, respectively, from said property corner;

THENCE North 87 degrees 42 minutes 00 seconds East, along said southerly right-of-way line, passing at 2940.90 feet a 5/8 inch iron rod found marking the northeast corner of a 20'x20' SWBT easement dedicated by instrument recorded in HCCF No H844992, continuing a total distance of 3341.68 feet (call: 3335.99 feet) to the POINT OF BEGINNING and containing 283.558 acres (12,351,801 square feet) of land.

Tract 5

Being 0.992 acre (43,220 square feet) out of Lot 1, Section 9 of Harris County School Land Survey, Abstract No 332 and being that called 1 acre conveyed to Leon Schindler and R.G. Schindler by deed recorded in Volume 2187, Page 525 of the Deed Records of Harris County, Texas; said 0.992 acre fronting 208.00 feet on Binford Road and being surrounded on three sides by that called 127.96 acre tract conveyed to Peter S. Terpstra, Trustee, by deed recorded in HCCF Nos 20060246634 & 20060246637; said 0.992 acre also being that same tract of land called 1 acre conveyed to Leon Schindler and R.G. Schindler by deed recorded in Vol 2187, Pg 525, HCDR ("Fourth Tract", therein) and called 0.9922 acre as described by deed recorded in HCCF No M577056 ("Tract 5", therein) and conveyed to Delta Troy Interests, Ltd by deed recorded in X381657 and more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch iron rod found marking the Southerly end of cut-back corner at the northwest corner of the intersection of the aforesaid U.S. 290 (new) and Binford Road; said corner being located in the northerly right-of-way line of U.S. 290, 248.90 feet at right angles from the centerline, across from Engineers Station 118+23.58;

THENCE North 56 degrees 39 minutes 54 seconds East, along said cut-back, a distance of 97.00 feet to a point in the westerly right-of-way line of said Binford Road at the Northerly end of said cut-back;

THENCE North 03 degrees 59 minutes 00 seconds East, along the westerly right-of-way line of said Binford Road (right-of-way varies at this point), a distance of 370.87 feet to a 5/8 inch iron rod found marking an angle point in said westerly right-of-way line;

THENCE North 02 degrees 42 minutes 01 seconds West, along the westerly right-of-way line of said Binford Road (66' right-of-way), a distance of 1690.50 feet to a 1 inch iron pipe found marking the POINT OF BEGINNING and southeast corner of the herein described tract;

THENCE South 89 degrees 52 minutes 54 seconds West, crossing said Lot 1 of Section 9, a distance of 208.00 feet to a 5/8 inch iron rod set marking the southwest corner of the herein described tract; a 5/8 inch iron rod found bears North 14 degrees 12 minutes 39 seconds East, 2.36 feet from said corner;

THENCE North 02 degrees 42 seconds 01 seconds West (call: North 02 degrees 41 seconds 16 seconds West, crossing said Lot 1 of Section 9, a distance of 208.00 feet to a 5/8 inch iron rod set marking the northwest corner of the herein described tract;

THENCE North 89 degrees 52 minutes 54 seconds East, crossing said Lot 1 of Section 9, a distance of 208.00 feet to a 1 inch iron pipe found in the westerly right-of-way line of said Binford Road (66' right-of-way) marking the northeast corner of the herein described tract;

THENCE South 02 degrees 42 minutes 01 seconds East (call: South 02 degrees 41 minutes 16 seconds East, along the westerly right-of-way line of said Binford Road, a distance of 208.00 feet to the POINT OF BEGINNING and containing 0.992 acre (43,220 square feet) of land.

SECTION __.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article 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 article are fulfilled and accomplished.

SECTION __.04. 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, 2009.

(2) In SECTION 3.01(a) of the bill (page 13, line 16), between "this section" and the comma, insert "or otherwise provided by this Act".

Floor Amendment No. 12 by Hegar

Amend **CSHB 3335** (Senate committee printing) as follows:

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

ARTICLE __. BASTROP COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2

SECTION __.01. Section 11001.007, Special District Local Laws Code, is amended to read as follows:

Sec. 11001.007. MONTHLY CHARGES. (a) The board by resolution may impose a monthly charge in an amount not to exceed \$15 [~~of five dollars~~] for each developed or undeveloped lot, tract, or reserve in the district.

(a-1) The board may not increase the monthly charge for a developed or undeveloped lot, tract, or reserve in the district by more than \$3 in any calendar year. The board may grant an exemption to an increase in the monthly charge to the owner of a lot, tract, or reserve in the district who:

(1) is 65 years of age or older and who uses the lot, tract, or reserve as a residence; or

(2) has been determined to have a disability by and has written documentation of the disability from the United States Social Security Administration or the United States Department of Veterans Affairs.

(b) Money received from the monthly charge may [~~must~~] be used only for:

(1) constructing, maintaining, or repairing public streets or roadways in the district; or

(2) purchasing equipment necessary to maintain or repair public streets or roadways in the district.

(c) Of the money received under Subsection (a) each fiscal year:

(1) not more than 10 percent may be used for administrative purposes; and

(2) not less [~~more~~] than 15 percent shall [~~may~~] be used for road maintenance.

SECTION __.02. 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, 2009.

(2) In SECTION 3.01(a) of the bill (page 13, line 16), between "this section" and the comma, insert "or otherwise provided by this Act".

Floor Amendment No. 13 by Wentworth

Amend **CSHB 3335** (Senate committee report) as follows:

(1) Add the following appropriately numbered ARTICLE to the bill:

ARTICLE __. COMAL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 5

SECTION __.01. Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9036 to read as follows:

CHAPTER 9036. COMAL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 5

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9036.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Comal County Water Control and Improvement District No. 5.

Sec. 9036.002. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.

Sec. 9036.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 9036.004. CONSENT REQUIRED. (a) The temporary directors may not hold an election under Section 9036.003 until:

(1) each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district;

(2) each municipality in whose extraterritorial jurisdiction the district is located has:

(A) approved and entered into a strategic partnership agreement with the district under Section 43.0751, Local Government Code; and

(B) approved and entered into a development agreement with the owners of land in the district under Section 212.172, Local Government Code;

(3) an agreement that addresses the provision of water and wastewater treatment to the land in the district has been approved and entered into by:

(A) each municipality in whose extraterritorial jurisdiction the district is located;

(B) the commissioners court of each county in which the district is located;

(C) a retail or wholesale provider of water and wastewater treatment; and

(D) the owners of land in the district;

(4) the commissioners court of each county in which the district is located has issued an order making the findings under Sections 51.021(a)(1), (2), (3), and (4), Water Code; and

(5) the commissioners court of each county in which the district is located has approved and entered into an agreement with the district that must include, but is not limited to, provisions relating to the use of county right-of-way, the district's exercise of the power of eminent domain outside the boundaries of the district, drainage serving the land in the district, platting of land in the district, and the provision of water and wastewater treatment to the land in the district.

(b) A municipality that contains district territory in its corporate limits or extraterritorial jurisdiction may include in its consent to the creation of the district any restriction on or condition to the consent, including a limitation on the powers of the district otherwise granted by this chapter.

(c) Sections 51.022 through 51.025, Water Code, do not apply to the district or the order of the county under Subsection (a)(4).

Sec. 9036.005. EXTRATERRITORIAL STATUS. All of the land included in the district, as approved by the City of Bulverde for inclusion in the district, is included in the extraterritorial jurisdiction of the City of Bulverde on adoption of the resolution or ordinance consenting to the creation of the district by the governing body of the City of Bulverde.

Sec. 9036.006. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a water control and improvement district as provided by general law and Section 59, Article XVI, Texas Constitution, as limited by this chapter, including the disposal of waste and control of storm water; and

(2) Section 52, Article III, Texas Constitution, as limited by this chapter, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 9036.007. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by the article creating this chapter.

(b) The boundaries and field notes contained in the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;
- (3) right to impose a tax; or
- (4) legality or operation.

[Sections 9036.008-9036.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9036.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 9036.052, directors serve staggered four-year terms.

Sec. 9036.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

- (1) Robert W. Fischer;
 - (2) John Genovese;
 - (3) Scot Giese;
 - (4) Gary Rauser; and
 - (5) James N. Young.
- (b) Temporary directors serve until the earlier of:
- (1) the date permanent directors are elected under Section 9036.003; or
 - (2) the fourth anniversary of the effective date of the article creating this chapter.

(c) If permanent directors have not been elected under Section 9036.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 9036.003; or
- (2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 9036.053-9036.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9036.101. GENERAL POWERS AND DUTIES. The district has the powers and duties, as limited by this chapter, necessary to accomplish the purposes for which the district is created.

Sec. 9036.102. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution, including the powers and duties that relate to the disposal of waste and control of storm water under Section 51.331, Water Code, as limited by this chapter.

Sec. 9036.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, as limited by this chapter, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 9036.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 9036.103 unless:

(1) the proposed road project complies with applicable municipal or county subdivision ordinances or regulations; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 9036.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 42.042 or 42.0425, Local Government Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 9036.106. LIMITATION ON USE OF EMINENT DOMAIN. (a) The district shall not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 9036.103; or

(2) a recreational facility as defined by Section 49.462, Water Code.

(b) The district shall not exercise the power of eminent domain outside the boundaries of the district for any purpose unless the proposed exercise is approved by a written resolution of the commissioners court of each county in which the district is located.

Sec. 9036.107. WATER AND WASTEWATER INFRASTRUCTURE. The district may not construct any water or wastewater improvement unless the plans and specifications for the improvement have been approved by Comal County, the City of Bulverde, and any wholesale provider of water or wastewater treatment to the district.

[Sections 9036.108-9036.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9036.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 9036.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 51, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 9036.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 9036.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 9036.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 9036.154-9036.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 9036.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 9036.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Section 51.433, Water Code.

Sec. 9036.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION __.02. The Comal County Water Control and Improvement District No. 5 initially includes all the territory contained in the following area:

PART 1:

TRACT 1A:

A 5.128 acre tract of land out of Lot 2 of the Erna Subdivision recorded in Volume 13, Page 137 of the Map and Plat Records of Comal County, Texas, out of that 5.911 acre tract of land conveyed to Travis Arthur Weidner in General Warranty Deed recorded in Document # 200506007503 of the Official Records of Comal County, Texas, out of the Agapito Gaytan Survey No. 194, Abstract No. 174, in the City of Bulverde, Comal County, Texas. Said 5.128 acre tract being more fully described as follows with bearings being based on the North American Datum of 1983 (CORS 1996), from the Texas State Plane Coordinate System established for the South Central Zone, and the west right-of-way line of U.S. Highway 281:

COMMENCING: At a point for the southeast corner of said Lot 2, the south corner of Lot 104 of Saddleridge Subdivision Unit 1 recorded in Volume 13, Pages 42-48 of the Map and Plat Records of Comal County, Texas, on the west right-of-way line of U.S. Highway 281, a variable width right-of-way at this point;

THENCE: N 55°59'38" W, along and with the southwest line of said Lot 104 and Lot 94 of said Saddleridge Subdivision, a northeast line of said Lot 2, a distance of 319.40 feet to the POINT OF BEGINNING of the herein described tract, a point on the northwest line of the City Limits of Bulverde;

S 70°48'13" W, departing the southwest line of said Lot 94, over and across said Lot 2, a distance of 497.49 feet to a point on the north line of a 10.00 acre tract recorded in Document Number 9806013846 of the Official Records of Comal County, Texas, a south line of said Lot 2;

THENCE: N 86°10'47" W, along and with the north line of said 10.00 acre tract, a south line of said Lot 2, a distance of 194.76 feet to a point for an angle;

THENCE: S 88°26'59"W, along and with the north line of said 10.00 acre tract, the south line of said Lot 2, a distance of 60.09 feet to a point, the southwest corner of said Lot 2, the southeast corner of Lot 101 of said Saddleridge Subdivision Unit 1;

THENCE: N 05°46'24"E, departing the line of said 10.00 acre tract, and along and with the west line of said Lot 2 and the east line of said Lot 101 a distance of 503.26 feet to a point, the northwest corner of said Lot 2, the northeast corner of Lot 101, an angle in the south line of Lot 95 of said Saddleridge Subdivision Unit 1;

THENCE: S 76°13'48"E, along and with the south line of said Lot 95, and with the north line of said Lot 2, a distance of 139.91 feet to a point for an angle;

THENCE: S 72°01'55"E, along and with the south line of said Lot 95 and the north line of said Lot 2, a distance of 183.51 feet to the southeast corner of said Lot 95, the southwest western corner of Lot 94 of said Saddleridge Subdivision Unit 1;

THENCE: S 51°16'22"E, along and with the southwest line of said Lot 94 and the north line of said Lot 2, a distance of 136.67 feet to a point for an angle;

THENCE: S 55°59'38" E, along and with the southwest line of said Lot 94 and the north line of said Lot 2, a distance of 309.44 feet to the POINT OF BEGINNING and containing 5.128 acres in Comal County, Texas.

TRACT 1B:

A 10.922 acre tract of land being a portion of Bulverde Commercial Subdivision recorded in Volume 13, Page 1 of the Map and Plat Records of Comal County, Texas, and a portion of the Bulverde Commercial Subdivision, Unit 2 recorded in Volume 13, Page 57 of the Map and Plat Records of Comal County, also being out of the Agapito Gayton Survey Number 194, Abstract Number 174, Comal County, Texas. Said 10.922 acre tract being more fully described as follows, with bearings based on the plats of said subdivisions.

COMMENCING: At a point on the south right-of-way line of F.M. 1863, a variable width right-of-way, at the north corner of said Bulverde Commercial Subdivision, the northwest corner of the said Bulverde Commercial Subdivision Unit 2, at the cutback to the east right-of-way line of U.S. 281, a variable width right-of-way;

THENCE: S 83°58'18"E, along and with the south right-of-way line of said F.M. 1863, the north line of said Bulverde Commercial Subdivision Unit 2, a distance of 352.79 feet to a point, for the northwest corner of a 45.81 acre tract of land being the remainder of that Save & Except 50.00 acre tract conveyed to Cibolo Valley Ranch, LTD in Correction Special Warranty Deed recorded in Document 200006010170 of the Official Records of Comal County, Texas;

THENCE: S 00°07'13" E, along and with said Bulverde Commercial Subdivision Unit 2, the west line of said 45.81 acre tract, a distance of 402.70 feet to a point on the south line of the City Limits of Bulverde line, the POINT OF BEGINNING;

THENCE: S 00°07'13" E, continuing along and with said Bulverde Commercial Subdivision Unit 2, the west line of said 45.81 acre tract, a distance of 36.13 feet to a point for the southeast corner of said Bulverde Commercial Subdivision Unit 2 a re-entrant corner of said 45.81 acre tract;

THENCE: S 69°12'48" W, along and with the south line of said Bulverde Commercial Subdivision Unit 2, a north line of said 45.81 acre tract a distance of 374.53 feet to a point for the southwest corner of said Bulverde Commercial Subdivision Unit 2, the northwest corner of said 45.81 acre tract, a point on the east line of said Bulverde Commercial Subdivision;

THENCE: S 00°07'12" E, along and with the east line of said Bulverde Commercial Subdivision, the west line of said 45.81 acre tract a distance of 734.07 feet to a point for the southeast corner of said Bulverde Commercial Subdivision, the north corner of a 92.37 acre tract recorded in Volume 739, Page 202 of the Deed Records of Comal County, Texas;

THENCE: S 77°53'26" W, departing the west line of said 45.81 acre tract, the north line of said 92.37 acre tract a distance of 644.66 feet to a point on curve in the northeast right-of-way line of Ancestral Trail, a 60-foot private street dedicated in the Weidner Subdivision Unit 1, recorded in Volume 11, Pages 330-331 of the Map and Plat Records of Comal County, Texas, a southwest line of said Bulverde Commercial Subdivision;

THENCE: Along the northeast right-of-way line of said Ancestral Trail, the southwest line of said Bulverde Commercial Subdivision, with a non-tangent curve to the left said curve having a radial bearing of S 65°58'51" W, a radius of 630.00 feet, a central angle of 18°57'04", a chord bearing and distance of N 33°29'41" W, 207.43 feet, an arc length of 208.38 feet to a point of tangency;

THENCE: N 42°58'13" W, continuing along and with the northeast right-of-way line of said Ancestral Trail, the southwest line of said Bulverde Commercial Subdivision, a distance of 18.13 feet to a point on the southeast City Limit of Bulverde line;

THENCE: Departing the northeast right-of-way line of said Ancestral Trail, over and across said Bulverde Commercial Subdivision and Bulverde Commercial Subdivision Unit 2, along and with said City Limit line the following calls and distances:

N 36°09'58" E, a distance of 122.57 feet to a point;

N 41°02'38" E, a distance of 663.67 feet to a point;

N 34°28'22" E, a distance of 360.94 feet to a point;

THENCE: S 83°28'46" E, a distance of 395.83 feet to the POINT OF BEGINNING, and containing 10.922 acres in Comal County, Texas.

TRACT 1C:

A 1.430 acre tract of land out of that 10.00 acre tract conveyed to Dam Investments, Ltd. in Document Number 9806013846 of the Official Records of Comal County, Texas, and Pecos Blue Moon L.P. in Document Number 9606007045 of the Official Records of Comal County, Texas, out of the Agapito Gaytan Survey No. 194, Abstract No. 174, Comal County, Texas. Said 1.430 acre tract being more fully described as follows, with bearings based on the North American Datum of 1983 (CORS 1996), from the Texas Coordinate System established for the South Central Zone.

BEGINNING: At a point at the intersection of the east right-of-way line of Saddleridge Drive, a variable width private right-of-way, and Saddleridge Court a 60' private right-of-way as shown in Saddleridge Subdivision Unit 1 recorded in Volume 13, Pages 42-48 of the Map and Plat Records of Comal County, Texas, the northwest corner of the said 10.00 acre tract;

THENCE: N 88°25'43" E, along and with the south line of said Saddleridge Court, the north line of said 10.00 acre tract, at a distance of 283.64 feet passing a found 1/2" iron rod being at the southwest corner of Lot 101 of said Saddleridge Subdivision Unit 1, continuing along and with the south line of said Lot 101 at a distance of 490.91 passing a found pk nail being the southeast corner of said Lot 101 and the southwest corner of Lot 2 of the Erna Subdivision recorded in Volume 13, Page 137 of the Map and Plat Records of Comal County, Texas, and continuing for a total distance of 551.20 feet to a point;

THENCE: S 86°10'47" E, along and with the north line of said 10.00 acre tract and the south line of said Lot 2 a distance of 194.76 feet to a point;

THENCE: Departing the north line of said 10.00 acre tract and the south line of said Lot 2, over and across said 10.00 acres the following calls and distances:

S 70°44'16" W, a distance of 268.86 feet to a point;

S 88°25'43" W, a distance of 488.95 feet to a point on the east right-of-way line of said Saddleridge Drive;

THENCE: N 01°34'17" W, a distance of 100.00 feet to the POINT OF BEGINNING, and containing 1.430 acres in the City of Bulverde, Comal County, Texas.

TRACT 1D:

A 38.367 acre tract out of a 45.81 acre tract of land being the remainder of that Save & Except 50.00 acre tract conveyed to Cibolo Valley Ranch, LTD in Correction Special Warranty Deed recorded in Document 200006010170 of the Official Records of Comal County, Texas and being part of a 140.0 acre tract conveyed to Fritz Voges in Deed recorded in Volume M, Pages 746-747 of the Deed Records of Comal County, also being out of the Agapito Gayton Survey Number 194, Abstract Number 174, Comal County, Texas. Said 38.367 acre tract being more fully described as follows, bearings being based on the North American Datum of 1983, (CORS 1996), from Texas Coordinate System established for the South Central Zone:

COMMENCING: At a point on the south right-of-way line of F.M. 1863 at a point for a northwest corner of a 140 acre tract recorded in Doc #200006010170 of the Deed Records of Comal County, the northeast corner of said 45.81 acre tract;

THENCE: S 00°30'11"E, departing south right-of-way line of said F.M. 1863, along and with the east line of said 45.81 acre tract, a west line of said 140 acres, a distance of 402.61 feet to a point on the south Bulverde City Limit line, the north line of the Bulverde Extra-Territorial Jurisdiction, the POINT OF BEGINNING for the herein described tract;

THENCE: S 00°30'11" E, departing the south Bulverde City Limit line, the north line of the Bulverde Extra-Territorial Jurisdiction, along and with the east line of said 45.81 acre tract, a west line of said 140 acres a distance of 1419.71 feet to a point for the southeast corner of the said 45.81 acre tract, a re-entrant corner of the said 140 acres;

THENCE: S 89°27'30"W, along and with the south line of said 45.81 acre tract, a distance of 1152.01 feet to a point, the southwest corner of this 45.81 acre tract, a point on the east line of a 92.37 acre tract recorded in Volume 739, Page 202 of the Deed Records of Comal County, a northwest corner of said 140 acre tract;

THENCE: N 00°36'44"W, along and with the west line of said 45.81 acre tract, the east line of said 92.37 acre tract, passing the southeast corner of the Bulverde Commercial Subdivision Unit 2 recorded in Volume 13, Page 1 of the Map and Plat Records of Comal County, Texas, the northeast corner of said 92.37 acre tract, and continuing along and with the east line of said Bulverde Commercial Subdivision Unit 2 for a total distance of 1343.61 feet to a point for the southwest corner of said Lot 10, a northwest corner of the said 45.81 acre tract;

THENCE: N 68°43'16"E, along and with the south line of said Lot 10, a distance of 374.53 feet to a point, the southeast corner of said Lot 10 a re-entrant corner of the said 45.81 acre tract;

THENCE: N 00°36'45" W, along and with the east line of said Lot 10, a west line of said 45.81 acre tract a distance of 36.13 feet to a point on the south Bulverde City Limit line, the north line of the Bulverde Extra-Territorial Jurisdiction;

THENCE: S 83°58'18" E, departing the east line of said Lot 10, a west line of said 45.81 acre tract, along and with said city limit line a distance of 809.72 feet to the POINT OF BEGINNING, and containing 38.367 acres in the Comal County, Texas.

TRACT 1E:

A 116.2 acre, or 5,063,012 square feet more or less, tract of land being all of that called 115.596 acre tract described in conveyance to Dora Uecker Williamson, Wilfred Uecker and Eugene Uecker in Deed of Gift recorded in Document No. 200606015932 of the Official Records of Comal County, Texas, out of the Agapito Gayton Survey No. 194, Abstract 174, of Comal County, Texas. Said 116.2 acre tract being more fully described as follows with bearings being based on the North American Datum of 1983 (CORS 1996), from the Texas Coordinate System established for the South Central Zone and the south right-of-way of State Farm to Market road No. 1863 (F.M. 1863), right-of-way varies:

BEGINNING: At a point on the south right-of-way line of said F.M. 1863, the northeast corner of a 140 acre tract (Tract 2) recorded in Document No. 9906009079 of the Official Records of Comal County, Texas, the northwest corner of said called 115.596 acre tract;

THENCE: Along and with the south right-of-way line of said F.M. 1863, the north line of said called 115.596 acre tract the following calls and distances:

S 89°26'32"E, a distance of 162.58 feet to a point;

S 83°57'24"E, a distance of 219.14 feet to a found point, a point of non-tangent curvature;

Northeasterly, along the arc of a curve to the left, said curve having a radial bearing of N 06°04'31" E, a radius of 1472.70 feet, a central angle of 31°02'38", a chord bearing and distance of N 80°33'12" E, 788.21 feet, for an arc length of 797.94 feet to a point, a point of non-tangency;

N 64°59'35"E, a distance of 519.99 feet to a point, a point of non-tangent curvature;

Northeasterly, along the arc of a curve to the right, said curve having a radial bearing of S 24°56'32" E, a radius of 1392.70 feet, a central angle of 22°08'45", a chord bearing and distance of N 76°07'50" E, 534.96 feet, for an arc length of 538.30 feet to a point, a point of non-tangency;

N 87°04'25"E, a distance of 321.44 feet to a point, a point of curvature;

Northeasterly, along the arc of a curve to the left, said curve having a radius of 1472.70 feet, a central angle of 2°53'47", a chord bearing and distance of N 85°37'32" E, 74.44 feet, for an arc length of 74.45 feet to a point, the northwest corner of a remaining portion of a 261.17 acre tract recorded in Volume 68, Pages 631-633 of the Deed Records of Comal County, Texas, the northeast corner of said called 115.596 acre tract;

THENCE: Departing the south right-of-way line of said F.M. 1863, along and with the west line of said remaining portion of a 261.17 acre tract, an east line of said called 115.596 acre tract the following calls and distances:

S 00°58'32"E, a distance of 110.71 feet to a point;

S 57°21'19"E, a distance of 308.75 feet to a point;

S 43°37'43"E, a distance of 138.58 feet to a point, on the centerline of the Cibolo Creek, the west line of a 220.5 acre tract recorded in Volume 2631, Pages 165-166 of the Official Records of Comal County, Texas;

THENCE: Along and with the centerline of Cibolo Creek, the west line of said 220.5 acre tract the following calls and distances:

S 21°43'47"W, a distance of 138.53 feet to a point;

S 06°54'23"W, a distance of 157.52 feet to a point;

S 12°50'20"E, a distance of 191.11 feet to a point;

S 15°52'34"W, a distance of 252.92 feet to a point;

S 44°59'18"W, a distance of 130.66 feet to a point;

S 04°26'32"W, a distance of 590.43 feet to a point;

S 18°22'43"E, a distance of 120.64 feet to a point, the northeast corner of a 387.057 acre tract, the southeast corner of the aforementioned called 115.596 acre tract;

THENCE: S 89°40'01"W, departing the west line of said 220.5 acre tract, along and with the north line of said 387.057 acre tract, a south line of said called 115.596 acre tract, at a distance of 906.4 feet passing point for the northeast corner of a 3.002 acre tract recorded in Volume 862, Pages 874-877 of the Official Records of Comal County, Texas and continuing for a total distance of 1310.37 feet to a point, from which a found 1/2" iron rod bears N 14°43'14"E, 0.81 feet;

THENCE: S 14°52'59"W, along and with an east line of said called 115.596 acre tract, the west line of said 3.002 acre tract, at a distance of 241.2 feet passing the northwest corner of a 0.238 acre tract recorded in Document No. 464834 of the Official Records of Comal County, Texas and continuing for a total distance of 302.43 feet to a point, a common angle point of said 0.238 acre tract and said called 115.596 acre tract;

THENCE: S 00°18'53"W, continuing with an east line of said called 115.596 acre tract, the west line of said 0.238 acre tract, a distance of 132.14 feet to a point on the north line of the aforementioned 387.057 acre tract, a southeast corner of said called 115.596 acre tract, the southwest corner of said 0.238 acre tract;

THENCE: S 89°31'19"W, along and with the north line of said 387.057 acre tract, a south line of said called 115.596 acre tract, a distance of 1299.77 feet to a point, on the east line of the aforementioned 140 acre tract (Tract 2), the northwest corner of said 387.057 acre tract, the southwest corner of said called 115.596 acre tract;

THENCE: Along and with the east line of said 140 acre tract (Tract 2), the west line of said 115.596 acre tract the following calls and distances:

N 00°38'45"W, a distance of 999.92 feet to a point;

N 00°18'24"W, a distance of 855.96 feet to the POINT OF BEGINNING and containing 116.2 acres in Comal County, Texas.

TRACT 1F:

A 15.538 acre tract of land being a portion of Lot 827A and all of Lot 827B of The Crossing at 46 subdivision recorded in Volume 15, Pages 275-276 and all of Lots 828 and 829 of the River Crossing subdivision Unit Four, recorded in Volume 14, Page 219-220 and all of Lots 56, 57 and 58 of the Ridgeview Oaks West subdivision, recorded in Volume 3, Pages 28-29 all of the Map and Plat Records of Comal County, Texas, out of the Theo Miller Survey No. 323, Abstract 384, Comal County, Texas. Said 15.538 acre tract being more fully described as follows, with bearings based on the North American Datum of 1983 (CORS 1996), from the Texas Coordinate System established for the South Central Zone.

COMMENCING: At a point at the southwest end of the cutback line at the intersection of the north right-of-way line of State Highway 46, a 130-foot right-of-way at this point, with the west right-of-way line of River Way, a 60-foot right-of-way dedicated in the River Crossing Subdivision recorded in Volume 14, Pages 19-20 of the Map and Plat Records of Comal County, Texas, for the southeast corner of said Lot 827A;

THENCE: N 43°48'10" E, along and with the southeast line of said Lot 827A a distance of 35.36 feet to a point the northwest cutback line of the intersection of the north right-of-way line of said State Highway 46, the west right-of-way line of said River Way;

N 01°13'22" W, along and with the west right-of-way line of said River Way, the east line of said Lot 827A a distance of 215.00 feet to the POINT OF BEGINNING, a point on the north City Limits of Bulverde line;

THENCE: S 88°48'10" W, departing the west right-of-way line of said River Way, over and across said Lot 827A, along and with said city limit line a distance of 736.65 feet to a point on the east line of said Lot 58; the west line of said Lot 827A;

THENCE: S 00°10'10" E, along and with the east line of said Lot 58, the west line of said 827A and the said city limit line a distance of 43.48 feet to a point for the northeast corner of said Lot 59, the southeast corner of said Lot 58, a point on the west line of said Lot 827A;

THENCE: N 89°51'24" W, along and with the north line of said Lot 59, the south line of said Lot 58 and the said city limit line a distance of 399.64 feet to a point on the east right-of-way line of Rainbow Drive, a 60-foot right-of-way dedicated in the said Ridgeview Oaks-West subdivision, the northwest corner of said Lot 59, the southwest corner of said Lot 58;

THENCE: N 00°08'36" E, departing said city limit line, along and with the east right-of-way line of said Rainbow Drive, the west line of said Lots 58 and 57, a distance of 452.60 feet to the northwest corner of said Lot 57, the southwest corner of Lot 56 of said Ridgeview Oaks-West subdivision;

THENCE: N 00°06'58" E, and with the east right-of-way line of said Rainbow Drive, the west line of said Lot 56 a distance of 226.30 feet to a point for the northwest corner of said Lot 56, the southwest corner of Lot 55 of the said Ridgeview Oaks-West subdivision;

THENCE: S 89°53'02" E, departing the east right-of-way line of said Rainbow Drive, along and with the north line of said Lot 56, the south line of said Lot 55, a distance of 395.79 feet to a point on the west line of said Lot 828, the northeast corner of said Lot 56, the southeast corner of said Lot 55;

THENCE: S 01°00'39" E, along and with the east line of said Lot 56, the west line of said Lot 828 a distance of 38.33 feet to a point for the southwest corner of said Lot 828, the northwest corner of said Lot 827A;

THENCE: S 89°55'56" E, departing the east line of said Lot 56, along and with the south line of said Lot 828, the north line of said Lot 827A, a distance of 601.02 feet to a point on the west right-of-way line of said River Way, the southeast corner of said Lot 828, a northeast corner of said Lot 827A;

THENCE: S 18°58'49" E, along and with the west right-of-way line of said River Way, the east line of said Lot 827A and 827B a distance of 365.99 feet to a point of curvature;

THENCE: Along the west right-of-way line of said River Way, the east line of said Lot 827B with a tangent curve to the right said curve having radius of 270.00 feet, a central angle of 17°45'27", a chord bearing and distance of S 10°06'06" E, 83.35 feet, an arc length of 83.68 feet to a point of tangency;

THENCE: S 01°13'22" E, along and with the west right-of-way line of said River Way, the east line of said Lot 827A and 827B a distance of 153.08 feet to the POINT OF BEGINNING, and containing 15.538 acres in the Comal County, Texas.

PART 2:

TRACT 2A:

All that certain 105.5 acres of land in the John Kaderli Survey No. 449, Abstract No. 308, and the Jacob Kaderli Survey No. 465, Abstract No. 309, Comal County Texas, which is the remainder of the 196.62 acre tract described in the deed to Gary Eldon Bartlett recorded under Volume 764, Pages 643-649, Official Records, Comal County, Texas, and being more particularly described by metes and bounds as follows: (All bearings based on the Texas State Plane Coordinate System, South Central Zone)

COMMENCING at a 1/2" iron rod found in the east line of Stahl Road, said iron rod is common to the southwest corner of said 196.62 acre tract, and is common to the southwest corner of a 21.00 acre tract described in the deed from Gary Eldon Bartlett and wife, Brandy Kay Bartlett to Stephen C. Lundgren and wife, Diane K Lundgren, recorded under Document No. 9806013761, Official Public Records of Real Property, Comal County, Texas;

THENCE N 24° 55' 33" W - 88.10' along said east line of Stahl Road and west line of said 21.00 acre tract to a 1/2" iron rod found for the POINT OF BEGINNING;

THENCE N 24° 55' 33" W - 58.91' along said east line of Stahl Road and west line of the before mentioned 196.62 acre tract to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE N 00° 47' 14" W - 1071.68' along said east line of Stahl Road and west line of said 196.62 acre tract to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE N 01° 09' 20" E - 583.04' continuing along said east line of Stahl Road and west line of said 196.62 acre tract to a 3/4" iron rod set common to the southwest corner of a 2.889 acre tract described as Lot 1, Bartlett's Paradise Valley Subdivision, in Plat recorded under Volume 10, Page 174, Map and Plat Records, Comal County, Texas;

THENCE along the lines of said Lot 1 the following:

S 88° 47' 33" E - 1030.80' along the south line of said Lot 1 to a 1/2" iron rod found common to an angle corner of the herein described tract;

S 49° 19' 58" E - 250.00' along the south line of said Lot 1 to a 1/2" iron rod found common to an angle corner of the herein described tract;

N 40° 40' 02" E - 250.00' along the south line of said Lot 1 to a 1/2" iron rod found common to the most easterly corner of said Lot 1, an angle corner of the herein described tract;

N 49° 19' 58" W - 250.00' along the north line of said Lot 1 to a 1/2" iron rod found common to an angle corner of the herein described tract;

S 40° 40' 02" W - 172.29' along the north line of said Lot 1 to a 1/2" iron rod found common to an angle corner of the herein described tract;

N 88° 47' 33" W - 1080.24' along the north line of said Lot 1 to a 3/4" iron rod set in the east line of said Stahl Road and the west line of said 196.62 acre tract common to the northwest corner of said Lot 1 an angle corner of the herein described tract;

THENCE N 01° 09' 20" E - 289.12' along said east line of Stahl Road and west line of said 196.62 acre tract to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE N 41° 05' 30" E - 228.89' continuing along said east line of Stahl Road and west line of said 196.62 acre tract to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE S 61° 25' 07" E - 553.95' departing said east line of Stahl Road and into said 196.62 acre tract to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE N 42° 47' 59" E - 460.00' to a 3/4" iron rod set in the southerly line of a 21.0 acre tract described in deed to Peter J. Almquist from Andrew T. Almquist recorded under Document No. 200506033008, Official Public Records of Real Property, Comal County, Texas, said line also being the northerly line of the before mentioned 196.62 acre tract and common to an angle corner of the herein described tract;

THENCE S 63° 26' 23" E - 251.06' along the southerly line of said 21.0 acre tract to a 3/4" iron rod set common to an angle point of the herein described tract;

THENCE N 89° 32' 35" E - 1156.22' along the southerly line of said 21.0 acre tract, at 421.56' pass a 1/2" iron rod found, to a 3/4" iron rod set common to an angle corner of a 36.513 acre tract described in deed to Randy and Kellye Harris from Andrew T. Almquist recorded under Document No. 200206003624, Official Public Records of Real Property, Comal County, Texas, said iron is common to the northeast corner of the herein described tract;

THENCE S 00° 06' 34" E - 817.22' along the westerly line of said 36.513 acre tract to a 3/4" iron rod set common to an angle point of the said 36.513 acre tract, and common to the northwest corner of a 3.814 acre tract described in deed to Randy Harris from Gary Eldon Bartlett recorded under Document No. 200306031386, Official Public Records of Real Property, Comal County, Texas, said iron common to an angle corner of the herein described tract;

THENCE S 03° 48' 08" E - 183.53' along the westerly line of said Harris tract to a 3/4" iron rod set common to the west corner of said Harris tract and common to an angle corner of the herein described tract;

THENCE S 33° 50' 35" E - 658.91' along the southwesterly line of said Harris tract to a 3/4" iron rod set common to the most southerly corner of said Harris tract and common to an angle corner of the herein described tract;

THENCE S 00° 35' 26" E - 42.43' to a 3/8" iron rod found common to the northeast corner of the aforementioned Lundgren 21.00 acre tract and common to the southeast corner of the herein described tract;

THENCE along the north line of said Lundgren 21.00 acre tract the following:

S 82° 44' 47" W - 56.36' along the north line of said Lundgren 21.00 acre tract to a 1/2" iron rod found common to an angle corner of the herein described tract;

N 87° 02' 05" W - 125.63' along the north line of said Lundgren 21.00 acre tract to a 1/2" iron rod found common to an angle corner of the herein described tract;

N 79° 52' 35" W - 140.95' along the north line of said Lundgren 21.00 acre tract to a 1/2" iron rod found common to an angle corner of the herein described tract;

S 62° 58' 32" W - 551.30' along the north line of said Lundgren 21.00 acre tract to a 1/2" iron rod found for an angle corner of the herein described tract;

N 70° 28' 33" W - 492.76' along the north line of said Lundgren 21.00 acre tract to a 1/2" iron rod found common to an angle corner of the herein described tract;

S 09° 44' 51" E - 104.00' along the north line of said Lundgren 21.00 acre tract to a 1/2" iron rod found common to an angle corner of the herein described tract;

N 86° 04' 19" W - 75.76' along the north line of said Lundgren 21.00 acre tract to a 1/2" iron rod found common to an angle corner of the herein described tract;

S 07° 47' 29" W - 173.03' along the north line of said Lundgren 21.00 acre tract to a 1/2" iron rod found common to an angle corner of the herein described tract;

S 16° 51' 24" W - 287.11' along the north line of said Lundgren 21.00 acre tract to a 1/2" iron rod found common to an angle corner of the herein described tract;
THENCE S 89° 49' 45" W - 1250.21 along the north line of said Lundgren 21.00 acre tract to the POINT OF BEGINNING of the herein described tract and containing 105.5 acres of land.

TRACT 2B:

All that certain 21.00 acres of land in the John Kaderli Survey No. 449, Abstract No. 308, the Jacob Kaderli Survey No. 465, Abstract No. 309, the F.H. Faigaux Survey, No. 578, Abstract No. 169 and in the J. Rittimann Survey No. 579, Abstract No. 500, Comal County Texas, which is all of the land described in the deed from Gary Eldon Bartlett and wife Brandy K. Bartlett to Stephen C. Lundgren and wife Diane K. Lundgren, recorded under Document No. 9806013761, Official Public Records of Real Property, Comal County, Texas, and being more particularly described by metes and bounds as follows: (All bearings based on the Texas State Plane Coordinate System, South Central Zone)

BEGINNING at a 1/2" iron rod found in the east line of Stahl Road, said iron rod is the southwest corner of a 196.62 acre tract described in the deed from Brandy Kay Bartlett to Gary Eldon Bartlett recorded under Document No. 200206018898, Official Public Records of Real Property, Comal County, Texas;

THENCE N 24° 55' 33" W - 88.10' along said east line of Stahl Road and west line of said 196.62 acre tract to a 1/2" iron rod found common to the northwest corner of the herein described tract;

THENCE N 89° 49' 45" E - 1250.21' to a 1/2" iron rod found common to an angle corner of the herein described tract;

THENCE N 16° 51' 24" E - 287.11' to a 1/2" iron rod found common to an angle corner of the herein described tract;

THENCE N 07° 47' 29" E - 173.03' to a 1/2" iron rod found common to an angle corner of the herein described tract;

THENCE S 86° 04' 19" E - 75.76' to a 1/2" iron rod found common to an angle corner of the herein described tract;

THENCE N 09° 44' 51" W - 104.00' to a 1/2" iron rod found common to an angle corner of the herein described tract;

THENCE S 70° 28' 33" E - 492.76' to a 1/2" iron rod found common to an angle corner of the herein described tract;

THENCE N 62° 58' 32" E - 551.30' to a 1/2" iron rod found common to an angle corner of the herein described tract;

THENCE S 79° 52' 35" E - 140.95' to a 1/2" iron rod found common to an angle corner of the herein described tract;

THENCE S 87° 02' 05" E - 125.63' to a 1/2" iron rod found common to an angle corner of the herein described tract;

THENCE N 82° 44' 47" E - 56.36' to a 3/8" iron rod found common to the northeast corner of the herein described tract;

THENCE S 00° 43' 14" E - 680.91' to a 1/2" iron rod found common to the northwest corner of the 43.547 acre tract described in deed from Mark B. Wagner, et al to Helena Kleck Vivian recorded under Document No. 200106022554, Official Public Records of Real Property, Comal County, Texas, common to the southeast corner of the herein described tract;

THENCE S 89° 49' 45" W - 2661.99' along the north line of said 43.547 acre tract to the POINT OF BEGINNING of the herein described tract and containing 21.00 acres of land.

TRACT 2C:

All that certain 2.889 acres of land in the John Kaderli Survey No. 449, Abstract No. 308, and the Jacob Kaderli Survey No. 465, Abstract No. 309, Comal County Texas, which is all of the land described as Lot 1, Bartlett's Paradise Valley Subdivision, recorded under Volume 10, Page 174, Plat Records, Comal County, Texas, and being more particularly described by metes and bounds as follows: (All bearings based on the Texas State Plane Coordinate System, South Central Zone)

COMMENCING at a 1/2" iron rod found in the east line of Stahl Road, said iron rod is common to the southwest corner of a 196.62 acre tract described in the deed from Brandy Kay Bartlett to Gary Eldon Bartlett recorded under Document No. 200206018898, Deed Records, Comal County, Texas;

THENCE N 24° 55' 33" W - 147.01' along said east line of Stahl Road and west line of said 196.62 acre tract to a 3/4" iron rod set for an angle corner;

THENCE N 00° 47' 14" W - 1071.68' along said east line of Stahl Road and west line of said 196.62 acre tract to a 3/4" iron rod set for an angle corner;

THENCE N 01° 09' 20" E - 583.04' along said east line of Stahl Road and west line of said 196.62 acre tract to a 3/4" iron rod set for the POINT OF BEGINNING;

THENCE N 01° 09' 20" E - 60.00' to a 3/4" iron rod set for the northwest corner of the herein described tract;

THENCE S 88° 47' 33" E - 1080.24' to a 1/2" iron rod found for an angle corner of the herein described tract;

THENCE N 40° 40' 02" E - 172.29' to a 1/2" iron rod found for the most northerly corner of the herein described tract;

THENCE S 49° 19' 58" E - 250.00' to a 1/2" iron rod found for the most easterly corner of the herein described tract;

THENCE S 40° 40' 02" W - 250.00' to a 1/2" iron rod found for the most southerly corner of the herein described tract;

THENCE N 49° 19' 58" W - 250.00' to a 1/2" iron rod found for an angle corner of the herein described tract;

THENCE N 88° 47' 33" W - 1030.80' to the POINT OF BEGINNING of the herein described tract and containing 2.889 acres of land.

TRACT 2D:

All that certain 497.9 acres of land in the Daniel Lewis Survey No. 347, Abstract No. 367, the M. Jamison Survey No. 697, Abstract No. 298, and the John Byland Survey No. 438, Abstract No. 50, Comal County Texas, which is all of the land described in the deed from Edward H. Knowlton and wife, Ann Knowlton to Paul G.

Silber Jr. and wife, Phyllis Silber, and in the deed from Paradise Valley Corporation to Paul G. Silber Jr. recorded under Volume 147, Page 404 and Volume 331, Page 879, Deed Records, Comal County, Texas, respectively, and being more particularly described by metes and bounds as follows: (All bearings based on the Texas State Plane Coordinate System, South Central Zone)

BEGINNING at a 39" diameter Live Oak tree, said tree is common to the southeast corner of a 20.000 acre tract described in the deed from Jane K. Kleck to Cantu Medical Association recorded under Volume 424, Page 822 Deed Records, Comal County, Texas, said tree common to the southwest corner of the herein described tract;

THENCE N 00° 30' 25" W - 3004.27' along the east line of said Cantu Medical Association tract, the east line of a 43.567 acre tract described in deed from Helena Kleck Vivian to Mark B. Wagner and Barbara Wagner recorded under Document No. 200106022370 Official Public Records of Real Property, Comal County Texas, the east line of a 43.547 acre tract described in deed from Mark D. Wagner and wife, Barbara Wagner and Pamela Wyrick and husband Jerry Lynn Wyrick to Helena Kleck Vivian recorded under Document No. 200106022554, Official Public Records of Real Property, Comal County Texas, and the west line of the herein described tract to a 1/2" iron rod found, said iron rod is common to the southwest corner of a 21.00 acre tract described in the deed from Gary Eldon Bartlett and wife, Brandy K. Bartlett to Stephen C. Lundgren and wife, Diane K. Lundgren, recorded under Document No. 9806013761, Official Public Records of Real Property, Comal County Texas, said iron rod is common to an angle point of the herein described tract;

THENCE N 00° 43' 14" W - 680.91' along the east line of Lundgren tract and the west line of the herein described tract to a 3/8" iron rod found common to the northeast corner of said Lundgren tract, the southwest corner of a 36.513 acre tract described in the deed from Andrew T. Almquist to Randy and Kellye Harris, recorded under Document No. 200206003624, Official Public Records of Real Property, Comal County Texas, and the northwest corner of the herein described tract;

THENCE along the south line of said Harris tract and the north line of the herein described tract the following:

N 81° 00' 20" E - 156.49' along the south line of said Harris tract to a 3/8" iron rod found for an angle corner of the herein described tract;

N 70° 25' 04" E - 417.66' along the south line of said Harris tract to a 3/4" iron rod set for an angle corner of the herein described tract;

N 78° 48' 24" E - 845.87' along the south line of said Harris tract to a fence corner found for an angle corner of the herein described tract;

S 83° 53' 55" E - 185.15' along the south line of said Harris tract to a 12" wood post found for an angle corner of the herein described tract;

N 81° 55' 55" E - 471.21' along the south line of said Harris tract to a fence corner found for an angle corner of the herein described tract;

THENCE N 08° 09' 17" W - 120.10' along the easterly line of said Harris tract to a 1/2" iron rod found for the most southerly corner of a 31.89 acre tract described in the deed from Gibbons-Markey Family Limited Partnership to Keith L. Markey, and

wife Donna Gibbons Markey recorded under Document No. 200306000632, Official Public Records of Real Property, Comal County Texas, said iron rod common to an angle corner of the herein described tract;

THENCE N 77° 55' 49" E - 2075.17' along the south line of said Markey tract, and the south line of a 49.35 acre tract described in the deed from General Investment Corporation to John S. Best and wife, Janet E. Best recorded under Document No. 9806012293, Official Public Records of Real Property, Comal County, Texas, to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE N 77° 53' 33" E - 334.95' along the south line of said Best tract to a fence corner found common to the southeast corner of the said Best tract and an angle point of the herein described tract;

THENCE N 00° 39' 34" W - 30.71' along the east line of said Best tract to a fence corner found common to the most westerly southwest corner of a 149.879 acre tract described in the deed from the Estate of Jocelyn Welsch to Paul G. Silber, Jr. recorded under Document No. 200506036460, Official Public Records of Real Property, Comal County, Texas, said fence corner common to an angle corner of the herein described tract;

THENCE along the southerly line of said Silber tract and the northerly line of the herein described tract the following:

N 79° 20' 11" E - 30.39' along the southerly line of said Silber tract to a fence corner found common to an angle corner of the herein described tract;

S 00° 47' 49" E - 376.76' along the southerly line of said Silber tract to a fence corner found common to an angle corner of the herein described tract;

S 53° 34' 35" E - 2463.58' along the southerly line of said Silber tract to a 12" wood post found common to an angle corner of the herein described tract;

S 87° 30' 35" E - 93.33' along the southerly line of said Silber tract to a 3/8" iron rod found in the westerly right-of-way line of Smithson Valley Road, said iron rod common to the southeast corner of said Silber tract and the most easterly corner of the herein described tract;

THENCE along the westerly right-of-way line of Smithson Valley Road and the easterly line of the herein described tract the following:

S 27° 12' 54" W - 433.94' to a 3/4" iron rod set common to an angle corner of the herein described tract;

S 34° 37' 54" W - 1343.20' to a 1/2" iron rod found common to an angle corner of the herein described tract;

S 32° 06' 54" W - 620.30' to a 1/2" iron rod found common to an angle corner of the herein described tract;

S 51° 47' 54" W - 148.65' to a 3/8" iron rod found common to the southeast corner of the herein described tract;

THENCE N 88° 32' 20" W - 683.94' along the northerly line of Oak Village North, Unit No. 2 as shown in Plat recorded under Volume 3, Page 22, Map and Plat Records, Comal County, Texas, and along the south line of the herein described tract to a fence corner found for an angle corner of the herein described tract;

THENCE along the northerly line of said Oak Village North and the south line of the herein described tract the following:

S 86° 30' 29" W - 177.79' along the northerly line of said Oak Village North to a 3/4" iron rod set common to an angle corner of the herein described tract;

S 85° 57' 02" W - 754.60' along the northerly line of said Oak Village North, at 689.40' pass a 1/2" iron rod found common to the northeast corner of lot 358, said Oak Village North, to a 3/4" iron rod set common to an angle corner of the herein described tract;

S 86° 06' 02" W - 599.19' along the northerly line of said Oak Village North, at 359.23' pass a 1/2" iron rod found common to the northeast corner of lot 219, said Oak Village North, to a railroad tie fence corner found common to an angle corner of the herein described tract;

S 01° 41' 27" E - 667.40' along the northerly line of said Oak Village North, at 210.51' pass a 1/2" iron rod found common to the southwest corner of lot 218, at 510.07' pass a 1/2" iron rod found common to the southwest corner of lot 215, said Oak Village North, to a fence corner found common to an angle corner of the herein described tract;

S 89° 45' 19" W - 163.00' along the northerly line of said Oak Village North to a 1/2" iron rod found common to an angle corner of the herein described tract;

N 89° 59' 53" W - 560.04' along the northerly line of said Oak Village North, at 445.60' pass a 1/2" iron rod found common to the northeast corner of Lot 206, said Oak Village North, to a 3/4" iron rod set common to an angle corner of the herein described tract;

S 89° 42' 21" W - 1430.20' along the northerly line of said Oak Village North, at 35.52' pass a 1/2" iron rod found common to the northeast corner of Lot 205, at 635.14' pass a 1/2" iron rod found for the northeast corner of Lot 201, at 995.69' pass a 1/2" iron rod found for the northeast corner of Lot 199, said Oak Village North, to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE S 89° 22' 40" W - 294.30' to a 3/8" iron rod found common to the northwest corner of said Oak Village North and the northeast corner of Lot 2, McGuffin Subdivision as shown on Plat recorded under Volume 11, Page 248, Map and Plat Records, Comal County, Texas, and an angle corner of the herein described tract;

THENCE S 89° 44' 24" W - 395.56' along the north line of said Lot 2 to the POINT OF BEGINNING of the herein described tract and containing 497.9 acres of land.

TRACT 2E:

All that certain 152.8 acres of land in the M. Jamison Survey No. 697, Abstract No. 298, the F.W. Foerster Survey No. 850, Abstract No. 879, and the John Byland Survey No. 438, Abstract No. 50, Comal County Texas, which is all of the land described in the deed from the Estate of Jocelyn Welsch to Paul G. Silber Jr. recorded under Document No. 200506036460, Official Public Records of Real Property, Comal County, Texas, and being more particularly described by metes and bounds as follows: (All bearings based on the Texas State Plane Coordinate System, South Central Zone)

BEGINNING at a 3/8" iron rod found in the westerly right-of-way line of Smithson Valley Road, said iron rod is common to a southeasterly corner of a 97.459 acre tract described in the deed from Paradise Valley Corporation to Paul G. Silber, Jr. recorded under Volume 331, Page 879 Deed Records, Comal County, Texas, said iron rod common to the southeast corner of the herein described tract;

THENCE along the northerly line of said Silber tract and the southerly line of the herein described tract the following:

N 87° 30' 35" W - 93.33' along the northerly line of said Silber tract to a 12" wood post found common to an angle corner of the herein described tract;

N 53° 34' 35" W - 2463.58' along the northerly line of said Silber tract to a fence corner found common to an angle corner of the herein described tract;

N 00° 47' 49" W - 376.76' along the northerly line of said Silber tract to a fence corner found common to an angle corner of the herein described tract;

THENCE S 79° 20' 11" W - 30.39' along the northerly line of said Silber tract to a fence corner found common to a point in the east line of a 49.35 acre tract described in the deed from General Investment Corporation to John S. Best and wife, Janet E. Best recorded under Document No. 9806012293, Official Public Records of Real Property, Comal County, Texas and an angle corner of the herein described tract;

THENCE N 00° 39' 34" W - 772.93' along the east line of said Best tract to a 3/8" iron rod found common to an angle corner in the east line of said Best tract, the south line of Lot 26, Stoney Ridge, Unit I as shown on Plat recorded under Volume 5, Page 300, Map and Plat Records, Comal County, Texas, said iron rod is common to the northwest corner of the herein described tract;

THENCE along the south line of said Stoney Ridge and the north line of the herein described tract the following:

N 73° 32' 31" E - 254.01' along the south line of said Stoney Ridge to a 3/4" iron rod set common to an angle corner of said Stoney Ridge and the herein described tract;

N 75° 12' 31" E - 147.00' along the south line of said Stoney Ridge to a 3/4" iron rod set common to an angle corner of said Stoney Ridge and the herein described tract;

N 77° 40' 31" E - 1042.30' along the south line of said Stoney Ridge, at 433.34' pass a 1/2" iron rod found common to the southeast corner of Lot 28, Stoney Ridge; at 492.81' pass a 1/2" iron rod found common to the southwest corner of Lot 29 Stoney Ridge; at 834.63' pass a 1/2" iron rod found common to the southeast corner of Lot 29 Stoney Ridge to a 3/4" iron rod set common to an angle corner of said Stoney Ridge and the herein described tract;

N 77° 17' 31" E - 452.72' along the south line of said Stoney Ridge at 127.57' pass a 1/2" iron rod found common to the southeast corner of Lot 30, Stoney Ridge; to a 3/4" iron rod set common to an angle corner of said Stoney Ridge and the herein described tract;

THENCE S 60° 31' 06" E - 448.57' along the south line of said Stoney Ridge, at 234.76' pass a 1/2" iron rod found common to the southeast corner of Lot 32, Stoney Ridge, said iron rod is common to the southwest corner of a 34.00 acre tract described in the deed from Anita Richards Mayer, Trustee to Robert J. Nash and Gerri S. Nash

recorded under Document No. 9806017120 Official Public Records of Real Property, Comal County, Texas, to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE S 60° 11' 06" E - 957.40' continuing along the south line of said Nash tract to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE S 59° 41' 06" E - 269.40' continuing along the south line of said Nash tract to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE S 60° 39' 06" E - 457.10' along the south line of said Nash tract, at 338.89' pass a 1/2" iron rod found common to the southeast corner of said Nash tract and the southwest corner of Lot 1 of the aforementioned Stoney Ridge, to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE S 56° 29' 06" E - 72.50' along the south line of said Lot 1 to a 3/4" iron rod set common to an angle corner of the herein described tract;

THENCE S 51° 36' 06" E - 129.01' along the south line of said Lot 1 to a fence corner found in the westerly right-of-way line of Smithson Valley Road common to the northeast corner of the herein described tract;

THENCE along the westerly right-of-way line of said Smithson Valley Road and the easterly line of the herein described tract the following:

S 48° 51' 02" W - 560.70' along the westerly right-of-way line of said Smithson Valley Road to a 3/4" iron rod set common to an angle corner of Smithson Valley Road and the herein described tract;

S 62° 23' 50" W - 860.63' along the westerly right-of-way line of said Smithson Valley Road, at 541.43' pass a 3/8" iron rod found common to the northeasterly corner of a 2.881 acre tract described in the aforementioned deed from the Estate of Jocelyn Welsch to Paul G. Silber Jr. recorded under Document No. 200506036460, Official Public Records of Real Property, Comal County, Texas, and designated as Tract II, to a 3/4" iron rod set common to an angle corner of said Smithson Valley Road and the herein described tract;

S 27° 02' 50" W - 134.10' along the westerly right-of-way line of said Smithson Valley Road, to a 3/8" iron rod found common to the southwesterly corner of said Tract II and an angle corner of said Smithson Valley Road and the herein described tract;

THENCE S 26° 47' 25" W - 1095.86' along the westerly right-of-way line of said Smithson Valley Road, to the POINT OF BEGINNING of the herein described tract and containing 152.8 acres of land.

PART 3

An 72.51 acre, or 3,158,644 square feet more or less, tract of land being out of the remaining portion of 183.555 acre tract conveyed to Berryman Properties, Ltd. in Special Warranty Deed recorded in Volume 739, Pages 146-149 of the Deed Records of Comal County, Texas, out of the Carl George Survey No. 432 and Phillip Wagner Survey No. 573, Comal County, Texas. Said 72.51 acre tract being more fully described as follows, with bearings established from the Texas Coordinate System as established from the North American Datum of 1983(CORS96) for the South Central Zone and based on the south right-of-way line of State Highway 46, a variable width right-of-way;

COMMENCING: At a found 1/2" iron rod with yellow cap marked "Pape-Dawson", the south right-of-way line of State Highway 46, a variable width right-of-way as shown in the retracement survey TXDOT file SAT021501RA, the northeast corner of Travel Mart Subdivision recorded in Volume 9, Page 312 of the Map and Plat Records of Comal County, Texas, a northwest corner of said remaining portion of 183.555 acre tract, from which a found Texas Department of Transportation monument with a brass plate bears a chord bearing and distance of S 66°37'32"W, 239.55 feet and arc length of 241.30 feet to the northeast corner of said Travel Mart Subdivision and the intersection of the southeast right-of-way line of U.S. Highway 281, a variable width right-of-way and the south right-of-way line of said State Highway 46;

THENCE: Along and with the south right-of-way line of said State Highway 46 and the north line of said remaining portion of 183.555 acre tract, the following calls and distances:

Northeasterly, along the arc of a curve to the right, said curve having a radial bearing of S 11°23'33" E, a radius of 576.94 feet, a central angle of 10°15'10", a chord bearing and distance of N 83°44'02" E, 103.10 feet, an arc length of 103.24 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";

N 88°51'37"E, a distance of 417.14 feet to a found Texas Department of Transportation monument with a brass plate;

N 45°36'42"E, a distance of 15.32 feet to a found Texas Department of Transportation monument with a brass plate;

N 88°47'15"E, a distance of 184.35 feet to a found 1/2" iron rod with yellow cap marked "Pape-Dawson", the west right-of-way line of Berry Oaks Drive, a private street, also being Lot 1, Drainage, Electric, Gas, Telephone, Cable T.V., and Water Easement out of Berry Oaks Subdivision Unit 1 recorded in Volume 11, Pages 393-396 of the Map and Plat Records of Comal County, Texas;

THENCE: Departing the south right-of-way line of State Highway 46, along and with the west line of said Berry Oaks Drive and the east line of said remaining portion of 183.555 acre tract, the following calls and distances:

S 01°25'26"E, a distance of 4.66 feet to a found 1/2" iron rod with yellow cap marked "Pape-Dawson", a point of non tangent curvature;

Southeasterly, along the arc of a curve to the right, said curve having a radial bearing of S 01°27'35" E, a radius of 25.00 feet, a central angle of 92°07'18", a chord bearing and distance of S 45°23'56" E, 36.00 feet, an arc length of 40.20 feet to a found 1/2" iron rod with yellow cap marked "Pape-Dawson";

Southwesterly, along the arc of a curve to the right, said curve having a radial bearing of N 89°20'17" W, a radius of 707.00 feet, a central angle of 7°24'45", a chord bearing and distance of S 04°22'05" W, 91.40 feet, an arc length of 91.47 feet to a found 1/2" iron rod, from which a found 1/2" iron rod bears N 10°28'11"E a distance of 4.59 feet;

S 08°04'28"W, a distance of 19.93 feet to a found 1/2" iron rod with yellow cap marked "Pape-Dawson";

Southwesterly, along the arc of a curve to the left, said curve having a radial bearing of S 82°19'30" E, a radius of 350.00 feet, a central angle of 09°40'30", a chord bearing and distance of S 02°50'16" W, 59.03 feet, an arc length of 59.10 feet to a found 1/2" iron rod with yellow cap marked "Pape-Dawson" and the POINT OF BEGINNING;

Southwesterly, along a curve to the left said curve having a radial bearing of N 88°00'01" E, a radius of 350.00 feet, a central angle of 03°08'17", a chord bearing and distance of S 03°34'08" E, 19.17 feet, an arc length of 19.17 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson", being the northeast corner of Lot 2R of said Berry Oaks Subdivision Unit 1;

THENCE: S 87°26'47"W, departing the east right-of-way line of said Berry Oaks Drive and along and with the north line of said Lot 2R, a distance of 303.41 feet to a found 1/2" iron rod with cap marked "ACE";

THENCE: Along and with the west line of said Berry Oaks Subdivision Unit 1 and the east line of said remaining portion of 183.555 acre tract, the following calls and distances:

S 23°42'23"E, a distance of 694.70 feet to a found 1/2" iron rod with cap marked "ACE", being a west angle point of Lot 5R of said Berry Oaks Subdivision;

S 05°38'29"E, a distance of 162.30 feet to a found 1/2" iron rod, being the southwest corner of said Lot 5R;

N 71°57'28"E, along and with the south line of said Lot 5R, a distance of 311.16 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson", being the southeast corner of said Lot 5R, in the east right-of-way line of said Berry Oaks Drive;

S 18°02'32"E, along and with the east right-of-way line of said Berry Oaks Drive, a distance of 60.00 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson", the northeast corner of Lot 7R of said Berry Oaks Subdivision;

S 71°57'28"W, along and with the north line of said Lot 7R, a distance of 324.35 feet to a found 1/2" iron rod, being the northwest corner of said Lot 7R;

S 19°42'10"W, a distance of 84.84 feet to a found 1/2" iron rod with cap marked "ACE", being a west angle point of said Lot 7R;

S 09°39'41"W, a distance of 226.86 feet to a found 1/2" iron rod with cap marked "ACE", being a west angle point of Lot 8R of said Berry Oaks Subdivision;

S 05°16'46"E, a distance of 441.98 feet to a found 1/2" iron rod with cap marked "ACE", being the southwest corner of Lot 10R and the northwest corner of Lot 11R of said Berry Oaks Subdivision;

S 37°37'14"E, a distance of 986.25 feet to a found 1/2" iron rod with cap marked "ACE", being the southwest corner of Lot 15R and a west angle point of Lot 17R of said Berry Oaks Subdivision;

S 48°46'32"E, a distance of 695.56 feet to a found 1/2" iron rod with cap marked "ACE", being the southeast corner of Lot 18R and the southwest corner of Lot 19R of said Berry Oaks Subdivision;

S 61°49'54"E, a distance of 385.79 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson", being the southeast corner of Lot 19R, in the west right-of-way line of Stahl Lane, a variable width right-of-way, from which a found 1/2" iron rod with cap marked "ACE" bears S64°00'16"E a distance of 0.65 feet;

THENCE: S 00°14'31"E, departing said Berry Oaks Subdivision, along and with the west line of said Stahl Lane, a distance of 103.55 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson", the beginning of a tangent curve to the right;

THENCE: Southwesterly, along and with the west line of said Stahl Lane and the said curve to the right, said curve having a radius of 663.42 feet, a central angle of 67°45'22", a chord bearing and distance of S 33°38'10" W, 739.62 feet, an arc length of 784.54 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson", the southeast corner of said remaining portion of 183.555 acre tract, the east line of a 47.97 acre tract recorded in Document #9806006222 of the Official Records of Comal County, Texas;

THENCE: N 38°46'18"W, departing the west right-of-way line of said Stahl Lane, along and with the south line of said remaining portion of 183.555 acre tract and the north line of said 47.97 acre tract, a distance of 117.96 feet to a found 1/2" iron rod, being the east line of a 30' Ingress-Egress Easement recorded in Volume 284, Pages 407-411 of the Official Records of Comal County, Texas;

THENCE: N 00°53'07"E, along and with the east line of said easement, a distance of 224.63 feet to a found 1/2" iron rod, being the south line of a called 0.50 acre cemetery tract recorded in Volume 284, Pages 407-411 of the Official Records of Comal County, Texas, being the northeast corner of said easement;

THENCE: N 89°44'36"E, a distance of 117.83 feet (117.60' Deed) to a found 1/2" iron rod, being the southeast corner of said called 0.50 acre tract;

THENCE: N 00°08'03"E, a distance of 147.58 feet (147.60' Deed) to a found 1/2" iron rod, being the northeast corner of said called 0.50 acre tract;

THENCE: N 89°47'54"W, a distance of 147.92 feet (147.60' Deed) to a found 1/2" iron rod, being the northwest corner of said called 0.50 acre tract;

THENCE: S 00°05'59"W, along and with the west line of said easement, a distance of 148.37 feet (147.60' Deed) to a found 1/2" iron rod, the southwest corner of said called 0.50 acre tract and being the northwest corner of said easement;

THENCE: S 00°53'07"W, along and with the west line of said easement, a distance of 188.24 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson", the southwest corner of said easement, the south line of said remaining portion of 183.555 acre tract and the north line of said 47.97 acre tract;

THENCE: N 38°46'18"W, along and with the south line of said remaining portion of 183.555 acre tract and the north line of said 47.97 acre tract, at a distance of 1380.24 feet passing a found 1/2" iron rod being the upper northwest corner of said 47.97 acre tract and the northeast corner of Hogan/281 Subdivision recorded in Volume 10, Page 277 of the Map and Plat Records of Comal County, Texas and continuing a total distance of 1585.70 feet (1585.15' Deed) to a found 1/2" iron rod;

THENCE: N 62°19'48" W, along and with the south line of said remaining portion of 183.555 acre tract and the north line of said Hogan/281 Subdivision, a distance of 1361.30 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";

THENCE: Over and across said remaining portion of 183.555 acre tract, the following calls and distances:

N 14°59'26" E, a distance of 759.78 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";

N 24°00'39" E, a distance of 712.83 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";

N 14°05'08" E, a distance of 373.23 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";

Northeasterly, along a non-tangent curve to the right said curve having a radial bearing of S 12°26'18" E, a radius of 376.94 feet, a central angle of 11°17'54", a chord bearing and distance of N 83°12'40" E, 74.21 feet, an arc length of 74.33 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";

N 88°51'37" E, a distance of 496.43 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";

N 45°36'42" E, a distance of 15.46 feet to a to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";

N 88°47'15" E, a distance of 114.05 feet to the POINT OF BEGINNING and containing 72.51 acres in Comal County, Texas.

PART 4:

TRACT 4A:

A 20.29 acres or 883,763 square feet more or less, tract of land, out of the Johann Rittmann Survey No. 579, Abstract No. 500 Comal, County, Texas and being all of a 20.0000 acre tract of land conveyed to Raul S. Cantu Family Partnership No. 1 of record in Volume 958 Page 824 and described in Volume 646 Page 848, Official Public Records of Comal County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING: At a found 1/2" iron rod in the east right of way line of Stahl Road, for the southwest corner of a 11.706 acre tract of land conveyed to Barbara Ancira Ruebenenson of record in Document No. 200706020345, Official Public Records of Comal County, Texas and for the northwest corner of the 20.0000 acre tract and this tract, from which a 1/2" iron rod found for the southerly northwest corner of the 11.706 acre tract bears N 00°00'41" W a distance of 40.04 feet.

THENCE: S 89°50'29" E with the south line of the 11.706 acre tract and the north line of the 20.0000 acre tract and this tract a distance of 1182.37 feet to a found 1/2" iron rod in the west line of a 497.9 acre tract of land conveyed to 633-4S Ranch, LTD. of record in Document No. 200706014474, Official Public Records of Comal County, Texas, for the southeast corner of the 11.706 acre tract and for the northeast corner of the 20.0000 acre tract and this tract.

THENCE: S 00°36'37" E with the west line of the 497.9 acre tract and with the east line of the 20.0000 acre tract and this tract a distance of 738.23 feet to a 48" Live Oak Tree, for the southwest corner of the 497.9 acre tract and in the north line of a 15.165 acre tract known as Lot 2, McGuffin Subdivision of record in Volume 11 Page 248, Plat Records of Comal County, Texas and for the southeast corner of the 20.0000 acre tract and this tract, from which a found 3/8" iron rod for the northeast corner of the 15.165 acre tract bears N 89°42'57" E a distance of 395.84 feet.

THENCE: with a north line of the 15.165 acre tract and the north line of a 32.182 acre tract of land conveyed to Henry F. Wagner of record in Document No. 200106022364, Official Public Records of Comal County, Texas and the south line of the 20.0000 acre tract and this tract the following calls and distances:

1) S 89°46'45" W, a distance of 275.52 feet to a found 1/2" iron rod for the northwest corner of the 15.165 acre tract and an angle point, and

2) S 89°25'00" W, a distance of 916.73 feet to a set 1/2" iron rod with a blue plastic cap stamped "KFW SURVEYING" in the east right of way line of Stahl Road for the southwest corner of the 20.0000 acre tract and this.

THENCE: N 00°09'02" E with the east right of way line of Stahl Road and the west line of the 20.0000 acre tract and this tract a distance of 751.86 feet to the POINT OF BEGINNING and containing 20.29 acres.

TRACT 4B:

BEING 149.984 ACRES OF LAND BEING OUT OF THE F.H. FAIGAUX SURVEY NO. 787, ABSTRACT NO. 767, IN COMAL COUNTY, TEXAS, AND BEING OUT OF THAT CERTAIN 155.956 ACRE TRACT OF LAND DESCRIBED IN A DEED DATED MAY 20, 1975, FROM EDDIE LUX TO VIRGIL K. KNOWLTON RECORDED IN VOLUME 227, PAGE 604, OF THE DEED RECORDS OF COMAL COUNTY, TEXAS, AND BEING ALL OF THOSE CERTAIN TWO TRACTS OF LAND DESCRIBED IN TWO SEPARATE DEEDS DATED JULY 10, 1984, EXECUTED BY VIRGIL K. KNOWLTON, ET UX, ONE TRACT BEING 148.395 ACRES OF LAND, WHICH DEED IS RECORDED IN VOLUME 398, PAGE 33, OF THE DEED RECORDS OF COMAL COUNTY, TEXAS, AND THE OTHER TRACT BEING 4.116 ACRES OF LAND, WHICH DEED IS RECORDED IN VOLUME 398, PAGE 42, OF THE DEED RECORDS OF COMAL COUNTY, TEXAS, SAID 149.984 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT AN IRON ROD FOUND AT A POINT IN THE WEST RIGHT-OF-WAY-LINE OF STAHL LANE AT THE MOST NORTHERLY NORTHEAST CORNER OF SAID 155.956 ACRE TRACT OF LAND, BEING THE MOST SOUTHERLY SOUTHEAST CORNER OF THAT CERTAIN CLYDE JOHNSON AND SONS HEREFORD RANCH, LTD 151.956 ACRE TRACT OF LAND, RECORDED IN DOCUMENT NO. 200006037239, OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY, AND BEING A POINT IN THE NORTH LINE OF THAT CERTAIN V.S. AND TERRI D. KANE 6.020 ACRE TRACT OF LAND, RECORDED IN VOLUME 398, PAGE 30, OF THE DEED RECORDS OF SAID COUNTY, FOR THE POINT OF COMMENCEMENT HEREOF;

THENCE, WITH A PORTION OF SAID RIGHT-OF-WAY LINE AND WITH THE EAST LINE OF SAID 6.020 ACRES OF LAND THE FOLLOWING TWO (2) COURSES:

1) S 50°03'43" E, A DISTANCE OF 319.25 FEET TO AN IRON ROD FOUND AT A POINT IN SAID LINE;

2) S 24°19'45" E, A DISTANCE OF 214.71 FEET TO AN IRON ROD SET AT THE SOUTHEAST CORNER OF SAID 6.020 ACRES OF LAND, FOR THE POINT OF BEGINNING HEREOF;

THENCE, WITH A PORTION OF SAID RIGHT-OF-WAY LINE AND WITH A PORTION OF THE EAST LINE OF SAID 155.956 ACRE TRACT OF LAND THE FOLLOWING NINE (9) COURSES:

1) S 24°19'45" E, A DISTANCE OF 288.35 FEET TO AN IRON ROD FOUND;

2) S 61°24'18" E, A DISTANCE OF 809.86 FEET TO AN IRON ROD FOUND;

3) S 71°39'27" E, A DISTANCE OF 390.70 FEET TO AN IRON ROD FOUND;

4) S 33°11'33" E, A DISTANCE OF 16.90 FEET TO AN IRON ROD FOUND;

5) S 06°04'41" E, A DISTANCE OF 213.95 FEET TO AN IRON ROD FOUND;

6) S 00°29'28" W, A DISTANCE OF 1,475.86 FEET TO AN IRON ROD SET

7) S 59°19'00" W, A DISTANCE OF 200.06 FEET TO AN IRON ROD SET

8) S 88°57'00" W, A DISTANCE OF 388.95 FEET TO AN IRON ROD SET

9) S 45°59'00" W, A DISTANCE OF 30.40 FEET TO AN IRON ROD SET AT THE NORTHEAST CORNER OF THAT CERTAIN JOYCE LUX 0.616 OF AN ACRE OF LAND, FOR THE SOUTHEAST CORNER HEREOF;

THENCE, WITH THE NORTH LINE OF SAID 0.516 OF AN ACRE OF LAND AND WITH THE SOUTH LINE OF SAID 155.956 ACRE TRACT OF LAND THE FOLLOWING FOUR (4) COURSES:

1) S 89°36'00" W, A DISTANCE OF 1,019.90 FEET TO AN IRON ROD SET AT AN ANGLE POINT IN SAID LINE;

2) N 35°32'00" W, A DISTANCE OF 13.20 FEET TO AN IRON ROD SET AT AN ANGLE POINT IN SAID LINE;

3) S 72°04'00" W, A DISTANCE OF 51.70 FEET TO AN IRON ROD SET AT AN ANGLE POINT IN SAID LINE;

4) N 89°49'00" W, A DISTANCE OF 968.30 FEET TO AN IRON ROD SET AT THE NORTHEAST CORNER OF THAT CERTAIN CLYDE JOHNSON AND SONS HEREFORD RANCH, LTD 10.600 ACRE TRACT OF LAND, SAME BEING THE SOUTHEAST CORNER OF THAT CERTAIN CLYDE JOHNSON AND SONS HEREFORD RANCH, LTD 151.900 ACRE TRACT OF LAND, BOTH RECORDED IN DOCUMENT NO. 200006037239, OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY, FOR THE SOUTHWEST CORNER HEREOF;

THENCE, WITH THE EAST LINE OF SAID HEREFORD RANCH, LTD 151.900 ACRES OF LAND AND WITH THE WEST LINE OF SAID 155.956 ACRE TRACT OF LAND, N 00°40'00" W, A DISTANCE OF 3,017.30 FEET TO AN IRON ROD FOUND AT A POINT IN THE SOUTH LINE OF SAID HEREFORD RANCH, LTD 151.956 ACRE TRACT OF LAND, FOR THE NORTHWEST CORNER HEREOF;

THENCE, WITH A PORTION OF SAID SOUTH LINE OF SAID 151.956 ACRE TRACT OF LAND AND WITH A PORTION OF THE NORTH LINE OF SAID 155.956 ACRE TRACT OF LAND, S 89°57'00" E, A DISTANCE OF 655.62 FEET TO AN IRON ROD SET AT A POINT IN SAID LINE AT THE NORTHWEST CORNER OF SAID KANE 6.020 ACRE TRACT OF LAND, FOR A POINT IN THE NORTH LINE HEREOF;

THENCE, THROUGH SAID 155.956 ACRE TRACT OF LAND WITH THE WEST AND SOUTH LINE OF SAID KANE 6.020 ACRE TRACT OF LAND THE FOLLOWING TWO (2) COURSES:

1) S 00°40'00" E, A DISTANCE OF 400.33 FEET TO AN IRON ROD SET, FOR AN INSIDE CORNER HEREOF;

2) S 89°57'00" E, A DISTANCE OF 782.69 FEET TO THE POINT OF BEGINNING AND CONTAINING 149.984 ACRES OF LAND, MORE OR LESS.

PART 5

FIELDNOTE DESCRIPTION of a 210.971 acre tract of land situated within Comal County, Texas, out of the Christian Hanz Survey Number 452, Abstract 263, the Agapita Nava Survey Number 451, Abstract 432 and the Johann Moegelin Survey Number 575, Abstract 423 and being comprised of all of Lot 1, Block 2, KESTREL AIR PARK as shown by plat recorded in Volume 12, Pages 314-316, Comal County Map and Plat records, together with 16.210 acres out of a certain 25.422 acre tract of land conveyed unto DJL Ventures Inc, by warranty deed executed November 27, 2006 and recorded in Document Number 200606050149, Comal County Official Records, together with 0.519 acres out of a certain 3.827 acre tract of land conveyed unto James R. and Cecelia Leininger by warranty deed executed April 8, 1987 and recorded in Volume 564, Page 360, Comal County Deed Records, together with 25.502 acres out of a remaining portion of a certain 412.1351 acre tract of land conveyed unto James R. Leininger by warranty deed executed December 29, 1982 and recorded in Volume 338, Page 466, said Deed Records, together with a certain 35.00 acre tract of land and a certain 5.058 acre tract of land conveyed unto DJL Ventures, Inc by warranty deed executed December 27, 2006 and recorded in Document Number 200706009043, said Official Records, together with a called 123.995 acre tract conveyed unto DJL Ventures, Inc by warranty deed executed January 3, 2007 and recorded in Document Number 200706009042, said Official Records, in all said 210.971 acre tract being more particularly described as follows:

BEGINNING at a 1/2" iron rod found at the intersection of the westerly right-of-way line of U.S. Highway 281 (a variable width public right-of-way) with the northerly incorporated limits of City of Bulverde as described in the POLITICAL BOUNDARY DESCRIPTION OF A 1.8 SQUARE MILE TRACT OF LAND FOR THE CITY OF BULVERDE NORTHWEST - INCORPORATION LIMITS, dated October 8, 2001; same being the common southeast corner of said Lot 1, Block 2, KESTREL AIR PARK and the northeast corner of said 25.422 acre tract, also being the eastern most corner and POINT OF BEGINNING of this tract.

THENCE, along said northerly incorporated city limit line and with the common south line of said Lot 1 and the north line of said 25.422 acre tract, North 88° 16' 26" West, 200.70 feet to a point for corner in the incorporated city limit line running 200 feet west of, and parallel with, the westerly right-of-way line of said U.S. Highway 281.

THENCE, across said 25.422 acre tract and with said line running 200 feet west of, and parallel with, said westerly right-of-way line as follows:

South 03° 03' 10" East, 256.79 feet to a point for corner.

South 05° 51' 08" East, 710.05 to a point at the beginning of a non-tangent curve concave to the west, whose radius point bears South 84° 07' 05" West and whose chord bearing and distance is South 01° 25' 05" West, 884.34 feet,

And southerly with the arc of said curve through a central angle of $14^{\circ} 36' 01''$, an arc distance of 886.73 feet to a point for corner situated in the incorporated city limit line running perpendicular to the centerline of said U.S. Highway 281, said perpendicular line being situated approximately 2,200 feet north of the centerline of State Highway 46 (a 100 foot wide public right-of-way).

THENCE along said perpendicular line, North $81^{\circ} 16' 54''$ West, at 106.16 feet pass the common south line of said 25.422 acre tract and the north line of said 3.827 acre tract, in all a distance of 270.53 feet to a point for corner situated in the incorporated city limit line running 470 feet west of, and parallel with, the westerly right-of-way line said U.S. Highway 281.

THENCE, along said line running 470 feet west of, and parallel with, said westerly right-of-way line, South $14^{\circ} 54' 38''$ West, at 178.41 feet pass the common west line of said 3.827 acre tract and the east line of said 412.1351 acre tract, in all a distance of 756.85 feet to a point for corner in the north line of a 9.156 acre tract of land conveyed unto J. David Bamberger by correction deed executed February 9, 1981 and recorded in Volume 308, Page 202, said Deed Records.

THENCE, departing said line running 470 feet west of, and parallel with, said westerly right-of-way line, South $76^{\circ} 50' 42''$ West, 88.53 feet to a $1/2''$ iron rod found in the east line of said 412.1351 acre tract and at the northwest corner of said 9.156 acre tract.

THENCE, along the common west line of said 9.156 acre tract and east line of said 412.1351 acre tract, South $01^{\circ} 13' 43''$ East, 281.04 feet to its intersection with said incorporated city limit line running 470 feet west of, and parallel with, said westerly right-of-way line.

THENCE, across said 412.1351 acre tract and with said line running 470 feet west of, and parallel with, said westerly right-of-way line, South $14^{\circ} 54' 38''$ West, 379.03 feet to a point for corner situated in the incorporated city limit line running 750 feet north of, and parallel with, the northerly right-of-way line of said State Highway 46, same being the southeast corner of this tract and the beginning of a non-tangent curve concave to the north whose radius point bears North $04^{\circ} 50' 53''$ East, 10,662.25 feet and whose chord bearing and distance is North $84^{\circ} 29' 03''$ West, 248.50 feet.

THENCE, along said line running 750 feet north of, and parallel with, said northerly right-of-way line and westerly with the arc of said curve through a central angle of $01^{\circ} 20' 08''$, an arc distance of 248.51 feet to a point for corner.

THENCE, continuing across said 412.1351 acre tract and along said line running 750 feet north of, and parallel with, said northerly right-of-way line, North $83^{\circ} 56' 15''$ West, 475.45 feet to a point for corner in the west line of WINDMILL RANCH SUBDIVISION, UNIT 1, as shown by plat recorded in Volume 12, Pages 321 - 324, said Map and Plat Records for the southerly southwest corner of this tract, and from whence a $1/2''$ iron rod found at the southeast corner of said WINDMILL RANCH SUBDIVISION, UNIT 1, bears South $00^{\circ} 05' 07''$ West, 4.89 feet.

THENCE, continuing with said incorporated city limit line, North $00^{\circ} 05' 07''$ East, 774.87 feet to a $1/2''$ iron rod found and North $00^{\circ} 42' 29''$ West, at 311.99 feet pass a $1/2''$ iron rod set at the common southwest corner of said 35.00 acre tract and a northerly corner of the remaining portion of said 412.1351 acre tract, in all a distance

of 644.29 feet to an 8" cedar fence post found on the west line of said 35.00 acre tract, at the common northeast corner of said WINDMILL RANCH SUBDIVISION, UNIT 1 and the southeast corner of said called 123.995 acre tract.

THENCE, continuing with said incorporated city limit line and along the common north line of said WINDMILL RANCH SUBDIVISION, UNIT 1, the south line of said called 123.995 acre tract and the south line of this tract as follows:

North 89° 28' 10" West, 1490.92 feet to a 1/2" iron rod found.

and North 89° 39' 20" West, 1508.06 feet to a 1/2" iron rod found at the common northwest corner of said WINDMILL RANCH SUBDIVISION, UNIT 1, the east corner of WINDMILL RANCH SUBDIVISION, UNIT 2 according to the plat recorded in Volume 13, Pages 31 and 32, said Map and Plat Records, the southwest corner of said called 123.995 acre tract and the westerly southwest corner of this tract.

THENCE, continuing with said incorporated city limit line, North 00° 01' 22" East, at 872.34 feet pass a 1/2" iron rod found at the common north corner of said WINDMILL RANCH SUBDIVISION, UNIT 2 and the southeast corner of WINDMILL RANCH SUBDIVISION, UNIT 3 according to the plat recorded in Volume 13, Pages 33-36, said Map and Plat Records, at 1742.32 feet pass a 1/2" iron rod found at the northeast corner of Lot 84 as shown by plat of said WINDMILL RANCH SUBDIVISION, UNIT 3, in all a distance of 1742.99 feet to a 1/2" iron rod set on the south line of KESTREL AIR PARK according to the plat recorded in Volume 12, Pages 314-316, said Map and Plat Records for the northwest corner of said called 123.995 acre tract and the northwest corner of this tract.

THENCE, departing said incorporated city limit line, North 89° 35' 20" East, 2,627.46 feet, along the south line of said KESTREL AIR PARK, to a 1/2" iron rod found on the south right-of-way line of Flightline Drive (a 60 foot wide Private Street) as shown by plat of said KESTREL AIR PARK.

THENCE, along said south right-of-way line, North 89° 29' 45" East, at 727.93 feet pass a 1/2" iron rod found at the common northeast corner of said 123.995 acre tract and the northwest corner of said 5.058 acre tract, in all a distance of 750.21 feet to a 1/2" iron rod found at the west corner of said Lot 1, Block 2, KESTREL AIR PARK and at the beginning of a non-tangent curve to the left whose radius point bears North 00° 29' 59" East, 360.00 feet and whose chord bearing and distance is North 79° 06' 14" East, 142.26 feet,

THENCE, continuing along said south right-of-way line and with the common north line of said Lot 1, Block 2, KESTREL AIR PARK and the north line of this tract the following courses:

Northeasterly along the arc of said curve through a central angle of 22° 47' 30", an arc distance of 143.20 feet to a 1/2" iron rod found.

North 66° 45' 47" East, 174.00 feet to a 1/2" iron rod found at the beginning of a tangent curve to the right having a radius of 250.00 feet and a chord bearing and distance of North 86° 43' 18" East, 170.67 feet,

Easterly with the arc of said curve through a central angle of 39° 55' 02", an arc distance of 174.17 feet to a 1/2" iron rod found.

South 73° 19' 11" East, 42.33 feet to a 1/2" iron rod found at the beginning of a tangent curve to the left having a radius 330.00 feet and a chord bearing and distance of South 80° 50' 39" East, 86.43 feet,

Easterly with the arc of said curve through a central angle of 15° 02' 55", an arc distance of 86.67 feet to a mag nail found.

South 88° 22' 06" East, 190.99 feet to a 1/2" iron rod found at the beginning of a tangent curve to the right having a radius of 500.00 feet and a chord bearing and distance of South 85° 19' 27" East, 53.11 feet,

Easterly with the arc of said curve through a central angle of 06° 05' 19", an arc distance of 53.13 feet to a 1/2" iron rod found.

South 82° 16' 47" East, 97.67 feet to 1/2" iron rod found at the beginning of a tangent curve to the left having a radius of 500.00 feet and a chord bearing and distance of South 85° 19' 27" East, 53.11 feet,

Easterly with the arc of said curve through a central angle of 06° 05' 19", an arc distance of 53.13 feet to a 1/2" iron rod found.

And South 88° 21' 34" East, 127.32 feet to a 1/2" iron rod found at the intersection of said south right-of-way line and the westerly right-of-way line of said U.S. Highway 281, same being at the common northeast corner of said Lot 1, Block 2, KESTREL AIR PARK and the northeast corner of this tract.

THENCE, along said westerly right-of-way line, South 03° 03' 10" East, at 134.71 feet to the point of POINT OF BEGINNING.

CONTAINING in all 210.971 acres or 9,189,882 square feet of land, more or less.

SECTION __.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article 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 article are fulfilled and accomplished.

SECTION __.04. 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, 2009.

(2) In SECTION 3.01(a) of the bill (page 13, line 16), between "this section" and the comma, insert "or otherwise provided by this Act".

Floor Amendment No. 14 by Hegar

Amend **CSHB 3335** (Senate committee report) by inserting the following SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION __. Sections 8801.204(a) and (c), Special District Local Laws Code, are amended to read as follows:

(a) If it appears that a person has violated or is violating or threatening to violate this chapter or a rule, permit, or other order of the district issued or adopted under this chapter, the district may institute an action in a district court in the district for:

(1) injunctive relief to restrain the person from continuing the violation or threat of violation;

(2) the assessment and recovery of a civil penalty of:

(A) not less than \$50 and not more than \$5,000 for each violation and for each day of a continuing violation, if the person is not a political subdivision or an agency of a political subdivision; or

(B) if the person is a political subdivision or an agency of a political subdivision, an amount equal to the greater of:

(i) 120 percent of the sum of the fees assessed against the person and the amount the person would have paid to an alternative water supplier; or

(ii) \$5,000 for each violation and for each day of a continuing violation; or

(3) both injunctive relief and civil penalties.

(c) At the request of the board, or the general manager if authorized by the board, the attorney general shall institute and conduct an action against any person in the name of the district for injunctive relief or to recover a civil penalty, or both.

SECTION __. Sections 43(a) and (b), Chapter 1045, Acts of the 71st Legislature, Regular Session, 1989, are amended to read as follows:

(a) If a person has violated, is violating, or is threatening to violate a provision of this Act or a rule, regulation, permit, or other order of the district, the district may bring a civil action in a district court within the district for:

(1) an injunction to restrain the person from continuing the violation or the threat of violation;

(2) the assessment and recovery of ~~for~~ a civil penalty of:

(A) not less than \$50 nor more than \$5,000 for each violation and for each day of violation, if the person is not a political subdivision or an agency of a political subdivision; or

(B) if the person is a political subdivision or an agency of a political subdivision, an amount equal to the greater of:

(i) 120 percent of the sum of the fees assessed against the person and the amount the person would have paid to an alternative water supplier; or

(ii) \$5,000 for each violation and for each day of a continuing violation; or

(3) ~~for~~ both injunctive relief and civil penalty.

(b) At the request of the board, or the general manager if authorized by the board, the attorney general shall institute and conduct an [the] action against any person in the name of the district for injunctive relief or to recover a civil penalty, or both. However, the district in its sole discretion may employ attorneys of its choice to institute the action.

Floor Amendment No. 15 by Hegar

Amend **CSHB 3335** (Senate committee printing) as follows:

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

ARTICLE __. CALHOUN COUNTY GROUNDWATER CONSERVATION
DISTRICT

SECTION __.01. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8860 to read as follows:

CHAPTER 8860. CALHOUN COUNTY GROUNDWATER
CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8860.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Calhoun County Groundwater Conservation

District.

Sec. 8860.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Calhoun County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8860.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8860.022 before December 31, 2014:

(1) the district is dissolved December 31, 2014, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Calhoun 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, 2016.

Sec. 8860.004. LEGISLATIVE FINDINGS. (a) The organization of the district is feasible and practicable.

(b) All land in and residents of the district will benefit from the creation of the district.

(c) The creation of the district is a public necessity and will provide a public benefit.

Sec. 8860.005. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Calhoun County.

Sec. 8860.006. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2015, the district boundaries must include at least one county adjacent to Calhoun County.

(b) As soon as practicable after September 1, 2015, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the commission determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2016.

Sec. 8860.007. CONFLICTS OF LAW. This chapter prevails over any provision of general law, including a provision of Chapter 36, Water Code, that is in conflict or is inconsistent with this chapter.

[Sections 8860.008-8860.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8860.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than September 11, 2009, the Calhoun County Commissioners Court shall appoint five temporary directors as follows:

(1) one temporary director from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) one temporary director who resides in the district to represent the district at large.

(b) To be qualified to serve as a temporary director, a person must be a resident of Calhoun County who is at least 18 years of age.

(c) If a temporary director fails to qualify for office or a vacancy occurs on the temporary board, the remaining temporary directors shall appoint a qualified person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Calhoun County Commissioners Court shall appoint the necessary number of persons to fill all vacancies on the board.

(d) The temporary directors shall select from among themselves a president, a vice president, and a secretary.

(e) Temporary directors serve until the earlier of:

(1) the date the creation of the district is confirmed at an election held under Section 8860.022; or

(2) September 1, 2013.

(f) If the creation of the district has not been confirmed under Section 8860.022 and the terms of the temporary directors have expired, successor temporary directors shall be appointed in the manner provided by Subsection (a) to serve terms that expire on the earliest of:

(1) the date the district's creation is confirmed at an election held under Section 8860.022;

(2) the date the requirements of Section 8860.003(1) are fulfilled; or

(3) September 1, 2016.

Sec. 8860.022. CONFIRMATION ELECTION. (a) Not later than October 1, 2009, the temporary directors shall meet and shall order an election to be held in the district not later than September 1, 2010, to confirm the creation of the district.

(b) The ballot for the election shall be printed to provide for voting for or against the proposition: "The creation of the Calhoun County Groundwater Conservation District and the imposition of a fee to pay the maintenance and operating costs of the district."

(c) The temporary board may include other propositions on the ballot that the board considers necessary.

(d) Section 41.001(a), Election Code, does not apply to an election held under this section.

(e) If a majority of the votes cast at the election are in favor of confirming the district's creation, the temporary directors shall declare the district created. If a majority of the votes cast are not in favor of confirming the district's creation, the district's creation is not confirmed. The temporary directors shall file a copy of the election results with the Texas Commission on Environmental Quality.

(f) If the district's creation is not confirmed at an election held under this section, the temporary directors may order one or more subsequent elections to be held to confirm the creation of the district not earlier than the first anniversary of the preceding confirmation election. If the district's creation is not confirmed at an election held under this section on or before December 31, 2014, the district is dissolved in accordance with Section 8860.003.

Sec. 8860.023. INITIAL DIRECTORS. (a) If the creation of the district is confirmed at an election held under Section 8860.022, the temporary directors take office as initial directors of the district, and:

(1) the directors for precincts 1 and 3 serve terms that expire on the date of the first regular meeting of the board after the first regularly scheduled directors' election held under Section 8860.024; and

(2) the directors for precincts 2 and 4 and the director serving at large serve terms that expire on the date of the first regular meeting of the board after the second regularly scheduled directors' election.

(b) If for any reason a director elected at the first or second regularly scheduled election of directors is not qualified to take office at the first regular meeting of the board following the elected director's election, the initial director for that position shall continue to serve until a successor qualifies.

Sec. 8860.024. FIRST ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, in November 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 for precincts 1 and 3.

Sec. 8860.025. EXPIRATION OF SUBCHAPTER. This subchapter expires December 1, 2016.

[Sections 8860.026-8860.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8860.051. DIRECTORS; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except for the temporary and initial directors, directors serve staggered terms of four years, with two or three directors' terms expiring on the date of the first regular meeting of the board after an election of directors under Section 8860.053.

(c) If a vacancy occurs in the office of director, the board shall appoint a person to fill the vacancy until the next regularly scheduled election of directors. If the position is not scheduled to be filled at the election, the person elected shall serve only for the remainder of the unexpired term.

(d) Notwithstanding Section 36.060, Water Code, a director is not entitled to receive compensation for performing the duties of a director.

(e) The board may authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the district.

Sec. 8860.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the voters of the entire district, and one director shall be elected from each county commissioners precinct by the voters of that precinct.

(c) Except as provided by Subsection (e), to be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

(1) the precinct that the person seeks to represent; or

(2) that the person seeks to represent the district at large.

(e) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

Sec. 8860.053. ELECTION DATE. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in November of each even-numbered year.

[Sections 8860.054-8860.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8860.101. GENERAL POWERS AND DUTIES. Except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8860.102. CERTAIN PERMIT DENIALS PROHIBITED. The district may not deny the owner of a tract of land, or the owner's lessee, who does not have a well equipped to produce more than 25,000 gallons each day on the tract, either a permit to drill a well on the tract or the privilege to produce groundwater from the tract, subject to district rules.

Sec. 8860.103. MITIGATION ASSISTANCE. In addition to the authority granted by Chapter 36, Water Code, the district may assist in the mediation between landowners regarding the loss of existing groundwater supply of exempt domestic and livestock users due to the groundwater pumping of others.

Sec. 8860.104. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8860.105-8860.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8860.151. FEES. (a) The board by rule may impose a reasonable fee on each well for which a permit is issued by the district and that is not exempt from regulation by the district. The fee may be based on:

(1) the size of column pipe used by the well; or
(2) the actual, authorized, or anticipated amount of water to be withdrawn from the well.

(b) In addition to a fee imposed under Subsection (a), the district may impose a reasonable fee or surcharge for an export fee using one of the following methods:

(1) a fee negotiated between the district and the transporter; or
(2) a combined production and export fee.

(c) Fees authorized by this section may be assessed annually and may be used to fund the cost of district operations.

Sec. 8860.152. TAXES PROHIBITED. The district may not impose a tax and does not have the authority granted by Sections 36.020 and 36.201-36.204, Water Code, relating to taxes.

SECTION __.02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 has submitted the notice and this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and 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 article are fulfilled and accomplished.

SECTION __.03. This article takes effect September 1, 2009.

(2) In SECTION 3.01(a) of the bill (page 13, line 16), between "this section" and the comma, insert "or otherwise provided by this Act".

Floor Amendment No. 16 by Watson

Amend **CSHB 3335** (committee report) as follows:

(1) Add the following ARTICLES to the bill:

ARTICLE 1. DISTRICT TERRITORY; RATIFICATION ELECTION

SECTION 1.01. Section 8802.003, Special District Local Laws Code, is amended to read as follows:

Sec. 8802.003. **DISTRICT TERRITORY.** (a) The district is composed of the territory described by the Texas Water Commission's August 15, 1986, order, as that territory may have been modified under:

- (1) Subchapter J, Chapter 36, Water Code; or
- (2) other law.

(b) In addition, the district includes the territory described by Section 2.01 of the Act enacting this subsection.

SECTION 1.02. Subchapter A, Chapter 8802, Special District Local Laws Code, is amended by adding Section 8802.005 to read as follows:

Sec. 8802.005. **RATIFICATION ELECTION.** (a) Before August 31, 2011, the board of directors shall hold an election to ratify the annexation of the territory described by Section 2.02 of the Act enacting this subsection. If a majority of the voters voting at the election do not vote in favor of ratifying the annexation, the board may hold another election for the same purpose.

(b) Except as provided by this section, a ratification election must be conducted as provided by Section 36.328, Water Code, and the Election Code.

(c) This section expires September 1, 2011.

SECTION 1.03. Section 8802.053, Special District Local Laws Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) As soon as practicable after the publication of each federal decennial census, the board shall revise the single-member districts as the board considers appropriate to reflect population changes.

(c-1) When the board revises the single-member districts [~~under this subsection~~], the board shall place two of the districts wholly within the territory described by Section 2.04 of the Act amending Subsection (c) and adding this subsection[~~:~~

~~[(1) entirely within the boundaries of the city of Austin, as those boundaries exist at that time; or~~

~~[(2) within the boundaries of the city of Austin, as those boundaries exist at that time, but also including unincorporated areas or other municipalities that are surrounded wholly or partly by the boundaries of the city of Austin if the areas or municipalities are noncontiguous to the territory of any other single member district].~~

SECTION 1.04. Subchapter B, Chapter 8802, Special District Local Laws Code, is amended by adding Section 8802.054 to read as follows:

Sec. 8802.054. **APPLICABILITY OF OTHER LAW.** Section 36.059, Water Code, does not apply to the district.

SECTION 1.05. Sections 8802.051(b) and 8802.053(d), Special District Local Laws Code, are repealed.

SECTION 1.06. This article takes effect September 1, 2009.

ARTICLE 1A. FEES; DIRECTORS AND TERRITORY CONTINGENT ON
ANNEXATION

SECTION 1A.01. This article takes effect only if the annexation of the territory described by Section 2.02 of this Act is ratified at an election held under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act. If the annexation of the territory described by Section 2.02 of this Act is not ratified, this article has no effect.

SECTION 1A.02. Section 8802.003, Special District Local Laws Code, is amended by adding Subsection (c) to read as follows:

(c) In addition, the district includes the territory described by Section 2.02 of the Act enacting this subsection.

SECTION 1A.03. Subchapter B, Chapter 8802, Special District Local Laws Code, is amended by adding Sections 8802.0511, 8802.054, and 8802.055 to read as follows:

Sec. 8802.0511. DIRECTORS; TERMS. (a) The district is governed by a board of seven directors who serve staggered four-year terms.

(b) Three directors must be elected by voters residing in the territory described by Section 2.03 of the Act enacting this subsection.

(c) Four directors must be elected by voters of the district who reside outside the territory described by Section 2.03 of the Act enacting this subsection.

Sec. 8802.054. SINGLE-MEMBER DISTRICTS. (a) The district is divided into seven numbered, single-member districts for electing directors.

(b) The board may revise the single-member districts as necessary or appropriate.

(c) When the board revises the single-member districts, the board shall place three of the districts entirely inside and four of the districts entirely outside the territory described by Section 2.03 of the Act enacting this subsection.

(d) When the boundaries of the single-member districts are changed, a director in office on the effective date of the change, or elected or appointed before the effective date of the change to a term of office beginning on or after the effective date of the change, is entitled to serve the term or the remainder of the term in the numbered single-member district to which elected or appointed even though the change in boundaries places the person's residence outside the numbered single-member district for which the person was elected or appointed.

(e) At the first regularly scheduled election of directors after the board of the district is expanded from five to seven directors, directors elected to fill any vacant director positions shall draw lots to determine which of those directors shall serve a two-year term and which shall serve a four-year term. Lots must be determined so that not more than four directors' terms expire in any even-numbered year.

Sec. 8802.055. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than three months after the date of the election under Section 8802.005, the board shall appoint two temporary directors to the board to represent the territory the annexation of which was ratified at the election.

(b) The temporary directors shall serve at large until the next general election of directors of the district under Section 8802.052.

SECTION 1A.04. Section 8802.105(a), Special District Local Laws Code, is amended to read as follows:

(a) Each year the board may assess against the City of Austin a water use fee in an amount not to exceed the lesser of \$900,000 or 60 percent of the total funding the district expects to receive for the next fiscal year from water use fees assessed against Austin and other nonexempt users in that year as computed ~~[, subject to the computation]~~ under Subsection (b).

SECTION 1A.05. Sections 8802.051 and 8802.053, Special District Local Laws Code, are repealed.

SECTION 1A.06. (a) Except as provided by Section 1A.01 of this Act, this article takes effect on the date the annexation of the territory described by Section 2.02 of this Act is ratified at an election held under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act.

(b) If the annexation of territory is ratified at an election described by Subsection (a) of this section, the board of directors of the Barton Springs-Edwards Aquifer Conservation District shall notify the Texas Commission on Environmental Quality of the changes in territory and board members.

ARTICLE 2. DESCRIPTION OF TERRITORIES

SECTION 2.01. The territory annexed to the Barton Springs-Edwards Aquifer Conservation District under Section 8802.003(b), Special District Local Laws Code, as added by Section 1.01 of this Act, is described as follows:

(1) 1.8750 acres described as Lot 1, Block 1 of Vanisha Development Subdivision, as recorded in Book No. 14, Pages 98-99, Hays County, Texas;

(2) 21.003 acres of land situated in the Thomas G. Allen Survey, Hays County, Texas, being a portion of that certain tract of land in a deed to South Corridor Park, Ltd., recorded in Document No. 00025896, Hays County, Texas; and

(3) 24.628 acres of land situated in the Elisha Pruett Survey, Abstract 23, described in a deed to Hays Consolidated Independent School District, recorded in Document No. 05001881, Hays County, Texas.

SECTION 2.02. The territory annexed to the Barton Springs-Edwards Aquifer Conservation District if ratified at an election under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act, is described as follows:

(1) Beginning at the current eastern district boundary and the Colorado River, running east along the Colorado River to a point where the district boundary intersects Interstate Highway 35, then south along Interstate Highway 35 to William Cannon Drive, then west along Old Lockhart Road, then north on Congress Avenue, then west on Ben White Boulevard, then north on South First Street, then east on Elizabeth Street, then north on Congress Avenue following along the district boundary to the place of beginning; and

(2) Beginning at the current western district boundary and the Colorado River, then following westerly along the southern border of the Colorado River to a point due north of the intersection of Weston Lane and Brightman Lane, then south on that line to said intersection, then south on Weston Lane to its intersection with FM 2244, then west on FM 2244 to its intersection with State Highway 71, then west on State Highway 71 until the intersection with the extraterritorial jurisdiction limits of the City of Bee Cave as of the date of the ratification election under Section 8802.005,

Special District Local Laws Code, then generally south and west following the extraterritorial jurisdiction limits of the City of Bee Cave, to exclude the City of Bee Cave and its extraterritorial jurisdiction as of the date of the ratification election under Section 8802.005, Special District Local Laws Code, until it intersects with State Highway 71, then west on Highway 71 until it intersects with Bee Creek Road, then north on Bee Creek Road until it intersects with Siesta Shores Drive, then due east from that intersection to the southern boundary of Lake Travis, then following the southern boundary of Lake Travis until it intersects the Blanco County line, then following the Blanco County line until it intersects the Hays County line, then east along the Hays County line until its intersection of the district boundary existing before the effective date of this Act, then north following the western district boundary to the Colorado River, the point of beginning.

(3) Any boundary reference to a highway, street, road, avenue, boulevard, or lane shall mean the center line of the boundary.

SECTION 2.03. If the annexation of territory is ratified by an election held under Section 8802.005, Special District Local Laws Code, as added by Article 1 of this Act, the territory for certain voting districts under Sections 8802.0511(a) and (b) and Section 8802.054(c), Special District Local Laws Code, as added by Article 1A of this Act, is described as follows:

(1) Beginning at a point where Interstate Highway 35 crosses the Colorado River in Travis County, then south along Interstate Highway 35 to Slaughter Lane, then west along Slaughter Lane to FM 1826, then north along FM 1826 to U.S. Highway 290, then east along U.S. Highway 290 to Old Bee Cave Road, then northwest along Old Bee Cave Road to Travis Cook Road, then north along Travis Cook Road to Barton Creek Boulevard, then north along Barton Creek Boulevard to FM 2244, then west along FM 2244 to Weston Lane, then north along Weston Lane to Brightman Lane, then due north from that intersection to the Colorado River, then east along the Colorado River to the place of the beginning.

(2) Any boundary reference to a highway, street, road, avenue, boulevard, or lane shall mean the center line of the boundary.

SECTION 2.04. The territory for voting districts under Section 8802.053(c-1), Special District Local Laws Code, as added by Section 1.03 of this Act, is described as follows:

(1) Beginning at the eastern district boundary and the Colorado River, then south along the eastern district boundary to the intersection of Interstate Highway 35 and Slaughter Lane; then west along Slaughter Lane to the district boundary, then north along the district boundary to the Colorado River, then east along the Colorado River following the district boundary to the point of the beginning.

(2) Any boundary reference to a highway, street, road, avenue, boulevard, or lane shall mean the center line of the boundary.

ARTICLE 3. JURISDICTIONAL CONFLICT

SECTION 3.01. The Edwards Aquifer Authority maintains sole authority to regulate and manage the San Antonio segment of the Edwards Aquifer.

ARTICLE 4. INTENT, NOTICE, AND EFFECTIVE DATE

SECTION 4.01. (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 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, lieutenant governor, and 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 4.02. Except as provided by Section 1.06, 1A.01, or 1A.06 of this Act, Articles 1, 1A, 2, 3, and 4 of this Act take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Articles 1, 1A, 2, 3, and 4 of this Act take effect September 1, 2009, except as provided by Section 1A.01 or 1A.06 of this Act.

(2) As appropriate, renumber the added ARTICLES and sections of the added ARTICLES appropriately and make necessary conforming cross-reference changes.

(3) Renumber any subsequent ARTICLES and sections of the bill accordingly.

Floor Amendment No. 17 by Eltife

Amend **CSHB 3335** (Senate committee report) as follows:

(1) Add the following appropriately numbered ARTICLES to the bill and renumber subsequent ARTICLES accordingly:

**ARTICLE ____ . HARRISON COUNTY GROUNDWATER CONSERVATION
DISTRICT**

SECTION ____ .01. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8850 to read as follows:

**CHAPTER 8850. HARRISON COUNTY GROUNDWATER
CONSERVATION DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 8850.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Harrison County Groundwater Conservation

District.

Sec. 8850.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Harrison County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8850.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8850.023 before December 31, 2010:

(1) the district is dissolved December 31, 2010, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Harrison 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, 2014.

Sec. 8850.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Harrison County, Texas.

Sec. 8850.005. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2013, the district boundaries must include at least one county adjacent to Harrison County.

(b) As soon as practicable after September 1, 2013, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the commission determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2015.

Sec. 8850.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8850.007-8850.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8850.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of the Act enacting this chapter, five temporary directors shall be appointed as follows:

(1) the Harrison 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 precincts in which the temporary directors reside; and

(2) the county judge of Harrison County shall appoint one temporary director who resides in the district to represent the district at large.

(b) Of the temporary directors, at least one director must represent rural water suppliers in the district, one must represent agricultural interests in the district, and one must represent industrial interests in the district.

(c) If there is a vacancy on the temporary board of directors of the district, the Harrison County Commissioners Court shall appoint a person to fill the vacancy in a manner that meets the representational requirements of this section.

(d) Temporary directors serve until the earlier of:

(1) the date initial directors are elected under Section 8850.023; or

(2) the fourth anniversary of the effective date of the Act creating this chapter.

(e) If initial directors have not been elected under Section 8850.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed in the manner provided by Subsections (a) and (b) to serve terms that expire on the date this subchapter expires under Section 8850.026.

Sec. 8850.022. 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 Harrison County Courthouse.

Sec. 8850.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect the initial directors of the district.

(b) The temporary directors shall have placed on the ballot the names of all candidates for an initial director's position who have filed an application for a place on the ballot as provided by Section 52.003, Election Code.

(c) The ballot must be printed to provide for voting for or against the proposition: "The creation of the Harrison County Groundwater Conservation District."

(d) If the district levies a maintenance tax for payment of expenses, the ballot must be printed to provide for voting for or against the proposition: "The levy of a maintenance tax at a rate not to exceed 1.5 cents for each \$100 of assessed valuation."

(e) Section 41.001(a), Election Code, does not apply to an election held under this section.

(f) Except as provided by this section, an election under this section 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 an election under this section.

Sec. 8850.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8850.023, the directors elected shall take office as initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8850.025 or 8850.053.

(b) The four initial directors representing the commissioners precincts shall draw lots to determine which two shall serve a term expiring June 1 following the first regularly scheduled election of directors under Section 8850.025, and which two shall 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. 8850.025. 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 8850.024(b), serve a term expiring June 1 following that election.

Sec. 8850.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8850.027-8850.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8850.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms, with two or three directors' terms expiring June 1 of each even-numbered year.

(c) A director may serve consecutive terms.

Sec. 8850.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.

(b) One director shall be elected by the voters of the entire district, and one director shall be elected from each county commissioners precinct by the voters of that precinct.

(c) Except as provided by Subsection (e), to be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

(1) the precinct that the person seeks to represent; or

(2) that the person seeks to represent the district at large.

(e) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

Sec. 8850.053. ELECTION DATE. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in May of each even-numbered year.

Sec. 8850.054. COMPENSATION. (a) Sections 36.060(a), (b), and (d), Water Code, do not apply to the district.

(b) A director is entitled to receive compensation of not more than \$50 a day for each day the director actually spends performing the duties of a director. The compensation may not exceed \$3,000 a year.

(c) The board may authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the board.

Sec. 8850.055. BOARD ACTION. A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

[Sections 8850.056-8850.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8850.101. GENERAL POWERS. Except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, functions, and duties provided by the general law of this state applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8850.102. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

Sec. 8850.103. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8850.104-8850.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8850.151. LIMITATION ON TAXES. The district may not impose ad valorem taxes at a rate that exceeds 1.5 cents on each \$100 valuation of taxable property in the district.

Sec. 8850.152. FEES. (a) The board by rule may impose reasonable fees on each well:

- (1) for which a permit is issued by the district; and
- (2) that is not exempt from district regulation.

(b) A production fee may be based on:

- (1) the size of column pipe used by the well; or
- (2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) The board shall base the initial production fee on the criteria listed in Subsection (b)(2). The initial production fee:

(1) may not exceed:

- (A) 25 cents per acre-foot for water used for agricultural irrigation; or
- (B) 4.25 cents per thousand gallons for water used for any other

purpose; and

(2) may be increased at a cumulative rate not to exceed three percent per year.

(d) In addition to the production fee authorized under this section, the district may assess an export fee on groundwater from a well that is produced for transport outside the district.

(e) Fees authorized by this section may be:

- (1) assessed annually;
- (2) used to pay the cost of district operations; and
- (3) used for any other purpose allowed under Chapter 36, Water Code.

Sec. 8850.153. LIMITATION ON INDEBTEDNESS. The district may issue bonds and notes under Subchapter F, Chapter 36, Water Code, except that the total indebtedness created by that issuance may not exceed \$500,000 at any time.

SECTION __.02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 has submitted the notice and this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and 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 article are fulfilled and accomplished.

ARTICLE __. RIVERBEND WATER RESOURCES DISTRICT

SECTION __.01. Title 6, Special District Local Laws Code, is amended by adding Subtitle L to read as follows:

SUBTITLE L. MUNICIPAL WATER DISTRICTS

CHAPTER 9601. RIVERBEND WATER RESOURCES DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9601.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Bond" has the meaning assigned to the term "public security" by Section 1202.001, Government Code.

(3) "Director" means a person appointed to the board.

(4) "District" means the Riverbend Water Resources District.

(5) "Member" means a municipality, county, or other political subdivision that is a member of the district as provided by Section 9601.005.

Sec. 9601.002. NATURE OF DISTRICT. The district is a conservation and reclamation district created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 9601.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the boundaries of the district will benefit from the works and projects accomplished by the district under the powers conferred by Section 59, Article XVI, Texas Constitution.

(c) The accomplishment of the purposes stated in this chapter is for the benefit of the people of this state and the improvement of their property and industries and will foster and encourage economic development in this state.

(d) The district, in carrying out the purposes of this chapter, will be performing an essential public function under the constitution.

Sec. 9601.004. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to effect the purposes, powers, rights, and functions stated in this chapter.

Sec. 9601.005. DISTRICT MEMBERS. (a) The district is composed of the following members:

(1) the City of Annona;

- (2) the City of Avery;
- (3) the City of DeKalb;
- (4) the City of Hooks;
- (5) the City of Maud;
- (6) the City of New Boston;
- (7) the City of Texarkana, Texas;
- (8) the City of Wake Village; and
- (9) the Red River Redevelopment Authority.

(b) After receipt of a petition from the governing body of a municipality, county, or other political subdivision that desires to join the district, the board may add a member to the district on terms determined by the board to be in the best interests of the district.

(c) A member's withdrawal from the district or the cessation of existence of a member does not affect the validity of the district or any of the district's powers or duties.

Sec. 9601.006. DISTRICT TERRITORY. (a) The territory of the district is composed of all the territory contained in:

(1) the cities of Annona, Avery, DeKalb, Hooks, Maud, New Boston, Texarkana, Texas, and Wake Village; and

(2) the Red River Redevelopment Authority, the boundaries of which are described by Section 3503.004, including territory that may be added under Section 3503.005.

(b) The territory of the district also includes all of the territory:

(1) of any municipality, county, or other political subdivision that joins the district as a member; and

(2) added to the territory of a member by annexation or other means.

(c) A defect in the description of the boundaries of a member or in any past or future proceedings for the annexation of territory by a member does not affect the validity, powers, or duties of the district.

Sec. 9601.007. CONFIRMATION ELECTION NOT REQUIRED. (a) The board is not required to hold an election to confirm the district's creation.

(b) Sections 49.101-49.105, Water Code, do not apply to the district.

[Sections 9601.008-9601.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9601.051. COMPOSITION OF BOARD; TERMS. (a) The district is governed by its board.

(b) The governing body of each member shall appoint a director to represent the member on the board and shall promptly fill a vacancy in that board position in accordance with the member's policies, resolutions, and procedures.

(c) Except as provided by Subsection (d), directors serve staggered terms of four years.

(d) A director who is also an elected official of a political subdivision serves for a term coinciding with the term of the elected office.

(e) The board shall determine the method of staggering the terms of the directors.

(f) A director may serve consecutive terms.

Sec. 9601.052. QUALIFICATIONS FOR OFFICE. To be eligible to be appointed or to serve as a director, a person must be a resident, qualified voter of the district.

Sec. 9601.053. BOARD RESOLUTIONS; VOTING REQUIREMENTS.

(a) The district shall act through orders or resolutions adopted by the board.

(b) All directors are entitled to vote.

Sec. 9601.054. OFFICERS AND ASSISTANTS. (a) The board shall elect a president, vice president, secretary, and treasurer.

(b) The board shall elect the president and vice president from among the directors.

(c) The president and vice president serve for a one-year term.

(d) The offices of secretary and treasurer:

(1) may be held by one person; and

(2) are not required to be held by a director.

(e) The board may appoint one or more assistant officers who are not required to be directors.

(f) A person may not concurrently hold the offices of board president and secretary.

Sec. 9601.055. MEETINGS. The board shall have regular meetings at times specified by board resolution or bylaws and shall have special meetings when called by the board president or by a number of directors that is equal to or greater than the number of directors that is one less than a majority of the board.

Sec. 9601.056. TELEPHONE CONFERENCE CALL MEETINGS. (a) The board may hold an open or closed meeting by telephone conference call only if:

(1) the meeting is a special called meeting;

(2) immediate action is required; and

(3) convening a quorum of the board at one location is difficult or impossible.

(b) A telephone conference call meeting is subject to the notice requirements applicable to other meetings of the board.

(c) Each part of a telephone conference call meeting that is required to be open to the public shall be made audible to the public at the location specified in the notice of the meeting as the location of the meeting.

(d) The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

(e) Section 551.125, Government Code, does not apply to a meeting held under this section.

Sec. 9601.057. RECALL. A director may be recalled at any time by the governing body of the member that appointed the director.

Sec. 9601.058. COMPENSATION; REIMBURSEMENT. A director is not entitled to compensation for service on the board but is entitled to be reimbursed for necessary expenses incurred in the performance of official duties.

Sec. 9601.059. BOARD POSITION NOT A CIVIL OFFICE OF EMOLUMENT. (a) A position on the board may not be construed to be a civil office of emolument for any purpose, including a purpose described in Section 40, Article XVI, Texas Constitution.

(b) An elected official of any county, municipality, or other political subdivision in the territory of the district may be appointed to and serve on the board as a director without penalty or forfeiture of office.

[Sections 9601.060-9601.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9601.101. GENERAL POWERS. Except as provided by this chapter, the district may exercise the powers applicable to a district under Chapter 49, Water Code.

Sec. 9601.102. SPECIFIC POWERS. The district may exercise any power necessary or appropriate to achieve the purposes of this chapter, including the power to:

(1) adopt and enforce:

(A) a trade name or trademark;

(B) bylaws and rules for the conduct of the affairs of the district;

(C) any rule that a water control and improvement district may adopt and enforce in accordance with Sections 51.127-51.130, Water Code; and

(D) specific rates, charges, fees, or rentals, and reasonable rules and regulations, for providing any district commodity, facility, or service;

(2) in the manner and to the extent permitted by this chapter:

(A) borrow money for a district purpose;

(B) enter into an agreement in connection with the borrowing;

(C) issue bonds for money borrowed;

(D) provide for and secure the payment of the bonds; and

(E) provide for the rights of the holders of the bonds;

(3) acquire any and all storage rights and storage capacity in a reservoir or other water source inside or outside the boundaries of the district, and acquire the right to take water from that reservoir or source, subject to the rights or permits held by municipalities or other persons, and in accordance with any contract or contracts that the district may make with the United States, any state of the United States, or any political subdivision of any state of the United States, in reference to those rights;

(4) construct, acquire, own, finance, operate, maintain, sell, lease as lessor or lessee, dispose of, or otherwise use any work, plant, or other district facility as defined by Section 49.001, Water Code, inside or outside the boundaries of the district, that the board determines is necessary or useful for the exercise of a district power; and

(5) pledge all or part of district revenue to the payment of district obligations under a contract or agreement to the same extent and on the same conditions as the district may pledge revenue to secure district bonds.

Sec. 9601.103. GENERAL POWERS REGARDING WATER. The district has all rights, powers, and privileges necessary or useful to enable it to acquire, provide, supply, deliver, and sell water, whether processed or unprocessed, raw or potable, inside or outside its boundaries to any person for any beneficial purpose.

Sec. 9601.104. AUTHORITY OF PUBLIC AGENCIES AND POLITICAL SUBDIVISIONS TO CONTRACT WITH DISTRICT. (a) A public agency or a county, municipality, or other political subdivision of this state or another state may enter into a contract or agreement with the district, on terms agreed to by the parties, for:

- (1) the purchase or sale of water;
- (2) waste collection, transportation, processing, or disposal; or
- (3) any purpose relating to the district's powers or functions.

(b) A contract or agreement under this section must comply with Chapter 791, Government Code.

(c) A provision of district services or facilities to a member or an exercise of district power regarding a member's retail services may only be made through a contract between the district and the member under this section.

Sec. 9601.105. CONVEYANCE OF PROPERTY TO DISTRICT. A public agency or a county, municipality, or other political subdivision of this state may lease, sell, or otherwise convey to the district, for any consideration that the parties agree is adequate, any of its land, improvements, property, plants, lines, or other facilities related to:

- (1) the supply, delivery, or sale of water;
- (2) waste collection, transportation, processing, or disposal; or
- (3) garbage collection or disposal.

Sec. 9601.106. ACQUISITION OF EXISTING FACILITIES. If the district acquires existing works, improvements, facilities, plants, equipment, or appliances that are completed, partially created, or under construction, the district may:

- (1) assume the contracts and obligations of the previous owner; and
- (2) perform the obligations of the previous owner in the same manner and to the same extent that any other purchaser or assignee would be bound.

[Sections 9601.107-9601.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9601.151. PROHIBITION ON ASSESSMENTS OR TAXES. (a) The district may not under this chapter or any other law impose an assessment on real property or an ad valorem tax or create a debt payable from an assessment on real property or an ad valorem tax.

(b) Sections 49.106-49.108, Water Code, do not apply to the district.

Sec. 9601.152. DEPOSITORY. District money shall be deposited in the depository or depositories designated by the board, except that:

(1) bond proceeds and money pledged to pay bonds, to the extent provided in the proceedings authorizing the issuance of bonds, or the trust indenture securing the bonds, may be deposited with another depository or trustee named in the proceedings or trust indenture; and

(2) money shall be remitted to each paying agent for the payment of principal of and interest on the bonds.

Sec. 9601.153. INVESTMENT OF DISTRICT MONEY. (a) Chapter 2256, Government Code, applies to the district and the investment of district funds and funds under district control.

(b) The board may invest bond proceeds in a manner determined by the board or in the manner permitted or required in the proceedings authorizing the issuance of bonds or in the trust indenture securing the bonds.

Sec. 9601.154. DISTRICT FACILITIES EXEMPT FROM TAXATION AND ASSESSMENT. The district is not required to pay a tax or assessment on its facilities or any part of its facilities.

[Sections 9601.155-9601.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 9601.201. AUTHORITY TO ISSUE BONDS. (a) The district by resolution may authorize the issuance of bonds payable from and secured by revenue or any other available source of district money to carry out a power conferred by this chapter. Bonds issued by the district are not a direct obligation of any member.

(b) The bonds must be issued in the manner and under the terms of the proceedings authorizing the issuance of the bonds.

(c) Bonds may be issued by the district without an election.

(d) Sections 49.181-49.186, Water Code, do not apply to the district.

Sec. 9601.202. FORM OF BONDS. District bonds must be:

(1) issued in the district's name; and

(2) signed by the officers of the district in accordance with the proceedings authorizing the issuance of the bonds.

Sec. 9601.203. MATURITY. District bonds must mature not later than 50 years after the date of their issuance.

Sec. 9601.204. BONDS SECURED BY REVENUE; ADDITIONAL BONDS.

(a) Bonds may be secured by a pledge of all or part of the district's revenue, or by all or part of the payments or rentals under one or more contracts or leases specified by the proceedings authorizing the issuance of the bonds.

(b) The proceedings authorizing the issuance of bonds secured by a pledge of revenue of all or part of the district's facilities may provide that the district shall first pay the expenses of operating and maintaining all or part of the facilities as the board considers appropriate before paying the principal of and interest on the bonds.

(c) In the proceedings authorizing the issuance of bonds secured by revenue, contract payments, or lease rentals, the district may reserve the right, under conditions specified by the proceedings, to issue additional bonds that will be on a parity with, superior to, or subordinate to the bonds then being issued.

Sec. 9601.205. ADDITIONAL SECURITY. (a) At the discretion of the board, bonds may be additionally secured by a deed of trust or mortgage lien on all or part of the district's physical property, facilities, easements, water rights and appropriation permits, leases, contracts, and all rights appurtenant to the property, vesting in the trustee power to:

(1) sell the property for the payment of the bonds;

(2) operate the property; and

(3) take other action to further secure the bonds.

(b) A purchaser under a sale under the deed of trust lien, if one is given, is:

(1) the absolute owner of the property, facilities, and rights purchased; and

(2) entitled to maintain and operate the property, facilities, and rights.

Sec. 9601.206. DELEGATION OF AUTHORITY. (a) In connection with the issuance of bonds, the board may:

(1) prescribe the maximum principal amount of bonds to be issued and the maximum rate of interest the bonds may bear;

(2) recite the public purpose for which the bonds are to be issued;

(3) delegate to any officer or employee of the district the authority to effect the sale of the bonds; and

(4) determine the period during which the delegation authority under Subdivision (3) may be exercised.

(b) In exercising the authority delegated by the board to an officer or employee, the officer or employee may establish the terms and details related to the issuance and sale of the bonds, including:

(1) the form and designation of the bonds;

(2) the principal amount of the bonds and the amount of the bonds to mature in each year;

(3) the dates, price, interest rates, interest payment dates, principal payment dates, and redemption features of the bonds;

(4) the execution of agreements determined by the officer or employee to be necessary in connection with the issuance of the bonds; and

(5) any other details relating to the issuance and sale of the bonds as specified by the board in the proceedings authorizing the issuance of the bonds.

(c) A finding or determination made by an officer or employee acting under the authority delegated to the officer or employee has the same force and effect as a finding or determination made by the board.

Sec. 9601.207. TRUST INDENTURE. District bonds authorized by this chapter, including refunding bonds, may be additionally secured by a trust indenture. The trustee may be a bank with trust powers that is located inside or outside the state.

Sec. 9601.208. CREDIT AGREEMENT. In connection with the issuance of bonds under this chapter, the board may exercise the authority granted to the governing body of an issuer with regard to the execution and delivery of a credit agreement under Chapter 1371, Government Code.

Sec. 9601.209. CHARGES FOR DISTRICT SERVICES. If bonds payable wholly from revenue are issued, the board shall set and revise the rates, fees, and charges assessed for water sold, waste collection and treatment services provided, and garbage collection services provided by the district. The rates, fees, and charges must be sufficient to:

(1) pay the expense of operating and maintaining the district facilities that generate the revenue from which the bonds may or will be paid;

(2) pay the principal of and interest on the bonds when due; and

(3) maintain the reserve fund and other funds as provided in the proceedings authorizing the issuance of bonds or the trust indenture securing the bonds.

Sec. 9601.210. STATE PLEDGE REGARDING RIGHTS AND REMEDIES OF BONDHOLDERS. Without depriving this state of its power to regulate and control the rates, fees, and charges assessed for water sold and waste collection and treatment services provided by the district, the state pledges to and agrees with the

holders of district bonds that the state will not exercise its power to regulate and control the rates, fees, and charges in any way that would impair the rights or remedies of the holders of the bonds.

Sec. 9601.211. USE OF BOND PROCEEDS. In addition to the permitted use of bond proceeds provided by general law, the district may use proceeds from the sale of bonds:

(1) for the payment of interest on the bonds while the project or facility is being acquired or constructed and for the year after it is acquired or constructed;

(2) for the operation and maintenance of the project or facility during the estimated period of acquisition or construction of the project or facility and for one year after it is acquired or constructed;

(3) for a debt service reserve fund;

(4) for other funds as may be provided in the proceedings authorizing the issuance of bonds or in the trust indenture securing the bonds;

(5) to pay any expense necessarily incurred in accomplishing the purpose of the district, including any expense of issuing and selling the bonds; and

(6) to pay any costs incurred under the terms of a credit agreement.

Sec. 9601.212. ADDITIONAL AUTHORITY TO PROVIDE DEBT SERVICE RESERVE. (a) The board may provide that in lieu of or in addition to providing for the funding of a debt service reserve fund with cash, a line or letter of credit or an insurance policy may be used for the debt service reserve fund.

(b) Any agreement under which a line or letter of credit or insurance policy is provided must be submitted to the attorney general for examination and approval. After approval, the agreement is incontestable in any court or other forum for any reason and is a valid and binding obligation of the district in accordance with its terms for all purposes.

Sec. 9601.213. REFUNDING BONDS. (a) The district may issue refunding bonds to refund all or part of its outstanding bonds issued under this chapter, including matured but unpaid interest and obligations incurred under a credit agreement.

(b) Refunding bonds may be issued in the manner provided by Chapter 1207, Government Code.

Sec. 9601.214. REMEDIES AND COVENANTS. The proceedings authorizing the issuance of any bonds authorized under this chapter, including refunding bonds, the execution of a trust indenture securing the bonds, and the execution of a credit agreement, may provide other remedies and covenants the board considers necessary to issue the bonds on terms the board determines to be most favorable to the district.

Sec. 9601.215. LIMITATION ON RIGHTS OF BONDHOLDERS. The proceedings authorizing the issuance of bonds or the trust indenture securing the bonds may limit or qualify the rights of the holders of less than all of the outstanding bonds payable from the same source to institute or prosecute litigation affecting the district's property or income.

Sec. 9601.216. BONDS EXEMPT FROM TAXATION. Payments made by the district in connection with the issuance of bonds, the transfer of any bond, and the income from any bond, including profits made on the sale of any bond, are exempt from taxation in this state.

Sec. 9601.217. APPOINTMENT OF RECEIVER. (a) On default or threatened default in the payment of the principal of or interest on obligations incurred by the district in connection with the issuance of bonds that are payable wholly or partly from revenue, a court may, on petition of the holders of at least 25 percent of the district's outstanding revenue bonds, or the party to a credit agreement, appoint a receiver for the district.

(b) The receiver may collect and receive all district revenue, employ and discharge district agents and employees, take charge of money on hand, and manage the district's proprietary affairs without the consent of or hindrance by the board.

(c) The receiver may be authorized to sell or contract for the sale of water, the collection or treatment of waste, or the provision of garbage collection or disposal services, or to renew contracts with the approval of the court that appointed the receiver.

(d) The court may vest the receiver with any other power or duty the court finds necessary to protect the holders of the bonds or the party to a credit agreement.

SECTION ____ .02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 has submitted the notice and this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and 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 article are fulfilled and accomplished.

(2) In SECTION 3.01(a) of the bill (page 13, line 15), strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(3) In SECTION 3.01 of the bill, following Subsection (b) of the section (page 13, following line 22) add the following:

(c) The articles creating the Harrison County Groundwater Conservation District and the Riverbend Water Resources District take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, the articles creating the Harrison County Groundwater Conservation District and the Riverbend Water Resources District take effect September 1, 2009.

Floor Amendment No. 18 by Duncan

Amend **CSHB 3335** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 36.1072, Water Code, is amended by amending Subsections (a) and (e) and adding Subsection (e-1) to read as follows:

(a) Except as provided by Subsection (e-1), a ~~[A]~~ district shall, not later than three years after the creation of the district or, if the district required confirmation, after the election confirming the district's creation, submit the management plan required under Section 36.1071 to the executive administrator for review and approval.

(e) The district may review the plan annually and must review and readopt the plan with or without revisions at least once every five years. Except as provided by Subsection (e-1), the ~~[The]~~ district shall provide the readopted plan to the executive administrator not later than the 60th day after the date on which the plan was readopted. Approval of the preceding management plan remains in effect until:

(1) the district fails to timely readopt a management plan;

(2) the district fails to timely submit the district's readopted management plan to the executive administrator; or

(3) the executive administrator determines that the readopted management plan does not meet the requirements for approval, and the district has exhausted all appeals to the Texas Water Development Board or appropriate court.

(e-1) If a district is required to submit a management plan under Subsection (a) or a readopted management plan under Subsection (e) on a date that is before the first anniversary of the date the executive administrator provides to the district under Section 36.108(o) an amount of managed available groundwater, the district may adopt and submit to the executive administrator a resolution delaying the due date for a new or readopted plan to a date not later than the first anniversary of the last date the district receives an amount of managed available groundwater from the executive administrator in lieu of the applicable deadline under Subsection (a) or (e). A district that elects to delay submission of a new or readopted plan under this subsection may not adopt a new rule or amend an existing rule limiting production from wells or allocating groundwater until the district submits to the executive administrator the management plan or readopted plan as provided by this subsection. This subsection expires September 1, 2013.

SECTION _____. Section 36.1072, Water Code, as amended by this Act, applies only to a groundwater management plan that is submitted to the executive administrator of the Texas Water Development Board on or after the effective date of this Act. A groundwater management plan that is submitted to the executive administrator before the effective date of this Act is governed by the law in effect when the management plan was submitted, and the former law is continued in effect for that purpose.

Floor Amendment No. 19 by Seliger

Amend **CSHB 3335** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (a), Section 35.007, Water Code, is amended to read as follows:

(a) The executive director and the executive administrator shall meet periodically to identify, based on information gathered by the commission and the Texas Water Development Board, those areas of the state that are experiencing or that are expected to experience, within the immediately following 50-year ~~[25-year]~~ period, critical groundwater problems, including shortages of surface water or groundwater, land subsidence resulting from groundwater withdrawal, and contamination of groundwater supplies. Not later than September 1, 2005, the commission, with assistance and cooperation from the Texas Water Development Board, shall complete the initial designation of priority groundwater management areas across all major and minor aquifers of the state for all areas that meet the criteria for that designation. The studies may be prioritized considering information from the regional planning process, information from the Texas Water Development Board groundwater management areas and from groundwater conservation districts, and any other information available. After the initial designation of priority groundwater management areas, the commission and the Texas Water Development Board shall annually review the need for additional designations as provided by this subsection.

SECTION __. Section 35.008, Water Code, is amended by adding Subsection (j) to read as follows:

(j) The commission may adopt rules regarding:

(1) the creation of a district over all or part of a priority groundwater management area that was designated as a critical area under Chapter 35, Water Code, as that chapter existed before September 1, 1997, or under other prior law; and

(2) the addition of all or part of the land in a priority groundwater management area described by Subdivision (1) to an existing district.

SECTION __. All governmental acts and proceedings, including the adoption of rules, of the Texas Commission on Environmental Quality relating to the creation of a groundwater conservation district over all or part of a priority groundwater management area that was designated as a critical area under Chapter 35, Water Code, as that chapter existed before September 1, 1997, or under other prior law, are validated in all respects as of the dates on which they occurred.

SECTION __. Subsection (a), Section 35.007, Water Code, as amended by this Act, applies only to a designation of a priority groundwater management area made by the Texas Commission on Environmental Quality on or after the effective date of this Act. A designation made before the effective date of this Act is governed by the law in effect when the designation was made, and that law is continued in effect for that purpose.

Floor Amendment No. 20 by Uresti

Amend **CSHB 3335** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) The legislature finds that:

(1) according to audits and evaluations of the Bexar Metropolitan Water District performed by state agencies under H.B. No. 1565, Acts of the 80th Legislature, Regular Session, 2007:

(A) certain officials of the district have engaged in a pattern of unethical conduct and unprofessional management practices;

(B) disagreements regarding jurisdiction within the district and between the district and other entities and distrust among key management personnel and members of the board have hampered efforts by the district to improve services for existing customers and to meet water supply needs of growing populations within its service areas;

(C) there has been a history of noncompliance on the part of the district; and

(D) the district has demonstrated weak management, engaged in financial improprieties, and provided unreliable service, which threatens to impair the quality of life of its customers and diminish the prospects for economic growth within the district;

(2) after 18 months of intense scrutiny by state agencies and the Bexar Metropolitan Water District Oversight Committee, which is composed of gubernatorial appointees, legislators, and a local representative of Bexar County, it is evident that further legislative action is necessary; and

(3) to ensure the reliability, sustainability, quality, and affordability of water supply services to the customers of the district, it is necessary to appoint a conservator, who shall manage the district until the district has achieved sufficient rehabilitation to serve its customers in a professional, ethical, and reliable manner.

(b) Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Sections 33B, 33C, 33D, 33E, and 33F to read as follows:

Sec. 33B. ELECTION ON DISSOLUTION AND CONSERVATORSHIP. An election on the appointment of a conservator for the purpose of dissolving the District shall be held on the uniform election date in November 2009.

Sec. 33C. BALLOT. The ballot for the election shall be printed to permit voting for or against the proposition: "The appointment of a conservator for the Bexar Metropolitan Water District for the purpose of dissolving the District."

Sec. 33D. APPOINTMENT OF CONSERVATOR; ADMINISTRATION OF ASSETS. (a) If a majority of the votes in the election held under Section 33B of this Act favor dissolution, a conservator shall be appointed by the Texas Commission on Environmental Quality not later than the 60th day after the date of the election.

(b) The Conservator shall administer the property, assets, and debts until all funds have been disposed of and all District debts have been paid or settled.

Sec. 33E. SALE OR TRANSFER OF ASSETS AND LIABILITIES. (a) Notwithstanding any other provision of this Act, the District may not be dissolved unless the Conservator provides for the sale or transfer of the District's assets and liabilities to another person or entity or until all of the District's outstanding indebtedness or contractual obligations have otherwise been repaid or discharged in a manner consistent with Subsection (d) of this section.

(b) The dissolution of the District and the sale or transfer of the District's assets or liabilities may not contravene a trust indenture or bond resolution relating to the outstanding bonds of the District. The dissolution and sale or transfer does not diminish or impair the rights of a holder of an outstanding bond, warrant, commercial paper note, or other obligation of the District.

(c) The sale or transfer of the District's assets and liabilities must satisfy the debt, bond obligations, commercial paper notes, or any other financial obligation of the District in a manner that protects the interests of the residents of the District, including the residents' collective property rights in the District's assets. The District may not transfer or dispose of the District's assets except for due compensation unless the transfer is made to another governmental agency that serves the District and the transferred assets are to be used for the benefit of the residents of the District.

(d) The sale or transfer of the District's assets and liabilities does not impair, affect the validity of, or modify the terms of any contract to which the District is a party, and the acquiring entity of a District asset, or any assignee-in-interest to the asset, assumes the terms, benefits, and obligations of a contract related to that asset, as if the entity or assignee were the District.

Sec. 33F. REPORT; DISSOLUTION ORDER. (a) After the District has paid all its debts and has disposed of all its assets and funds as prescribed by this Act, the Conservator shall file a written report with the Texas Commission on Environmental Quality summarizing the Conservator's actions in dissolving the District.

(b) Not later than the 10th day after the date the Texas Commission on Environmental Quality receives the report and determines that the requirements of this Act as they relate to dissolution have been fulfilled, the Commission shall enter an order confirming the dissolution of the District and ordering the termination of conservatorship established under Section 33E of this Act, as applicable.

(c) Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Sections 34, 34A, and 34B to read as follows:

Sec. 34. CONSERVATOR. If a majority of the votes in the election held under Section 33B of this Act do not favor dissolution, not later than the 60th day after the date of this election, the Texas Commission on Environmental Quality shall appoint a conservator for the purpose of rehabilitating the District. The individual appointed must have demonstrated a high level of expertise in water utility management.

Sec. 34A. POWERS AND DUTIES OF CONSERVATOR. (a) If a conservator is appointed under Section 34 or 34B of this Act, the Board shall work cooperatively with the Conservator in rehabilitating the Board in its ability to manage and operate the District in a professional manner.

(b) The Conservator shall:

(1) collectively coordinate the daily management of the District;
(2) work with the Board to ensure that the assets of the District are protected and that the quality of service provided to District customers is improved to the highest level reasonably practicable under the circumstances;

(3) develop and work to implement a comprehensive rehabilitation plan for the District; and

(4) report monthly to the Texas Commission on Environmental Quality and to any committee with direct oversight authority over the District regarding:

(A) the financial, managerial, technical, and operational status of the District under the conservatorship;

(B) the actions the Conservator has taken to ensure that the District complies with the plan developed under Subdivision (3) of this Subsection; and

(C) the progress the Conservator has made towards completion of the plan developed under Subdivision (3) of this Subsection.

(c) The comprehensive rehabilitation plan must:

(1) identify strategies for restoring the District's financial integrity and for developing a system of sound financial management;

(2) describe a standard of ethics, professionalism, and openness expected of each member of the Board and employees of the District and a mechanism for enforcing compliance with District policies, including procurement policies;

(3) address ways to enhance the District's operational efficiency;

(4) as an integral part of rehabilitating the District, devise a program for:

(A) educating the Board of Directors and key management personnel on improving management practices, on complying with Board policy and applicable laws and regulations, and on implementing needed reforms for the District; and

(B) developing greater technical expertise on the part of District employees;

(5) identify District assets that, if sold, would likely improve the District's ability to serve its remaining customers;

(6) ensure that any assets identified in Subdivision (5) of this Subsection that are sold are sold at fair market value;

(7) ensure that any entity that acquires a District asset is responsible for all transaction costs related to the acquisition, including the cost of defending the State against legal challenges to the disposition of the asset; and

(8) inventory and evaluate the discrete water systems that the District comprises and determine:

(A) the District's basis in or the intrinsic value of the infrastructure associated with each water system;

(B) the District's bonded debt and commercial paper reasonably associated with or allocable to the infrastructure of each water system;

(C) the adequacy of the source of the water supply, such as wells, located in each water system's service area to supply the current and projected demands generated in that service area;

(D) the adequacy of the water storage facilities located in each water system's service area to supply the current and projected demands generated in that service area; and

(E) the adequacy of the distribution system located in each water system's service area to supply the current and projected demands generated in that service area.

(d) The term of the Conservator continues until the earlier of:

(1) the end of a period of 18 months; or

(2) the Conservator reports that the District has been sufficiently rehabilitated to provide reliable, cost-effective, quality service to its customers, and the Texas Commission on Environmental Quality, after performing a confirmation review, concurs with the Conservator's report that the District has been sufficiently rehabilitated to ensure that it can serve its customers in a professional manner and that conservatorship is no longer necessary.

(e) Funding for the conservatorship shall be provided by the District and approved by the Commission.

(f) The Conservator may not take any action that:

(1) will impair the District's ability to collect revenues, fees, or charges:

(A) for operating District systems; or

(B) necessary for the payment of any bonds, commercial paper notes, or any other financial obligation; or

(2) would cause an event of default under any provision of any indenture, contract, order, or other financial instrument creating any such obligation.

(g) The appointment of the Conservator is not conditioned on or a result of an insolvency or bankruptcy proceeding or an inability of the District to pay its debts.

(h) The Conservator may not be a receiver, trustee, custodian, or liquidator of the District's system or other property.

Sec. 34B. APPOINTMENT OF NEW CONSERVATOR. (a) If the Texas Commission on Environmental Quality determines that, after a reasonable period, the Conservator has not made satisfactory progress in developing and working to implement the comprehensive rehabilitation plan, the Commission shall appoint a new Conservator.

(b) The Texas Commission on Environmental Quality shall adopt rules providing for filling a vacancy in the position of Conservator.

(d) Effective June 1, 2011, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 34C to read as follows:

Sec. 34C. SUBSEQUENT CONSERVATOR. (a) The Texas Commission on Environmental Quality shall appoint a subsequent Conservator for the District if the Commission determines that after the termination of an earlier conservatorship under Section 34A of this Act, the District has:

(1) obstructed the Commission's authority to supervise the District;

(2) violated a final order of the Commission;

(3) caused a potential health hazard by failing to provide appropriate water or wastewater treatment to District customers;

(4) caused a potential health hazard, extended outages, or repeated service interruptions by failing to adequately maintain District facilities;

(5) displayed a pattern of hostility towards the Commission or repeatedly failed to respond to the Commission or to District customers;

(6) engaged in a pattern of:

(A) noncompliance with laws or regulations; or

(B) unethical conduct and unprofessional management practices;

(7) abandoned the operation of its facilities;

(8) had a majority of its Board of Directors resign;

(9) engaged in financial improprieties; or

(10) provided unreliable service that impairs the quality of life of its customers or diminishes the prospects for economic growth within the District.

(b) An individual appointed Conservator under this Section must have demonstrated a high level of expertise in water utility management and shall have all the powers and duties assigned to a Conservator under Section 34A of this Act.

(e) Section 33A, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by amending Subsection (c) and adding Subsection (g) to read as follows:

(c) The oversight committee is comprised of five [5] members appointed as follows ~~[to represent the following members]:~~

(1) a ~~[the]~~ Senator who represents a Senate district that includes territory within the District, ~~[sponsor of this Act, or, in the event this Senator cannot serve, a Senator]~~ appointed by the Lieutenant Governor;

(2) a Representative who represents a ~~[the]~~ House district that includes territory within the District, ~~[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 of the Senate Committee on Natural Resources ~~[with special expertise in the operation of public water utilities]~~ appointed by the Lieutenant Governor;

(4) one member of the House Committee on Natural Resources appointed by the Speaker of the Texas House of Representatives; and

(5) 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].~~

(g) On or before December 31, 2010, the oversight committee shall provide a report under Subsection (e) of this Section to the 82nd Legislature. The committee is abolished and this Section expires on January 1, 2011.

(f) The legal notice of the intention to introduce this section, setting forth the general substance of this section, has been published as provided by law, and the notice and a copy of this section 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.

(g) The governor, one of the required recipients, has submitted the notice and section to the Texas Commission on Environmental Quality.

(h) The Texas Commission on Environmental Quality has filed its recommendations relating to this section with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(i) 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 section are fulfilled and accomplished.

Floor Amendment No. 21 by Uresti

Amend **CSHB 3335** (Senate committee printing) as follows:

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

ARTICLE ____ . LAJITAS UTILITY DISTRICT NO. 1 OF BREWSTER COUNTY
SECTION ____ .01. Subtitle X, Title 6, Special District Local Laws Code, is amended by adding Chapter 11002 to read as follows:

CHAPTER 11002. LAJITAS UTILITY DISTRICT NO. 1 OF BREWSTER
COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11002.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Director" means a board member.
- (3) "District" means the Lajitas Utility District No. 1 of Brewster County.

Sec. 11002.002. NATURE OF DISTRICT. The district is a utility district with combined powers created under Section 59, Article XVI, Texas Constitution.

Sec. 11002.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 11002.004. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution;

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads; and

(3) Section 52-a, Article III, Texas Constitution, that relate to the development and diversification of the economy of this state and other purposes of that section.

(d) The creation of the district is in the public interest and essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district is not an agent or instrumentality of a private interest even though the district will benefit private interests as well as the public.

Sec. 11002.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by the article creating this chapter.

(b) The boundaries and field notes contained in the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;
- (3) right to impose a tax; or
- (4) legality or operation.

[Sections 11002.006-11002.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 11002.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 11002.052, directors serve staggered four-year terms.

Sec. 11002.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

- (1) Brent Ratliff;
- (2) George Kutch;
- (3) John Nolan;
- (4) Renee Lorenz; and
- (5) H. C. Ross.

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

- (1) the date permanent directors are elected under Section 11002.003; or
- (2) the fourth anniversary of the effective date of the article creating this chapter.

(d) If permanent directors have not been elected under Section 11002.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (e) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 11002.003; or
- (2) the fourth anniversary of the date of the appointment or reappointment.

(e) If Subsection (d) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 11002.053-11002.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 11002.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 11002.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 11002.103. IMPROVEMENT PROJECTS AND SERVICES. The district may provide improvement projects and services in the same manner as a municipal management district under Section 375.112, Local Government Code.

Sec. 11002.104. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the Texas Commission on Environmental Quality as required by Section 54.234, Water Code.

Sec. 11002.105. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 11002.104 unless:

(1) each county that will operate and maintain the road has approved the plans and specifications of the road project, if a county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 11002.106. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 11002.107. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 11002.104; or

(2) a recreational facility as defined by Section 49.462, Water Code.

Sec. 11002.108. ELECTRIC POWER FACILITIES. The district may construct, acquire, improve, maintain, and operate electric power generating, transmission, and distribution facilities and improvements in aid of these facilities.

Sec. 11002.109. AIRPORT. The district may construct, acquire, improve, maintain, and operate an airport and improvements in aid of the airport.

Sec. 11002.110. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. The district may exercise the powers of a corporation created under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code).

Sec. 11002.111. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

- (1) has no outstanding bonded debt; and
- (2) is not imposing ad valorem taxes.

(b) This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by the article creating this chapter.

(d) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section 11002.003 to confirm the district's creation.

(f) An order dividing the district shall:

- (1) name each new district;
- (2) include the metes and bounds of each new district;
- (3) appoint temporary directors for each new district; and
- (4) provide for the division of assets and liabilities between or among the

new districts.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the Texas Commission on Environmental Quality and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 11002.003.

(i) Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

(j) If the voters of a new district do not confirm the creation of the new district, the assets, obligations, territory, and governance of the new district revert to that of the original district.

[Sections 11002.112-11002.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 11002.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

- (1) revenue other than ad valorem taxes; or
- (2) contract payments described by Section 11002.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 11002.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 11002.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 11002.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

Sec. 11002.154. SALES AND USE TAX. (a) The district may impose a sales and use tax if authorized by a majority of the voters of the district voting at an election called for that purpose. Revenue from the tax may be used for any purpose for which ad valorem tax revenue of the district may be used.

(b) The district may not adopt a sales and use tax if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district.

(c) If the voters of the district approve the adoption of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves an increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district, the election to adopt a sales and use tax under this chapter has no effect.

(d) Chapter 321, Tax Code, applies to the imposition, computation, administration, enforcement, and collection of the sales and use tax imposed by this section except to the extent it is inconsistent with this chapter.

Sec. 11002.155. ASSESSMENTS. The district may levy and collect special assessments in the same manner and for the same purposes as a municipal management district as provided in Subchapter F, Chapter 375, Local Government Code.

[Sections 11002.157-11002.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 11002.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, sales and use taxes, other district money, or any combination of those sources to pay for any authorized district purpose.

Sec. 11002.202. TAXES FOR BONDS. (a) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of an ad valorem tax, without limit as to rate or amount, as required by Section 54.601, Water Code.

(b) The board shall annually impose the tax while all or part of the bonds are outstanding. Sections 54.601 and 54.602, Water Code, govern the amount and rate of the tax.

Sec. 11002.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION __.02. The Lajitas Utility District No. 1 of Brewster County initially includes all the territory contained in the following area:

Tract 1

Being parts of the following Surveys:

T. C. Ry. Co. Surveys, Block 341

G. C. & S.F. Ry. Co. Surveys, Block G-12

M. K. & TE. Ry. Co. Surveys, Block G-5

Beginning at a rock mound found for the northeast corner of Section 73 and the northwest corner of Section 72, Block 341, T. C. Ry. Co. Surveys common with the northeast corner of Section 59, the northwest corner of Section 60, Block G-12, G. C. & SF Ry. Co. Surveys in Brewster County, Texas this being the Place of Beginning of this survey description of property located north of the center line of FM Highway 170;

THENCE S 89° 38' 51" W, a distance of 5,277.8 feet along the north section line of said Section 73 to a rock mound located at the northwest corner of said Section 73 common to the northeast corner of Section 84, Block 341;

THENCE S 89° 38' 51" W, a distance of 5,277.8 feet along the north section line of said Section 84 a rock mound located at the northwest corner of said Section 84, common to the northeast corner of Section 85, Block 341;

THENCE S 89° 38' 51" W, a distance of 5,277.8 feet along the north section line of said Section 85 to a rock mound located at the northeast corner of Section 96, common with the southeast corner of Section 56 Block 341;

THENCE N 00° 21' 09" W, a distance of 5,277.8 feet along the east section line of said Section 56 to a rock mound located at the northeast corner of said Section 56, common with the northwest corner of Section 57, and the southwest corner of Section 44, Block 12;

THENCE S 89° 38' 51" W, a distance of 5,277.8 feet along the north section line of said Section 56 to a rock mound located at the northwest corner of said Section 56, common the northeast corner of Section 55, Block 341;

THENCE N 00° 21' 09" W, a distance of 5,277.8 feet along the east section line of said Section 48 to a rock mound located at the southeast corner of said Section 47; common with the southeast corner of Section 47, and the southwest corner of Section 46, Block 341;

THENCE N 00° 21' 09" W, a distance of 5,277.8 feet along the east section line of said Section 47 to a rock mound located at the northeast corner of said Section 47; common with the southeast corner of Section 103, and the northwest corner of Section 46, Block 341

THENCE N 00° 21' 09" W, a distance of 5,277.8 feet along the east section line of said Section 103 to a rock mound located at the northeast corner of said Section 103; common with the southeast corner of Section 102, Block G-5;

THENCE S 89° 38' 51" W, a distance of 5,277.8 feet along the north section line of said Section 103 to a rock mound located at the northeast corner of Section 105;

THENCE N 00° 21' 09" W, a distance of 5,277.8 feet along the east section line of said Section 105 to a rock mound located at the northeast corner of Section 92; common with the northwest corner of Section 102, Block G-5;

THENCE S 89° 38' 51" W, a distance of 5,277.8 feet along the north section line of said Section 105 and the east line of Section 106 to a rock mound located at the northwest corner of said Section 105;

THENCE S 00° 21' 09" E, a distance of 5,277.8 feet along the west section line of said Section 105 and the east line of Section 106 to a rock mound located at the southwest corner of said Section 105;

THENCE N 89° 38' 51" E, a distance of 5,277.8 feet along the south section line of said Section 105 to a rock mound located at the southeast corner of said Section 105, common with the northwest corner of Section 103, Block G-5;

THENCE S 00° 21' 09" E, a distance of 5,277.8 feet along the west section line of said Section 103 to a rock mound located at the northwest corner of said Section 47, common with the southwest corner of Section 103, Block G-5;

THENCE S 00° 21' 09" E, a distance of 5,277.8 feet along the west section line of said Section 47 to a rock mound located at the northwest corner of said Section 48;

THENCE S 00° 21' 09" E, a distance of 5,277.8 feet along the west section line of said Section 48 to a rock mound located at the northwest corner of said Section 55, common with the southeast corner of Section 49, Block G-12,

THENCE S 00° 21' 09" E, a distance of 5,277.8 feet along the west section line of said Section 55 from a rock mound located at the northwest corner of said Section 55, common with the southwest corner of Section 48, Block G-12, from which face of bluff bears S 70° W and the south point of rim bears N 84° 30' W;

THENCE N 89° 38' 51" E, a distance of 5,277.8 feet along the south section line of said Section 55 to a rock mound located at the southwest corner of said Section 56, common with the northwest corner of Section 96, Block 341;

THENCE S 00° 21' 09" E, a distance of 5,277.8 feet along the west section line of said Section 96 to a rock mound located at the northeast corner of said Section 98, common with the northwest corner of Section 95, Block 341; a rock mound located at the northwest corner of said Section 95, common with the southwest corner of Section 96, Block 341, from which Emory Peak bears S 80° 45' E and a rock mound bears East 40 vares, this rock mound, also being the northeast corner of Section 98, and the southeast corner of Section 97 all in Block 341;

THENCE S 00° 21' 09" E, a distance of 5,277.8 feet along the west section line of said Section 95 to a rock mound located at the southeast corner of Section 98;

THENCE S $89^{\circ} 38' 51''$ W, a distance of 5,277.8 feet along the south section line of said Section 98 to a rock mound located at the southwest corner of said Section 98;

THENCE N $00^{\circ} 21' 09''$ W, a distance of 5,277.8 feet (called 1,900 vares) along the east section line of Section 101 to a rock mound located at the northwest corner of said Section 98;

THENCE S $89^{\circ} 38' 51''$ W, a distance of 4,333.4 feet along the north section line of said Section 101 to a rock mound located on the east line Section 36;

THENCE N $00^{\circ} 21' 09''$ W, a distance of 1,466.7 feet along the east section line of said Section 36 to a rock mound common with the northwest corner with Section 101, Block 341;

THENCE S $89^{\circ} 38' 51''$ W (called East), a distance of 2,638.9 feet along the north section line of said Section 36 to a rock mound located at the northwest corner of said Section 36;

THENCE S $00^{\circ} 21' 09''$ E (called North), a distance of 50.6 feet, more or less, along the west section line of said Section 36 to a rock mound located at the northeast corner of said Section 35, continuing 7,389.7 feet, to the north right-of-way line of FM Highway 170;

THENCE S $00^{\circ} 21' 09''$ E (called North), a distance of 60.0 feet, more or less, along the west section line of said Section 36 to the center line of said of FM Highway 170;

THENCE along the established center line as follows;

THENCE N $86^{\circ} 22' 11.64''$ E, a distance of 669.91 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of $10^{\circ} 10' 58.5''$ Left, a Radius of 1,909.86 feet;

THENCE around the said curve to the left, a distance of 339.43 feet, to a point of tangent;

THENCE N $76^{\circ} 11' 13.08''$ E, a distance of 203.77 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the right having a center line central angle of $62^{\circ} 55' 02.1''$ Right, a Radius of 818.51 feet;

THENCE around the said curve to the right, a distance of 898.82 feet, to a point of tangent;

THENCE S $40^{\circ} 53' 44.8''$ E, a distance of 1,564.13 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 36 and 37, and continuing on a distance of 72.2 feet to the beginning of a curve to the left, having a center line central angle of $50^{\circ} 46' 37.1''$ left, a $R = 954.93$ feet;

THENCE around the said curve to the left, a distance of 846.28 feet, to a point of tangent;

THENCE N $88^{\circ} 19' 38''$ E, a distance of 747.91 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of $33^{\circ} 39' 17''$ left, a $R = 1,909.86$ feet;

THENCE around the said curve to the left, a distance of 670.43 feet, to a point located on the Section line between Sections 37 and 100, and continuing on a distance of 451.4 feet to a point of tangent;

THENCE N $54^{\circ} 40' 21''$ E, a distance of 2,677.46 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 100 and 99, and continuing on a distance of 3,073.0 feet to the beginning of a curve to the right, having a center line central angle of $44^{\circ} 08' 21''$ right, a $R = 1,273.24$ feet; and this Easement is described an recorded in Volume 133 Page 435 of the Brewster County Deed Records;

THENCE around the said curve to the right, a distance of 980.87 feet, to a point of tangent;

THENCE S $81^{\circ} 11' 18''$ E, a distance of 672.9 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of $43^{\circ} 21' 04''$ left , a $R = 818.51$ feet;

THENCE around the said curve to the left, a distance of 419.60 feet, to a point located on the Section line between Sections 99 and 94, and continuing on a distance of 199.7 feet to a point of tangent, and this Easement is described an recorded in Volume 133 Page 436 of the Brewster County Deed Records;

THENCE N $55^{\circ} 27' 37.7''$ E, a distance of 82.6 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 94 and 95, and continuing on a distance of 5,266.18 feet to the beginning of a curve to the right, having a center line central angle of $25^{\circ} 53' 27.6''$ right, a $R = 1,432.39$ feet;

THENCE around the said curve to the right, a distance of 647.28 feet, to a point of tangent;

THENCE N $81^{\circ} 21' 05.4''$ E, a distance of 267.0 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 95 and 86, and continuing on a distance of 995.5 feet to the beginning of a curve to the right, having a center line central angle of $61^{\circ} 36' 29.6''$ right, a $R = 881.47$ feet ;

THENCE around the said curve to the right, a distance of 947.82 feet, to a point of tangent;

THENCE S $37^{\circ} 02' 25''$ E, a distance of 1,119.4 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of $56^{\circ} 48' 15.5''$ left , a $R = 1,145.92$ feet;

THENCE around the said curve to the left, a distance of 1,136.09 feet, to a point of tangent;

THENCE N $86^{\circ} 09' 19.5''$ E, a distance of 1,899.44 feet along the center line of the right-of-way line of F. M. Highway 170 to the beginning of a curve to the left, having a center line central angle of $11^{\circ} 33' 03.2''$ left, a $R = 5,729.58$ feet and this Easement is described an recorded in Volume 133 Page 437 of the Brewster County Deed Records;

THENCE around the said curve to the left, a distance of 1,155.09 feet, to a point of tangent;

THENCE N $74^{\circ} 36' 16.3''$ E, a distance of 1,512.63 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of $16^{\circ} 44' 06.5''$ left , a $R = 2,864.79$ feet;

THENCE around the said curve to the left, a distance of 836.76 feet, to a point of tangent;

THENCE N 57° 52' 09.7 " E, a distance of 807.2 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of 04° 00' 03" left , a R = 11,459.16 feet;

THENCE around the said curve to the left, a distance of 800.19 feet, to a point of tangent;

THENCE N 61° 52' 13.1" E, a distance of 807.2 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 83 and 74, , and this Easement is described an recorded in Volume 4 Page 166 of the Brewster County Deed Records, and continuing on a distance of 2,714.68 feet a point located on the Section line between Sections 74 and 73, and continuing on a distance of 20.1 feet for a total distance of 3,541.98 feet to the beginning of a curve to the left, having a center line central angle of 26° 39' 56.7" left, a R = 1,637.02 feet; and this Easement is described an recorded in Volume 133 Page 438 of the Brewster County Deed Records;

THENCE around the said curve to the left, a distance of 761.88 feet, to a point of tangent;

THENCE N 35° 12' 16.4" E, a distance of 538.0 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the right having a center line central angle of 27° 06' 51" right, a R = 1,909.86 feet ;

THENCE around the said curve to the right, a distance of 903.81 feet, to a point of tangent;

THENCE N 62° 19' 08.1" E, a distance of 264.68 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of 13° 50' 09.2" Left, a R = 2,864.79;

THENCE around the said curve to the left, a distance of 691.79 feet, to a point of tangent;

THENCE N 48° 28' 59" E, a distance of 46.84 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 73 and 72;

THENCE N 02° 35' 58" W (called North), a distance of 1,799.22 feet, more or less, along the east line of said Section 73 to a rock mound, this being the Place of Beginning of this survey description of property located north of the centerline of FM Highway 170; The land area contained within this description is 7,949.704 acres, more or less, including a sixty (60.0) foot wide (one half of a 120.0 foot wide right-of-way) strip of land along the north half of FM Highway 170.

Tract 2

Being parts of the following Surveys:

T. C. Ry. Co. Surveys, Block 341

G. H. & S.A. Ry. Co. Surveys, Block 17

Commencing at a rock mound found for the northeast corner of Section 73 and the northwest corner of Section 72, Block 341, T. C. Ry. Co. Surveys common with the southeast corner of Section 59, the northwest corner of Section 60, Block G-12, G. C. & SF Ry. Co. Surveys in Brewster County, Texas;

THENCE S 02° 35' 58" E (called South), a distance of 1,799.22 feet along the east section line of said Section 73 to iron rod located on the south right-of-way line of F M Highway 170 on the section line between Section 72 and Section 73 Block 341, T. C. Ry. Co. Surveys in Brewster County, Texas, this being the Place of Beginning;

THENCE S 00° 48' 31" W, a distance of 3,480.68 feet along the said east line of said Section 73 and the west line of Section 72 to a rock mound located at the southeast corner of said Section 73 common to the southwest corner of said Section 72 and the northwest corner of Section 64 Block 341;

THENCE N 89° 38' 51" E , a distance of 5,277.8 feet along the north section line of said Section 64 a rock mound located at the northeast corner of said Section 64 common to the northwest corner of said Section 65 and the southwest corner of Section 71 Block 341;

THENCE N 00° 21' 00" W, a distance of 5,277.8 feet along the west section line of said Section 71 to a rock mound located at the northeast corner of said Section 72 common to the northwest corner of said Section 71 and the southwest corner of Section 70 Block 341 and the southeast corner of Section 60 Block G-12;

THENCE N 00° 21' 09" W, a distance of 2,631.36 feet along the west section line of said Section 70 and the east section line of Section 60 to a iron rod located on the south right-of-way line of F M Highway 170, described being 120 feet in width in total width with the south right-of-way line located 60 feet from the center line of the road, and this Easement is described an recorded in Volume 133 Page 438 of the Brewster County Deed Records;

THENCE N 64° 13' 04" E, a distance of 869.0 feet along the south right-of-way line of F. M. Highway 170 to an iron rod set by Walker;

THENCE S 16° 33' 44" E, a distance of 444.09 feet to an iron rod set by Walker;

THENCE S 36° 44' 19" E, a distance of 348.44 feet to an iron rod set by Walker;

THENCE S 08° 07' 25" E, a distance of 679.25 feet to an iron rod set by Walker;

THENCE N 89° 38' 51" E, a distance of 2,980.6 feet along the north section line of said Section 71 a rock mound located at the northeast corner of said Section 71, common to the northwest corner of said Section 68 Block 341;

THENCE S 00° 21' 09" E, a distance of 5,277.8 feet along the east section line of said Section 71 to a rock mound located at the northeast corner of said Section 71 common to the northwest corner of said Section 67 Block 341;

THENCE N 89° 38' 51" E, a distance of 5,277.8 feet, more or less, along the north section line of said Section 67 to a rock mound located at the northeast corner of said Section 67 on the west section line of Section 299 Block G-12;

THENCE S 00° 21' 09" E, a distance of 3,997.3 feet, more or less, along the east section line of said Section 67 to a rock mound located at the southeast corner of said Section 67 common to the west section line of Section 299 Block G-12 and the north section line of Section 34 Block 17;

THENCE N 40° 00' E, a distance of 3,777.8 feet, more or less, along the north section line of said Section 34 Block 17 to a rock mound located at the northeast corner of Section 34 and the southwest corner of Section 35 Block 17;

THENCE S 50° 00' E, a distance of 5,277.8 feet, more or less, along the east section line of said Section 34 Block 17 to a rock mound located at the northern most corner of Section 33 and the western most corner of Section 36 Block 17;

THENCE S 50° 00' E, a distance of 5,277.8 feet, more or less, along the east section line of said Section 33 Block 17 to a rock mound located at the northern most corner of Section 32 and the western most corner of Section 37 Block 17;

THENCE S 50° 00' E, a distance of 5,277.8 feet, more or less, along the east section line of said Section 32 Block 17 to a rock mound located at the northern most corner of Section 31 and the western most corner of Section 38 Block 17;

THENCE S 50° 00' E, a distance of 5,277.8 feet, more or less, along the east section line of said Section 31 Block 17 to a rock mound located at the eastern most corner of Section 31 and the western most corner of Section 39 Block 17;

THENCE S 40° 00' W, a distance of 5,277.8 feet, more or less, along the south section line of said Section 31 Block 17 to a rock mound located at the northern most corner of

Section 25 and the western most corner of Section 30 Block 17;

THENCE S 50° 00' E, a distance of 5,277.8 feet, more or less, along the east section line of said Section 25 Block 17 to a rock mound located at the eastern most corner of Section 25 and the western most corner of Section 29 Block 17, being a point on the boundary line of the Big Bend National Park;

THENCE S 40° 00' W, a distance of 5,277.8 feet, more or less, along the south section line of said Section 25 Block 17 to a rock mound located at the southern most corner of Section 25 and the western most corner of Section 26 Block 17, being a point on the boundary line of the Big Bend National Park;

THENCE N 50° 00' W, a distance of 5,277.8 feet, more or less, along the west section line of said Section 25 Block 17 along the boundary line of the Big Bend National Park;

to a rock mound located at the western most corner of Section 25 and the southern most corner of Section 24 Block 17;

THENCE N 40° 00' E, a distance of 5,277.8 feet, more or less, along the north section line of said Section 25 Block 17 to a rock mound located at the northern most corner of Section 25 and the southern most corner of Section 31 Block 17;

THENCE N 50° 00' W, a distance of 5,277.8 feet, more or less, along the west section line of said Section 31 Block 17 to a rock mound located at the eastern most corner of Section 23 and the southern most corner of Section 32 Block 17;

THENCE S 40° 00' W, a distance of 5,277.8 feet, more or less, along the south section line of said Section 23 Block 17 to a rock mound located at the southern most corner of Section 23 and the northern most corner of Section 17 Block 17;

THENCE S 50° 00' E, a distance of 5,277.8 feet, more or less, along the east section line of said Section 17 Block 17 to a rock mound located at the eastern most corner of Section 17 and the northern most corner of Section 16 Block 17, being a point on the boundary line of the Big Bend National Park;

THENCE S 40° 00' W, a distance of 5,277.8 feet, more or less, along the south section line of said Section 17 Block 17 along the boundary line of the Big Bend National Park to a rock mound located at the southern most corner of Section 17 and the western most corner of Section 16 Block 17;

THENCE N 50° 00' W, a distance of 5,277.8 feet, more or less, along the west section line of said Section 17 Block 17 along the boundary line of the Big Bend National Park to a rock mound located at the western most corner of Section 17 and the eastern most corner of Section 9 Block 17;

THENCE N 40° 00' E, a distance of 5,277.8 feet, more or less, along the north section line of said Section 17 Block 17 to a rock mound located at the northern most corner of Section 17 and the southern most corner of Section 23 Block 17;

THENCE N 50° 00' W, a distance of 5,277.8 feet, more or less, along the west section line of said Section 23 Block 17 to a rock mound located at the western most corner of Section 23 and the southern most corner of Section 22 Block 17;

THENCE S 40° 00' W, a distance of 5,277.8 feet, more or less, along the south section line of said Section 19 Block 17 to a rock mound located at the southern most corner of Section 19 and the northern most corner of Section 9 Block 17;

THENCE S 50° 00' E, a distance of 5,277.8 feet, more or less, along the east section line of said Section 9 Block 17 to a rock mound located at the eastern most corner of Section 9 and the northern most corner of Section 10 Block 17, being a point on the boundary line of the Big Bend National Park;

THENCE S 40° 00' W, a distance of 5,277.8 feet, more or less, along the south section line of said Section 9 Block 17 along the boundary line of the Big Bend National Park to a rock mound located at the southern most corner of Section 9 and the western most corner of Section 9 Block 17;

THENCE N 50° 00' W, a distance of 5,277.8 feet, more or less, along the west section line of said Section 9 Block 17 along the boundary line of the Big Bend National Park to a rock mound located at the western most corner of Section 9 and the eastern most corner of Section 5 Block 17;

THENCE N 40° 00' E, a distance of 5,277.8 feet, more or less, along the north section line of said Section 9 Block 17 to a rock mound located at the northern most corner of Section 9 and the southern most corner of Section 19 Block 17;

THENCE N 50° 00' W, a distance of 5,277.8 feet, more or less, along the west section line of said Section 19 Block 17 to a rock mound located at the western most corner of Section 19 and the eastern most corner of Section 8 Block 17;

THENCE N 40° 00' E, a distance of 5,277.8 feet, more or less, along the north section line of said Section 19 Block 17 to a rock mound located at the northern most corner of Section 19 and the southern most corner of Section 21 Block 17;

THENCE N 50° 00' W, a distance of 5,277.8 feet, more or less, along the west section line of said Section 21 Block 17 to a rock mound located at the western most corner of Section 21 and the northern most corner of Section 20 Block 17, this point being on the common line with Section 66 Block 341;

THENCE S 40° 00' W, a distance of 5,277.8 feet, more or less, along the north section line of said Section 20 Block 17 and the southeasterly line of said Section 66 to a rock mound at the northern most corner of Section 7 Block 17;

THENCE S 50° 00' E, a distance of 5,277.8 feet, more or less, along the east section line of said Section 7 Block 17 to a rock mound located at the eastern most corner of Section 7 and the northern most corner of Section 8 Block 17

THENCE S 40° 00' W, a distance of 5,277.8 feet, more or less, along the south section line of said Section 7 Block 17 to a rock mound located at the southern most corner of Section 7 and the eastern most corner of Section 6 Block 17 , being a point on the boundary line of the Big Bend National Park;

THENCE N 50° 00' W, a distance of 5,277.8 feet, more or less, along the west section line of said Section 7 Block 17 along the boundary line of the Big Bend National Park to a rock mound located at the western most corner of Section 7 and the eastern most corner of Section 6 Block 17, being a point on the southeast line of Section 61 Block 341;

THENCE N 40° 00' E, a distance of 2,065.8 feet, more or less, along the north section line of said Section 7 Block 17 and the southeast section line of Section 62 Block 341 to a rock mound located at the northeasterly most corner of Section 61 Block 341 being a point on the boundary line of the Big Bend National Park;

THENCE N 88° 51' 19" W, a distance of 6,375.1 feet along the section line between said Section 61 and Section 62 being the boundary line of the Big Bend National Park to a rock mound located at the southwest most corner of Section 62 on the east line of Section 76 Block 341;

THENCE S 01° 11' 14" W, a distance of 675.0 feet along the east line of said Section 76 being the boundary line of the Big Bend National Park to a rock mound located at the southeast most corner of Section 76 on the north line of Section 61 Block 341;

THENCE N 88° 46' 10" W, a distance of 5,277.8 feet along the south section line of Section 76 between said Section 61 and 78 being the boundary line of the Big Bend National Park to a rock mound located at the southwest most corner of Section 76 on the east line of Section 81 Block 341;

THENCE N 88° 46' 10" W, a distance of 5,277.8 feet along the south section line of Section 81 between said Section 60 being the boundary line of the Big Bend National Park to a rock mound located at the southwest most corner of Section 81 on the east line of Section 88 Block 341;

THENCE N 88° 46' 10" W, a distance of 5,277.8 feet along the south section line of Section 88 between said Section 89 being the boundary line of the Big Bend National Park to a rock mound located at the southwest most corner of Section 88 on the east line of Section 93 Block 341;

THENCE N 88° 46' 10" W, a distance of 4,874.2 feet along the south section line of Section 93 between said Section 41 being the boundary line of the Big Bend National Park to a rock mound located at the southwest most corner of Section 93 on the east line of Section 41 Block 341;

THENCE N 00° 49' 07" E, a distance of 2080.0 feet, more or less, along the west section line of Section 93 located between said Section 41 being the boundary line of the Big Bend National Park to a rock mound located at the southeast most corner of Section 92 on the east line of Section 41 Block 341;

THENCE N 88° 43' 49" W, a distance of 2,001.5 feet, more or less, along the south section line of Section 92 Block 341 and the north line of Section 41, being the boundary line of the Big Bend National Park, to a rock mound located at the northwest most corner of Section 41;

THENCE S 01° 16' 11" W, a distance of 316.1 feet, more or less, along the west section line of Section 41 and the offset east line of Section 92, being the boundary line of the Big Bend National Park, to a rock mound located on the south line of Section 92;

THENCE N 88° 43' 49" W, a distance of 2,334.6 feet, more or less, along the south section line of Section 92 Block 341 and the north line of Section 48, being the boundary line of the Big Bend National Park, to a rock mound and concrete marker located at the southwest most corner of Section 92;

THENCE N 01° 16' 11" E, a distance of 1,908.1 feet along the section line between said Section 92 and Section 49, being the boundary line of the Big Bend National Park, to a rock mound and concrete marker located at the southeast most corner of Section 100 Block 341 at the northeast corner of Section 49;

THENCE N 88° 43' 49" W, a distance of 2,632.6 feet, more or less, along the south section line of Section 100 Block 341 and the north line of Section 49, being the boundary line of the Big Bend National Park, to a rock mound and concrete marker located at the northwest most corner of Section 49 and the southwest corner of Section 100;

THENCE S 01° 16' 12" W, a distance of 4,599.4 feet, more or less, along the west section line of Section 49, being the boundary line of the Big Bend National Park, to a rock mound located on the south line of Section 37 and being the northeast corner of Section 38 Block 341;

THENCE N 88° 43' 49" W, a distance of 3,330.3 feet, more or less, along the south section line of Section 37 Block 341 and the north line of Section 38, being the boundary

line of the Big Bend National Park, to a rock mound and located at the meanders of the Rio Grande at the southwest most corner of said Section 37 and the northwest most corner of Section 38;

THENCE along the east meandering line of the bank of the Rio Grande, as identified in the year of April 2007, described as follows:

N 20° 07' 30" E, a distance of 335.53 feet

S 87° 27' 30" E, a distance of 877.59 feet

N 25° 19' 25" E, a distance of 219.65 feet

N 11° 41' 28" E, a distance of 511.26 feet

N 23° 23' 39" E, a distance of 510.57 feet

N 19° 19' 32" E, a distance of 645.17 feet

N 02° 03' 28" E, a distance of 270.32 feet

N 20° 01' 04" E, a distance of 337.82 feet

N 38° 01' 14" E, a distance of 827.59 feet

N 38° 19' 39" W, a distance of 754.08 feet

N 07° 15' 04" W, a distance of 1,333.57 feet

N 23° 27' 17" W, a distance of 926.79 feet

N 23° 27' 17" W, a distance of 115.86 feet

N 17° 48' 38" W, a distance of 580.31 feet

N 11° 49' 17" W, a distance of 461.28 feet

N 23° 38' 37" W, a distance of 802.90 feet

N 05° 44' 52" W, a distance of 99.91 feet to the beginning of a curve to the left with a central angle of 77° 38' 50" having a cord bearing of N 44° 34' 17" W with a cord length of 681.47 feet a radius of 543.50 feet and continuing along the bank of the Rio Grande

N 83° 23' 43" W, a distance of 222.82 feet

S 84° 41' 58" W, a distance of 732.79 feet to a point on the west section line of Section 36 Block 341;

THENCE N 00° 21' 09" W, a distance of 94.84 feet , more or less, to a point on the center line of the right-of-way line of F M Highway 170, and this Easement is described an recorded in Volume 133 Page 460 - 461 of the Brewster County Deed Records;

THENCE along the said center line of the right-of-way line of F M Highway 170 described as follows:

THENCE N 86° 22' 11.64" E, a distance of 669.91 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of 10° 10' 58.5" Left, a Radius of 1,909.86 feet;

THENCE around the said curve to the left, a distance of 339.43 feet, to a point of tangent;

THENCE N 76° 11' 13.08" E, a distance of 203.77 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the right having a center line central angle of 62 55' 02.1" Right , a Radius of 818.51 feet;

THENCE around the said curve to the right, a distance of 898.82 feet, to a point of tangent;

THENCE S 40° 53' 44.8"E, a distance of 1,564.13 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 36 and 37, and continuing on a distance of 72.2 feet to the beginning of a curve to the left, having a center line central angle of 50° 46' 37.1" left, a R = 954.93 feet;

THENCE around the said curve to the left, a distance of 846.28 feet, to a point of tangent;

THENCE N 88° 19' 38" E, a distance of 747.91 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of 33° 39 ' 17" left , a R = 1,909.86 feet;

THENCE around the said curve to the left, a distance of 670.43 feet, to a point located on the Section line between Sections 37 and 100, and continuing on a distance of 451.4 feet to a point of tangent;

THENCE N 54° 40' 21"E, a distance of 2,677.46 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 100 and 99, and continuing on a distance of 3,073.0 feet to the beginning of a curve to the right, having a center line central angle of 44 08' 21""right, a R = 1,273.24 feet; and this Easement is described and recorded in Volume 133 Page 435 of the Brewster County Deed Records;

THENCE around the said curve to the right, a distance of 980.87 feet, to a point of tangent;

THENCE S $81^{\circ} 11' 18''$ E, a distance of 672.9 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of $43^{\circ} 21' 04''$ left, a $R = 818.51$ feet;

THENCE around the said curve to the left, a distance of 419.60 feet, to a point located on the Section line between Sections 99 and 94, and continuing on a distance of 199.7 feet to a point of tangent, and this Easement is described an recorded in Volume 133 Page 436 of the Brewster County Deed Records;

THENCE N $55^{\circ} 27' 37.7''$ E, a distance of 82.6 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 94 and 95, and continuing on a distance of 5,266.18 feet to the beginning of a curve to the right, having a center line central angle of $25^{\circ} 53' 27.6''$ right, a $R = 1,432.39$ feet;

THENCE around the said curve to the right, a distance of 647.28 feet, to a point of tangent;

THENCE N $81^{\circ} 21' 05.4''$ E, a distance of 267.0 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 95 and 86, and continuing on a distance of 995.5 feet to the beginning of a curve to the right, having a center line central angle of $61^{\circ} 36' 29.6''$ right, a $R = 881.47$ feet ;

THENCE around the said curve to the right, a distance of 947.82 feet, to a point of tangent;

THENCE S $37^{\circ} 02' 25''$ E, a distance of 1,119.4 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of $56^{\circ} 48' 15.5''$ left, a $R = 1,145.92$ feet;

THENCE around the said curve to the left, a distance of 1,136.09 feet, to a point of tangent;

THENCE N $86^{\circ} 09' 19.5''$ E, a distance of 1899.44 feet along the center line of the right-of-way line of F. M. Highway 170 to the beginning of a curve to the left, having a center line central angle of $11^{\circ} 33' 03.2''$ left, a $R = 5,729.58$ feet and this Easement is described an recorded in Volume 133 Page 437 of the Brewster County Deed Records;

THENCE around the said curve to the left, a distance of 1,155.09 feet, to a point of tangent;

THENCE N $74^{\circ} 36' 16.3''$ E, a distance of 1,512.63 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of $16^{\circ} 44' 06.5''$ left, a $R = 2,864.79$ feet;

THENCE around the said curve to the left, a distance of 836.76 feet, to a point of tangent;

THENCE N $57^{\circ} 52' 09.7''$ E, a distance of 807.2 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of $04^{\circ} 00' 03''$ left, a $R = 11,459.16$ feet;

THENCE around the said curve to the left, a distance of 800.19 feet, to a point of tangent;

THENCE N $61^{\circ} 52' 13.1''$ E, a distance of 807.2 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 83 and 74, , and this Easement is described an recorded in Volume 4 Page

166 of the Brewster County Deed Records, and continuing on a distance of 2,714.68 feet a point located on the Section line between Sections 74 and 73, and continuing on a distance of 20.1 feet for a total distance of 3,541.98 feet to the beginning of a curve to the left, having a center line central angle of 26° 39' 56.7" left, a R = 1,637.02 feet; and this Easement is described and recorded in Volume 133 Page 438 of the Brewster County Deed Records;

THENCE around the said curve to the left, a distance of 761.88 feet, to a point of tangent;

THENCE N 35° 12' 16.4" E, a distance of 538.0 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the right having a center line central angle of 27° 06' 51" right, a R = 1,909.86 feet ;

THENCE around the said curve to the right, a distance of 903.81 feet, to a point of tangent;

THENCE N 62° 19' 08.1" E, a distance of 264.68 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of 13° 50' 09.2" Left, a R = 2,864.79;

THENCE around the said curve to the left, a distance of 691.79 feet, to a point of tangent;

THENCE N 48° 28' 59" E, a distance of 46.84 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 73 and 72, this being the Place of Beginning of this survey description of property located south of the centerline of FM Highway 170. The land area contained within this description is 19,908.976 acres, more or less, including a sixty (60.0) foot wide (one half of a 120.0 foot wide right-of-way) strip of land along the south half of FM Highway 170.

Save and Except:

Comanche Hills, a subdivision in Lajitas, Brewster County, Texas, as same appears in Plat Envelope No. 186 in the Plat Records of Brewster County, Texas.

Comanche Mesa, a subdivision in Lajitas, Brewster County, Texas, as same appears in Plat Envelope No. 171 in the Plat Records of Brewster County, Texas.

Mesa Vista, a subdivision in Lajitas, Brewster County, Texas, as same appears in Plat Envelope No. 193 in the Plat Records of Brewster County, Texas.

Riverview, a subdivision in Lajitas, Brewster County, Texas, as same appears in Plat Envelope No. 170 in the Plat Records of Brewster County, Texas.

All of the San Carlos Condominiums, a Condominium Regime recorded in Volume 1, Page 1 and amended in Volume 1, Page 71 et seq. and Volume 1, Page 83 et seq., of the Condominium Records of Brewster County, Texas.

All of the Lajitas-Boardwalk Condominiums, a Condominium Regime in Brewster County, Texas, as same appears in Plat Envelope No. 288B in the Plat Records of Brewster County, Texas.

All of Sections 7, 9, 17, 19, 21, 22, 23, 25, 31, 32, 33 and 34, Block 17, G.H. & S.A. Ry. Co., Brewster County, Texas, being 7,680 acres in all, more or less.

From Section 65, Block 341, T.C. Ry. Co., Brewster County, Texas:

SE/4 of the SW/4, being 40 acres;

NE/4 of the SE/4, being 40 acres;

N/2 of the NE/4, being 80 acres; and

NW/4, being 160 acres.

From Section 67, Block 341, T.C. Ry. Co., Brewster County, Texas:

23.13 acres conveyed in Volume 249, Page 555 of the Deed Records of Brewster County, Texas;
NW/4, being 160 acres;
NE/4, being 160 acres;
NW/4 of the SW/4, being 40 acres; and
NW/4 of the SE/4, being 40 acres.

A 76.06 acre tract of land south of FM Highway 170 in Section 73, Block 341, T.C. Ry. Co., Brewster County, Texas, conveyed in Volume 123, Page 367 of the Deed Records of Brewster County, Texas.

The E/2 of the SE/4 of Section 76, Block 341, T.C. Ry. Co., Brewster County, Texas, being 80 acres in all, more or less.

From Section 82, Block 341, T.C. Ry. Co., Brewster County, Texas:

A 13.82 acre tract of land conveyed in Volume 258, Page 757 of the Deed Records of Brewster County, Texas; and

A 14.07 acre tract of land conveyed in Volume 16, Page 4 of the Official Public Records of Brewster County, Texas.

From Section 84, Block 341, T.C. Ry. Co., Brewster County, Texas:

N/2 of the SE/4, being 80 acres;
NW/4, being 160 acres;
S/2 of the SW/4, being 80 acres; and
NE/4, being 160 acres.

All of Section 88, Block 341, T.C. Ry. Co., Brewster County, Texas, being 640 acres in all, more or less.

From Section 99, Block 341, T.C. Ry. Co., Brewster County, Texas:

A 89.6 acre tract of land conveyed in Volume 6, Page 432 of the Official Public Records of Brewster County, Texas; and

A 99.2 acre tract of land conveyed in Volume 226, Page 329 of the Official Public Records of Brewster County, Texas.

From Section 100, Block 341, T.C. Ry. Co., Brewster County, Texas:

A 1.233 acre tract of land conveyed in Volume 226, Page 223 of the Deed Records of Brewster County, Texas, described therein as a 0.965 acre tract of land.

A 1.40 acre tract of land conveyed in Volume 68, Page 36 of the Official Public Records of Brewster County, Texas, as more particularly described below:

Metes and bounds description of a 1.40 acre tract of land out of Survey 100 (Tract 2) described in Vol. 9, p. 179, Corrected Field Note Records, and depicted on a plat filed in Vol. 9, P. 189, Corrected Field Note Records, Block 341, T.C. Ry. Co. Surveys, Brewster County, Texas and being more particularly described as follows:

BEGINNING at a 1/2" iron rod and cap marked "WALKER 4425" set for the Northwest corner of this tract, from which a National Park monument in a fence corner found in the

East line of Survey 37 for the Northwest corner of Survey 39 and the Southwest corner of Survey 100, said Block 341, bears South 26 deg. 08'49" West 1605.64 feet;

THENCE North 31 deg. 35'00" East 294.86 feet to a 1/2" iron rod and cap marked "WALKER 4425" set for the Northeast corner of this tract;

THENCE South 31 deg 36'10" East 53.20 feet to a 1/2" iron rod and cap marked "WALKER 4425" set;

THENCE South 8 deg. 50'02" West, 57.00 feet to a 1/2" iron rod and cap marked "WALKER 4425" set;

THENCE South 18 deg. 35'24" East 122.12 feet to a 1/2" iron rod and cap marked "WALKER 4425" set;

THENCE South 78 deg. 42'12" East 246.26 feet to a 1/2" iron rod and cap marked "WALKER 4425" set for the Southeast corner of this tract;

THENCE South 38 deg. 29'05" West 206.20 feet to a 1/2" iron rod and cap marked "WALKER 4425" set for the Southwest corner of this tract;

THENCE North 32 deg. 25'55" West 69.47 feet to a 1/2" iron rod and cap marked "WALKER 4425" set;

THENCE North 59 deg. 34'57" West 159.83 feet to a 1/2" iron rod and cap marked "WALKER 4425" set;

THENCE North 76 deg. 26'32" West 154.83 feet to the point of beginning.

Bearings and distances are based on the Texas Coordinate System, South Central Zone NAD 1927.

All of the Rio Vista Subdivision, as shown in Volume 114, Page 317 of the Official Public Records of Brewster County and as more particularly described below:

Metes and bounds description of a 1.06 Acre tract of land, out of Survey 36, Block 341, T.C. Ry.Co. Surveys, Brewster County, Texas, said 1.06 acre tract being more particularly described as follows:

BEGINNING at a point for corner at the Northeast corner of a 1.06 acre tract described in Vol. 74, P. 105, Official Public Records;

THENCE South 2 deg. 30'27" West 122.32 feet with the East line of said 1.06 acre tract to a 60d nail previously set by me for a corner of said 1.06 acre tract;

THENCE South 11 deg. 02'25" East 164.89 feet to a 1/2" iron rod and cap marked "WALKER 4425" set for the Southeast corner of this tract;

THENCE South 75 deg. 40' West passing at 12 feet a 1/2" iron rod and a cap marked "WALKER 4425" and continuing in all 149.83 feet to a point for corner and the Southwest corner of said tract;

THENCE North 9 deg. 18'52" West 192.05 feet to a point for corner;

THENCE North 3 deg. 35' West 141.13 feet to a point for corner and the northwest corner of said 1.06 acre tract;

THENCE South 86 deg. 40'17" East 159.12 feet to the POINT OF BEGINNING and containing more or less, 46,130.04 square feet or 1.06 acres.

Bearings and distances are based on the Texas Coordinate System, South Central Zone NAD 1927.

All of the land south of the center line of FM Highway 170 in Section 36, Block 341, T.C. Ry. Co., Brewster County, Texas, as more particularly described below:

Metes and bounds description of a 102.1 acre tract of land out of Section 36, Block 341, T.C. Ry.Co. Surveys, Brewster County, Texas and being more particularly described as follows:

BEGINNING at a point in Section 36 on the center line of FM Highway 170, 120 foot right-of-way and this Easement is described and recorded in Volume 133 Page 460 - 461 of the Brewster County Deed Records;

THENCE N 86° 22' 11.64" E, a distance of 669.91 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of 10° 10' 58.5" Left, a Radius of 1,909.86 feet;

THENCE around the said curve to the left, a distance of 339.43 feet, to a point of tangent;

THENCE N 76° 11' 13.08" E, a distance of 203.77 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the right having a center line central angle of 62 55' 02.1" Right , a Radius of 818.51 feet;

THENCE around the said curve to the right, a distance of 898.82 feet, to a point of tangent;

THENCE S 40° 53' 44.8"E, a distance of 1,564.13 feet along the center line of the right-of-way line of F. M. Highway 170 to a point located on the Section line between Sections 36 and 37;

THENCE S 00° 21' 09"E, a distance of 3922.76 feet along the Section line between the east line of Section 36 and the west line of Section 37;

THENCE along the east meandering line of the bank of the Rio Grande, as identified in the year of April 2007, described as follows:

N 38° 19' 39" W, a distance of 720.19 feet
N 07° 15' 04" W, a distance of 1,333.57 feet
N 23° 27' 17" W, a distance of 926.79 feet
N 23° 27' 17" W, a distance of 115.86 feet
N 17° 48' 38" W, a distance of 580.31 feet

N 11° 49' 17" W, a distance of 461.28 feet

N 23° 38' 37" W, a distance of 802.90 feet

N 05° 44' 52" W, a distance of 99.91 feet to the beginning of a curve to the left with a central angle of 77° 38' 50" and having a cord bearing of N 44° 34' 17" W with a cord length of 681.47 feet and a radius of 543.50 feet and continuing along the bank of the Rio Grande;

N 83° 23' 43" W, a distance of 222.82 feet

S 84° 41' 58" W, a distance of 732.798 feet to a point on the west section line of Section 36 Block 341:

THENCE N 00° 21' 09" W, a distance of 94.84 feet , more or less, to the center line of the right-of-way line of F M Highway 170 and to THE POINT OF BEGINNING containing, 4,447,180 square feet or 102.1 acres, more or less.

Bearings and distances are based on the Texas Coordinate System, South Central Zone NAD 1927.

All of the land south of the center line of FM Highway 170 in Section 98, Block 341, T.C. Ry. Co., Brewster County, Texas, as more particularly described below:

Being a 82.8 acre tract of land located in and a part of Block 341, T.C. Ry. Co. Surveys and being the southeastern corner of Section 98 south of the center line of FM Highway 170 more particularly described as follows:

BEGINNING at a rock mound located at the southeast corner of Section 98;

THENCE S 89° 38' 51" W a distance of 3622.72 feet to a point for corner in the centerline of Highway FM 170;

THENCE N 54° 40' 21"E, a distance of 2,085.95 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the right having a center line central angle of 44° 08' 21" Right, a Radius of 1273.24 feet; and this Easement is described and recorded in Volume 133 Page 435 of the Brewster County Deed Records;

THENCE around said curve to the right, a distance of 980.87 feet, to a point of tangent;

THENCE S 81° 11' 18" E, a distance of 672.9 feet along the center line of the right-of-way line of F. M. Highway 170 to point located at the beginning of a curve to the left having a center line central angle of 22° 18' 48" left , a Radius of 818.51 feet;

THENCE around said curve to the left, a distance of 318.76 to a point for corner in the centerline of Highway FM 170;

THENCE S 00° 21' 09" E, a distance of 1313.24 to the POINT OF BEGINNING and containing more or less, 3,608,000 square feet or 82.8 acres of land.

SECTION __.03. (a) The legal notice of the intention to introduce this article of this Act, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article 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 article are fulfilled and accomplished.

SECTION __.04. 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, 2009.

(2) In SECTION 3.01(a) of the bill (page 13, line 16), between "this section" and the comma, insert "or otherwise provided by this Act".

Floor Amendment No. 22 by Jackson

Amend **CSHB 3335** (Senate committee report) as follows:

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

ARTICLE __. COASTAL WATER AUTHORITY

SECTION __.01. Section 3A, Chapter 601, Acts of the 60th Legislature, Regular Session, 1967, is amended to read as follows:

Sec. 3A. The Authority may develop and generate electric energy by any means, including ~~[for use by the Authority or the City of Houston by]~~ wind turbines and ~~[or]~~ hydroelectric facilities. Any energy generated by the Authority must first be made available to the Authority and to the City of Houston.

SECTION __.02. Chapter 601, Acts of the 60th Legislature, Regular Session, 1967, is amended by adding Section 3E to read as follows:

Sec. 3E. The Authority may participate in a wetland mitigation program under Chapter 221, Natural Resources Code.

SECTION __.03. Section 4, Chapter 601, Acts of the 60th Legislature, Regular Session, 1967, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The Authority shall have and is hereby authorized, subject to the provisions contained herein, to exercise the powers, rights, privileges, and functions of establishing, acquiring, and extending a park or park system and the Authority shall be authorized to improve and equip its park or park system in any manner considered by its board to be appropriate including the construction, purchase, lease, and other acquisition of such park facilities as shall be desirable in the full and adequate development of the park or park system and once established and improved the Authority shall be authorized from time to time to improve, repair, extend, operate, and maintain such park or park system and the park facilities and other improvements situated thereon and relating thereto. 'Park facilities,' as used herein, means any and all improvements to, or equipment to be placed in, a park, which in the judgment of

the board is or will be appropriate, necessary, or useful in the establishment and operation of a park or park system and which will be used or useful by the public in its enjoyment and use thereof, including without limitation, roads, paths, ornaments, public utilities and all types and all lines, systems, and facilities incident thereto, buildings of every type (including but not limited to those related to or useful in the accommodation, lodging, housing, and feeding of the members of the public who may frequent the park) and amusement equipment and facilities of all types. 'Park,' as used herein, means any area of land or interest therein which is now owned or may hereafter be acquired by the Authority and which is adjacent to the main or lateral canals of the Authority and which in the judgment of the board is or will be appropriate, necessary or useful as and which is or will be dedicated, used, and devoted by the board to use by the public as a playground or place of rest, resort, recreation, exercise, sport, pleasure, amusement, or enjoyment, or any area of land or interest in an area of land to be used as open space or wetlands or for reforestation or other uses that reduce, offset, or capture greenhouse gases or other emissions, or provide mitigation of other environmental impacts, provided that the use of the area of land or interest in the area of land is in connection with or useful for an existing or planned Authority project or facility or other authorized use [in connection with the beneficial use of the main or lateral canals to which it is adjacent]. 'Park system,' as used herein, means more than one park whether or not contiguous.

The Authority shall be authorized to acquire property of any kind, or any interest therein, necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred pursuant to this Section 4(b); provided, however, that the authority shall not acquire such parks and/or park system by the exercise of eminent domain.

Each park and park system acquired or established under the provisions hereof shall be under and subject to the control and management of the board, and the board shall have the continuous general power to manage and operate the affairs of the same as it may consider appropriate, including without limitation the power to employ such personnel for management or policing purposes, or otherwise, to enter into such contracts and agreements extending over such periods of time, to provide for the sale, rental, or use of such products in the park or park system as shall be considered necessary to the full, complete, proper, and efficient development, administration, and operation of the park or park system.

The Authority shall have the express general power and authority to make, grant, accept, and enter into all leases, and all concession, rental, operating, or other contracts and agreements covering or relating to any part or all of the land comprising any park, park system, or park facilities, which the board shall deem necessary or convenient to carry out any of the purposes and powers granted hereby, upon such terms and conditions and for such length or period of time as may be prescribed herein. Any such contract, lease, or agreement may be entered into with any person, real or artificial, any corporation, municipal or private, any governmental agency or bureau, including the United States government and the State of Texas, agencies and political subdivisions thereof, and the board may make contracts, leases, and

agreements with any such persons, corporation, or entities for the acquisition, financing, construction, or operation of any park, park system, or park facilities or other improvements in or connected with or incident to any park or park system.

Any and all such contracts, leases, and agreements, to be effective, shall be authorized by order or resolution of the board, shall be executed by its president and attested by its secretary, or it may be executed by such other person or persons as the board may direct, and the same shall be binding upon the Authority without reference to any other statute or statutes.

The board shall be expressly authorized to adopt and enforce such rules and regulations relating to the use, operation, management, administration, and policing of its park or park system and related waters controlled by it as it may consider appropriate, including, without limitation, the zoning or dividing of each park or park system into such zones or divisions as it may consider appropriate and in the interest of such park or park system as a whole, and it may restrict and prescribe the activities that may be conducted in each such zone or division.

The board shall be authorized to fix, impose, and collect such fees, tolls, rents, rates, and charges for entry to, or use of, the park or park system and park facilities controlled by it as it may deem necessary, with other sources of funds available to it, to support the acquisition, maintenance, upkeep, repair, improvement, and operation of such park or park system.

The board is hereby authorized to accept grants, gratuities, advances, and loans in any form from any source approved by the board including the United States Government or any agency thereof, the State of Texas or any agency thereof, any private or public corporation, and any other person, for the purpose of promoting, establishing, and accomplishing the objectives and purposes and powers herein set forth, and to make and enter into such concessions, agreements, and covenants as the board considers appropriate in connection therewith.

(b-1) The Authority may exercise any of its existing powers, including its parks powers, to carry out a project or activity that reduces, offsets, or captures and sequesters greenhouse gases or other emissions as provided by law. The Authority may contract with a private or public entity to sell or trade credits, offsets, tax credits, or other similar marketable instruments authorized by law and available to the Authority attributable to any such project or activity. The Authority may pledge any stream of revenue from any such transaction to the issuance of bonds or notes to fund any authorized purpose of the Authority. The Authority may contract with any other governmental entity to issue bonds or notes secured by a stream of revenue from the entity attributable to any such project or activity. The proceeds of the bonds may be used to fund any authorized purpose of the Authority or any joint project with the participating governmental entity.

SECTION __.04. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article 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 this article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article 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 article are fulfilled and accomplished.

SECTION __.05. 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, 2009.

(2) In SECTION 3.01(a) of the bill (page 13, line 16), between "this section" and the comma, insert "or otherwise provided by this Act".

The motion to adopt Floor Amendment No. 8, Floor Amendment No. 9, Floor Amendment No. 10, Floor Amendment No. 11, Floor Amendment No. 12, Floor Amendment No. 13, Floor Amendment No. 14, Floor Amendment No. 15, Floor Amendment No. 16, Floor Amendment No. 17, Floor Amendment No. 18, Floor Amendment No. 19, Floor Amendment No. 20, Floor Amendment No. 21, and Floor Amendment No. 22 prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendments Nos. 8 through 22.

Senator Patrick again offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 3335** (Senate committee report) as follows:

(1) Insert the following appropriately numbered SECTIONS to the bill:

SECTION __. Section 54.016(f), Water Code, is amended to read as follows:

(f) This subsection does not apply to a city or a district that is located in whole or in part in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million. A city may provide in its written consent for the inclusion of land in a district that a contract ("allocation agreement") between the district and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the district. The allocation agreement shall contain the following provisions:

(1) a method by which the district shall continue to exist following the annexation of all territory within the district by the city, if the district is initially located outside the corporate limits of the city;

(2) an allocation of the taxes or revenues of the district or the city which will assure that, following the date of the inclusion of all the district's territory within the corporate limits of the city, the total annual ad valorem taxes collected by the city and the district from taxable property within the district does not exceed an amount greater than the city's ad valorem tax upon such property;

(3) an allocation of governmental services to be provided by the city or the district following the date of the inclusion of all of the district's territory within the corporate limits of the city;

(4) such other terms and conditions as may be deemed appropriate by the city.

SECTION __. The legislature finds that an agreement entered into prior to the effective date of this Act between a municipality and a municipal utility district that are located in whole or in part in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million is an allocation agreement only if the agreement strictly complies with the requirements of Section 54.016(f), Water Code, and is identified as an "allocation agreement" by specific reference in the agreement to Section 54.016(f), Water Code.

(2) Renumber SECTIONS of the bill appropriately.

The amendment to **CSHB 3335** was again read and was adopted by a viva voce vote.

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

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 23

Amend **CSHB 3335** by adding the following:

SECTION __. DEFINITION. In this Act, "commission" means the Texas Commission on Environmental Quality.

SECTION __. STUDY. (a) The commission shall conduct a study regarding the impact on the entire Carrizo-Wilcox aquifer of rules and plans adopted by groundwater conservation districts in whose boundaries the aquifer is located and of determinations made by groundwater conservation districts in connection with the joint planning process relating to groundwater management areas in whose boundaries the aquifer is located. In conducting the study, the commission shall examine:

(1) whether the rules and plans adopted by each groundwater conservation district:

(A) are based on sound scientific principles;

(B) adequately conserve and protect the aquifer and ensure the achievement of the applicable desired future condition for each part of the district; and

(C) are likely to affect other groundwater conservation districts or groundwater management areas;

(2) whether each district is enforcing substantial compliance with its rules;

(3) whether the desired future conditions established under Section 36.108, Water Code, in each groundwater management area are reasonable and based on sound scientific principles, and whether the rules adopted by each district are designed to achieve the applicable desired future condition;

(4) other long-term impacts of the applicable rules and plans on the aquifer, taking into consideration:

(A) projected population and agricultural, municipal, and industrial demands for water from the aquifer within the groundwater conservation districts; and

(B) other appropriate factors as determined by commission rule; and

(5) whether the presence of contaminants in the recharge area of the aquifer and the potential pollution of the aquifer are issues that should be addressed and, if so, by whom.

(b) The Texas Water Development Board and the Bureau of Economic Geology of The University of Texas at Austin shall assist the commission in conducting the study under this section.

(c) The commission may contract with any appropriate person to assist the commission in conducting the study under this section.

SECTION __. REPORT. Not later than December 31, 2012, the commission shall report the results of the study conducted under this Act to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees in the senate and the house of representatives that have primary jurisdiction over natural resources. The report may include the commission's recommendations for legislation to address any areas of concern.

SECTION __. NO APPROPRIATION. This Amendment does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION __. EXPIRATION. The provisions contained in this amendment expire August 31, 2013.

The amendment to **CSHB 3335** was read and was adopted by the following vote: Yeas 22, Nays 9.

Yeas: Averitt, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, West, Whitmire, Williams.

Nays: Carona, Davis, Hegar, Huffman, Shapleigh, Uresti, Van de Putte, Watson, Zaffirini.

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

CSHB 3335 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3335 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3335** be placed on its third reading and final passage.

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

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 27, 2009

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

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

HB 300 (non-record vote)

House Conferees with Instructions:

Isett - Chair/Harper-Brown/McClendon/Pickett/Smith, Wayne

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 1070

Pursuant to Rule 13, Section 5A of the Rules of the Texas House, 81st Legislature, the house hereby returns house bill 1070 to the senate for further consideration due to non germane amendments.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**SENATE RULE 8.02 SUSPENDED
(Referral to Committee)**

Senator Nelson moved to suspend Senate Rule 8.02 to take up for consideration **SCR 77** at this time.

The motion prevailed without objection.

SENATE CONCURRENT RESOLUTION 77

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

WHEREAS, Pursuant to the authority of the Civil Rights of Institutionalized Persons Act (CRIPA), the United States Department of Justice (DOJ), Civil Rights Division, has initiated investigations of the 12 state mental retardation facilities operated by the Department of Aging and Disability Services (DADS) and the one state mental retardation facility operated by the Department of State Health Services (DSHS); and

WHEREAS, The State of Texas has entered into a system-wide settlement agreement with DOJ to resolve DOJ's investigations of all 13 state mental retardation facilities (the "System-wide Settlement Agreement"); and

WHEREAS, Section 111.003(a)(2), Civil Practice and Remedies Code, requires the legislature to approve a settlement of a claim or action against this state if the settlement commits the state to a course of action that in reasonable probability will entail a continuing increased expenditure of state funds over subsequent state fiscal bienniums; and

WHEREAS, The System-wide Settlement Agreement commits the State of Texas to a course of action that in reasonable probability entails a continuing increased expenditure of state funds over subsequent state fiscal bienniums; and

WHEREAS, The Office of the Attorney General of Texas notified Lieutenant Governor David Dewhurst and the Honorable Tom Craddick, then Speaker of the House, by letter dated August 29, 2008, that the settlement of DOJ investigations of the state mental retardation facilities may require prior consent or subsequent approval by the legislature; and

WHEREAS, The State of Texas has made a significant and diligent effort to improve services in all of the state mental retardation facilities since DOJ initiated its first CRIPA investigation of a state mental retardation facility in this state; and

WHEREAS, The State of Texas is committed to continue improving the care of its state school residents, including the implementation of measures that protect our residents and the provision of quality health services and increased oversight and surveillance, to promote a better living environment for the state's most vulnerable citizens; and

WHEREAS, The State of Texas seeks to avoid inconvenience and disruption to state school operations due to a prolonged investigation and protracted litigation over the state mental retardation facilities; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby approve the System-wide Settlement Agreement.

NELSON

SCR 77 was read.

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

COMMITTEE SUBSTITUTE HOUSE BILL 4765 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4765** at this time on its second reading:

CSHB 4765, Relating to the computation of the franchise tax.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 4765 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4765** be placed on its third reading and final passage.

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

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

HOUSE BILL 3676 ON THIRD READING

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 3676** at this time on its third reading and final passage:

HB 3676, Relating to the Texas Economic Development Act.

The motion prevailed by the following vote: Yeas 25, Nays 6.

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

Nays: Hinojosa, Ogden, Patrick, Shapleigh, Uresti, Van de Putte.

The bill was read third time.

(President in Chair)

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 3676** (Senate committee printing) on third reading between SECTION 13 and SECTION 14 (page 10, between lines 49 and 50) by adding the following new SECTION 14, and renumbering the remaining sections appropriately:

SECTION 14. Amend Section 552.003(1)(B), Government Code, as follows:

(B) does not include:

(i) the judiciary; or

(ii) a nonprofit corporation that is organized for the purposes of a chamber of commerce and provides economic development services to a governmental body.

The amendment to **HB 3676** was read and was adopted by a viva voce vote.

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

Senator Seliger moved to postpone further consideration of the bill to a time certain of 10:35 p.m. today.

The motion prevailed.

Question — Shall **HB 3676** as amended be finally passed?

BILLS AND RESOLUTION SIGNED

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

SB 2464, SB 2466, SB 2479, SB 2480, SB 2483, SB 2486, SB 2496, SB 2504, SB 2506, SB 2507, SB 2509, SB 2514, SB 2515, SB 2520, SB 2521, SB 2529, SB 2531, SB 2536, SCR 65, HB 1293, HB 1861, HB 1969, HB 2066, HB 2225, HB 2763, HB 3004, HB 3148, HB 3346, HB 3515, HB 3544, HB 4781.

HOUSE BILL 1343 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **HB 1343** at this time on its second reading:

HB 1343, Relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.

The motion prevailed.

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

The bill was read second time.

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

Floor Amendment No. 1

Amend **HB 1343** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, immediately after added Section 552.010(c)(2), Transportation Code (page 1, line 33), strike "(A)" and substitute "(c-1)".

(2) In SECTION 1 of the bill, in added Section 552.010(c), Transportation Code (page 1, line 34), strike "Subsection (2)" and substitute "Subsection (c)(2)".

(3) In SECTION 1 of the bill, immediately after added Section 552.010(d)(2), Transportation Code (page 1, between lines 45 and 46), insert the following:

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

(4) Strike the recital to SECTION 2 of the bill (page 1, lines 46 and 47) and substitute the following:

SECTION 2. Section 552.003, Transportation Code, is amended by adding Subsections (d), (d-1), (e), and (f) to read as follows:

(5) In SECTION 2 of the bill, immediately after added Section 552.003(d), Transportation Code (page 1, line 58), strike "(A)" and substitute "(d-1)".

(6) In SECTION 2 of the bill, in added Section 552.003(d), Transportation Code (page 1, line 59), strike "Subsection (2)" and substitute "Subsection (d)(2)".

(7) In SECTION 2 of the bill, immediately after added Section 552.003(e), Transportation Code (page 2, between lines 3 and 4), insert the following:

(f) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

The amendment to **HB 1343** was read and was adopted by a viva voce vote.

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

Nays: Williams.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1343** (Senate committee report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 30.002, Education Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1) To implement Subsection (c)(1) and to determine a child's eligibility for a school district's special education program on the basis of a visual impairment, the full individual and initial evaluation of the student required by Section 29.004 must, in accordance with commissioner rule:

(1) include an orientation and mobility evaluation conducted:

(A) by a person who is appropriately certified as an orientation and mobility specialist, as determined under commissioner rule; and

(B) in a variety of settings, including in the student's home, school, and community and in settings unfamiliar to the student; and

(2) provide for a person who is appropriately certified as an orientation and mobility specialist to participate, as part of the multidisciplinary team, in evaluating data on which the determination of the child's eligibility is based.

(c-2) Any reevaluation by a school district of a student who has been determined, after the full individual and initial evaluation, to be eligible for the district's special education program on the basis of a visual impairment must, in accordance with commissioner rule, include an orientation and mobility evaluation conducted by a person described by Subsection (c-1)(1)(A).

SECTION _____. (a) Not later than January 1, 2010, the commissioner of education shall adopt rules necessary to implement Subsections (c-1) and (c-2), Section 30.002, Education Code, as added by this Act.

(b) Not later than the beginning of the 2010-2011 school year, Subsections (c-1) and (c-2), Section 30.002, Education Code, as added by this Act, shall be implemented.

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

The amendment to **HB 1343** was read and was adopted by a viva voce vote.

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

Nays: Williams.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1343** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 545.401, Transportation Code, is amended by amending Subsection (b) and adding Subsections (e), (f), (g), and (h) to read as follows:

(b) Except as provided by Subsection (e), an [An] offense under this section is a misdemeanor punishable by:

- (1) a fine not to exceed \$200;
- (2) confinement in county jail for not more than 30 days; or
- (3) both the fine and the confinement.

(e) If an offense under this section results in the serious bodily injury or death of an operator or passenger of another motor vehicle, the offense is a Class B misdemeanor.

(f) The court may:

(1) order that the driver's license of a person convicted of an offense under Subsection (e) be suspended for not less than 30 days beginning on the date of conviction; and

(2) require the person to attend and present proof that the person successfully completed a driving safety course approved under Chapter 1001, Education Code, before the person's driver's license may be reinstated.

(g) A judge, acting under Article 42.12, Code of Criminal Procedure, who elects to place a defendant on community supervision under that article may require the defendant to attend and present proof that the defendant successfully completed a driving safety course approved under Chapter 1001, Education Code.

(h) A person who is subject to prosecution under both this section and another section of this or any other code may be prosecuted under either or both sections.

The amendment to **HB 1343** was read and was adopted by a viva voce vote.

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

Nays: Williams.

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

HB 1343 as amended was passed to third reading by a viva voce vote.

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

Nays: Williams.

HOUSE BILL 1343 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1343** be placed on its third reading and final passage.

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

Nays: Williams.

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

HOUSE BILL 4583 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4583** at this time on its second reading:

HB 4583, Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 4583** (Senate committee report) by striking all below the enacting clause and substituting:

SECTION 1. DEFINITION. In any provision of this Act that does not amend current law, "state agency" means an office, institution, or other agency that is in the executive branch of state government, has authority that is not limited to a geographical portion of the state, and was created by the constitution or a statute of this state. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS. Except as otherwise specifically provided by this Act, all funds and accounts created or re-created in the state treasury by an Act of the 81st Legislature, Regular Session, 2009, that becomes law and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an Act of the 81st Legislature, Regular Session, 2009, that becomes law are abolished on the later of August 31, 2009, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND ACCOUNTS. Section 2 of this Act does not apply to:

(1) statutory dedications, funds, and accounts that were enacted before the 81st Legislature convened to comply with requirements of state constitutional or federal law;

(2) dedications, funds, or accounts that remained exempt from former Section 403.094(h), Government Code, at the time dedications, accounts, and funds were abolished under that provision;

(3) increases in fees or in other revenue dedicated as described by this section; or

(4) increases in fees or in other revenue required to be deposited in a fund or account described by this section.

SECTION 4. ACCOUNTS IN GENERAL REVENUE FUND. Effective on the later of August 31, 2009, or the date the Act creating or re-creating the account takes effect, the following accounts and the revenue deposited to the credit of the accounts are exempt from Section 2 of this Act and are created in the general revenue fund, if created or re-created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law:

(1) the Texas physician health program account created as a special account in the general revenue fund by Senate Bill No. 1331 or similar legislation; and

(2) the Jobs and Education for Texans (JET) fund to be created as a dedicated account in the general revenue fund under Senate Bill No. 1313, House Bill No. 1935, or similar legislation.

SECTION 5. REVENUE DEDICATION. Effective on the later of August 31, 2009, or the date the Act dedicating or rededicating the revenue takes effect, the following dedications or rededications of revenue collected by a state agency for a particular purpose are exempt from Section 2 of this Act, if dedicated or rededicated by an Act of the 81st Legislature, Regular Session, 2009, that becomes law:

(1) all dedications or rededications of revenue to the Texas Department of Insurance operating account by any Act, including the dedication of fees by Senate Bill No. 1007 or similar legislation and the dedication of fees by House Bill No. 4341 or similar legislation;

(2) the dedication of fee revenue by Senate Bill No. 1414 or similar legislation;

(3) the dedication of lottery proceeds by Senate Bill No. 421, Senate Bill No. 1655, House Bill No. 1299, House Bill No. 4390, Senate Bill No. 1940, or similar legislation;

(4) the dedication or rededication of fees by Senate Bill No. 1013, House Bill No. 2081, or similar legislation;

(5) the dedication of court costs by Senate Bill No. 333 or similar legislation;

(6) the dedication of tax revenue by House Bill No. 982, Senate Bill No. 2187, or similar legislation;

(7) the dedication of revenue by House Bill No. 1684 or similar legislation;

(8) the dedication of revenue by House Bill No. 1965 or similar legislation;

(9) the dedication of revenue by House Bill No. 2259 or similar legislation;

(10) the dedication of fee revenue by Senate Bill No. 1587, House Bill No. 3359, or similar legislation;

(11) the dedication or rededication of revenue by Senate Bill No. 1844 or similar legislation; and

(12) the dedication or rededication of revenue by Senate Bill No. 862.

SECTION 6. FEDERAL FUNDS. Section 2 of this Act does not apply to funds created pursuant to an Act of the 81st Legislature, Regular Session, 2009, for which separate accounting is required by federal law, except that the funds shall be deposited in accounts in the general revenue fund unless otherwise required by federal law.

SECTION 7. TRUST FUNDS. (a) Section 2 of this Act does not apply to trust funds or dedicated revenue deposited to trust funds created under an Act of the 81st Legislature, Regular Session, 2009, except that the trust funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

(b) Section 2 of this Act does not apply to:

(1) the anthropogenic carbon dioxide storage trust fund created as a special fund in the state treasury by House Bill No. 2669, Senate Bill No. 1387, or similar legislation, or to dedicated revenue deposited to that fund; or

(2) the consumer assistance account created as a restitution account in the attorney general's departmental suspense account in the state treasury by Senate Bill No. 2350 or similar legislation, or to revenue deposited to that account.

(c) Notwithstanding Subsection (a) of this section, Section 2 of this Act applies to:

(1) the system benefit fund and to revenue deposited to the credit of that fund if that fund is purported to be re-created by House Bill No. 1182 or similar legislation as a trust fund; and

(2) the scholarship trust fund and to revenue deposited to the credit of that fund if that fund is purported to be created by House Bill No. 2440, Senate Bill No. 1412, or similar legislation as a trust fund.

SECTION 8. BOND FUNDS. Section 2 of this Act does not apply to bond funds and pledged funds created or affected by an Act of the 81st Legislature, Regular Session, 2009, except that the funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

SECTION 9. CONSTITUTIONAL FUNDS. (a) Section 2 of this Act does not apply to funds or accounts that would be created or re-created by the Texas Constitution or revenue that would be dedicated or rededicated by the Texas Constitution under a constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, or to dedicated revenue deposited to funds or accounts that would be so created or re-created, if the constitutional amendment is approved by the voters.

(b) Section 2 of this Act does not apply to the national research university fund or any revenue transferred or deposited to or dedicated to that fund under House Bill No. 51, House Bill No. 4453, Senate Bill No. 1560, or similar legislation that becomes law.

SECTION 10. SEPARATE FUNDS IN THE TREASURY. Effective September 1, 2009, the following funds in the state treasury and the revenue deposited to the credit of the funds are exempt from Section 2 of this Act and the funds are created as separate funds in the state treasury, if created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law:

(1) the floodplain management fund created as a special fund in the state treasury outside the general revenue fund by House Bill No. 2536 or similar legislation;

(2) the account created by Senate Bill No. 263 or similar legislation for the deposit of proceeds from the sale of the bonds to be used for the sole purpose of financing projects authorized by Section 222.104, Transportation Code, except that, notwithstanding that legislation the fund is created as a separate fund outside of the general revenue fund; and

(3) the freestanding emergency medical care facility licensing fund created by House Bill No. 1357 or similar legislation.

SECTION 11. AMENDMENT OF SECTION 403.095, GOVERNMENT CODE. Effective September 1, 2009, Sections 403.095(b), (d), and (e), Government Code, are amended to read as follows:

(b) Notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that, on August 31, 2011 [2009], are estimated to exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 81st [80th] Legislature are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121.

(d) Following certification of the General Appropriations Act and other appropriations measures enacted by the 81st [80th] Legislature, the comptroller shall reduce each dedicated account as directed by the legislature by an amount that may not exceed the amount by which estimated revenues and unobligated balances exceed appropriations. The reductions may be made in the amounts and at the times necessary for cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. The legislature may authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required under this subsection. This subsection does not apply to revenues or balances in:

(1) funds outside the treasury;

(2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development, construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;

(3) funds created by the constitution or a court; or

(4) funds for which separate accounting is required by federal law.

(e) This section expires on September 1, 2011 [2009].

SECTION 12. CERTAIN REVENUES DEDICATED TO COMPENSATION TO VICTIMS OF CRIME FUND. (a) Section 495.025(c), Government Code, as added by Section 1, Chapter 100 (S.B. 1580), Acts of the 80th Legislature, Regular Session, 2007, is reenacted to read as follows:

(c) The department shall transfer 50 percent of all commissions paid to the department by a vendor under this section to the compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure, and the other 50 percent to the credit of the undedicated portion of the general revenue fund, except that the department shall transfer the first \$10 million of the commissions collected in any given year under a contract awarded under this section to the

compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure. This section does not reduce any appropriation to the department.

(b) Revenue dedicated to the compensation to victims of crime fund by Section 495.025(c), Government Code, as added by Section 1, Chapter 100 (S.B. 1580), Acts of the 80th Legislature, Regular Session, 2007, is rededicated to that fund by this section and that rededication is exempt from Section 2 of this Act.

SECTION 13. PHYSICIAN EDUCATION LOAN REPAYMENT PROGRAM.

(a) Section 2 of this Act does not apply to the physician education loan repayment program account created as an account in the general revenue fund by House Bill No. 2154 or similar legislation or to dedicated revenue deposited to that account.

(b) Notwithstanding provisions of House Bill No. 2154 or other law to the contrary, of dedicated revenue directed by Sections 61.539 and 61.5391, Education Code, Section 155.2415, Tax Code, or other law to be deposited to the physician education loan repayment program account described by Subsection (a) of this section:

(1) during the state fiscal year ending August 31, 2010:

(A) 15 percent of the amount of that revenue described by those provisions shall be deposited to the credit of the physician education loan repayment program account; and

(B) the remainder of that revenue shall be deposited to the credit of the undedicated portion of the general revenue fund;

(2) from September 1, 2010, to August 29, 2011:

(A) 25 percent of the amount of that revenue described by those provisions shall be deposited to the credit of the physician education loan repayment program account; and

(B) the remainder of that revenue shall be deposited to the credit of the undedicated portion of the general revenue fund; and

(3) on and after August 30, 2011:

(A) 50 percent of the amount of that revenue described by those provisions shall be deposited to the credit of the physician education loan repayment program account; and

(B) the remainder of that revenue shall be deposited to the credit of the undedicated portion of the general revenue fund.

SECTION 14. CERTAIN OTHER FUNDS HELD OUTSIDE THE TREASURY. Each of the following funds, if created as a fund held outside the treasury by an Act of the 81st Legislature, Regular Session, 2009, that becomes law, and revenue deposited to the credit of the funds are exempt from this Act:

(1) the Texas transportation revolving fund or any similar revolving fund created by or under Senate Bill No. 1350, Senate Bill No. 505, Senate Bill No. 263, or similar legislation; and

(2) the neighborhood and community recovery fund created by Senate Bill No. 11, House Bill No. 4310, or similar legislation.

SECTION 15. HEALTHY TEXAS SMALL EMPLOYER PREMIUM STABILIZATION FUND. Sections 2 and 7 of this Act do not apply to the healthy Texas small employer premium stabilization fund created by Senate Bill No. 6 or similar legislation, or to dedicated revenue deposited to that account.

SECTION 16. AMERICAN RECOVERY AND REINVESTMENT ACT FUND. (a) Section 2 of this Act does not apply to the American Recovery and Reinvestment Act fund created by Subsection (b) of this section, or to revenue deposited to the fund.

(b) Subchapter B, Chapter 403, Government Code, is amended by adding Section 403.0122 to read as follows:

Sec. 403.0122. DEPOSIT OF AMERICAN RECOVERY AND REINVESTMENT ACT MONEY. (a) In this section:

(1) "Fund" means the American Recovery and Reinvestment Act fund.

(2) "Recovery act" means the federal American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

(b) The American Recovery and Reinvestment Act fund is created as a special fund in the state treasury outside the general revenue fund.

(c) Notwithstanding any other law of this state and except as otherwise provided by federal law, state agencies that receive money under the recovery act shall deposit the money to the credit of the fund as the comptroller determines is necessary to hold and account for money received under the recovery act.

(d) Other money may be deposited to the credit of the fund as appropriated by the legislature, as required by federal law, or as necessary to account for money related to the recovery act. Money deposited to the credit of the fund may only be used for the purposes identified in the recovery act to stimulate the economy, including aid for unemployment, welfare, education, health, and infrastructure.

(e) Agencies shall transfer amounts between the fund and other accounts and funds in the treasury as necessary to properly account for money received under the recovery act as directed by the comptroller. This section does not affect the authority of the comptroller to establish and use accounts necessary to manage and account for revenues and expenditures.

(f) Interest earned on money deposited to the credit of the fund is exempt from Section 404.071. Interest earned on money in the fund shall be retained in the fund.

(g) The comptroller may issue guidelines for state agencies regarding the implementation of this section.

SECTION 17. LICENSE PLATES. Sections 2 and 7 of this Act do not apply to the dedication or rededication of specialty license plate revenue or to an account or fund created or re-created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law involving a specialty license plate.

SECTION 18. LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT. (a) On the effective date of this Act, the large county and municipality recreation and parks account, established by Section 39, Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular Session, 2007, is re-created by this section as an account in the general revenue fund.

(b) The large county and municipality recreation and parks account and the revenue deposited to the credit of the account are exempt from Section 2 of this Act.

SECTION 19. EFFECT OF ACT. (a) This Act prevails over any other Act of the 81st Legislature, Regular Session, 2009, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account in the state treasury or to dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former Section 403.094, Government Code.

(b) Revenue that, under the terms of another Act of the 81st Legislature, Regular Session, 2009, would be deposited to the credit of a special account or fund shall be deposited to the credit of the undedicated portion of the general revenue fund unless the fund, account, or dedication is exempted under this Act.

SECTION 20. 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 on the 91st day after the last day of the legislative session.

The amendment to **HB 4583** was read.

Senator Carona offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 (Ogden) to **HB 4583** as follows:

(1) Add the following subdivisions, numbered appropriately, to Section 4 of the bill and renumber any subsequent subdivisions of that section accordingly:

() the Texas local participation transportation fund created as a dedicated account in the general revenue fund by Senate Bill No. 1383, House Bill No. 3917, or similar legislation;

The amendment to Floor Amendment No. 1 to **HB 4583** was read and was adopted by a viva voce vote.

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

Senator Watson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 by Ogden to **HB 4583** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. The comptroller of public accounts shall, in the comptroller's statement under Section 49-a, Article III, Texas Constitution, to the 82nd Legislature on its convening, include an estimate of general revenue dedicated account balances based on the laws then in effect, separately identifying those account balances available for certification.

The amendment to Floor Amendment No. 1 to **HB 4583** was read and was adopted by a viva voce vote.

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

Question recurring on the adoption of Floor Amendment No. 1 to **HB 4583**, the amendment as amended was adopted by a viva voce vote.

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

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

HB 4583 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 4583 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4583** be placed on its third reading and final passage.

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

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

HOUSE BILL 4829 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4829** at this time on its second reading:

HB 4829, Relating to the creation of the Harris County Improvement District No. 17; providing authority to impose an assessment, impose a tax, and issue bonds.

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

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

HOUSE BILL 4829 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4829** be placed on its third reading and final passage.

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

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

HOUSE BILL 1795 ON SECOND READING

Senator Uresti moved to suspend the regular order of business to take up for consideration **HB 1795** at this time on its second reading:

HB 1795, Relating to newborn screening and the creation of the Newborn Screening Advisory Committee.

The motion prevailed.

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

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1795** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 1. Subdivision (2), Section 62.002, Health and Safety Code, is amended to read as follows:

(2) "Executive commissioner" or "commissioner [~~Commissioner~~]" means the executive commissioner of the Health [~~health~~] and Human Services Commission [~~human services~~].

SECTION 2. Subsection (b), Section 62.101, Health and Safety Code, is amended to read as follows:

(b) The commission shall establish income eligibility levels consistent with Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, and any other applicable law or regulations, and subject to the availability of appropriated money, so that a child who is younger than 19 years of age and whose net family income is at or below 300 [~~200~~] percent of the federal poverty level is eligible for health benefits coverage under the program. In addition, the commission may establish eligibility standards regarding the amount and types of allowable assets for a family whose net family income is above 250 [~~150~~] percent of the federal poverty level.

SECTION 3. Subsections (b) and (c), Section 62.102, Health and Safety Code, are amended to read as follows:

(b) During the sixth month following the date of initial enrollment or reenrollment of an individual whose net family income exceeds 285 [~~185~~] percent of the federal poverty level, the commission shall:

(1) review the individual's net family income and may use electronic technology if available and appropriate; and

(2) continue to provide coverage if the individual's net family income does not exceed the income eligibility limits prescribed by Section 62.101 [~~this chapter~~].

(c) If, during the review required under Subsection (b), the commission determines that the individual's net family income exceeds the income eligibility limits prescribed by Section 62.101 [~~this chapter~~], the commission may not disenroll the individual until:

(1) the commission has provided the family an opportunity to demonstrate that the family's net family income is within the income eligibility limits prescribed by Section 62.101 [~~this chapter~~]; and

(2) the family fails to demonstrate such eligibility.

SECTION 4. Section 62.151, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) In developing the plan, the commission, subject to federal requirements, may choose to provide dental benefits at full cost to the enrollee as an available plan option for a child whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level.

SECTION 5. Section 62.153, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1) and (a-2) to read as follows:

(a) To the extent permitted under 42 U.S.C. Section 1397cc, as amended, and any other applicable law or regulations, the commission shall require enrollees whose net family incomes are at or below 200 percent of the federal poverty level to share the cost of the child health plan, including provisions requiring enrollees under the child health plan to pay:

- (1) a copayment for services provided under the plan;
- (2) an enrollment fee; or
- (3) a portion of the plan premium.

(a-1) The commission shall require enrollees whose net family incomes are greater than 200 percent but not greater than 300 percent of the federal poverty level to pay a share of the cost of the child health plan through copayments, fees, and a portion of the plan premium. The total amount of the share required to be paid must:

- (1) include a portion of the plan premium set at an amount determined by the commission that is not more than 2.5 percent of an enrollee's net family income;
- (2) exceed the amount required to be paid by enrollees described by Subsection (a), but the total amount required to be paid may not exceed five percent of an enrollee's net family income; and
- (3) increase incrementally, as determined by the commission, as an enrollee's net family income increases.

(a-2) In establishing the cost required to be paid by an enrollee described by Subsection (a-1) as a portion of the plan premium, the commission shall ensure that the cost progressively increases as the number of children in the enrollee's family provided coverage increases.

(c) The ~~[If cost sharing provisions imposed under Subsection (a) include requirements that enrollees pay a portion of the plan premium, the]~~ commission shall specify the manner of payment for any portion of the plan premium required to be paid by an enrollee under this section ~~[in which the premium is paid]~~. The commission may require that the premium be paid to the ~~[Texas Department of Health and Human Services Commission, the [Texas] Department of State Health [Human] Services, or the health plan provider. The commission shall develop an option for an enrollee to pay monthly premiums using direct debits to bank accounts or credit cards.~~

SECTION 6. Section 62.154, Health and Safety Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) The waiting period required by Subsection (a) for a child whose net family income is at or below 200 percent of the federal poverty level must:

- (1) extend for a period of 90 days after the last date on which the applicant was covered under a health benefits plan; and

(2) apply to a child who was covered by a health benefits plan at any time during the 90 days before the date of application for coverage under the child health plan.

(e) The waiting period required by Subsection (a) for a child whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level must:

(1) extend for a period of 180 days after the last date on which the applicant was covered under a health benefits plan; and

(2) apply to a child who was covered by a health benefits plan at any time during the 180 days before the date of application for coverage under the child health plan.

SECTION 7. Subchapter D, Chapter 62, Health and Safety Code, is amended by adding Section 62.1551 to read as follows:

Sec. 62.1551. TERMINATION OF COVERAGE FOR NONPAYMENT OF PREMIUMS. (a) In this section, "lock-out period" means a period after coverage is terminated for nonpayment of premiums during which a child may not be reenrolled in the child health plan program.

(b) The executive commissioner by rule shall establish a process that allows for the termination of coverage under the child health plan of an enrollee whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level if the enrollee does not pay the premiums required under Section 62.153(a-1).

(c) The rules required by Subsection (b) must:

(1) address the number of payments that may be missed before coverage terminates;

(2) address the process for notifying an enrollee of pending coverage termination; and

(3) provide for an appropriate lock-out period after termination for nonpayment.

SECTION 8. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 9. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

SECTION 10. This Act takes effect September 1, 2009.

The amendment to **HB 1795** was read and was adopted by a viva voce vote.

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

Nays: Nelson.

Absent: Williams.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1795** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Section 81.090, Health and Safety Code, is amended to read as follows:

Sec. 81.090. DIAGNOSTIC [~~SEROLOGIC~~] TESTING DURING PREGNANCY AND AFTER BIRTH.

SECTION _____. Section 81.090, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (i), (j), (k), and (l) and adding Subsections (a-1), (c-1), and (c-2) to read as follows:

(a) A physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant shall:

(1) take or cause to be taken a sample of the woman's blood or other appropriate specimen at the first examination and visit;

(2) submit the sample to an appropriately certified [a] laboratory [~~approved under this section~~] for diagnostic testing approved by the United States Food and Drug Administration for:

(A) [~~a standard serologic test for~~] syphilis [~~approved by the board~~];

(B) [~~a standard serologic test for~~] HIV infection [~~approved by the board~~]; and

(C) [~~a standard serologic test for~~] hepatitis B infection [~~approved by the board~~]; and

(3) retain a report of each case for nine months and deliver the report to any successor in the case.

(a-1) A physician or other person permitted by law to attend a pregnant woman during gestation or at delivery of an infant shall:

(1) take or cause to be taken a sample of the woman's blood or other appropriate specimen at an examination in the third trimester of the pregnancy;

(2) submit the sample to an appropriately certified laboratory for a diagnostic test approved by the United States Food and Drug Administration for HIV infection; and

(3) retain a report of each case for nine months and deliver the report to any successor in the case.

(b) A successor is presumed to have complied with this section if the successor in good faith obtains a record that indicates compliance with Subsections (a) and (a-1), if applicable.

(c) A physician or other person in attendance at a delivery shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the mother on admission for delivery; and

(2) submit the sample to an appropriately certified [a] laboratory [~~approved under this section~~] for diagnostic testing approved by the United States Food and Drug Administration for:

(A) [~~a standard serologic test for~~] syphilis [~~approved by the board~~]; and

(B) ~~[a standard serologic test for HIV infection approved by the board;~~
and

~~[(C) a standard serologic test for]~~ hepatitis B infection ~~[approved by the board].~~

(c-1) If the physician or other person in attendance at the delivery does not find in the woman's medical records results from the diagnostic test for HIV infection performed under Subsection (a-1), the physician or person shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the mother;

(2) submit the sample to an appropriately certified laboratory for diagnostic testing approved by the United States Food and Drug Administration for HIV infection; and

(3) instruct the laboratory to expedite the processing of the test so that the results are received less than six hours after the time the sample is submitted.

(c-2) If the physician or other person in attendance at the delivery does not find in the woman's medical records results from a diagnostic test for HIV infection performed under Subsection (a-1), and the diagnostic test for HIV infection was not performed before delivery under Subsection (c-1), the physician or other person in attendance at delivery shall:

(1) take or cause to be taken a sample of blood or other appropriate specimen from the newborn child less than two hours after the time of birth;

(2) submit the sample to an appropriately certified laboratory for a diagnostic test approved by the United States Food and Drug Administration for HIV infection; and

(3) instruct the laboratory to expedite the processing of the test so that the results are received less than six hours after the time the sample is submitted.

(i) Before conducting or causing to be conducted a diagnostic ~~[standard serologic]~~ test for HIV infection under this section, the physician or other person shall advise the woman that the result of a test taken under this section is confidential as provided by Subchapter F, but that the test is not anonymous. The physician or other person shall explain the difference between a confidential and an anonymous test to the woman and that an anonymous test may be available from another entity. The physician or other person shall make the information available in another language, if needed, and if resources permit. The information shall be provided by the physician or another person, as needed, in a manner and in terms understandable to a person who may be illiterate if resources permit.

(j) The result of a ~~[standard]~~ test for HIV infection under Subsection (a)(2)(B), (a-1), (c-1), or (c-2) ~~[(c)(2)(B)]~~ is a test result for purposes of Subchapter F.

(k) Before the ~~[blood]~~ sample is taken, the health care provider shall distribute to the patient printed materials about AIDS, HIV, hepatitis B, and syphilis. A health care provider shall verbally notify the patient that an HIV test shall be performed if the patient does not object. If the patient objects, the patient shall be referred to an anonymous testing facility or instructed about anonymous testing methods. The health care provider shall note on the medical records that the distribution of printed

materials was made and that verbal notification was given. The materials shall be provided to the health care provider by the department [Texas Department of Health] and shall be prepared and designed to inform the patients about:

- (1) the incidence and mode of transmission of AIDS, HIV, hepatitis B, and syphilis;
- (2) how being infected with HIV, AIDS, hepatitis B, or syphilis could affect the health of their child;
- (3) the available cure for syphilis;
- (4) the available treatment to prevent maternal-infant HIV transmission; and
- (5) methods to prevent the transmission of the HIV virus, hepatitis B, and syphilis.

(l) A physician or other person may not conduct a diagnostic [standard] test for HIV infection under Subsection (a)(2)(B), (a-1), or (c-1) [~~(e)(2)(B)~~] if the woman objects. A physician or other person may not conduct a diagnostic test for HIV infection under Subsection (c-2) if a parent, managing conservator, or guardian objects.

SECTION _____. Sections 81.090(d), (e), (f), and (h), Health and Safety Code, are repealed.

SECTION _____. (a) Sections 81.090(a), (c), (i), and (k), Health and Safety Code, as amended by this Act, apply only to a test performed on or after the effective date of this Act. A test performed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) Sections 81.090(a-1), (c-1), and (c-2), Health and Safety Code, as added by this Act, and Sections 81.090(b), (j), and (l), Health and Safety Code, as amended by this Act, apply only to a physician or other person attending a pregnant woman during gestation or at delivery of an infant on or after January 1, 2010.

The amendment to **HB 1795** was read and was adopted by a viva voce vote.

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

Absent: Williams.

Floor Amendment No. 3 was not offered.

Floor Amendment No. 4 was not offered.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 1795** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

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

The amendment to **HB 1795** was read and was adopted by a viva voce vote.

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

Absent: Williams.

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

HB 1795 as amended was passed to third reading by a viva voce vote.

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

Nays: Nelson, Patrick.

Absent: Williams.

HOUSE BILL 1795 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1795** be placed on its third reading and final passage.

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

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

Nays: Nelson, Patrick.

Absent: Williams.

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

HOUSE BILL 2524 ON SECOND READING

The President laid before the Senate **HB 2524** by Senator Carona on its second reading. The bill had been read second time, an amendment offered, and further consideration postponed to a time certain of 1:30 p.m. today:

HB 2524, Relating to the accuracy, security, and reliability of certain electronic voting systems.

Question — Shall Floor Amendment No. 1 to **HB 2524** be adopted?

Senator Patrick withdrew Floor Amendment No. 1.

HB 2524 was passed to third reading by a viva voce vote.

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

Nays: Fraser, Nichols, Shapiro.

HOUSE BILL 2524 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2524** be placed on its third reading and final passage.

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

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

Nays: Fraser, Nichols, Shapiro.

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

BILLS SIGNED

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

SB 80, SB 202, SB 305, SB 334, SB 348, SB 375, SB 376, SB 410, SB 417, SB 455, SB 490, SB 524, SB 530, SB 584, SB 585, SB 588, SB 596, SB 637, SB 638, SB 662, SB 693, SB 707, SB 748, SB 749, SB 755, SB 794, SB 808, SB 812, SB 880, SB 994, SB 1016, SB 1039, SB 1337, SB 1483, SB 1979, SB 2410, SB 2460, SB 2463.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2730 ON SECOND READING**

The President laid before the Senate **CSHB 2730** by Senator Hinojosa on its second reading. The bill had been read second time, amended, and further consideration postponed to a time certain of 9:00 p.m. today:

CSHB 2730, Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing penalties.

Question — Shall **CSHB 2730** as amended be passed to third reading?

VOTE RECONSIDERED

On motion of Senator Hinojosa and by unanimous consent, the vote by which Floor Amendment No. 18 was adopted was reconsidered.

Question — Shall Floor Amendment No. 18 to **CSHB 2730** be adopted?

Senator Hinojosa offered the following amendment to Floor Amendment No. 18:

Floor Amendment No. 25

Amend Floor Amendment No. 18 by Hegar to **CSHB 2730** (Senate committee printing) by striking the text of the amendment and substituting the following:

Sec. 411.0852. STUDY REGARDING PRIVATE VENDORS PROVIDING CRIMINAL HISTORY RECORD INFORMATION. (a) Not later than December 31, 2010, the department shall conduct a study and report to the governor,

lieutenant governor, speaker of the house, and the House and Senate standing committees with jurisdiction over this issue regarding allowing an entity authorized or required under the laws of this state to obtain criminal history record information, including national criminal history record information, regarding whether a person may elect, as an alternative, to contract with a private vendor to obtain both the criminal history record information and identity verification through electronic-based data records.

The amendment to Floor Amendment No. 18 to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 25.

Question recurring on the adoption of Floor Amendment No. 18 to **CSHB 2730**, the amendment as amended was again adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 18 as amended.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 26

Amend **CSHB 2730** (Senate committee printing) in SECTION 15.07 of the bill (page 60, line 32) by striking "September 1, 2009" and substituting "September 1, 2011".

The amendment to **CSHB 2730** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 26.

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

CSHB 2730 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2730 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2730** be placed on its third reading and final passage.

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

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

HOUSE BILL 2291 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2291** at this time on its second reading:

HB 2291, Relating to the procedure to be used by a taxing unit in adopting an ad valorem tax rate.

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

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

HOUSE BILL 2291 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2291** be placed on its third reading and final passage.

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

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

HOUSE BILL 1796 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1796** at this time on its second reading:

HB 1796, Relating to the offshore geologic storage of carbon dioxide.

The bill was read second time.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1796** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 382.507, Health and Safety Code (page 2, line 9), between "repository" and the period insert "on a determination by the board that permanent storage has been verified and that the storage location has met all applicable state and federal requirements for closure of carbon dioxide storage sites".

(2) In SECTION 1 of the bill, in added Section 382.508(a), Health and Safety Code (page 2, line 16), between "generation of" and "carbon" insert "stored".

(3) In SECTION 1 of the bill, immediately following added Section 382.508(b), Health and Safety Code (page 2, between lines 22 and 23), insert:

(c) This section does not relieve a person who contracts with the board under Section 382.504(b) of liability for any act or omission regarding the construction or operation, as applicable, of the carbon dioxide repository.

The amendment to **HB 1796** was read and was adopted by a viva voce vote.

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

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1796** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ Chapter 2305, Government Code, is amended by adding Section 2305.201 to read as follows:

Sec. 2305.201. STRATEGIES TO REDUCE EMISSIONS OF GREENHOUSE GASES. (a) In this section, "greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(b) Not later than December 31, 2010, the comptroller shall prepare and deliver to each member of the legislature a report including a list of strategies for reducing emissions of greenhouse gases in this state that:

(1) shall result in net savings for consumers or businesses in this state;
(2) can be achieved without financial cost to consumers or businesses in this state; or

(3) help businesses in the state maintain global competitiveness.

(c) In preparing the list of emission reduction strategies, the comptroller shall consider the strategies for reducing the emissions of greenhouse gases that have been implemented in other states or nations.

(d) In determining under Subsection (b) whether an emission reduction strategy may result in a financial cost to consumers or businesses in this state, the comptroller shall consider the total net costs that may occur over the life of the strategy.

(e) A report prepared under Subsection (b) shall include the following information for each identified strategy:

(1) initial, short-term capital costs that may result from the implementation of the strategy delineated by the cost to business, and the costs to consumers; and

(2) lifetime costs and savings that may result from the implementation of the strategy delineated by the costs and savings to business and the costs and savings to consumers.

(f) The comptroller shall appoint one or more advisory committees to assist the comptroller in identifying and evaluating greenhouse gas emission reduction strategies. At least one representative from the following agencies shall serve on the advisory committee or committees:

(1) the Railroad Commission of Texas;

(2) the General Land Office;

(3) the Texas Commission on Environmental Quality;

(4) the Department of Agriculture; and

(5) a Texas institution of higher education.

(g) The comptroller may enter into an interagency agreement with the Texas Commission on Environmental Quality or other state agency for technical advice or assistance as necessary to complete the requirements of this section.

The amendment to **HB 1796** was read and was adopted by a viva voce vote.

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

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1796** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbered subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 86.185, Natural Resources Code, is amended to read as follows:

Sec. 86.185. RESTRICTIONS ON RELEASE OF ~~[PROHIBITION AGAINST]~~ GAS IN AIR: GAS WELLS IN GENERAL. (a) This section does not apply to a gas well to which Section 86.186 applies.

(b) No gas from a gas well may be permitted to escape into the air after the expiration of 10 days from the time the gas is encountered in the gas well, or from the time of perforating the casing opposite a gas-bearing zone if casing is set through the zone, whichever is later, but the commission may permit the escape of gas into the air for an additional time if the operator of a well or other facility presents information to show the necessity for the escape; provided that the amount of gas which is flared under that authority is charged to the operator's allowable production. A necessity includes but is not limited to the following situations:

(1) cleaning a well of sand or acid or both following stimulation treatment of a well; and

(2) repairing or modifying a gas-gathering system.

SECTION _____. Subchapter F, Chapter 86, Natural Resources Code, is amended by adding Section 86.186 to read as follows:

Sec. 86.186. RESTRICTIONS ON RELEASE OF GAS IN AIR: GAS WELLS IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a gas well located in a county that:

(1) has a population of more than 1.4 million; and

(2) is located wholly or partly above a hydrocarbon-producing geological formation in which during 2008 the commission issued more than 1,000 drilling permits authorizing wells to be completed.

(b) After fracturing or refracturing a gas well that the operator anticipates completing or recompleting, the operator shall employ appropriate processes to minimize the release into the air of gas and associated vapors from the well.

(c) The operator of a gas well shall:

(1) deliver all salable gas to a sales line as soon as the pressure of the gas at the wellhead is sufficient to permit the gas to flow into the line; or

(2) shut in the well and conserve the gas.

(d) The operator of a gas well that has access to a sales line shall employ means or methods that minimize the release into the air of gas and associated vapors from the well when gas from the well is permitted to flow during the completion or recompletion of the well, except that the commission may authorize the release if the operator of the well or of another facility presents information to the commission showing the necessity for the release. The amount of gas flared or vented under the commission's authority shall be charged to the operator's allowable production. A necessity includes the following situations:

(1) to avoid endangering the safety of persons performing work on the well or of the public;

(2) to comply with an oil or gas lease entered into before September 1, 2009;

(3) to repair or modify a gas-gathering system;

(4) the composition of the gas does not meet the minimum quality standards of the gatherer of the gas;

(5) the pressure of the gas at the wellhead is insufficient to permit the gas to flow into the sales line or another circumstance occurs that is beyond the control of the operator of the well; or

(6) other circumstances or conditions determined by the commission to be relevant to the goal of preventing waste or protecting the public interest.

(e) The commission shall adopt rules to implement this section. Rules adopted under this subsection:

(1) must require an operator to provide a statement on a form prescribed by the commission evidencing compliance with this section;

(2) must prescribe a procedure for obtaining commission authorization of the release into the air of gas and associated vapors from a gas well; and

(3) may limit the period for which gas and associated vapors from a gas well may be released into the air with commission authorization.

(f) The municipality in which a gas well is located may monitor the operator's compliance with this section. A municipality may adopt an ordinance to implement this subsection.

SECTION _____. Subsection (a), Section 86.012, Natural Resources Code, is amended to read as follows:

(a) The term "waste" includes:

(1) the operation of an oil well or wells with an inefficient gas-oil ratio;

(2) the drowning with water of a stratum or part of a stratum capable of producing gas in paying quantities;

(3) permitting a gas well to burn wastefully;

(4) the creation of unnecessary fire hazards;

(5) physical waste or loss incident to or resulting from so drilling, equipping, or operating a well or wells as to reduce or tend to reduce the ultimate recovery of gas from any pool;

(6) the escape of gas from a well producing both oil and gas into the open air in excess of the amount that is necessary in the efficient drilling or operation of the well;

(7) the production of gas in excess of transportation or market facilities or reasonable market demand for the type of gas produced;

(8) the use of gas for the manufacture of carbon black without first having extracted the natural gasoline content from the gas, except it shall not be necessary to first extract the natural gasoline content from the gas where it is utilized in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet of gas;

(9) the use of sweet gas produced from a gas well for the manufacture of carbon black unless it is used in a plant producing an average recovery of not less than five pounds of carbon black to each 1,000 cubic feet and unless the sweet gas is produced from a well located in a common reservoir producing both sweet and sour gas;

(10) permitting gas produced from a gas well to escape into the air before or after the gas has been processed for its gasoline content, unless authorized as provided in Section 86.185 or 86.186 ~~[of this code]~~;

(11) the production of natural gas from a well producing oil from a stratum other than that in which the oil is found unless the gas is produced in a separate string of casing from that in which the oil is produced;

(12) the production of more than 100,000 cubic feet of gas to each barrel of crude petroleum oil unless the gas is put to one or more of the uses authorized for the type of gas so produced under allocations made by the commission or unless authorized as provided in Section 86.185 or 86.186 ~~[of this code]~~; and

(13) underground waste or loss however caused and whether or not defined in other subdivisions of this section.

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

The amendment to **HB 1796** was read and was adopted by a viva voce vote.

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

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 1796** by adding the following sections to the bill, numbered appropriately, and by renumbering any subsequent sections of the bill accordingly:

SECTION _____. Section 382.003(1-a), Health and Safety Code, is amended to read as follows:

(1-a) "Advanced clean energy project" means a project for which an application for a permit or for an authorization to use a standard 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, whether the project is implemented in connection with the construction of a new facility or in connection with the modification of an existing facility and whether the project involves the entire emissions stream from the facility or only a portion of the emissions stream from the facility;

(B) with regard to the portion of the emissions stream from the facility that is associated with the project, is capable of achieving;

(i) on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions or, if the project is designed for the use of feedstock substantially all of which is subbituminous coal, an emission rate of 0.04 pounds or less of sulfur dioxide per million British thermal units as determined by a 30-day average;

(ii) on an annual basis[;] a 95 percent or greater reduction of mercury emissions;

(iii) [~~and~~] an annual average emission rate for nitrogen oxides of

(a) 0.05 pounds or less per million British thermal units; or

(b) if the project uses gasification technology, 0.034 pounds or less per million British thermal units; and

(iv) an annual average emission rate for filterable particulate matter of 0.015 pounds or less per million British thermal units; and

(C) captures not less than 50 percent of the [~~renders~~] carbon dioxide in the portion of the emissions stream from the facility that is associated with the project and sequesters that captured carbon dioxide by geologic storage or other means [~~capable of capture, sequestration, or abatement if any carbon dioxide is produced by the project~~].

SECTION _____. Section 382.0567(b), Health and Safety Code, is amended to read as follows:

(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 or new technology project, as described by Section 391.002.

SECTION _____. Section 386.051(b), Health and Safety Code, is amended to read as follows:

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

(1) the diesel emissions reduction incentive program established under Subchapter C, including for infrastructure projects established under that subchapter;

(2) the motor vehicle purchase or lease incentive program established under Subchapter D;

(3) the new technology research and development program established under Chapter 387; [~~and~~]

(4) the clean school bus program established under Chapter 390; and

(5) the new technology implementation grant program established under Chapter 391.

SECTION _____. Section 386.052(b), Health and Safety Code, is amended to read as follows:

(b) Appropriate commission objectives include:

(1) achieving maximum reductions in oxides of nitrogen to demonstrate compliance with the state implementation plan;

(2) preventing areas of the state from being in violation of national ambient air quality standards;

(3) achieving cost-saving and multiple benefits by reducing emissions of other pollutants; ~~and~~

(4) achieving reductions of emissions of diesel exhaust from school buses; and

(5) advancing new technologies that reduce oxides of nitrogen and other emissions from facilities and other stationary sources.

SECTION _____. Section 386.057(b), Health and Safety Code, is amended to read as follows:

(b) Not later than December 1, 2002, and not later than December 1 of each subsequent second year, the commission, in consultation with the advisory board, shall publish and submit to the legislature a biennial plan report. The report must include:

(1) the information included in the annual reviews conducted under Subsection (a);

(2) specific information for individual projects as required by Subsection (c);

(3) information contained in reports received under Sections 386.205, 388.003(e), ~~and~~ 388.006, and 391.104; and

(4) a summary of the commission's activities under Section 386.052.

SECTION _____. Section 386.251(c), Health and Safety Code, is amended to read as follows:

(c) The fund consists of:

(1) the amount of money deposited to the credit of the fund under:

(A) Section 386.056;

(B) Sections 151.0515 and 152.0215, Tax Code; and

(C) Sections 501.138, 502.1675, and 548.5055, Transportation Code;

and

(2) grant money recaptured under Section 386.111(d) and Chapter 391.

SECTION _____. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

CHAPTER 391. NEW TECHNOLOGY IMPLEMENTATION FOR FACILITIES AND STATIONARY SOURCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Best available control technology" has the meaning assigned by Section 169 of the federal Clean Air Act (42 U.S.C. Section 7479(3)).

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Facility" has the meaning assigned by Section 382.003.

(4) "Incremental cost" has the meaning assigned by Section 386.001.

(5) "New technology" means emissions control technology that results in emissions reductions that exceed state or federal requirements in effect at the time of submission of a new technology implementation grant application.

(6) "Stationary source" has the meaning assigned by Section 302 of the federal Clean Air Act (42 U.S.C. Section 7602(z)).

Sec. 391.002. GRANT PROGRAM. (a) The commission shall establish and administer a new technology implementation grant program to assist the implementation of new technologies to reduce emissions from facilities and other stationary sources in this state. Under the program, the commission shall provide grants or other financial incentives for eligible projects to offset the incremental cost of emissions reductions.

(b) Projects that may be considered for a grant under the program include:

(1) advanced clean energy projects, as defined by Section 382.003;

(2) new technology projects that reduce emissions of regulated pollutants from point sources and involve capital expenditures that exceed \$500 million; and

(3) electricity storage projects related to renewable energy.

Sec. 391.003. GUIDELINES AND CRITERIA. (a) The commission shall adopt grant guidelines and criteria consistent with the requirements of this chapter.

(b) The guidelines must include:

(1) protocols to compute projected emissions reductions and project cost-effectiveness; and

(2) safeguards to ensure that the projects funded result in emissions reductions not otherwise required by state or federal law.

(c) The commission may propose revisions to the guidelines and criteria adopted under this section as necessary to improve the ability of the program to achieve the program goals.

(d) The commission may adopt emergency rules under Section 2001.034, Government Code, with abbreviated notice, to carry out any rulemaking necessary to implement this chapter.

(e) Except as provided by Subsection (d), the rulemaking requirements of Chapter 2001, Government Code, do not apply to the adoption or revision of guidelines and criteria under this section.

Sec. 391.004. AVAILABILITY OF EMISSIONS REDUCTION CREDITS IN CERTAIN NONATTAINMENT AREAS. A project funded under this chapter must comply with Sections 386.055 and 386.056, as applicable.

[Sections 391.005-391.100 reserved for expansion]

SUBCHAPTER B. GRANT APPLICATIONS AND REVIEW

Sec. 391.101. APPLICATION FOR GRANT. (a) The owner of a facility located in this state may apply for a grant under the program established under Section 391.002. To improve the ability of the program to achieve the program goals, the commission may adopt guidelines to allow a person other than the owner to apply for and receive a grant.

(b) An application for a grant under this chapter must be made on a form provided by the commission and must contain information required by the commission, including:

(1) a detailed description of the proposed project;

(2) information necessary for the commission to determine whether the project meets the commission's eligibility requirements, including a statement of the amounts of any other public financial assistance the project will receive; and

(3) other information the commission may require.

(c) An application for a grant under this chapter must contain a plan for implementation of a program that will provide project information and education to the public in the areas subject to public notice under federal and state permitting requirements for the proposed project until completion of the permitting process. The plan must provide for a publicly accessible informational Internet website.

Sec. 391.102. GRANT APPLICATION REVIEW PROCEDURES. (a) The commission shall review an application for a grant for a project authorized under this chapter according to dates specified in a request for grant applications. If the commission determines that an application is incomplete, the commission shall notify the applicant and provide an explanation of the information missing from the application. The commission shall evaluate the completed application according to the guidelines and criteria adopted under Section 391.003.

(b) To the extent possible, the commission shall coordinate project review and approval with any timing constraints related to project purchases or installations to be made by an applicant.

(c) The commission may deny a grant application for a project that does not meet the applicable criteria or that the commission determines is not made in good faith, is not credible, or is not in compliance with this chapter or the goals of this chapter.

(d) Subject to the availability of funding, the commission shall award a grant under this chapter in conjunction with the execution of a contract that obligates the commission to make the grant and the recipient to perform the actions described by the recipient's grant application. Subject to Section 391.204, the contract must incorporate provisions for recapturing grant money for noncompliance with grant requirements. Grant money recaptured under the contract provisions shall be deposited in the Texas emissions reduction plan fund and reallocated for other projects under this subchapter.

(e) An applicant may seek reimbursement for qualifying equipment installed after the effective date of this program.

(f) In coordinating interagency application review procedures, the commission shall:

(1) solicit review and comments from:

(A) the comptroller to assess:

(i) the financial stability of the applicant;

(ii) the economic benefits and job creation potential associated with

the project; and

(iii) any other information related to the duties of that office;

(B) the Public Utility Commission of Texas to assess:

(i) the reliability of the proposed technology;

(ii) the feasibility and cost-effectiveness of electric transmission associated with the project; and

(iii) any other information related to the duties of that agency; and

(C) the Railroad Commission of Texas to assess:

(i) the availability and cost of the fuel involved with the project; and

(ii) any other information related to the duties of that agency;

(2) consider the comments received under Subdivision (1) in the commission's grant award decision process; and

(3) as part of the report required by Section 391.104, justify awards made to projects that have been negatively reviewed by agencies under Subdivision (1).

(g) The commission may solicit review and comments from other state agencies or other entities with subject matter expertise applicable to the review of a grant application.

Sec. 391.103. EVIDENCE OF EMISSIONS REDUCTION POTENTIAL REQUIRED. (a) An application for a new technology implementation grant under this chapter must show reasonable evidence that the proposed technology is capable of providing a significant reduction in emissions.

(b) The commission shall consider specifically, for each proposed new technology implementation grant application:

(1) the projected potential for reduced emissions and the cost-effectiveness of the new technology;

(2) the potential for the new technology to contribute significantly to air quality goals; and

(3) the strength of the implementation plan.

Sec. 391.104. REPORTING REQUIREMENTS. The commission annually shall prepare a report that summarizes the applications received and grants awarded in the preceding year. Preparation of the report must include the participation of the state agencies involved in the review of applications under Section 391.102.

[Sections 391.105-391.200 reserved for expansion]

SUBCHAPTER C. PROJECT REQUIREMENTS

Sec. 391.201. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The commission shall establish criteria for prioritizing projects eligible to receive grants under this chapter. The commission shall review and may modify the criteria and priorities as appropriate.

(b) A proposed project must meet the requirements of this section to be eligible for a grant under the program established under Section 391.002.

(c) Each proposed project must meet the cost-effectiveness requirements established by the commission.

(d) A new technology implementation project must document, in a manner acceptable to the commission, an achieved reduction from the baseline emissions adopted by the commission for the relevant facility or stationary source. After studying available emissions reduction technologies, the commission may impose a required minimum percentage reduction of emissions to improve the ability of the program to achieve the program goals.

(e) If a baseline emissions standard does not exist for a facility, the commission, for purposes of this subchapter, shall adopt an appropriate baseline emissions level for comparison purposes.

(f) Planned water usage for proposed projects must be consistent with the state water plan.

Sec. 391.202. EVALUATING COST-EFFECTIVENESS. The commission shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with accepted methods.

Sec. 391.203. DETERMINATION OF GRANT AMOUNT. (a) The commission may not award a grant that, net of taxes, provides an amount that exceeds the incremental cost of the proposed project.

(b) In determining the amount of a grant under this subchapter, the commission shall reduce the incremental cost of a proposed project by the value of any existing financial incentive that directly reduces the cost of the proposed project, including tax credits or deductions, other grants, or any other public financial assistance.

Sec. 391.204. COST SHARING; RECAPTURING GRANT. (a) The commission shall require an applicant to bear at least 50 percent of the costs of implementing a project funded under this chapter.

(b) The commission may not require repayment of grant money, except that the commission must require provisions for recapturing grant money for noncompliance with grant requirements.

Sec. 391.205. PREFERENCES. (a) Except as provided by Subsection (c), in awarding grants under this chapter the commission shall give preference to projects that:

- (1) use natural resources originating or produced in this state;
- (2) contain an energy efficiency component; or
- (3) include the use of solar, wind, or other renewable energy sources.

(b) Projects that include more than one of the criteria described by Subsection (a) shall be given a greater preference in the award of grants under this chapter.

(c) The commission may give preference under Subsection (a) only if the cost-effectiveness and emission performance of the project are comparable to those of a project not claiming a preference described by that subsection.

[Sections 391.206-391.300 reserved for expansion]

SUBCHAPTER D. FUNDING; EXPIRATION

Sec. 391.301. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter must use the grant to pay the incremental costs of the purchase and installation of the project for which the grant is made, which may include reasonable and necessary expenses for the labor needed to install emissions-reducing equipment. The recipient may not use the grant for the costs of operating and maintaining the emissions-reducing equipment.

Sec. 391.302. COMPTROLLER REVIEW OF USE OF GRANT FUNDS. (a) The comptroller annually shall conduct a review of each recipient of a new technology implementation grant under this chapter to ensure that the recipient's use of the grant complies with state law and the terms of the award.

(b) To assist with a review under this section, the commission shall provide the comptroller with all monitoring reports received from grant recipients and any other documentation requested by the comptroller.

(c) On a finding of any misuse of grant money or other noncompliance with grant requirements, the comptroller shall provide a report to the commission with recommendations for subsequent action, including the recapture of money misused.

(d) A finding of any misuse of grant money by a recipient of a grant under this chapter results in a debt owed to the state, and the comptroller may withhold warrants and electronic funds transfers to the recipient in accordance with Section 403.055, Government Code.

(e) The comptroller may contract with another state agency, an institution of higher education, or a private entity to conduct a review under this section or to assist the comptroller in conducting any part of the review.

(f) The comptroller may adopt rules to implement this section.

Sec. 391.303. TIME OF USE OF GRANT FUNDING. Money appropriated for grants to be made by the commission under this chapter for a fiscal year may be distributed in subsequent fiscal years if the grant has been awarded and treated as a binding encumbrance by the commission before the end of the appropriation year of the money appropriated for grant purposes. Distribution of the grant money is subject to Section 403.071, Government Code.

Sec. 391.304. EXPIRATION. This chapter expires August 31, 2019.

SECTION ____. Section 403.071(b), Government Code, is amended to read as follows:

(b) A claim may not be paid from an appropriation unless the claim is presented to the comptroller for payment not later than two years after the end of the fiscal year for which the appropriation was made. However, a claim may be presented not later than four years after the end of the fiscal year for which the appropriation from which the claim is to be paid was made if the appropriation relates to new construction contracts, to grants awarded under Chapter 391, Health and Safety Code, or to repair and remodeling projects that exceed the amount of \$20,000, including furniture and other equipment, architects' and engineering fees, and other costs related to the contracts or projects.

SECTION ____. Section 382.0622(a), Health and Safety Code, is amended to read as follows:

(a) Clean Air Act fees consist of:

(1) fees collected by the commission under Sections 382.062, 382.0621, 382.202, and 382.302 and as otherwise provided by law; ~~and~~

(2) \$2 of each advance payment collected by the Department of Public Safety for inspection certificates for vehicles other than mopeds under Section 548.501, Transportation Code; and

(3) fees collected that are required under Section 185 of the federal Clean Air Act (42 U.S.C. Section 7511d).

SECTION ____. Section 382.210(d), Health and Safety Code, is amended to read as follows:

(d) A participating county shall provide an electronic means for distributing vehicle repair or replacement funds once all program criteria have been met with regard to the repair or replacement. The county shall ensure that funds are transferred to a participating dealer under this section not later than the 10th ~~five~~ business day ~~days~~ after the date the county receives proof of the sale and any required administrative documents from the participating dealer.

SECTION ____. Sections 382.220(c) and (d), Health and Safety Code, are amended to read as follows:

(c) Money that is made available for the implementation of a program under Subsection (b) may not be expended for local government fleet or vehicle acquisition or replacement, call center management, application oversight, invoice analysis, education, outreach, or advertising purposes.

(d) Fees collected under Sections 382.202 and 382.302 may be used, in an amount not to exceed \$5 million per fiscal year, for projects described by Subsection (b). The fees shall be made available only to counties participating in the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs created under Section 382.209 and only on a matching basis, whereby the commission provides money to a county in the same amount that the county dedicates to a project authorized by Subsection (b). The commission may reduce the match requirement for a county that proposes to develop and implement independent test facility fraud detection programs, including the use of remote sensing technology for coordinating with law enforcement officials to detect, prevent, and prosecute the use of counterfeit state inspection stickers.

SECTION _____. Section 386.001, Health and Safety Code, is amended by adding Subdivision (10-a) to read as follows:

(10-a) "Stationary engine" means a machine used in a nonmobile application that converts fuel into mechanical motion, including turbines and other internal combustion devices.

SECTION _____. Section 386.002, Health and Safety Code, is amended to read as follows:

Sec. 386.002. EXPIRATION. This chapter expires August 31, 2019 [2013].

SECTION _____. Section 386.104(c), Health and Safety Code, is amended to read as follows:

(c) For a proposed project as described by Section 386.102(b), other than a project involving a marine vessel or engine, not less than 75 percent of vehicle miles traveled or hours of operation projected for the five years immediately following the award of a grant must be projected to take place in a nonattainment area or affected county of this state. The commission may also allow vehicle travel on highways and roadways, or portions of a highway or roadway, designated by the commission and located outside a nonattainment area or affected county to count towards the percentage of use requirement in this subsection. For a proposed project involving a marine vessel or engine, the vessel or engine must be operated in the intercoastal waterways or bays adjacent to a nonattainment area or affected county of this state for a sufficient amount of time over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section 386.105. For a proposed project involving non-road equipment used for natural gas recovery purposes, the equipment must be operated in a nonattainment area or affected county for a sufficient amount of use over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section 386.105.

SECTION _____. Section 390.006, Health and Safety Code, is amended to read as follows:

Sec. 390.006. EXPIRATION. This chapter expires August 31, 2019 [2013].

SECTION _____. Section 151.0515(d), Tax Code, is amended to read as follows:

(d) This section expires August 31, 2019 [2013].

SECTION _____. Section 152.0215(c), Tax Code, is amended to read as follows:

(c) This section expires August 31, 2019 [2013].

SECTION _____. Section 501.138(b-3), Transportation Code, is amended to read as follows:

(b-3) This subsection and Subsection (b-2) expire August 31, 2019 ~~[September 1, 2015]~~.

SECTION _____. Section 502.1675(c), Transportation Code, is amended to read as follows:

(c) This section expires August 31, 2019 ~~[2013]~~.

SECTION _____. Section 548.5055(c), Transportation Code, is amended to read as follows:

(c) This section expires August 31, 2019 ~~[2013]~~.

SECTION _____. Sections 386.252(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Money in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which:

(A) not more than four percent may be used for the clean school bus program;

(B) ~~and~~ not more than 10 percent may be used for on-road diesel purchase or lease incentives; and

(C) a specified amount may be used for the new technology implementation grant program, from which a defined amount may be set aside for electricity storage projects related to renewable energy;

(2) for the new technology research and development program, nine ~~[9.5]~~ percent of the money in the fund, of which:

(A) up to ~~[\$250,000 is allocated for administration, up to]~~ \$200,000 is allocated for a health effects study;

(B) ~~[5]~~ \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties;

(C) ~~[5]~~ not less than 20 percent is to be allocated each year to support research related to air quality as provided by Section 387.010; ~~[for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan,] and~~

(D) the balance is ~~[to be]~~ allocated each year to the commission ~~[a nonprofit organization or an institution of higher education based in Houston]~~ to be used to:

(i) implement and administer the new technology research and development program ~~[under a contract with the commission]~~ for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification; and

(ii) contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station for \$216,000 annually for the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan; and

(3) two percent is allocated to the commission and 1.5 percent is allocated to the laboratory for administrative costs incurred by the commission and the laboratory~~[- three percent of the money in the fund].~~

(b) The ~~[Up to 25 percent of the]~~ money allocated under Subsection (a) to a particular program ~~[and not expended under that program by January 1 of the second fiscal year of a fiscal biennium]~~ may be used for another program under the plan as determined by the commission ~~[in consultation with the advisory board].~~

SECTION _____. Section 387.003, Health and Safety Code, is amended to read as follows:

Sec. 387.003. NEW TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM. (a) The commission ~~[A nonprofit organization or institution of higher education described by Section 386.252(a)(2), under a contract with the commission as described by that section,]~~ shall establish and administer a new technology research and development program as provided by this chapter. The commission may contract with one or more well-qualified nonprofit organizations or institutions of higher education for administration of this program ~~[than one entity and may limit the amount of each grant contract accordingly].~~

(b) Under the program, the commission shall provide grants ~~[to be used]~~ to support development of emissions-reducing technologies that may be used for projects eligible for awards under Chapters ~~[Chapter]~~ 386 and 391 and other new technologies that show promise for commercialization. The primary objective of this chapter is to promote the development of commercialization technologies to reduce emissions of oxides of nitrogen in nonattainment areas designated in this state ~~[that will support projects that may be funded under Chapter 386 and this chapter, including advanced technologies such as fuel cells, catalysts, and fuel additives].~~

(c) If the commission contracts with one or more [The board of directors of a] nonprofit organizations to ~~[organization under contract with the commission to establish and]~~ administer a new technology research and development program under ~~[as provided by]~~ this chapter, the board of directors of each organization may not have more than 11 members, must include two persons of relevant scientific expertise to be nominated by the commission, and may not include more than four county judges ~~[selected from counties in the Houston Galveston Brazoria and Dallas Fort Worth nonattainment areas]~~. The two persons of relevant scientific expertise to be nominated by the commission may be employees or officers of the commission, provided that they do not participate in funding decisions affecting the granting of funds by the commission to a nonprofit organization on whose board they serve.

(d) ~~[The commission may enter into a grant contract with an institution of higher education described by Section 386.252(a)(2) for the institution to operate a testing facility which would be available for demonstration of eligible projects receiving grants under this chapter.]~~

~~[(e)]~~ The commission shall provide oversight as appropriate for grants provided to a nonprofit organization or an institution of higher education under this program.

~~(e)~~ ~~[(f)]~~ A nonprofit organization or an institution of higher education shall submit to the commission for approval a budget for the disposition of funds granted under this program.

~~(f)~~ ~~[(g)]~~ The commission shall limit the use of grants for administrative costs incurred by a nonprofit organization or an institution of higher education to an amount not to exceed 10 percent of the total program funding ~~[provided to the nonprofit organization under this program]~~.

~~(g)~~ ~~[(h)]~~ A nonprofit organization that receives grants from the commission under this program is subject to Chapters 551 and 552, Government Code.

SECTION _____. Section 387.004, Health and Safety Code, is amended to read as follows:

Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY PROPOSALS. The commission from time to time shall issue or contract with a nonprofit organization or an institution of higher education described by Section 387.003(a) ~~[386.252(a)(2)]~~ to issue specific requests for proposals (RFPs) or program opportunity notices (PONs) for technology projects to be funded under the program.

SECTION _____. Sections 387.005(a), (b), and (f), Health and Safety Code, are amended to read as follows:

(a) Grants awarded under this chapter shall be directed toward a balanced mix of:

(1) retrofit and add-on technologies and other advanced technologies that reduce emissions from the existing stock of engines and vehicles targeted by the Texas emissions reduction plan, provided that the technologies do not significantly reduce the fuel economy of those engines and vehicles;

~~(2) [the establishment of a testing facility to evaluate retrofits, add ons, advanced technologies, and fuels, or combinations of retrofits, add ons, advanced technologies, and fuels, to determine their effectiveness in producing emissions reductions, with emphasis on the reduction of oxides of nitrogen; and~~

~~[(3)]~~ advanced technologies for new engines and vehicles that produce very-low or zero emissions of oxides of nitrogen, including stationary and mobile fuel cells;

(3) advanced technologies for reducing oxides of nitrogen and other emissions from stationary sources; and

(4) field validation of innovative technologies that:

(A) reduce emissions of oxides of nitrogen and other emissions; and

(B) require demonstration of viability for full commercial acceptance.

(b) The commission, directly or through a nonprofit organization or an institution of higher education described by Section 387.003(a) ~~[386.252(a)(2)]~~, shall identify and evaluate and may consider making grants for technology projects that would allow qualifying fuels to be produced from energy resources in this state. In considering projects under this subsection, the commission shall give preference to projects involving otherwise unusable energy resources in this state and producing

qualifying fuels at prices lower than otherwise available and low enough to make the projects to be funded under the program economically attractive to local businesses in the area for which the project is proposed.

(f) Selection of grant recipients by a nonprofit organization or an institution of higher education described by Section 387.003(a) ~~[386.252(a)(2)]~~ under contract with the commission for the purpose of establishing and administering a new technology research and development program as provided by this chapter is subject to the commission's review and to the other requirements of this chapter. A grant contract under this chapter using funds described by Section 386.252 may not be made by a nonprofit organization or an institution of higher education if the commission or executive director of the commission does not consent to the grant or contract.

SECTION _____. Section 387.006, Health and Safety Code, is amended to read as follows:

Sec. 387.006. EVIDENCE OF COMMERCIALIZATION POTENTIAL REQUIRED. (a) An application for a technology grant under this chapter must show reasonable ~~[clear and compelling]~~ evidence that:

(1) the proposed technology project has a substantial ~~[strong]~~ commercialization plan and organization; and

(2) the technology proposed for funding~~[-~~
~~[(A)]~~ is likely to be offered for commercial sale in this state as soon as practicable ~~[but no later than five years]~~ after the date of the application for funding~~[-~~
~~and~~

~~[(B)] once commercialized, will offer opportunities for projects eligible for funding under Chapter 386].~~

(b) The commission shall consider specifically, for each proposed technology project application:

(1) the projected potential for reduced emissions of oxides of nitrogen and the cost-effectiveness of the technology once it has been commercialized, including the impact on fuel consumption and maintenance costs for retrofits and rebuilds;

(2) the potential for the technology to contribute significantly to air quality goals; and

(3) the strength of the commercialization plan.

SECTION _____. Chapter 387, Health and Safety Code, is amended by adding Section 387.010 to read as follows:

Sec. 387.010. AIR QUALITY RESEARCH. (a) The commission shall contract with a nonprofit organization or institution of higher education to establish and administer a program to support research related to air quality.

(b) The board of directors of a nonprofit organization establishing and administering the research program related to air quality under this section may not have more than 11 members, must include two persons with relevant scientific expertise to be nominated by the commission, and may not include more than four county judges selected from counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas. The two persons with relevant scientific expertise to be nominated by the commission may be employees or officers of the

commission, provided that they do not participate in funding decisions affecting the granting of funds by the commission to a nonprofit organization on whose board they serve.

(c) The commission shall provide oversight as appropriate for grants provided under the program established under this section.

(d) A nonprofit organization or institution of higher education shall submit to the commission for approval a budget for the disposition of funds granted under the program established under this section.

(e) A nonprofit organization or institution of higher education shall be reimbursed for costs incurred in establishing and administering the research program related to air quality under this section. Reimbursable administrative costs of a nonprofit organization or institution of higher education may not exceed 10 percent of the program budget.

(f) A nonprofit organization that receives grants from the commission under this section is subject to Chapters 551 and 552, Government Code.

SECTION _____. Chapter 382, Health and Safety Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. FEDERAL GREENHOUSE GAS REPORTING RULE

Sec. 382.501. DEVELOPMENT OF FEDERAL GREENHOUSE GAS REPORTING RULE. (a) The commission and the Railroad Commission of Texas, the Department of Agriculture, and the Public Utility Commission of Texas shall jointly participate in the federal government process for developing federal greenhouse gas reporting requirements and the federal greenhouse gas registry requirements.

(b) The commission shall adopt rules as necessary to comply with any federal greenhouse gas reporting requirements adopted by the federal government for private and public facilities eligible to participate in the federal greenhouse gas registry. In adopting the rules, the commission shall adopt and incorporate by reference rules implementing the federal reporting requirements and the federal registry.

Sec. 382.502. VOLUNTARY ACTIONS INVENTORY. The commission shall:

(1) establish an inventory of voluntary actions taken by businesses in this state or by state agencies since September 1, 2001, to reduce carbon dioxide emissions; and

(2) work with the United States Environmental Protection Agency to give credit for early action under any federal rules that may be adopted for federal greenhouse gas regulation.

The amendment to **HB 1796** was read and was adopted by a viva voce vote.

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

Floor Amendment No. 5 was not offered.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 1796** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. This act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory unless a specific appropriation has been made to implement the provision or it is determined by the agency that the provisions imposed by this act may be absorbed within agency resources during the fiscal period without additional state funding.

The amendment to **HB 1796** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

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

HB 1796 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1796 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1796** be placed on its third reading and final passage.

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

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

HOUSE BILL 4275 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4275** at this time on its second reading:

HB 4275, Relating to the application process and scoring for the low income housing tax credit program.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 4275** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 2306, Government Code, is amended by adding Subchapter OO to read as follows:

SUBCHAPTER OO. TEXAS SAVVY HOMEOWNER PROGRAM

Sec. 2306.2001. DEFINITION. In this subchapter, "program" means the Texas savvy homeowner program.

Sec. 2306.2002. ESTABLISHMENT OF PROGRAM. (a) The department shall, in coordination with the Texas State Affordable Housing Corporation, the Department of Savings and Mortgage Lending, the Office of Consumer Credit Commissioner, and local housing finance corporations, establish the Texas savvy homeowner program to make refinancing education and assistance available to all individuals residing in a home for which they have received mortgage loan, mortgage credit certificate, down payment, or other loan assistance from the department, the Texas State Affordable Housing Corporation, or a housing finance corporation, including assistance through mortgage revenue bonds or through the department's allocation of funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.).

(b) Except as provided by Subsection (c), participation in the program is voluntary.

(c) Participation in the program is mandatory for individuals receiving mortgage loan, mortgage credit certificate, down payment, or other loan assistance from the department, the Texas State Affordable Housing Corporation, or a housing finance corporation on or after December 1, 2009. Any assistance described by this subsection that is issued on or after that date shall be provided to the individual with information concerning:

- (1) the requirements and procedures of the program; and
- (2) the contact information of the program administrator.

Sec. 2306.2003. PROGRAM DEVELOPMENT AND ADMINISTRATION. (a) The department shall, in coordination with the Texas State Affordable Housing Corporation, the Department of Savings and Mortgage Lending, the Office of Consumer Credit Commissioner, and housing finance corporations, develop:

- (1) best practices for home refinancing; and
- (2) a curriculum for the provision of individualized counseling to program

participants that includes information concerning:

- (A) mortgage refinancing options;
- (B) home equity practices;
- (C) predatory lending practices; and
- (D) a comparison of any refinancing terms being offered to the

individual and refinancing terms otherwise available to the individual.

(b) The department shall:

- (1) administer the program directly; or
- (2) prepare and issue a request for proposal and enter into a contract providing for the administration of the program by a nonprofit corporation that:

(A) is a housing counselor certified by the United States Department of Housing and Urban Development or the department; and

(B) complies with any requirements imposed on the program administrator in relation to the best practices and curriculum developed by the department under Subsection (a).

(c) If the department does not administer the program, the program administrator shall submit quarterly reports to the department detailing the counseling services provided and whether the counseling recipients obtained refinancing.

Sec. 2306.2004. MODIFICATION OF LOAN TERMS. (a) As a condition of receiving mortgage loan, mortgage credit certificate, down payment, or other loan assistance from the department, the Texas State Affordable Housing Corporation, or a local housing finance corporation, a program participant must agree to notify the program administrator in writing of any intent to modify the terms of any loan secured by the home in which the participant resides. The notice must be provided not later than the 60th day before the date the loan terms are modified.

(b) On receipt of notice under Subsection (a), the program administrator shall:

(1) contact the loan recipient not later than the 30th day after the date of receipt of the notice; and

(2) on the phone or in person, provide the loan recipient with an individualized counseling session based on the curriculum developed by the department under Section 2306.2003(a).

Sec. 2306.2005. RULES. The department may adopt rules necessary to implement this subchapter.

SECTION _____. The Texas Department of Housing and Community Affairs shall adopt any rules required by Subchapter OO, Chapter 2306, Government Code, as added by this Act, not later than December 1, 2009.

The amendment to **HB 4275** was read and was adopted by a viva voce vote.

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

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 4275** (Senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2306.6710(b), Government Code, is amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) the commitment of development funding by local political subdivisions;

(F) ~~[the level of community support for the application, evaluated on the basis of written statements from the state representative or the state senator that represents the district containing the proposed development site;~~

~~[(G)]~~ the rent levels of the units;

~~[(H)]~~ the cost of the development by square foot;

~~[(I)]~~ the services to be provided to tenants of the development; and

~~[(J)]~~ whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014;

(2) uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement; and

(3) encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested.

SECTION _____. Sections 2306.6710(f) and 2306.6718(b), Government Code, are repealed.

The amendment to **HB 4275** was read and was adopted by the following vote: Yeas 25, Nays 6.

Yeas: Averitt, Carona, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Shapiro, Van de Putte, Watson, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Davis, Deuell, Seliger, Shapleigh, Uresti, West.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 4275** (Senate committee printing) by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION _____. Chapter 171, Tax Code, is amended by adding Subchapter J-1 to read as follows:

SUBCHAPTER J-1. CREDIT FOR BUSINESS DEVELOPMENT IN LOW-INCOME COMMUNITIES

Sec. 171.521. DEFINITIONS. In this subchapter:

(1) "Credit allowance date" means with respect to any qualified equity investment:

(A) the date on which the investment is initially made; and

(B) each of the six anniversary dates of that date.

(2) "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features before its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the sum of the cash interest payments and the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code of 1986, as amended, of the qualified community development entity for that period. This subdivision does not limit the holder's ability to accelerate payments on the debt instrument in situations in which the qualified community development entity has defaulted on covenants designed to ensure compliance with this subchapter or Section 45D, Internal Revenue Code of 1986, as amended.

(3) "Purchase price" means the amount of cash paid to a qualified community development entity that issues a qualified equity investment for the qualified equity investment.

(4) "Qualified active low-income community business" has the meaning assigned by Section 45D(d)(2), Internal Revenue Code of 1986, as amended. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or loan.

(5) "Qualified community development entity" has the meaning assigned by Section 45D(c), Internal Revenue Code of 1986, as amended, provided that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by Section 45D, Internal Revenue Code of 1986, as amended, that includes this state within the service area provided in the allocation agreement.

(6) "Qualified equity investment" means:

(A) any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(i) is acquired after September 1, 2009, at its original issuance solely in exchange for cash;

(ii) has at least 85 percent of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date; and

(iii) is designated by the issuer as a qualified equity investment under this subdivision and is certified by the comptroller as not exceeding the limitation contained in Section 171.522(a); and

(B) any qualified equity investment that does not meet the requirements of Paragraph (A) if the investment was a qualified equity investment in the hands of a prior holder.

(7) "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after September 1, 2009.

Sec. 171.522. TOTAL AMOUNT OF CREDITS THAT MAY BE CLAIMED.

(a) Notwithstanding any other provision of this subchapter, the total amount of tax credits that may be claimed by all entities under both this subchapter and Chapter 231, Insurance Code, in a state fiscal year may not exceed \$40 million, not including any carryforward amounts authorized by Section 171.526 or by Section 231.006, Insurance Code.

(b) The comptroller by rule shall prescribe procedures by which the comptroller may allocate credits under this subchapter and Chapter 231, Insurance Code.

Sec. 171.523. QUALIFICATION FOR CREDIT. (a) A taxable entity qualifies for and is entitled to a credit under this subchapter on a report if the taxable entity purchases a qualified equity investment from a qualified community development entity and holds the qualified equity investment on a credit allowance date that occurs during the period on which the report is based.

(b) A taxable entity described by Subsection (a) may claim a credit under this subchapter for not more than seven consecutive reports beginning with the report based on the period during which the taxable entity first holds the investment on a credit allowance date.

Sec. 171.524. MAXIMUM INVESTMENT PER QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments that may be made in the business, on a collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under this subchapter, is \$20 million whether made by one or several qualified community development entities.

Sec. 171.525. AMOUNT OF ANNUAL CREDIT. (a) Except as otherwise provided by this subchapter, the amount of the tax credit a taxable entity may claim on a report is equal to:

(1) for each of the first two years for which the taxable entity may claim the credit, zero percent of the purchase price on the applicable credit allowance date;

(2) for the third year for which the taxable entity may claim the credit, seven percent of the purchase price on the applicable credit allowance date; and

(3) for the remaining four years for which the taxable entity may claim the credit, eight percent of the purchase price on the applicable credit allowance date.

(b) The total credit claimed under this subchapter for a report, including the amount of any carryforward credit under Section 171.526, may not exceed the amount of franchise tax due after any other applicable credits.

Sec. 171.526. CARRYFORWARD. (a) Notwithstanding the limitation provided by Section 171.522(a), if a taxable entity is eligible for a credit that exceeds the limitation under Section 171.525(b), the taxable entity may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the tax limitation under Section 171.525(b). A carryforward is added to the next year's credit in determining whether the limitation is met for that year. A credit carryforward from a previous report is considered to be used before the current year credit.

(c) A carryforward may not be added to any subsequent year's credit for the purpose of determining the limitation in Section 171.522(a).

Sec. 171.527. CERTIFICATION OF ELIGIBILITY. (a) For the initial and each succeeding report in which a credit is claimed under this subchapter, the taxable entity shall file with its report, on a form provided by the comptroller, information that sufficiently demonstrates that the taxable entity is eligible for the credit.

(b) The burden of establishing entitlement to and the value of the credit is on the taxable entity.

Sec. 171.528. ASSIGNMENT PROHIBITED. (a) A taxable entity may not convey, assign, or transfer the credit allowed under this subchapter to another entity unless all of the assets of the taxable entity, including the taxable entity's qualified equity investment to which the credit relates, are conveyed, assigned, or transferred in the same transaction.

(b) Notwithstanding Subsection (a), a tax credit earned by a partnership, limited liability company, S corporation, or other "pass-through" entity may be allocated to the partners, members, or shareholders of that entity and claimed under this subchapter in accordance with the provisions of any agreement among the partners, members, or shareholders.

Sec. 171.529. APPLICATION AND CERTIFICATION PROCEDURE. (a) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for tax credits shall apply to the comptroller. The qualified community development entity must submit an application on a form provided by the comptroller that includes:

(1) the entity's name, address, tax identification number, and evidence of its certification as a qualified community development entity;

(2) a copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund of the United States Treasury that includes this state in its service area;

(3) a certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund of the United States Department of the Treasury;

(4) a description of the proposed amount, structure, and purchaser of the equity investment or long-term debt security;

(5) the name and tax identification number of any entity eligible to claim tax credits as a result of the purchase of the qualified equity investment, if known;

(6) information regarding the proposed use of proceeds from the issuance of the qualified equity investment, if known; and

(7) an economic impact analysis from an economic expert of the potential qualified equity investment and the proposed use of the proceeds, which must include:

(A) an estimate of the amount of revenue to be generated to the state as a result of the qualified equity investment and the proposed use of the proceeds;

(B) an estimate of any secondary economic benefits to be generated as a result of the qualified equity investment and the proposed use of the proceeds; and

(C) any other information required by the comptroller to make the certification required by Subsection (c).

(b) The application must be accompanied by a nonrefundable application fee of \$5,000. The fee shall be paid to the comptroller and shall be required for each application submitted.

(c) Within 15 days after receipt of a completed application containing the information necessary for the comptroller to certify a potential qualified equity investment, including the payment of the application fee, the comptroller shall grant or deny the application in full or in part. The comptroller may not grant an application in full or in part until the comptroller, based on an evaluation of the economic impact analysis under Subsection (a)(7), certifies that the potential qualified equity investment and the proposed use of the proceeds will have a positive impact on state revenue. If the comptroller denies any part of the application, the comptroller shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the comptroller or otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new submission date.

(d) If the application is considered complete, the comptroller shall certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for tax credits under this section, subject to the limitations provided by this subchapter. The comptroller shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxable entities who are eligible to claim the credits, if known, and their respective credit amounts. If the names of the taxable entities identified as eligible to claim the credits change due to a transfer of a qualified equity investment under Section 171.528(a) or a change in an allocation under Section 171.528(b), the qualified community development entity shall notify the comptroller of the change.

(e) Within 30 days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified purchase price. The qualified community development entity must provide the comptroller with evidence of the receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment within 30 days following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the comptroller for certification. A certification that lapses reverts back to the comptroller and may be reissued only in accordance with the application process prescribed by this section.

(f) The comptroller shall certify qualified equity investments in the order applications are received by the comptroller. Applications received on the same day shall be considered to have been received simultaneously. For applications received on the same day and considered complete, the comptroller shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based on the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitations prescribed by Section 171.522(a), the comptroller shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(g) A qualified community development entity, on a collective basis with all of its affiliated entities listed in its allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury or subsidiaries of those entities, may not request certification for a qualified equity investment that would entitle the purchaser of the qualified equity investment to have allocated to the purchaser at any time more than 30 percent of the total value of the tax credits that may be claimed under this subchapter.

(h) Notwithstanding Subsection (g), a qualified community development entity, alone or on a collective basis with all of its affiliated entities listed in its allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury or subsidiaries of those entities, may request certification for a qualified equity investment that would entitle the purchaser of the qualified equity investment to have allocated to the purchaser at any time more than 30 percent of the total value of the tax credits that may be claimed under this subchapter if:

(1) it has been at least 180 days since the date the comptroller certified the qualified community development entity's most recent request under this subchapter;
or

(2) it has been less than 180 days since the date the comptroller certified the qualified community development entity's most recent request under this subchapter, and the entity demonstrates that the entity has invested substantially all of the purchase price of the qualified equity investments that have been previously certified under this subchapter.

Sec. 171.530. RECAPTURE OF CREDIT. (a) The comptroller may recapture a portion of a tax credit allowed under this subchapter if:

(1) any amount of federal tax credit that might be available with respect to the qualified equity investment that generated the tax credit under this subchapter is recaptured under Section 45D, Internal Revenue Code of 1986, as amended;

(2) the qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment that generated the tax credit before the final credit allowance date of the qualified equity investment; or

(3) the qualified community development entity fails to invest at least 85 percent of the purchase price of the qualified equity investment in qualified low-income community investments in qualified active low-income community businesses located in this state within 12 months of the issuance of the qualified

equity investment and maintain that level of investment in qualified low-income community investments in qualified active low-income community businesses located in this state until the last credit allowance date for the qualified equity investment.

(b) The qualified community development entity shall keep sufficiently detailed books and records with respect to the investments made with the proceeds of the qualified equity investments to allow the direct tracing of the proceeds into qualified low-income community investments in qualified active low-income community businesses in this state. For purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by the qualified community development entity even if the investment has been sold or repaid, provided that the qualified community development entity reinvests an amount equal to the capital returned to or recovered from the original investment, exclusive of any profits realized, in another qualified active low-income community business in this state within 12 months of the receipt of the capital. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the qualified equity investment's final credit allowance date.

(c) In a situation described by Subsection (a)(1), the comptroller's recapture shall be proportionate to the federal recapture with respect to the qualified equity investment. In a situation described by Subsection (a)(2), the comptroller's recapture shall be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

(d) The comptroller shall provide notice to the qualified community development entity of any proposed recapture of tax credits under this section. The entity shall have 90 days to cure any deficiency indicated in the comptroller's original recapture notice and avoid the recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the comptroller shall provide the entity and the taxpayer from whom the credit is to be recaptured with a final order of recapture. Any tax credit for which a final recapture order has been issued shall be recaptured by the comptroller from the taxpayer who claimed the tax credit on a tax return.

Sec. 171.531. EXPIRATION. (a) This subchapter expires December 31, 2013.

(b) The expiration of this subchapter does not affect a credit that was established under this subchapter due to the purchase of a qualified equity investment that was made before the date this subchapter expires. A taxable entity that has any unused credits established under this subchapter, including any carryforward credits, may continue to apply those credits on or with each consecutive report until the date the credit would have expired under this subchapter had this subchapter not expired, and this subchapter is continued in effect for the purposes of determining the amount of the credit the taxable entity may claim and the manner in which the taxable entity may claim the credit.

(b) Subtitle B, Title 3, Insurance Code, is amended by adding Chapter 231 to read as follows:

CHAPTER 231. CREDIT FOR BUSINESS DEVELOPMENT IN LOW-INCOME COMMUNITIES

Sec. 231.001. DEFINITIONS. In this chapter:

(1) "Credit allowance date" means, with respect to any qualified equity investment:

(A) the date on which the investment is initially made; and

(B) each of the six anniversary dates of that date.

(2) "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features before its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the sum of the cash interest payments and the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code of 1986, as amended, of the qualified community development entity for that period. This subdivision does not limit the holder's ability to accelerate payments on the debt instrument in situations in which the qualified community development entity has defaulted on covenants designed to ensure compliance with this chapter or Section 45D, Internal Revenue Code of 1986, as amended.

(3) "Purchase price" means the amount of cash paid to a qualified community development entity that issues a qualified equity investment for the qualified equity investment.

(4) "Qualified active low-income community business" has the meaning assigned by Section 45D(d)(2), Internal Revenue Code of 1986, as amended. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or loan.

(5) "Qualified community development entity" has the meaning assigned by Section 45D(c), Internal Revenue Code of 1986, as amended, provided that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by Section 45D, Internal Revenue Code of 1986, as amended, that includes this state within the service area provided in the allocation agreement.

(6) "Qualified equity investment" means:

(A) any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(i) is acquired after September 1, 2009, at its original issuance solely in exchange for cash;

(ii) has at least 85 percent of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date; and

(iii) is designated by the issuer as a qualified equity investment under this subdivision and is certified by the comptroller as not exceeding the limitation contained in Section 231.002(a); and

(B) any qualified equity investment that does not meet the requirements of Paragraph (A) if the investment was a qualified equity investment in the hands of a prior holder.

(7) "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after September 1, 2009.

(8) "State premium tax liability" means any liability incurred by an entity under Chapters 221 through 226.

Sec. 231.002. TOTAL AMOUNT OF CREDITS THAT MAY BE CLAIMED.

(a) Notwithstanding any other provision of this chapter, the total amount of tax credits that may be claimed by all entities under both this chapter and Chapter 171, Tax Code, in a state fiscal year may not exceed \$40 million, not including any carryforward amounts authorized by Section 171.526, Tax Code, or by Section 231.006 of this code.

(b) The comptroller by rule shall prescribe procedures by which the comptroller may allocate credits under this chapter and Subchapter J-1, Chapter 171, Tax Code.

Sec. 231.003. QUALIFICATION FOR CREDIT. (a) An entity qualifies for and is entitled to a credit against the entity's state premium tax liability on a premium tax report filed under this subtitle if the entity purchases a qualified equity investment from a qualified community development entity and holds the qualified equity investment on a credit allowance date that occurs during the period on which the report is based.

(b) An entity described by Subsection (a) may claim a credit under this chapter for not more than seven consecutive reports beginning with the report based on the period during which the entity first holds the investment on a credit allowance date.

Sec. 231.004. MAXIMUM INVESTMENT PER QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments that may be made in the business, on a collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under this chapter, is \$20 million whether made by one or several qualified community development entities.

Sec. 231.005. AMOUNT OF ANNUAL CREDIT. (a) Except as otherwise provided by this chapter, the amount of the tax credit an entity may claim on a report is equal to:

(1) for each of the first two years for which the entity may claim the credit, zero percent of the purchase price on the applicable credit allowance date;

(2) for the third year for which the entity may claim the credit, seven percent of the purchase price on the applicable credit allowance date; and

(3) for the remaining four years for which the entity may claim the credit, eight percent of the purchase price on the applicable credit allowance date.

(b) The total credit claimed under this chapter for a report, including the amount of any carryforward credit under Section 231.006, may not exceed the amount of tax due after any other applicable credits.

Sec. 231.006. CARRYFORWARD. (a) Notwithstanding the limitation provided by Section 231.002(a), if an entity is eligible for a credit that exceeds the limitation under Section 231.005(b), the entity may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the tax limitation under Section 231.005(b). A carryforward is added to the next year's credit in determining whether the limitation is met for that year. A credit carryforward from a previous report is considered to be used before the current year credit.

(c) A carryforward may not be added to any subsequent year's credit for the purpose of determining the limitation in Section 231.002(a).

Sec. 231.007. CERTIFICATION OF ELIGIBILITY. (a) For the initial and each succeeding report in which a credit is claimed under this chapter, the entity shall file with its report, on a form provided by the comptroller, information that sufficiently demonstrates that the entity is eligible for the credit.

(b) The burden of establishing entitlement to and the value of the credit is on the entity.

Sec. 231.008. ASSIGNMENT PROHIBITED. (a) An entity may not convey, assign, or transfer the credit allowed under this chapter to another entity unless all of the assets of the entity, including the entity's qualified equity investment to which the credit relates, are conveyed, assigned, or transferred in the same transaction.

(b) Notwithstanding Subsection (a), a tax credit earned by a partnership, limited liability company, S corporation, or other "pass-through" entity may be allocated to the partners, members, or shareholders of that entity and claimed under this chapter in accordance with the provisions of any agreement among the partners, members, or shareholders.

Sec. 231.009. APPLICATION AND CERTIFICATION PROCEDURE. (a) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for tax credits shall apply to the comptroller. The qualified community development entity must submit an application on a form provided by the comptroller that includes:

(1) the entity's name, address, tax identification number, and evidence of its certification as a qualified community development entity;

(2) a copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund of the United States Department of the Treasury that includes this state in its service area;

(3) a certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund of the United States Treasury;

(4) a description of the proposed amount, structure, and purchaser of the equity investment or long-term debt security;

(5) the name and tax identification number of any entity eligible to claim tax credits earned as a result of the purchase of the qualified equity investment, if known;

(6) information regarding the proposed use of proceeds from the issuance of the qualified equity investment, if known; and

(7) an economic impact analysis from an economic expert of the potential qualified equity investment and the proposed use of the proceeds, which must include:

(A) an estimate of the amount of revenue to be generated to the state as a result of the qualified equity investment and the proposed use of the proceeds;

(B) an estimate of any secondary economic benefits to be generated as a result of the qualified equity investment and the proposed use of the proceeds; and

(C) any other information required by the comptroller to make the certification required by Subsection (c).

(b) The application must be accompanied by a nonrefundable application fee of \$5,000. The fee shall be paid to the comptroller and shall be required for each application submitted.

(c) Within 15 days after receipt of a completed application containing the information necessary for the comptroller to certify a potential qualified equity investment, including the payment of the application fee, the comptroller shall grant or deny the application in full or in part. The comptroller may not grant an application in full or in part until the comptroller, based on an evaluation of the economic impact analysis under Subsection (a)(7), certifies that the potential qualified equity investment and the proposed use of the proceeds will have a positive impact on state revenue. If the comptroller denies any part of the application, the comptroller shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the comptroller or otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new submission date.

(d) If the application is considered complete, the comptroller shall certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for tax credits under this chapter, subject to the limitations provided by this chapter. The comptroller shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those entities who are eligible to claim the credits, if known, and their respective credit amounts. If the names of the entities that are eligible to claim the credits change due to a transfer of a qualified equity investment under Section 231.008(a) or a change in an allocation under Section 231.008(b), the qualified community development entity shall notify the comptroller of the change.

(e) Within 30 days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified purchase price. The qualified community development entity must provide the comptroller with evidence of the receipt of the

cash investment within 10 business days after receipt. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment within 30 days following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the comptroller for certification. A certification that lapses reverts back to the comptroller and may be reissued only in accordance with the application process provided by this section.

(f) The comptroller shall certify qualified equity investments in the order applications are received by the comptroller. Applications received on the same day shall be considered to have been received simultaneously. For applications received on the same day and considered complete, the comptroller shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based on the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitations provided by Section 231.002(a), the comptroller shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(g) A qualified community development entity, on a collective basis with all of its affiliated entities listed in its allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury or subsidiaries of those entities, may not request certification for a qualified equity investment that would entitle the purchaser of the qualified equity investment to have allocated to the purchaser at any time more than 30 percent of the total value of the tax credits that may be claimed under this chapter.

(h) Notwithstanding Subsection (g), a qualified community development entity, alone or on a collective basis with all of its affiliated entities listed in its allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury or subsidiaries of those entities, may request certification for a qualified equity investment that would entitle the purchaser of the qualified equity investment to have allocated to the purchaser at any time more than 30 percent of the total value of the tax credits that may be claimed under this chapter if:

(1) it has been at least 180 days since the date the comptroller certified the qualified community development entity's most recent request under this chapter; or

(2) it has been less than 180 days since the date the comptroller certified the qualified community development entity's most recent request under this chapter, and the entity demonstrates that the entity has invested substantially all of the purchase price of the qualified equity investments that have been previously certified under this chapter.

Sec. 231.010. RECAPTURE OF CREDIT. (a) The comptroller may recapture a portion of a tax credit allowed under this chapter if:

(1) any amount of federal tax credit that might be available with respect to the qualified equity investment that generated the tax credit under this chapter is recaptured under Section 45D, Internal Revenue Code of 1986, as amended;

(2) the qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment that generated the tax credit before the final credit allowance date of such qualified equity investment; or

(3) the qualified community development entity fails to invest at least 85 percent of the purchase price of the qualified equity investment in qualified low-income community investments in qualified active low-income community businesses located in this state within 12 months of the issuance of the qualified equity investment and maintain that level of investment in qualified low-income community investments in qualified active low-income community businesses located in this state until the last credit allowance date for the qualified equity investment.

(b) The qualified community development entity shall keep sufficiently detailed books and records with respect to the investments made with the proceeds of the qualified equity investments to allow the direct tracing of the proceeds into qualified low-income community investments in qualified active low-income community businesses in this state. For purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by the qualified community development entity even if the investment has been sold or repaid, provided that the qualified community development entity reinvests an amount equal to the capital returned to or recovered from the original investment, exclusive of any profits realized, in another qualified active low-income community business in this state within 12 months of the receipt of the capital. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the qualified equity investment's final credit allowance date.

(c) In a situation described by Subsection (a)(1), the comptroller's recapture shall be proportionate to the federal recapture with respect to the qualified equity investment. In a situation described by Subsection (a)(2), the comptroller's recapture shall be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

(d) The comptroller shall provide notice to the qualified community development entity of any proposed recapture of tax credits under this section. The entity shall have 90 days to cure any deficiency indicated in the comptroller's original recapture notice and avoid the recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the comptroller shall provide the entity and the taxpayer from whom the credit is to be recaptured with a final order of recapture. Any tax credit for which a final recapture order has been issued shall be recaptured by the comptroller from the taxpayer who claimed the tax credit on a tax return.

Sec. 231.011. RETALIATORY TAX. An entity claiming a credit under this chapter is not required to pay any additional retaliatory tax levied under Chapter 281 as a result of claiming that credit.

Sec. 231.012. EXPIRATION. (a) This chapter expires December 31, 2013.

(b) The expiration of this chapter does not affect a credit that was established under this chapter due to the purchase of a qualified equity investment that was made before the date this chapter expires. An entity that has any unused credits established under this chapter, including any carryforward credits, may continue to apply those credits on or with each consecutive report until the date the credit would have expired under this chapter had this chapter not expired, and this chapter is continued in effect for the purposes of determining the amount of the credit the entity may claim and the manner in which the entity may claim the credit.

(c) This section applies only to a report originally due on or after the effective date of this section.

(d) A taxable entity or other entity may claim the credit under Subchapter J-1, Chapter 171, Tax Code, or Chapter 231, Insurance Code, as added by this section, only in relation to a qualified equity investment issued on or after the effective date of this section.

(e) Notwithstanding any other provision of this Act, this section takes effect January 1, 2010.

The amendment to **HB 4275** was read and was adopted by a viva voce vote.

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

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

(Senator Watson in Chair)

HB 4275 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 4275 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4275** be placed on its third reading and final passage.

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

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

HOUSE BILL 3676 ON THIRD READING

The Presiding Officer laid before the Senate **HB 3676** by Senator Seliger on its third reading. The bill had been read third time, amended, and further consideration postponed to a time certain of 10:35 p.m. today:

HB 3676, Relating to the Texas Economic Development Act.

Question — Shall **HB 3676** as amended be finally passed?

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

HB 3676 as again amended was finally passed by the following vote: Yeas 25, Nays 6.

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

Nays: Hinojosa, Ogden, Patrick, Shapleigh, Uresti, Van de Putte.

**COMMITTEE SUBSTITUTE
HOUSE BILL 498 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSHB 498** at this time on its second reading:

CSHB 498, Relating to the creation of a commission to investigate and prevent wrongful convictions.

The motion prevailed.

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

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 498** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. (a) An advisory panel is established to assist the Task Force on Indigent Defense established under Subchapter D, Chapter 71, Government Code, in conducting a study and preparing a report regarding the prevention of wrongful convictions as provided by this section.

(b) The advisory panel is composed of the following members:

- (1) the director of the Task Force on Indigent Defense;
- (2) the chair of the criminal justice committee of the senate or a member of the senate designated by the chair;
- (3) the chair of the jurisprudence committee of the senate or a member of the senate designated by the chair;
- (4) the chair of the criminal jurisprudence committee of the house of representatives or a member of the house of representatives designated by the chair;
- (5) the chair of the corrections committee of the house of representatives or a member of the house of representatives designated by the chair;
- (6) the executive director of the Texas Criminal Defense Lawyers Association or a representative designated by the executive director;
- (7) the president of the Texas District and County Attorneys Association or a representative designated by the president;
- (8) the presiding judge of the court of criminal appeals or a representative who is designated by the presiding judge and who is a judge of the court of criminal appeals;

(9) one representative of a public law school in this state, chosen by the deans of the public law schools in this state; and

(10) one employee of the office of the governor, appointed by the governor.

(c) The director of the Task Force on Indigent Defense is the presiding officer of the advisory panel. The advisory panel shall meet at the call of the presiding officer but not less than three times in person and as needed by telephone conference call.

(d) The Task Force on Indigent Defense, with the advice and assistance of the advisory panel, shall conduct a study regarding:

(1) the causes of wrongful convictions;

(2) procedures and programs that may be implemented to prevent future wrongful convictions;

(3) the effects of state law on wrongful convictions, as determined based on state statutes regarding eyewitness identification procedures, the recording of custodial interrogations, postconviction DNA testing, and writs of habeas corpus based on relevant scientific evidence; and

(4) whether the creation of an innocence commission to investigate wrongful convictions would be appropriate.

(e) The Task Force on Indigent Defense may request that an entity in the legislative, judicial, or executive branch of state government or a political subdivision provide to the advisory panel information related to the advisory panel's duties under this section. On the request of the Task Force on Indigent Defense under this subsection, an entity may provide information to the advisory panel unless the entity is otherwise prohibited from disclosing the information.

(f) Not later than January 1, 2011, the Task Force on Indigent Defense shall prepare a report regarding the results of the study conducted under this section and submit the report, after consulting with the advisory panel, to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with a representative serving on the advisory panel.

(g) This section expires October 1, 2011.

SECTION 2. This Act takes effect September 1, 2009.

The amendment to **CSHB 498** was read.

Senator Ellis offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSHB 498** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (b), Article 64.01, Code of Criminal Procedure, is amended to read as follows:

(b) The motion may request forensic DNA testing only of evidence described by Subsection (a) that was secured in relation to the offense that is the basis of the challenged conviction and was in the possession of the state during the trial of the offense, but:

(1) was not previously subjected to DNA testing[=

~~[(A) because DNA testing was~~

~~[(i) not available; or~~

~~[(ii) available, but not technologically capable of providing probative results; or~~

~~[(B) through no fault of the convicted person, for reasons that are of a nature such that the interests of justice require DNA testing]; or~~

(2) although previously subjected to DNA testing, can be subjected to testing with newer testing techniques that provide a reasonable likelihood of results that are more accurate and probative than the results of the previous test.

SECTION _____. Chapter 64, Code of Criminal Procedure, is amended by adding Article 64.035 to read as follows:

Art. 64.035. UNIDENTIFIED DNA PROFILES. On completion of the testing under Article 64.03, the convicting court shall order any unidentified DNA profile to be compared with the DNA profiles in the CODIS DNA database established by the Federal Bureau of Investigation.

SECTION _____. Article 64.04, Code of Criminal Procedure, is amended to read as follows:

Art. 64.04. FINDING. After examining the results of testing under Article 64.03 and any comparison of a DNA profile under Article 64.035, the convicting court shall hold a hearing and make a finding as to whether, had the results been available during the trial of the offense, it is reasonably probable that the person would not have been convicted.

SECTION _____. Articles 64.01(b) and 64.04, Code of Criminal Procedure, as amended by this Act, and Article 64.035, Code of Criminal Procedure, as added by this Act, apply to a motion for forensic DNA testing filed on or after the effective date of this Act. A motion for forensic DNA testing filed before the effective date of this Act is covered by the law in effect at the time the motion was filed, and the former law is continued in effect for that purpose.

The amendment to Floor Amendment No. 1 to **CSHB 498** was read and was adopted by a viva voce vote.

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

Nays: Nelson, Nichols, Patrick.

Senator Whitmire offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **CSHB 498** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 11, Code of Criminal Procedure, is amended by adding Article 11.073 to read as follows:

Art. 11.073. PROCEDURES RELATED TO CERTAIN SCIENTIFIC EVIDENCE. (a) This article applies to relevant scientific evidence that:

(1) was not offered by the convicted person at the convicted person's trial;

or

(2) discredits scientific evidence presented by the state at trial.

(b) For purposes of Section 4(a)(1), Article 11.07, Section 5(a)(1), Article 11.071, and Section 9(a), Article 11.072, a claim in a subsequent application could not have been presented previously in a timely initial application or in a previously considered application if the convicting court determines that the claim is based on relevant scientific evidence that was not ascertainable through the exercise of reasonable diligence by the convicted person before the date of trial.

(c) In determining whether relevant scientific evidence was not ascertainable through the exercise of reasonable diligence by the convicted person before the date of trial, the convicting court or, in a proceeding under Article 11.071, the Court of Criminal Appeals, shall consider whether the scientific knowledge or technique on which the relevant scientific evidence is based has changed, in a manner that is material to the person's conviction, in the period between the date of the convicted person's trial and the date of the subsequent application.

SECTION _____. The change in law made by this Act applies only to an application for a writ of habeas corpus filed on or after the effective date of this Act. An application for a writ of habeas corpus filed before the effective date of this Act is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

SECTION _____. This Act takes effect September 1, 2009.

The amendment to Floor Amendment No. 1 to **CSHB 498** was read and was adopted by a viva voce vote.

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

Nays: Nelson, Nichols, Patrick.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 498**, the amendment as amended was adopted by a viva voce vote.

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

Nays: Nelson, Nichols, Patrick.

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

CSHB 498 as amended was passed to third reading by a viva voce vote.

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

Nays: Nelson, Nichols, Patrick.

COMMITTEE SUBSTITUTE HOUSE BILL 498 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 498** be placed on its third reading and final passage.

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

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

Nays: Nelson, Nichols, Patrick.

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

COMMITTEE SUBSTITUTE HOUSE BILL 130 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSHB 130** at this time on its second reading:

CSHB 130, Relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.

The motion prevailed.

Senators Estes, Fraser, Jackson, Nelson, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

(Senator Eltife in Chair)

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 130** (Senate committee report) as follows:

(1) At page 2, strike lines 2-51 through 2-69, and substitute the following:

(1) school districts that receive grant funding from the commissioner for early childhood education in a lesser amount than the amount provided for that purpose during the 2008-2009 school year and demonstrate above-average student performance for the preceding three school years on the assessment instruments administered under Section 39.023 to students in the third grade; and

(2) school districts that provide services to eligible prekindergarten students and demonstrate above-average student performance for the preceding three school years on the assessment instruments administered under Section 39.023 to students in the third grade.

(2) On page 3, insert the following between lines 3-16 and 3-17:

(g) The commissioner may accept, solicit, and use federal or private grant funds and gifts available for that purpose to fund additional or increased grants under this section and section 29.155.

(3) On page 5, insert the following new Subsection (d) between lines 5-44 and 5-45:

(d) Funding provided for each school district or open-enrollment charter school through a grant under this subchapter may not exceed \$4 million annually.

The amendment to **CSHB 130** was read and was adopted by a viva voce vote.

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

Nays: Estes, Fraser, Jackson, Nelson, Williams.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 130** (Senate committee printing) in SECTION 4 of the bill, in added Section 29.165, Education Code (page 3, between lines 8 and 9), by adding a new Subsection (d-1) to read as follows:

(d-1) If a certified teacher who meets the requirements of Subsection (d) is unavailable, a community provider contracting with a school district under this subchapter may employ a teacher for the program who has a minimum of three years experience in early childhood education, who is certified as a Child Development Associate by the Council for Professional Recognition, and who is taking one or more college education courses that emphasize early childhood education. Not later than the third anniversary of the date the community provider contracts with the district, the community provider must employ a teacher who meets the requirements of Subsection (d).

The amendment to **CSHB 130** was read and was adopted by a viva voce vote.

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

Nays: Estes, Fraser, Jackson, Nelson, Williams.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 130**, in SECTION 4 of the bill (Senate committee report page 9, lines 26 - page 10, lines 1-4) by striking Section 29.171 and inserting the following new Section 29.171:

Sec. 29.171. ANNUAL ENHANCED PROGRAM REPORT. (a) A school district operating an enhanced program shall provide an annual report to the agency not later than August 1 of each year. The report must include:

(1) the percentage of the grant funds provided under this subchapter used by the district to contract with community providers; and

(2) data components, approved by the commissioner, that illustrate acquisition of knowledge and skills consistent with the prekindergarten guidelines established by the agency and student-level progress towards school readiness.

(b) The commissioner may not require a district or recipient of grant funds to participate in the school readiness certification system established under Section 29.161.

The amendment to **CSHB 130** was read and was adopted by a viva voce vote.

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

Nays: Estes, Fraser, Jackson, Nelson, Williams.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 130** (Senate committee report) as follows. Insert new SECTION 5 and renumber subsequent sections accordingly:

SECTION 5. FUNDING FOR GRANTS UNDER 29.155. Funds appropriated to fund eligible prekindergarten programs under Section 29.155, Education Code, may be used in the 2009-2010 school year, with prior written approval from the Governor and the Legislative Budget Board, to support at the same level of funding as the 2008-2009 school year districts that received grant funds for such programs under Section 29.155 in the 2008-2009 school year, and to fund additional districts that have received notice of grant awards for such programs for the 2009-2010 school year. If additional state or federal funds become available to support such programs for the 2010-2011 school year, the commissioner of education shall have authority and flexibility to provide funds for all such programs. If additional funds are not sufficient to fund all such programs in the 2010-2011 school year at the amount per student provided in the 2009-2010 school year, funding for all participating districts shall be reduced proportionally. All funds appropriated that are not expended in the 2009-2010 school year are transferred to the 2010-2011 school year, and the commissioner may use such funds to support additional programs and services for eligible prekindergarten students.

The amendment to **CSHB 130** was read and was adopted by a viva voce vote.

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

Nays: Estes, Fraser, Jackson, Nelson, Williams.

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

Floor Amendment No. 5

Amend **CSHB 130** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

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

The amendment to **CSHB 130** was read and was adopted by a viva voce vote.

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

Nays: Estes, Fraser, Jackson, Nelson, Williams.

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

CSHB 130 as amended was passed to third reading by a viva voce vote.

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

Nays: Estes, Fraser, Jackson, Nelson, Williams.

**COMMITTEE SUBSTITUTE
HOUSE BILL 130 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 130** be placed on its third reading and final passage.

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

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

Nays: Estes, Fraser, Jackson, Nelson, Williams.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3309 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3309** at this time on its second reading:

CSHB 3309, Relating to consolidation of certain proceedings on an application for a certificate of convenience and necessity.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3309** by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subsection (a), Section 36.209, Utilities Code, is amended to read as follows:

(a) This section applies only to an electric utility that operates solely outside of ERCOT in areas of this state included in the Southeastern Electric Reliability Council, the Southwest Power Pool, or the Western Electricity Coordinating Council and that owns or operates transmission facilities.

SECTION _____. Section 39.452, Utilities Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:

(b) ~~[Notwithstanding Subsection (a), except for adjustments authorized by Sections 36.203, 39.454, 39.455, and 39.456, and except for proceedings and cost recovery mechanisms authorized by Sections 39.458-39.463, a person may not file a proceeding to change, alter, or revoke any rate offered or charged by an electric utility subject to this subchapter before June 30, 2007, with an effective date no earlier than June 30, 2008. As part of a Subchapter C, Chapter 36, rate proceeding, the]~~ An electric utility subject to this subchapter shall propose a competitive generation tariff to allow eligible customers the ability to contract for competitive generation. The commission shall approve, reject, or modify the proposed tariff not later than

September 1, 2010. The tariffs subject to this subsection may not be considered to offer a discounted rate or rates under Section 36.007, and the utility's rates shall be set, in the proceeding in which the tariff is adopted, to recover any costs unrecovered as a result of the implementation of the tariff. The commission shall ensure that a competitive generation tariff shall not be implemented in a manner that harms the sustainability or competitiveness of manufacturers that choose not to take advantage of competitive generation. Pursuant to the competitive generation tariff, an electric utility subject to this subsection shall purchase competitive generation service, selected by the customer, and provide the generation at retail to the customer. An electric utility subject to this subsection shall provide and price retail transmission service, including necessary ancillary services, to retail customers who choose to take advantage of the competitive generation tariff at a rate that is unbundled from the utility's cost of service. Such customers shall not be considered wholesale transmission customers. Notwithstanding any other provision of this chapter, the commission may not issue a decision relating to a competitive generation tariff that is contrary to an applicable decision, rule, or policy statement of a federal regulatory agency having jurisdiction.

(i) Notwithstanding any other provision of this chapter, if the commission has not approved the transition to competition plan under this section before January 1, 2009, an electric utility subject to this subchapter shall cease all activities relating to the transition to competition under this section. The commission may, on its own motion or the motion of any affected person, initiate a proceeding under Section 39.152 to certify a power region to which the utility belongs as a qualified power region when the conditions supporting such a proceeding exist. The commission may not approve a plan under Subsection (g) until the expiration of four years from the time that the commission certifies a power region under Subsection (f).

SECTION _____. Not later than the 90th day after the effective date of this Act, an electric utility operating in the Southeastern Electric Reliability Council that is subject to traditional cost of service rate regulation and on the effective date of this Act has a transition to competition plan on file with the Public Utility Commission of Texas shall:

- (1) withdraw the plan from the commission; and
- (2) cease all activities related to the plan.

The amendment to **CSHB 3309** was read.

Senator Ogden offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 (by Senator Williams) to **CSHB 3309** by adding appropriately numbered SECTIONS to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION _____. Subchapter D, Chapter 38, Utilities Code, is amended by adding Section 38.073 to read as follows:

Sec. 38.073. **AUTHORITY OF COMMISSION DURING AN EMERGENCY.**

(a) On a declaration of a natural disaster or other emergency by the governor, the commission may require an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale

generator, or power marketer to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to the natural disaster or other emergency. Any plant, property, equipment, or other items used to receive or deliver electricity under this subsection are used and useful in delivering service to the public, and the commission shall allow timely recovery for the costs of those items. The commission may order an electric utility, municipally owned utility, or electric cooperative to provide interconnection service to another electric utility, municipally owned utility, or electric cooperative to facilitate a sale of electricity under this section. If the commission does not order the sale of electricity during a declared emergency as described by this subsection, the commission shall promptly submit to the legislature a report describing the reasons why the commission did not make that order.

(b) If an entity receives electricity under Subsection (a), the receiving entity shall reimburse the supplying entity for the actual cost of providing the electricity. The entity receiving the electricity is responsible for any transmission and distribution service charges specifically incurred in relation to providing the electricity.

(c) An entity that pays for electricity received under Subsection (b) and that is regulated by the commission may fully recover the cost of the electricity in a timely manner by:

- (1) including the cost in the entity's fuel cost under Section 36.203; or
- (2) notwithstanding Section 36.201, imposing a different surcharge.

SECTION _____. (a) Not later than November 1, 2009, the Public Utility Commission of Texas shall conduct and complete a study to evaluate:

(1) the locations in this state that are most likely to experience a natural disaster or other emergency;

(2) the ability of each entity described by Subsection (a), Section 38.073, Utilities Code, as added by this Act, to comply with that section in the event of a natural disaster or other emergency;

(3) any steps an entity described by Subsection (a), Section 38.073, Utilities Code, as added by this Act, should take to prepare to comply with that section; and

(4) the potential for distributed generation, including renewable power with battery backup and combined heat and power systems, to strengthen reliability of electric service during a natural disaster or other emergency.

(b) An entity described by Subsection (a), Section 38.073, Utilities Code, as added by this Act, shall comply with any order issued by the Public Utility Commission of Texas under that subsection while the study required by Subsection (a) of this section is conducted.

(c) The Public Utility Commission of Texas shall prepare a report based on the study conducted under Subsection (a) of this section. The report must include any recommendations the commission considers advisable in relation to the implementation of and compliance with Section 38.073, Utilities Code, as added by this Act. The commission may include the report in the report required by Section 31.003, Utilities Code.

The amendment to Floor Amendment No. 1 to **CSHB 3309** was read and was adopted by a viva voce vote.

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

Nays: Wentworth.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 3309**, the amendment as amended was adopted by a viva voce vote.

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

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3309** (committee printing version) by adding the following appropriately numbers new SECTIONS and renumber the subsequent SECTIONS accordingly:

"SECTION _____. Section 39.107(h), Utilities Code, is amended to read as follows:

(h) The commission shall establish a nonbypassable surcharge for an electric utility or transmission and distribution utility to use to recover reasonable and necessary costs incurred in deploying advanced metering and meter information networks to residential customers and nonresidential customers other than those required by the independent system operator to have an interval data recorder meter. The commission shall ensure that the nonbypassable surcharge reflects a deployment of advanced meters that is no more than one-third of the utility's total meters over each calendar year and shall ensure that the nonbypassable surcharge does not result in the utility recovering more than its actual, fully allocated meter and meter information network costs. The expenses must be allocated to the customer classes receiving the services, based on the electric utility's most recently approved tariffs. An electric utility or transmission and distribution utility that deploys advanced metering and meter information networks shall, to the extent practicable, obtain grants, loans, and loan guarantees available from the federal government specifically for that purpose, and other available revenue that would reduce the utility's cost of deployment. The commission shall reflect the revenue obtained when establishing the amount of a surcharge under this subsection and may reduce the amount of a surcharge approved before the utility received the revenue, if necessary.

SECTION _____. Section 39.904, Utilities Code, is amended by adding Subsection (h-1) to read as follows:

(h-1) An electric utility, transmission and distribution utility, or river authority that has been designated by the commission to construct transmission capacity under Subsection (g) shall, to the extent practicable, obtain grants, loans, and loan guarantees available from the federal government specifically for that purpose, and other available revenue to reduce the utility's or authority's cost of construction. The commission shall reflect the revenue obtained when establishing or modifying the rates of the utility or authority and may propose a rate reduction under Subchapter D, Chapter 36, if necessary."

The amendment to **CSHB 3309** was read and was adopted by a viva voce vote.

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

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3309** by inserting the following appropriately numbered SECTIONS and re-numbering the subsequent SECTIONS accordingly:

SECTION _____. Section 37.051, Utilities Code, is amended by amending Subsection (a) and adding Subsections (d), (e), and (f) to read as follows:

(a) An electric utility or other person may not directly or indirectly provide service to the public under a franchise or permit unless the utility or other person first obtains from the commission a certificate that states that the public convenience and necessity requires or will require the installation, operation, or extension of the service.

(d) A certificate may be granted to an electric utility or other person under this section for a facility used as part of the transmission system serving the ERCOT power region solely for the transmission of electricity.

(e) The commission may consider an application filed by a person not currently certificated as an electric utility for a certificate of convenience and necessity to construct transmission capacity that serves the ERCOT power region. Before granting a certificate under this section, the commission must find, after notice and hearing, that:

(1) the applicant has the technical ability, financial ability, and sufficient resources in this state to own, operate, and maintain reliable transmission facilities;

(2) the applicant has the resources and ability to comply with commission rules, requirements of the independent organization certified under Section 39.151 for the ERCOT power region, and requirements of the National Electric Reliability Council applicable to the provisions of transmission service; and

(3) for an application filed by a person that is not an electric utility, granting the application will not adversely affect wholesale transmission rates, as compared to the rates projected to be charged if an existing electric utility were to build the transmission facility.

(f) The commission shall consider the requirements of Subsection (e) to have been met by an electric utility or other person that:

(1) is selected by the commission as a transmission provider under a plan adopted by the commission under Section 39.904 not later than September 1, 2009; and

(2) before the certificate is issued, provides to the commission a detailed plan regarding the offices, personnel, and other resources the electric utility or other person will have in this state to ensure provision of continuous and adequate transmission service.

SECTION _____. Subsection (a), Section 37.053, Utilities Code, is amended to read as follows:

(a) An electric utility or other person that wants to obtain or amend a certificate must submit an application to the commission.

SECTION _____. Sections 37.055, 37.057, and 37.151, Utilities Code, are amended to read as follows:

Sec. 37.055. REQUEST FOR PRELIMINARY ORDER. (a) An electric utility or other person that wants to exercise a right or privilege under a franchise or permit that the utility or other person anticipates obtaining but has not been granted may apply to the commission for a preliminary order under this section.

(b) The commission may issue a preliminary order declaring that the commission, on application and under commission rules, will grant the requested certificate on terms the commission designates, after the electric utility or other person obtains the franchise or permit.

(c) The commission shall grant the certificate on presentation of evidence satisfactory to the commission that the electric utility or other person has obtained the franchise or permit.

Sec. 37.057. DEADLINE FOR APPLICATION FOR NEW TRANSMISSION FACILITY. The commission may grant a certificate for a new transmission facility to a qualified applicant that meets the requirements of this subchapter. The commission must approve or deny an application for a certificate for a new transmission facility not later than the first anniversary of the date the application is filed. If the commission does not approve or deny the application on or before that date, a party may seek a writ of mandamus in a district court of Travis County to compel the commission to decide on the application.

Sec. 37.151. PROVISION OF SERVICE. Except as provided by this section, Section 37.152, and Section 37.153, a certificate holder, other than those granted a certificate under Section 37.051(d), shall:

- (1) serve every consumer in the utility's certificated area; and
- (2) provide continuous and adequate service in that area.

The amendment to **CSHB 3309** was read.

Senator Estes offered the following amendment to Floor Amendment No. 4:

Floor Amendment No. 5

Amend Floor Amendment No. 4 by Fraser to **CSHB 3309** as follows:

(1) In the introductory language of the section amending Section 37.051, Utilities Code, strike "and (f)" and substitute "(f), and (g)".

(2) In the section amending Section 37.051, Utilities Code, insert the following after Section 37.051(f):

(g) Notwithstanding the requirements of Subsection (e), an electric utility or other person issued a certificate solely for the transmission of electricity before January 1, 2008, may continue to operate under that certificate.

The amendment to Floor Amendment No. 4 to **CSHB 3309** was read.

Senator Estes withdrew Floor Amendment No. 5.

Question recurring on the adoption of Floor Amendment No. 4 to **CSHB 3309**, the amendment was adopted by a viva voce vote.

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

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

CSHB 3309 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3309 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3309** be placed on its third reading and final passage.

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

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

(Thursday, May 28, 2009)

**COMMITTEE SUBSTITUTE
HOUSE BILL 4409 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4409** at this time on its second reading:

CSHB 4409, Relating to emergency preparation and management.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 4409** by adding the following SECTIONS to the bill, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Section 2210.001, Insurance Code, is amended to read as follows:

Sec. 2210.001. PURPOSE. The primary purpose of the Texas Windstorm Insurance Association is the provision of an [An] adequate market for windstorm and[-] hail[-, and fire] insurance in the seacoast territory of this state. The legislature finds that the provision of adequate windstorm and hail insurance is necessary to the economic welfare of this state, and without that insurance, the orderly growth and development of this state would be severely impeded. This chapter provides a method by which adequate windstorm and[-] hail[-, and fire] insurance may be obtained in certain designated portions of the seacoast territory of this state. The association is intended to serve as a residual insurer of last resort for windstorm and hail insurance in the seacoast territory. The association shall:

(1) function in such a manner as to not be a direct competitor in the private market; and

(2) provide windstorm and hail insurance coverage to those who are unable to obtain that coverage in the private market.

SECTION _____. Section 2210.002, Insurance Code, is amended to read as follows:

Sec. 2210.002. SHORT TITLE; SUNSET PROVISION. (a) This chapter may be cited as the Texas Windstorm Insurance Association Act.

(b) The association is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The association shall be reviewed during the period in which state agencies abolished in 2015 are reviewed. The association shall pay the costs incurred by the Sunset Advisory Commission in performing the review of the association under this subsection. The Sunset Advisory Commission shall determine the costs of the review performed under this subsection, and the association shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2015.

SECTION _____. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.0025 to read as follows:

Sec. 2210.0025. BIENNIAL REPORT TO LEGISLATURE. On or before December 31 of each even-numbered year, the board of directors shall submit to the commissioner, the appropriate committees of each house of the legislature, and the Sunset Advisory Commission a written report relating to the operations of the association during the preceding biennium. The report must include:

(1) any proposed changes in the laws relating to regulation of the association and a statement of the reasons for the changes; and

(2) any information regarding association operations or procedures that is requested by the department to be addressed in the report.

SECTION _____. Section 2210.003, Insurance Code, is amended by adding Subdivision (3-a) and amending Subdivision (6) to read as follows:

(3-a) "Catastrophe reserve trust fund" means the trust fund established under Subchapter J.

(6) "Insurance" means Texas [fire and explosion insurance and Texas] windstorm and hail insurance.

SECTION _____. Subsection (a), Section 2210.004, Insurance Code, is amended to read as follows:

(a) Except as provided by Subsection (h), for purposes of this chapter and subject to this section, "insurable property" means immovable property at a fixed location in a catastrophe area or corporeal movable property located in that immovable property, as designated in the plan of operation, that is determined by the association according to the criteria specified in the plan of operation to be in an insurable condition against windstorm and hail ~~[or fire and explosion, as appropriate]~~, as determined by normal underwriting standards. The term includes property described by Section 2210.209.

SECTION _____. Section 2210.005, Insurance Code, is amended to read as follows:

Sec. 2210.005. DESIGNATION AS CATASTROPHE AREA [OR INADEQUATE FIRE INSURANCE AREA]; REVOCATION OF DESIGNATION. (a) After at least 10 days' notice and a hearing, the commissioner may designate an area of the seacoast territory of this state as a catastrophe area if the commissioner

determines, unless such a determination results in an adverse impact to the exposure of the association, that windstorm and hail insurance is not reasonably available to a substantial number of the owners of insurable property located in that territory because the territory is subject to unusually frequent and severe damage resulting from windstorms or hailstorms.

(b) ~~[After at least 10 days' notice and a hearing, the commissioner may designate an area of this state as an inadequate fire insurance area if the commissioner determines that fire and explosion insurance is not reasonably available to a substantial number of owners of insurable property located in that area.]~~

~~[(e)]~~ The commissioner shall revoke a designation made under Subsection (a) ~~[or (b)]~~ if the commissioner determines, after at least 10 days' notice and a hearing, that the applicable insurance coverage is no longer reasonably unavailable to a substantial number of owners of insurable property within the designated territory.

(c) ~~[(d)]~~ If the association determines that windstorm and hail insurance ~~[or fire and explosion insurance]~~ is no longer reasonably unavailable to a substantial number of owners of insurable property in a territory designated as a catastrophe area ~~[or inadequate fire insurance area, as applicable]~~, the association may request in writing that the commissioner revoke the designation. After at least 10 days' notice and a hearing, but not later than the 30th day after the date of the hearing, the commissioner shall:

- (1) approve the request and revoke the designation; or
- (2) reject the request.

SECTION _____. Section 2210.008, Insurance Code, is amended to read as follows:

Sec. 2210.008. DEPARTMENT ORDERS; GENERAL RULEMAKING AUTHORITY. (a) The [After notice and hearing as provided by Subsection (b), the] commissioner may issue any orders that the commissioner considers necessary to implement this chapter[, including orders regarding maximum rates, competitive rates, and policy forms].

(b) The commissioner may adopt rules in the manner prescribed by Subchapter A, Chapter 36, as reasonable and necessary to implement this chapter [Before the commissioner adopts an order, the department shall post notice of the hearing on the order at the secretary of state's office in Austin and shall hold a hearing to consider the proposed order. Any person may appear at the hearing and testify for or against the adoption of the order].

SECTION _____. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.009 to read as follows:

Sec. 2210.009. LIST OF PRIVATE INSURERS; INCENTIVE PLAN. (a) The department shall maintain a list of all insurers that engage in the business of property and casualty insurance in the voluntary market in the seacoast territory.

(b) The department shall develop incentive programs in the manner described by Section 2210.053(b) to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of the association as a means to obtain insurance.

SECTION _____. Section 2210.052, Insurance Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

(a) Each member of the association shall participate in insured losses and operating expenses of the association, in excess of premium and other revenue ~~the writings, expenses, profits, and losses~~ of the association, in the proportion that the net direct premiums of that member during the preceding calendar year bears to the aggregate net direct premiums by all members of the association, as determined using the information provided under Subsection (b).

(d) Notwithstanding Subsection (a), a member, in accordance with the plan of operation, is entitled to receive credit for similar insurance voluntarily written in areas ~~an area~~ designated by the commissioner. The member's participation in the insured losses and operating expenses of the association in excess of premium and other revenue ~~writings~~ of the association shall be reduced in accordance with the plan of operation.

(e) Notwithstanding Subsections (a)-(d), an insurer that becomes a member of the association and that has not previously been a member of the association is not subject to participation in any insured losses and operating expenses of the association in excess of premium and other revenue of the association until the second anniversary of the date on which the insurer first becomes a member of the association.

SECTION _____. Subsection (b), Section 2210.056, Insurance Code, is amended to read as follows:

(b) The association's assets may not be used for or diverted to any purpose other than to:

(1) satisfy, in whole or in part, the liability of the association on claims made on policies written by the association;

(2) make investments authorized under applicable law;

(3) pay reasonable and necessary administrative expenses incurred in connection with the operation of the association and the processing of claims against the association; ~~or~~

(4) satisfy, in whole or in part, the obligations of the association incurred in connection with Subchapters B-1, J, and M, including reinsurance, public securities, and financial instruments; or

(5) make remittance under the laws of this state to be used by this state to:

(A) pay claims made on policies written by the association;

(B) purchase reinsurance covering losses under those policies; or

(C) prepare for or mitigate the effects of catastrophic natural events.

SECTION _____. Subsection (c), Section 2210.060, Insurance Code, is amended to read as follows:

(c) Subsection (a) does not authorize the association to indemnify a member of the association for participating in the assessments made by ~~writings, expenses, profits, and losses of~~ the association in the manner provided by this chapter.

SECTION _____. Chapter 2210, Insurance Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. PAYMENT OF LOSSES

Sec. 2210.071. PAYMENT OF EXCESS LOSSES; AUTHORIZATION TO REINSURE OR BORROW. (a) If an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

(b) The association shall pay losses in excess of premium and other revenue of the association from available reserves of the association and available amounts in the catastrophe reserve trust fund.

(c) The association may borrow from, or enter into other financing arrangements with, any market sources at prevailing interest rates as authorized by this subchapter and as necessary to pay insured losses.

(d) The association may pay losses in excess of premium and other revenue of the association with:

(1) reinsurance proceeds, as provided by this subchapter, from reinsurance purchased by the association as authorized under Section 2210.453;

(2) the proceeds of Class 1 or Class 2 public securities authorized under Section 2210.073, 2210.074, 2210.076, or 2210.077; and

(3) proceeds from financial instruments, including loans or other financing arrangements described by Subsection (c), as authorized under this subchapter.

(e) With respect to assessments to members of the association, the proportion of the losses allocable to each insurer under this subchapter shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

Sec. 2210.072. PAYMENT FROM TRUST FUND; ASSESSMENT; REINSURANCE. (a) For each occurrence, losses shall be paid from the catastrophe reserve trust fund and any available reinsurance. Losses in excess of the catastrophe reserve trust fund and any available reinsurance shall be paid as provided by this section.

(b) For each occurrence, the association shall assess the members of the association an amount not greater than \$400 million. The proportion of the assessment allocable to each insurer shall be determined in the manner used to determine each member's participation in the association under Section 2210.052.

(c) Assessments against members of the association under this section may not exceed \$400 million during a calendar year.

(d) The amount of an assessment under this section must be:

(1) provided to each member of the association not later than the fifth day after the date the assessment is determined by the board of directors under Subsection (b); and

(2) paid by each member not later than the 30th day after the date on which the insurer receives notice of the amount of its assessment.

(e) A member may not recoup an assessment paid under this section through a premium surcharge.

(f) The association may purchase reinsurance in addition to using some or all of the trust fund if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate

alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by policyholders, other revenue of the association, and the catastrophe reserve trust fund.

Sec. 2210.073. PAYMENT FROM CLASS 1 PUBLIC SECURITIES; REINSURANCE; FINANCIAL INSTRUMENTS. (a) Losses not paid under Section 2210.072 shall be paid as provided by this section.

(b) The losses may be paid with:

(1) proceeds from Class 1 public securities authorized to be issued in accordance with Subchapter M before or on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (f);

(3) proceeds from financial instruments described by Subsection (e); or

(4) a combination of reinsurance, public securities, and financial instruments described by Subdivisions (1)-(3).

(c) Public securities described by Subsection (b)(1) may be issued if the board of directors determines, before the date of any occurrence, that the amount available from premium and other revenue, in combination with the amounts available from the catastrophe reserve trust fund, any reinsurance, and any financial instruments may be insufficient to pay insured losses. The public securities shall be issued as necessary in a principal amount not to exceed \$600 million per occurrence.

(d) Any public securities proceeds received under this section from Class 1 public securities authorized in accordance with Subchapter M before the date of any occurrence that results in insured losses under Subsection (a):

(1) must be used before the proceeds of any public securities that the association authorizes to be issued under Section 2210.074 on or after any catastrophic event; and

(2) may not be used to fund losses of any catastrophic event occurring before the date on which public securities described by this section are authorized to be issued.

(e) Under the authority of Section 2210.071(c), the association may borrow from, or enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans to the association to enable the association to pay losses under this section in lieu of, or in addition to, the issuance of public securities.

(f) The association may purchase reinsurance in lieu of, or in addition to, using Class 1 public securities or proceeds of financial instruments authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(g) If the losses are paid with public securities or proceeds from financial instruments described by this section, the public securities or proceeds from financial instruments shall be repaid by premium surcharges in the manner prescribed by Section 2210.612.

Sec. 2210.074. PAYMENT FROM CLASS 2 PUBLIC SECURITIES; REINSURANCE; FINANCIAL INSTRUMENTS. (a) Losses not paid under Sections 2210.072 and 2210.073 shall be paid as provided by this section.

(b) The losses may be paid from:

(1) proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (e);

(3) proceeds from financial instruments described by Subsection (d); or

(4) a combination of the reinsurance, public securities, and financial instruments described by Subdivisions (1)-(3).

(c) Public securities described by Subsection (b)(1) may be issued as necessary in a principal amount not to exceed \$1 billion per occurrence.

(d) Under the authority of Section 2210.071(c), the association may borrow from, or enter into other financial arrangements with, any market source, under which the market source makes interest-bearing loans to the association to enable the association to pay losses under this section without the issuance of public securities.

(e) The association may purchase reinsurance in lieu of, or in addition to, using Class 2 public securities or proceeds of financial instruments authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by the policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(f) If the losses are paid with public securities or proceeds from financial instruments described by this section, the public securities or proceeds from financial instruments shall be repaid by premium surcharges in the manner prescribed by Section 2210.613.

Sec. 2210.075. PAYMENT FROM ASSOCIATION ASSESSMENT. (a) Losses not paid under Sections 2210.072-2210.074 shall be paid as provided by this section.

(b) The association shall assess the members of the association \$300 million per occurrence for the payment of losses described by this section. The association shall notify each member of the association of the amount of the member's assessment under this subsection. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

(c) The association may not assess members of the association under this section more than twice in any calendar year.

(d) A member of the association may recoup an assessment paid under this section through a premium surcharge collected for one year on each policy of property or casualty insurance written by the member. A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property located in this state for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

(e) A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the premium surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

Sec. 2210.076. PAYMENT FROM CLASS 2 PUBLIC SECURITIES; REINSURANCE; FINANCIAL INSTRUMENTS. (a) Losses not paid under Sections 2210.072-2210.075 shall be paid as provided by this section.

(b) The losses may be paid from:

(1) proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (e);

(3) proceeds from financial instruments described by Subsection (d); or

(4) a combination of the reinsurance, public securities, and financial instruments described by Subdivisions (1)-(3).

(c) Public securities described by Subsection (b)(1) may be issued as necessary in a principal amount not to exceed \$500 million per occurrence.

(d) Under the authority of Section 2210.071(c), the association may borrow from, or enter into other financing agreements with, any market source, under which the market source makes interest-bearing loans to the association to enable the association to pay losses under this section in lieu of, or in addition to, the issuance of public securities.

(e) The association may purchase reinsurance in lieu of, or in addition to, using Class 2 public securities or proceeds from financial instruments authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by the policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(f) If the losses are paid with public securities or proceeds from financial instruments described by this section, the public securities or proceeds from financial instruments shall be repaid by premium surcharges in the manner prescribed by Section 2210.613.

Sec. 2210.077. PAYMENT FROM CLASS 2 PUBLIC SECURITIES; REINSURANCE. (a) Losses not paid under Sections 2210.072-2210.076 shall be paid as provided by this section.

(b) The losses may be paid from:

(1) proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (d); or

(3) a combination of the reinsurance and public securities described by Subdivisions (1) and (2).

(c) Public securities described by Subsection (b)(1) may be issued as necessary in a principal amount not to exceed \$2.8 billion per occurrence.

(d) The association may purchase reinsurance in lieu of, or in addition to, using Class 2 public securities authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by the policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(e) If the losses are paid with public securities described by this section, the public securities shall be repaid by premium surcharges in the manner prescribed by Section 2210.613.

Sec. 2210.078. PAYMENT FROM ADDITIONAL ASSOCIATION ASSESSMENTS. (a) Losses not paid under Sections 2210.072-2210.077 and any available reinsurance shall be paid as provided by this section.

(b) The board of directors shall assess the members of the association for the payment of losses described by this section. The association shall notify each member of the association of the amount of the member's assessments under this subsection, with the proportion of the assessment allocable to each insurer determined in the manner used to determine each member's participation in the association under Section 2210.052.

(c) A member of the association may not recoup an assessment paid under this section through a premium surcharge.

(d) A member of the association may credit an amount paid in accordance with this section in a calendar year against the insurer's premium tax under Chapter 221. The tax credit authorized under this subsection shall be allowed at a rate not to exceed 20 percent per year for five or more successive years beginning the calendar year that the assessments under this section are paid. The balance of payments made by the insurer and not claimed as a premium tax credit may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in an annual statement under Section 862.001.

Sec. 2210.079. NOTIFICATION REGARDING TAX CREDITS. (a) The association shall immediately notify the department if an occurrence or series of occurrences in a catastrophe area results in insured losses that result in a tax credit under Section 2210.078(d) in a calendar year.

(b) On receipt of notice under Subsection (a), the department shall immediately notify the governor and the appropriate committees of each house of the legislature of the amount of insured losses eligible for tax credits under Section 2210.078(d).

SECTION _____. The heading to Subchapter C, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER C. ASSOCIATION BOARD OF DIRECTORS; GENERAL
POWERS AND DUTIES OF BOARD OF DIRECTORS

SECTION _____. Section 2210.102, Insurance Code, is amended to read as follows:

Sec. 2210.102. COMPOSITION. (a) The board of directors is composed of ~~the following~~ nine members appointed by the commissioner in accordance with this section.

(b) Four members must be:

~~[(1) five]~~ representatives of different insurers who are members of the association.

(c) Three members must be ~~electe~~d by the members as provided by the plan of operation;

~~[(2) two]~~ public representatives:

(1) at least one of whom ~~who are nominated by the office of public insurance counsel and who~~, as of the date of the appointment, does not

~~[(A)]~~ reside in or own property in a first tier coastal county; and

(2) at least one of whom, as of the date of the appointment, resides in or owns property in a first tier coastal county and is a policyholder of the association.

(d) Two members must be ~~a catastrophe area; and~~

~~[(B) are policyholders of the association; and~~

~~[(3) two]~~ property and casualty agents who are licensed under this code and are not captive agents. One of the agents, but not more than one, as of the date of the appointment, must maintain the agent's principal office in a first tier coastal county.

(e) All members must ~~each of whom must~~

~~[(A)]~~ have demonstrated experience in insurance, general business, or actuarial principles sufficient to make the success of the association probable;

~~[(B) maintain the agent's principal office, as of the date of the appointment, in a catastrophe area; and~~

~~[(C) hold a license under Chapter 4051 as a general property and casualty agent or a personal lines property and casualty agent].~~

(f) Insurers who are members of the association shall nominate, from among those members, persons to fill any vacancy in the four board of director seats reserved for insurers. The board of directors shall solicit nominations from the members and submit the nominations to the commissioner. The nominee slate submitted to the commissioner under this subsection must include at least three more names than the number of vacancies. The commissioner shall appoint replacement insurer members from the nominee slate.

(g) The commissioner shall appoint one person to serve as a nonvoting member of the board to advise the board regarding issues relating to the inspection process. The commissioner may give preference in an appointment under this subsection to a person who is a qualified inspector under Section 2210.254. The nonvoting member appointed under this section must:

(1) be an engineer licensed by, and in good standing with, the Texas Board of Professional Engineers;

(2) reside in a first tier coastal county; and

(3) be knowledgeable of, and have professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes.

(h) ~~(b)~~ The persons appointed under Subsection (c) ~~[Subsections (a)(2) and (3)]~~ must be from different counties.

SECTION _____. Section 2210.103, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) A member of the board of directors may be removed by the commissioner with cause stated in writing and posted on the association's website. The commissioner shall appoint a replacement in the manner provided by Section 2210.102 for a member who leaves or is removed from the board of directors.

SECTION _____. Section 2210.104, Insurance Code, is amended to read as follows:

Sec. 2210.104. OFFICERS. The board of directors shall elect from the board's membership an executive committee consisting of a presiding officer, assistant presiding officer, and secretary-treasurer. ~~[At least one of the officers must be a member appointed under Section 2210.102(a)(2) or (3).]~~

SECTION _____. Section 2210.105, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Except for an emergency meeting, a meeting of the board of directors shall be held at a location as determined by the board of directors.

SECTION _____. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.1051 to read as follows:

Sec. 2210.1051. MEETINGS OF BOARD OF DIRECTORS.

(a) Notwithstanding Chapter 551, Government Code, or any other law, members of the board of directors may meet by telephone conference call, videoconference, or other similar telecommunication method. The board may use telephone conference call, videoconference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with this subsection and Subsection (b). This subsection applies without regard to the subject matter discussed or considered by the members of the board at the meeting.

(b) A meeting held by telephone conference call, videoconference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other meetings of the board of directors;

(2) may not be held unless notice of the meeting specifies the location of the meeting, which shall be located in a tier one county; a recording of these meetings shall be posted on the association's website;

(3) must be audible to the public at the location specified in the notice under Subdivision (2); and

(4) must provide two-way audio communication between all members of the board attending the meeting during the entire meeting, and if the two-way audio communication link with members attending the meeting is disrupted so that a quorum of the board is no longer participating in the meeting, the meeting may not continue until the two-way audio communication link is reestablished.

SECTION _____. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.107 to read as follows:

Sec. 2210.107. PRIMARY BOARD OBJECTIVES. The primary objectives of the board of directors are to ensure that the association:

- (1) operates in accordance with this chapter and commissioner rules;
- (2) complies with sound insurance principles; and
- (3) meets all standards imposed under this chapter.

SECTION _____. Section 2210.151, Insurance Code, is amended to read as follows:

Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the advice of the board of directors, the commissioner by rule shall adopt the plan of operation to provide[=

- ~~[(+)] Texas windstorm and hail insurance in a catastrophe area[=and~~
- ~~[(2) Texas fire and explosion insurance in an inadequate fire insurance area].~~

SECTION _____. Subsection (a), Section 2210.152, Insurance Code, is amended to read as follows:

(a) The plan of operation must:

(1) provide for the efficient, economical, fair, and nondiscriminatory administration of the association; and

(2) include:

(A) a plan for the equitable assessment of the members of the association to defray losses and expenses;

(B) underwriting standards;

(C) procedures for accepting and ceding reinsurance;

(D) procedures for obtaining and repaying amounts pursuant to financial instruments authorized under Subchapter B-1;

(E) procedures for determining the amount of insurance to be provided to specific risks;

(F) ~~[(+)]~~ time limits and procedures for processing applications for insurance; and

(G) ~~[(+)]~~ other provisions as considered necessary by the department to implement the purposes of this chapter.

SECTION _____. Section 2210.202, Insurance Code, is amended to read as follows:

Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who has an insurable interest in insurable property may apply to the association for insurance coverage provided under the plan of operation and an inspection of the property, subject to any rules~~[=including any inspection fee,]~~ established by the board of directors and approved by the commissioner. The association shall make insurance available to each applicant in the catastrophe area whose property is insurable property but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by one declination from an insurer authorized to engage in the business of, and writing, property insurance providing windstorm and hail coverage in the first tier coastal counties. For purposes of this section, "declination" has the meaning assigned by the plan of operation and shall include a refusal to offer coverage for the perils of windstorm and hail and the inability to

obtain substantially equivalent insurance coverage for the perils of windstorm and hail. Notwithstanding Section 2210.203(c), evidence of one declination is also required with an application for renewal of an association policy.

(b) A ~~[general]~~ property and casualty agent ~~[or a personal lines property and casualty agent]~~ must submit an application for the insurance coverage on behalf of the applicant on forms prescribed by the association. The application must contain a statement as to whether the applicant has submitted or will submit the premium in full from personal funds or, if not, to whom a balance is or will be due. Each application for initial or renewal coverage must also contain a statement that the agent possesses proof of the declination described by Subsection (a) and proof of flood insurance coverage or unavailability of that coverage as described by Section 2210.203(a-1).

SECTION _____. Section 2210.203, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), if all or any part of the property for which an application for new or renewal insurance coverage is made is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, and if flood insurance under that federal program is available, the association may not issue a new or renewal insurance policy unless evidence that the property is covered by a flood insurance policy is submitted to the association.

SECTION _____. Section 2210.204, Insurance Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If an insured requests cancellation of the insurance coverage, the association shall refund the unearned premium, less any minimum retained premium set forth in the plan of operation, payable to the insured and the holder of an unpaid balance. The property and casualty agent who submitted the application shall refund the agent's commission on any unearned premium in the same manner.

(e) For cancellation of insurance coverage under this section, the minimum retained premium in the plan of operation must be for a period of not less than 180 days, except for events specified in the plan of operation that reflect a significant change in the exposure or the policyholder concerning the insured property, including:

- (1) the purchase of similar coverage in the voluntary market;
- (2) sale of the property to an unrelated party;
- (3) death of the policyholder; or
- (4) total loss of the property.

SECTION _____. Subchapter E, Chapter 2210, Insurance Code, is amended by adding Section 2210.2041 to read as follows:

Sec. 2210.2041. NONREFUNDABLE SURCHARGE. A nonrefundable surcharge established under this chapter is not refundable under this code for any reason or purpose.

SECTION _____. Section 2210.251, Insurance Code, is amended to read as follows:

Sec. 2210.251. INSPECTION REQUIREMENTS. (a) Except as provided by this section, to be considered insurable property eligible for windstorm and hail insurance coverage from the association, a structure that is constructed, altered,

remodeled, enlarged, or repaired or to which additions are made on or after January 1, 1988, must be inspected ~~[or approved]~~ by the association ~~[department]~~ for compliance with the plan of operation.

(b) After January 1, 2004, for geographic areas specified by the commissioner, the commissioner by rule shall adopt the 2003 International Residential Code for one- and two-family dwellings published by the International Code Council. For those geographic areas, the commissioner by rule may adopt a subsequent edition of that code and may adopt any supplements published by the International Code Council and amendments to that code.

(c) After January 1, 2004, a person must submit a notice of a windstorm inspection to the association ~~[unit responsible for certification of windstorm inspections at the department]~~ before beginning to construct, alter, remodel, enlarge, or repair a structure.

(d) A structure constructed, altered, remodeled, enlarged, or repaired or to which additions were made before January 1, 1988, that is located in an area that was governed at the time of the construction, alteration, remodeling, enlargement, repair, or addition by a building code recognized by the association is insurable property eligible for windstorm and hail insurance coverage from the association without compliance with the inspection ~~[or approval]~~ requirements of this section or the plan of operation.

(e) A structure constructed, altered, remodeled, enlarged, or repaired or to which additions were made before January 1, 1988, that is located in an area not governed by a building code recognized by the association is insurable property eligible for windstorm and hail insurance coverage from the association without compliance with the inspection ~~[or approval]~~ requirements of this section or the plan of operation if the structure was previously insured by an insurer authorized to engage in the business of insurance in this state and the structure is in essentially the same condition as when previously insured, except for normal wear and tear, and is without any structural change other than a change made according to code. For purposes of this subsection, evidence of previous insurance coverage must reflect coverage for the perils of windstorm and hail for the property within the 12-month period immediately preceding the date of the application for coverage through the association and includes:

- (1) a copy of a previous insurance policy;
- (2) copies of canceled checks or agent's records that show payments for previous policies; and
- (3) a copy of the title to the structure or mortgage company records that show previous policies.

(f) Notwithstanding any other provision of this section, a residential structure insured by the association as of June 1, 2009, may continue coverage through the association subject to the inspection requirements imposed under Section 2210.258.

(g) The association ~~[department]~~ shall issue a certificate of compliance for each structure that qualifies for coverage. The certificate is evidence of insurability of the structure by the association.

~~[(g) The department may enter into agreements and contracts as necessary to implement this section.]~~

(h) The association ~~[department]~~ may charge a reasonable fee to cover the cost of making building requirements and inspection standards available to the public.

(i) The association shall charge a reasonable fee for each inspection of each structure in an amount set by the board of directors. The association may use fees collected under this section for operating expenses or for the purchase of reinsurance.

(j) Without limitation of the department's authority to otherwise enforce this chapter, the department shall monitor the association's compliance with this subchapter.

(k) Except as otherwise provided by this subchapter, the association may not consider any request that a structure be certified as insurable property if, within six months after the final inspection of a structure, the association has not received:

(1) fully completed documentation verifying that the structure has been constructed, altered, remodeled, enlarged, or repaired, or any addition to the structure has been made, in compliance with the plan of operation; and

(2) full payment of all inspection fees owed to the association, including any fees related to prior association inspections.

(l) If a structure is rejected for coverage under Subsection (k), a person may make a new request for certification and the structure may be reinspected for compliance with the plan of operation. A request for certification brought under this subsection must meet the requirements of Subsection (k).

SECTION _____. Subsections (a), (c), and (d), Section 2210.254, Insurance Code, are amended to read as follows:

(a) For purposes of this chapter, a "qualified inspector" includes:

(1) a person determined by the association ~~[department]~~ to be qualified because of training or experience to perform building inspections;

(2) a licensed professional engineer who meets the requirements specified by the association ~~[commissioner rule]~~ for appointment to conduct windstorm inspections; and

(3) an inspector who:

(A) is certified by the International Code Council, the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, or the Southern Building Code Congress International, Inc.;

(B) has certifications as a buildings inspector and coastal construction inspector; and

(C) complies with other requirements specified by the association ~~[commissioner rule]~~.

(c) Before performing building inspections, a qualified inspector must be approved and appointed or employed by the association ~~[department]~~.

(d) The association ~~[department]~~ may charge a reasonable fee for the filing of applications by and determining the qualifications of persons for appointment as qualified inspectors.

SECTION _____. Section 2210.255, Insurance Code, is amended to read as follows:

Sec. 2210.255. APPOINTMENT OF LICENSED ENGINEER AS INSPECTOR. (a) On request of an engineer licensed by the Texas Board of Professional Engineers, the association may ~~[commissioner shall]~~ appoint the engineer

as an inspector under this subchapter on receipt of information satisfactory to the association ~~[not later than the 10th day after the date the engineer delivers to the commissioner information demonstrating]~~ that the engineer is qualified to perform windstorm inspections under this subchapter.

(b) The association shall consult with the commissioner regarding ~~[shall adopt rules establishing]~~ the information to be considered in appointing engineers under this section.

SECTION _____. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2565 to read as follows:

Sec. 2210.2565. PROCEDURES REGARDING APPOINTMENT OF INSPECTORS. The association shall develop procedures for the appointment and oversight of qualified inspectors appointed under Sections 2210.254 and 2210.255, including procedures relating to the suspension or revocation of an appointment made by the association.

SECTION _____. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Sections 2210.258 and 2210.259 to read as follows:

Sec. 2210.258. MANDATORY COMPLIANCE WITH BUILDING CODES; ELIGIBILITY. (a) Notwithstanding any other provision of this chapter, to be eligible for insurance through the association, all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area that is begun on or after the effective date of S.B. No. 14, Acts of the 81st Legislature, Regular Session, 2009, must be performed in compliance with the applicable building code standards, as set forth in the plan of operation.

(b) The association may not insure a structure described by Subsection (a) until:

(1) the structure has been inspected for compliance with the plan of operation in accordance with Section 2210.251(a); and

(2) a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g).

Sec. 2210.259. SURCHARGE FOR CERTAIN NONCOMPLIANT STRUCTURES. (a) A noncompliant residential structure insured by the association as of June 1, 2009, under Section 2210.251(f) that had been approved for insurability under the approval process regulations in effect on June 1, 2009, is subject to an annual premium surcharge in an amount not less than 15 percent of the premium for insurance coverage obtained through the association. The surcharge under this subsection applies to each policy issued or renewed by the association on or after the effective date of S.B. No. 14, Acts of the 81st Legislature, Regular Session, 2009, and is due on the issuance or renewal of the policy.

(b) A premium surcharge collected under this section shall be deposited in the catastrophe reserve trust fund. A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

SECTION _____. Subsections (c) and (d), Section 2210.351, Insurance Code, are amended to read as follows:

(c) Except as provided by Subsection (d), as [As] soon as reasonably possible after the filing has been made, the commissioner in writing shall approve[, modify,] or disapprove the filing. A filing is considered approved unless [modified or] disapproved on or before the 30th day after the date of the filing. If the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

(d) The association may use a rate filed by the association without prior commissioner approval if:

(1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2) the filed rate does not exceed 105 percent of the rate in effect on the date on which the filing is made;

(3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made; and

(4) the commissioner has not disapproved the filing in writing, advising of the reasons for the disapproval and the criteria the association is required to meet to obtain approval [If at any time the commissioner determines that a filing approved under Subsection (c) no longer meets the requirements of this chapter, the commissioner may, after a hearing held on at least 20 days' notice to the association that specifies the matters to be considered at the hearing, issue an order withdrawing approval of the filing. The order must specify in what respects the commissioner determines that the filing no longer meets the requirements of this chapter. An order issued under this subsection may not take effect before the 30th day after the date of issuance of the order].

SECTION _____. Section 2210.352, Insurance Code, is amended to read as follows:

Sec. 2210.352. MANUAL RATE FILINGS: ANNUAL FILING. (a) Not later than August 15 of each year, the association shall file with the department ~~[for approval by the commissioner]~~ a proposed manual rate for all types and classes of risks written by the association~~[. Chapter 40 does not apply to:~~

~~[(1) a filing made under this subsection; or~~

~~[(2) a department action with respect to the filing].~~

(a-1) The association may use a rate filed by the association under this section without prior commissioner approval if:

(1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2) the filed rate does not exceed 105 percent of the rate used by the association in effect on the date on which the filing is made; and

(3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made.

(b) Except as provided by Subsection (a-1), before [Before] approving or[.] disapproving[, or modifying] a filing under this section, the commissioner shall provide all interested persons a reasonable opportunity to:

(1) review the filing;

(2) obtain copies of the filing on payment of any legally required copying cost; and

(3) submit to the commissioner written comments or information related to the filing.

(c) ~~Except as provided by Subsection (a-1), [The commissioner shall schedule an open meeting not later than the 45th day after the date the department receives a filing at which interested persons may present written or oral comments relating to the filing.~~

~~[(d) An open meeting under Subsection (e) is subject to Chapter 551, Government Code, but is not a contested case hearing under Chapter 2001, Government Code.~~

~~[(e) The department shall file with the secretary of state for publication in the Texas Register notice that a filing has been made under Subsection (a) not later than the seventh day after the date the department receives the filing. The notice must include information relating to:~~

~~[(1) the availability of the filing for public inspection at the department during regular business hours and the procedures for obtaining copies of the filing;~~

~~[(2) procedures for making written comments related to the filing; and~~

~~[(3) the time, place, and date of the open meeting scheduled under Subsection (e) at which interested persons may present written or oral comments relating to the filing.~~

~~[(f) After the conclusion of the open meeting,] the commissioner shall approve or[;] disapprove[; or modify] the filing in writing not later than October ~~[November]~~ 15 of the year in which the filing was made. If the filing is not approved or[;] disapproved[; or modified] on or before that date, the filing is considered approved.~~

(d) Except as provided by Subsection (a-1), if ~~[(c) If]~~ the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

SECTION _____. Section 2210.353, Insurance Code, is amended to read as follows:

Sec. 2210.353. MANUAL RATE FILINGS: AMENDED ANNUAL FILING.

(a) Not later than the 30th day after the date the association receives the commissioner's written disapproval under Section 2210.352(c) ~~[2210.352(f)]~~, the association may file with the commissioner an amended annual filing that conforms to all criteria stated in that written disapproval.

(b) Not later than the 30th day after the date an amended filing made under Subsection (a) is received, the commissioner shall approve ~~[the amended filing with or without modifications]~~ or disapprove the amended filing. If the filing is not ~~[modified or]~~ disapproved on or before the 30th day after the date of receipt, the filing is considered approved ~~[without modification]~~. If the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

(c) Before approving or disapproving an amended annual filing under this section, the commissioner shall, in the manner provided by Section 2210.352(b), provide all interested persons a reasonable opportunity to:

(1) review the amended annual filing;

(2) obtain copies of the amended annual filing on payment of any legally required copying cost; and

(3) submit to the commissioner written comments or information related to the amended annual filing.

~~[(d) The commissioner may, in the manner provided by Sections 2210.352(e) and (d), hold a hearing regarding an amended filing not later than the 20th day after the date the department receives the amended filing.]~~

~~[(e) Not later than the 10th day after the date the hearing is concluded, the commissioner shall approve or disapprove the amended filing.]~~

~~[(f) The requirements imposed under Subsection (a) and under Sections 2210.352(e), (f), and (g) apply to a hearing conducted under this section and the commissioner's decision resulting from that hearing.]~~

SECTION _____. Subsections (a), (c), and (d), Section 2210.354, Insurance Code, are amended to read as follows:

(a) In conjunction with the review of a filing under Section 2210.352, other than a filing made under Subsection (a-1) of that section, ~~[or 2210.353:]~~

~~[(4)]~~ the commissioner may request the association to provide additional supporting information relating to the filing~~[-and~~

~~[(2) any interested person may file a written request with the commissioner for additional supporting information relating to the filing].~~

(c) The commissioner shall submit to the association all requests for additional supporting information made under this section for the commissioner's use not later than the 21st day after the date of receipt of the filing ~~[and the use of any interested person].~~

(d) Unless a different period is requested by the association and approved by the commissioner, the association shall provide the information to the commissioner not later than the fifth day after the date the written request for additional supporting information is delivered to the association. ~~[The department shall notify an interested person who has requested additional information of the availability of the information not later than one business day after the date the commissioner receives the information from the association.]~~

SECTION _____. Section 2210.355, Insurance Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) In adopting rates under this chapter, the following must be considered:

(1) the past and prospective loss experience within and outside this state of hazards for which insurance is made available through the plan of operation, if any;

(2) recognized catastrophe models;

(3) expenses of operation, including acquisition costs;

(4) ~~[(3)]~~ a reasonable margin for profit and contingencies; and

(5) ~~[(4)]~~ all other relevant factors, within and outside this state.

(h) The association may establish rating territories and may vary rates among the territories.

SECTION _____. Subsection (b), Section 2210.361, Insurance Code, is amended to read as follows:

(b) After notice and hearing, the commissioner may accept~~[, modify,]~~ or reject a recommendation made by the association under this section. ~~[Chapter 40 does not apply to an action taken under this section.]~~

SECTION _____. Subchapter H, Chapter 2210, Insurance Code, is amended by adding Section 2210.364 to read as follows:

Sec. 2210.364. MIGRATION TO ACTUARIALLY SOUND RATES. Not later than September 1, 2009, the association shall begin implementing rates that are actuarially sound as determined by the association. Not later than August 31, 2012, all rates used by the association for an initial policy or renewal policy issued by the association shall be actuarially sound as determined by the association.

SECTION _____. Subsections (a), (c), and (d), Section 2210.452, Insurance Code, are amended to read as follows:

(a) The commissioner shall adopt rules under which the association makes ~~[members relinquish their net equity on an annual basis as provided by those rules by making]~~ payments to the catastrophe reserve trust fund. The trust fund may be used only to fund~~[-~~

~~[(+)]~~ the obligations of the trust fund under Subchapter B-1 ~~[Section 2210.058(a); and~~

~~[(2) the mitigation and preparedness plan established under Section 2210.454 to reduce the potential for payments by association members that give rise to tax credits in the event of loss].~~

(c) At the end of each calendar year or policy year, the association shall use ~~[pay]~~ the net gain from operations ~~[equity]~~ of the association ~~[a member]~~, including all premium and other revenue of the association in excess of incurred losses and operating expenses, to make payments to the trust fund, to procure ~~[or a]~~ reinsurance, or to make payments to the trust fund and to procure reinsurance ~~[program approved by the commissioner]~~.

(d) The commissioner by rule shall establish the procedure relating to the disbursement of money from the trust fund to policyholders in the event of an occurrence or series of occurrences within a catastrophe area that results in a disbursement under Subchapter B-1 ~~[Section 2210.058(a)]~~.

SECTION _____. Section 2210.453, Insurance Code, is amended to read as follows:

Sec. 2210.453. REINSURANCE ~~[PROGRAM]~~. (a) The association may ~~[shall]~~:

(1) make payments into the trust fund; and ~~[or]~~

(2) purchase ~~[establish a]~~ reinsurance ~~[program approved by the department]~~.

(b) ~~The [With the approval of the department, the]~~ association may purchase ~~[establish a]~~ reinsurance ~~[program]~~ that operates in addition to or in concert with the trust fund, public securities, financial instruments, and assessments authorized by this chapter.

SECTION _____. Subsection (b), Section 2210.454, Insurance Code, is amended to read as follows:

(b) Each state fiscal year, the department may fund the mitigation and preparedness plan using available funds ~~[the investment income of the trust fund in an amount not less than \$1 million and not more than 10 percent of the investment income of the prior fiscal year. From that amount and as part of that plan, the department may use in each fiscal year \$1 million for the windstorm inspection program established under Section 2210.251].~~

SECTION _____. Section 2210.552, Insurance Code, is amended to read as follows:

Sec. 2210.552. CLAIM DISPUTES; VENUE. (a) Except as provided by Sections 2210.007 and 2210.106, a person insured under this chapter who is aggrieved by an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of a claim may:

(1) bring an action for policy benefits against the association~~[-, including an action under Chapter 541];~~ or

(2) appeal ~~[the act, ruling, or decision]~~ under Section 2210.551.

(b) The remedies provided by Subsection (a) and Section 2210.551 are exclusive. A person may not proceed under both Section 2210.551 and this section for the same act, ruling, or decision.

(c) Venue ~~[Except as provided by Subsection (d), venue]~~ in an action brought under this section~~[-, including an action under Chapter 541,]~~ against the association is in the county in which the insured property is located or in a district court in Travis County.

~~[(d) Venue in an action, including an action under Chapter 541, brought under this section in which the claimant joins the department as a party to the action is only in a district court in Travis County.]~~

SECTION _____. Chapter 2210, Insurance Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. PUBLIC SECURITIES PROGRAM

Sec. 2210.601. PURPOSE. The legislature finds that authorizing the issuance of public securities to provide a method to raise funds to provide windstorm and hail insurance through the association in certain designated portions of the state is for the benefit of the public and in furtherance of a public purpose.

Sec. 2210.602. DEFINITIONS. In this subchapter:

(1) "Board" means the board of directors of the Texas Public Finance Authority.

(2) "Class 1 public securities" means public securities authorized to be issued before or on or after the occurrence of a catastrophic event by Section 2210.073.

(3) "Class 2 public securities" means public securities authorized to be issued on or after the occurrence of a catastrophic event by Section 2210.074, 2210.076, or 2210.077.

(4) "Credit agreement" has the meaning assigned by Chapter 1371, Government Code.

(5) "Insurer" means each property and casualty insurer authorized to engage in the business of property and casualty insurance in this state and an affiliate of such an insurer, as described by Section 823.003, including an affiliate that is not

authorized to engage in the business of property and casualty insurance in this state. The term specifically includes a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange.

(6) "Public security" means a debt instrument or other public security issued by the Texas Public Finance Authority.

(7) "Public security administrative expenses" means expenses incurred to administer public securities issued under this subchapter, including fees for paying agents, trustees, and attorneys, and for other professional services necessary to ensure compliance with applicable state or federal law.

(8) "Public security obligations" means the principal of a public security and any premium and interest on a public security issued under this subchapter, together with any amount owed under a related credit agreement.

(9) "Public security obligation revenue fund" means the dedicated trust fund established by the association outside the state treasury under this subchapter.

(10) "Public security resolution" means the resolution or order authorizing public securities to be issued under this subchapter.

Sec. 2210.603. APPLICABILITY OF OTHER LAWS. The board shall issue the public securities as described by Section 2210.604 in accordance with and subject to the requirements of Chapter 1232, Government Code, and other provisions of Title 9, Government Code, that apply to issuance of a public security by a state agency. In the event of a conflict, this subchapter controls.

Sec. 2210.604. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED. (a) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue Class 1 or Class 2 public securities.

(b) The association shall specify in the association's request to the board the maximum principal amount of the public securities and the maximum term of the public securities.

(c) The principal amount determined by the association under Subsection (b) may be increased to include an amount sufficient to:

(1) pay the costs related to issuance of the public securities;

(2) provide a public security reserve fund; and

(3) capitalize interest for the period determined necessary by the association, not to exceed two years.

Sec. 2210.605. TERMS OF ISSUANCE. (a) The board shall determine the method of sale, type and form of public security, maximum interest rates, and other terms of the public securities that, in the board's judgment, best achieve the goals of the association and effect the borrowing at the lowest practicable cost. The board may enter into a credit agreement in connection with the public securities.

(b) Public securities must be issued in the name of the association.

Sec. 2210.606. ADDITIONAL COVENANTS. The board may make additional covenants with respect to the public securities and the designated income and receipts of the association pledged to their payment, and provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the public securities, and the administration of those funds and accounts, as provided in the proceedings authorizing the public securities.

Sec. 2210.607. PUBLIC SECURITY PROCEEDS. The proceeds of public securities issued by the board under this subchapter may be deposited with a trustee selected by the association in consultation with the commissioner or held by the comptroller in a dedicated trust fund outside the state treasury in the custody of the comptroller.

Sec. 2210.608. USE OF PUBLIC SECURITY PROCEEDS. (a) Public security proceeds, including investment income, shall be held in trust for the exclusive use and benefit of the association. The association may use the proceeds to:

- (1) pay incurred claims and operating expenses of the association;
- (2) purchase reinsurance for the association;
- (3) pay the costs of issuing the public securities, and public security administrative expenses, if any;
- (4) provide a public security reserve; and
- (5) pay capitalized interest and principal on the public securities for the period determined necessary by the association.

(b) Any excess public security proceeds remaining after the purposes for which the public securities were issued are satisfied may be used to purchase or redeem outstanding public securities. If there are no outstanding public security obligations or public security administrative expenses, the excess proceeds shall be transferred to the catastrophe reserve trust fund.

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The association shall pay all public security obligations from available funds collected by the association and deposited into the public security obligation revenue fund. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in accordance with Sections 2210.612 and 2210.613, as applicable.

(b) The board shall notify the association of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds and assess a premium surcharge if necessary.

(c) The association shall deposit all revenue collected under Sections 2210.612 and 2210.613 in the public security obligation revenue fund. Money deposited in the fund may be invested as permitted by general law. Money in the fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, premium surcharges, and amounts on deposit in the public security obligation revenue fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association or amounts from the obligation trust fund to the extent provided in the proceedings authorizing the credit agreement.

Sec. 2210.610. PUBLIC SECURITY PAYMENTS. (a) Revenues received from the premium surcharges under Section 2210.612 or 2210.613 may be applied only as provided by this subchapter.

(b) The association may pay public security obligations with other legally available funds.

(c) Public security obligations are payable only from sources provided for payment in this subchapter.

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any year from a premium surcharge under Section 2210.612 or 2210.613 that exceeds the amount of the public security obligations and public security administrative expenses payable in that year and interest earned on the public security obligation fund may, in the discretion of the association, be:

(1) used to pay public security obligations payable in the subsequent year, offsetting the amount of the premium surcharge that would otherwise be required to be levied for the year under this subchapter;

(2) used to redeem or purchase outstanding public securities; or

(3) deposited in the catastrophe reserve trust fund.

Sec. 2210.612. CLASS 1 PREMIUM SURCHARGE; REPAYMENT OF AMOUNTS OWED UNDER FINANCIAL INSTRUMENTS. (a) Each insurer, the association, and the Texas FAIR Plan Association shall collect from their policyholders a surcharge in addition to any premiums to pay:

(1) public security obligations and public security administrative expenses, if any, on Class 1 public securities; and

(2) principal and interest on any financial instruments entered into by the association under Section 2210.073.

(b) The association shall determine the premium surcharge at least annually.

(c) On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess a premium surcharge to its policyholders as provided by this section. The premium surcharge must be set in an amount sufficient to pay all debt service not already covered by available funds and all related expenses on the public securities or financial instruments, as applicable. The premium surcharge shall be assessed on all policyholders who reside or have operations in, or whose insured property is located in a catastrophe area.

(d) The percent of premium assessed as surcharges to all policies issued or renewed by the association must be at least twice the percent of premium assessed as surcharges to all other policies.

(e) The association shall collect the premium surcharge from its policyholders. Each insurer and the Texas FAIR Plan Association shall collect the premium surcharge from their affected policyholders and shall remit the premium surcharge to the association as required by commissioner rule.

(f) A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property located in the area described by Subsection (c) for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

(g) A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

Sec. 2210.613. CLASS 2 PREMIUM SURCHARGE; REPAYMENT OF AMOUNTS OWED UNDER FINANCIAL INSTRUMENTS. (a) Each insurer, the association, and the Texas FAIR Plan Association shall collect from their policyholders a premium surcharge to pay:

(1) public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.074;

(2) public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.076;

(3) public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.077;

(4) principal and interest on financial instruments entered into by the association under Section 2210.074; or

(5) principal and interest on financial instruments entered into by the association under Section 2210.076.

(b) The association shall determine the premium surcharge at least annually.

(c) On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess a premium surcharge to its policyholders as provided by this section. The premium surcharge must be set in an amount sufficient to pay all debt service and all related expenses on the public securities or financial instruments, as applicable.

(d) Each insurer, the association, and the Texas FAIR Plan Association shall collect the premium surcharge under this section from their policyholders who have a property or casualty policy that provides coverage for premises, locations, operations, or property located in this state, and shall remit the premium surcharge to the association as required by commissioner rule.

(e) A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property located in this state for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance. The premium surcharge does not apply to premiums charged for any premises, locations, operations, or property located outside this state.

(f) Seventy percent of a premium surcharge assessed under Subsection (a)(1), (2), (4), or (5) must be assessed on policyholders who have a property or casualty policy that provides coverage for premises, locations, operations, or property located in a catastrophe area.

(g) With respect to the premium surcharge assessed under Subsection (a)(1), (2), (4), or (5) in accordance with Subsection (f), the percent of premium assessed as surcharges to all policies issued or renewed by the association must be at least twice the percent of premium assessed as surcharges to all other new or renewal policies.

(h) A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The association may request the board to refinance any public securities issued in accordance with Subchapter B-1, whether Class 1 or Class 2 public securities, with the refinanced public securities payable from the same sources as the original public securities.

Sec. 2210.615. SOURCE OF PAYMENT; STATE DEBT NOT CREATED.

(a) A public security or credit agreement is payable solely from revenue as provided by this subchapter.

(b) A public security issued under this subchapter, and any related credit agreement, is not a debt of this state or any state agency or political subdivision of this state, and does not constitute a pledge of the faith and credit of this state or any state agency or political subdivision of this state.

(c) Each public security, and any related credit agreement, issued under this subchapter must state on the security's face that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the public security except as provided by this subchapter; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the public security.

Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY OBLIGATIONS. If public securities under this subchapter are outstanding, the state may not:

(1) take action to limit or restrict the rights of the association to fulfill its responsibility to pay public security obligations; or

(2) in any way impair the rights and remedies of the public security owners until the public securities are fully discharged.

Sec. 2210.617. ENFORCEMENT BY MANDAMUS. A writ of mandamus and any other legal and equitable remedies are available to a party at interest to require the association or another party to fulfill an agreement and to perform functions and duties under:

(1) this subchapter;

(2) the Texas Constitution; or

(3) a relevant public security resolution.

Sec. 2210.618. EXEMPTION FROM TAXATION. A public security issued under this subchapter, any transaction relating to the public security, and profits made from the sale of the public security are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Sec. 2210.619. NO PERSONAL LIABILITY. The members of the association, members of the association board of directors, association employees, the board, the employees of the Texas Public Finance Authority, the commissioner, and department employees are not personally liable as a result of exercising the rights and responsibilities granted under this subchapter.

Sec. 2210.620. AUTHORIZED INVESTMENTS. Public securities issued under this subchapter are authorized investments under:

- (1) Subchapter B, Chapter 424;
- (2) Subchapter C, Chapter 425; and
- (3) Sections 425.203-425.213.

SECTION _____. Section 941.003, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) A Lloyd's plan is subject to Chapter 2210, as provided by that chapter.

SECTION _____. Section 942.003, Insurance Code, is amended by adding Subsection (f) to read as follows:

(f) An exchange is subject to Chapter 2210, as provided by that chapter.

SECTION _____. The following laws are repealed:

- (1) Subdivisions (5) and (12), Section 2210.003, Insurance Code;
- (2) Sections 2210.058 and 2210.059, Insurance Code;
- (3) Sections 2210.205 and 2210.206, Insurance Code;
- (4) Sections 2210.256 and 2210.257, Insurance Code;
- (5) Sections 2210.356, 2210.359, 2210.360, and 2210.363, Insurance Code;

and

- (6) Subchapter G, Chapter 2210, Insurance Code.

SECTION _____. (a) The board of directors of the Texas Windstorm Insurance Association established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act of Chapter 2210, Insurance Code, is abolished effective December 31, 2009.

(b) The commissioner of insurance shall appoint the members of the board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act, not later than December 31, 2009.

(c) The term of a person who is serving as a member of the board of directors of the Texas Windstorm Insurance Association immediately before the abolition of that board under Subsection (a) of this section expires on December 31, 2009. Such a person is eligible for appointment by the commissioner of insurance to the new board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act.

SECTION _____. (a) The commissioner of insurance shall adopt rules as required by Chapter 2210, Insurance Code, as amended by this Act, as soon as possible after the effective date of this Act, but not later than the 30th day after the effective date of this Act.

(b) The Texas Windstorm Insurance Association, through the board of directors of that association, shall propose to the commissioner of insurance amendments to the association's plan of operation as required by Chapter 2210, Insurance Code, as amended by this Act, not later than March 1, 2010.

SECTION _____. Sections 2210.202 and 2210.203, Insurance Code, as amended by this Act, apply to an application for insurance coverage submitted to the Texas Windstorm Insurance Association on or after the effective date of this Act.

SECTION _____. Section 2210.251, Insurance Code, as amended by this Act, applies to an inspection conducted by the Texas Windstorm Insurance Association on or after September 1, 2009. Except as otherwise specifically provided by that section, a structure that has been inspected and is the subject of a certificate of compliance issued by the Texas Department of Insurance under Subsection (g), Section 2210.251, Insurance Code, as that section existed immediately before September 1, 2009, is not required to obtain an inspection certificate from the Texas Windstorm Insurance Association to remain eligible for insurance coverage through that association unless the structure is altered, remodeled, enlarged, or repaired on or after September 1, 2009.

SECTION _____. The changes in law made by this Act in amending Sections 2210.251, 2210.254, and 2210.255, Insurance Code, adding Section 2210.2565, Insurance Code, and repealing Section 2210.256, Insurance Code, take effect September 1, 2009.

SECTION _____. Section 2210.552, Insurance Code, as amended by this Act, applies to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law as it exists immediately before that date, and that law is continued in effect for that purpose.

The amendment to **CSHB 4409** was read and was adopted by the following vote: Yeas 27, Nays 4.

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

Nays: Ellis, Hinojosa, Huffman, Zaffirini.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 4409** (Senate committee report) in SECTION 4 of the bill in amended Section 418.043(14), Government Code (page 3, line 1), between "20-year period" and the period, by inserting "on a discounted net present value basis".

The amendment to **CSHB 4409** was read and was adopted by a viva voce vote.

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

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 4409** (Senate committee report) by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION _____. Section 418.018, Government Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) The division, in cooperation with the Department of Public Safety, shall create a task force to study and develop uniform reentry procedures for essential personnel entering a disaster area or a stricken or threatened area that has been evacuated. The task force shall submit a written report on the procedures developed by the task force to the governor. The procedures must:

(1) authorize the orderly reentry of essential personnel according to the critical functions provided by the personnel in restoring normal operations to the area following an evacuation;

(2) prioritize the order of reentry for the essential personnel, including emergency responders, search and rescue personnel, infrastructure and utility repair personnel, official damage assessment personnel, health care providers, and businesses essential to the return of residents; and

(3) establish methods to authenticate the identity of the personnel authorized to reenter the area.

(e) The task force created under Subsection (d) must include representatives of:

(1) the office of the governor;

(2) the Department of Public Safety;

(3) emergency responders;

(4) search and rescue personnel;

(5) infrastructure and utility repair personnel;

(6) official damage assessment personnel;

(7) health care providers;

(8) the Texas Oil and Gas Association;

(9) county judges and mayors; and

(10) businesses essential to the return of residents.

(f) Based on the report and procedures developed by the task force created under Subsection (d) and in cooperation with the Department of Public Safety, the division shall establish uniform reentry procedures for essential personnel entering a disaster area or a stricken or threatened area that has been evacuated. The procedures adopted under this section may not diminish the authority of local emergency management officials to adopt appropriate reentry provisions in a local plan or to make decisions on the timing and implementation of reentry activities.

SECTION 2. The division of emergency management in the office of the governor, in cooperation with the Department of Public Safety of the State of Texas, shall:

(1) appoint members to the task force created under Subsection (d), Section 418.018, Government Code, as added by this Act; and

(2) based on the report and procedures developed by the task force, adopt uniform reentry procedures for essential personnel as required by Subsection (f), Section 418.018, Government Code, as added by this Act.

The amendment to **CSHB 4409** was read and was adopted by a viva voce vote.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 4409** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 2306.0521, Government Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a), the department shall establish and maintain an emergency housing and disaster recovery division. The division shall:

(1) develop a program to provide for the rapid deployment of temporary housing for homeowners affected by natural disasters;

(2) develop a program to quickly restore or replace permanent housing for homeowners affected by natural disasters;

(3) develop a program to quickly provide additional rental housing to areas affected by natural disasters;

(4) provide funding to nonprofit agencies that provide to homeowners affected by natural disasters counseling on refinancing options and financial assistance available through state and federal programs; and

(5) collaborate with the division of emergency management established under Chapter 418 and the Federal Emergency Management Agency to secure reimbursement for housing needs in areas affected by natural disasters.

SECTION _____. Section 2306.056, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) If federal or state money, other than money appropriated to the department under a current services budget for the state fiscal biennium prepared for the state budgetary process is allocated to the department to address the results of a natural disaster, the board may appoint a committee composed of residents of the affected area. The committee shall serve until 90 percent of the money allocated to the department to address the results of the natural disaster has been spent. The committee shall advise the department and the emergency housing and disaster recovery division with regards to resource allocation.

(d) The department shall develop and implement policies that provide the public with a reasonable opportunity to appear periodically before a committee created under Subsection (c) and to speak on any issue under the jurisdiction of the emergency housing and disaster recovery division.

The amendment to **CSHB 4409** was read and was adopted by a viva voce vote.

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

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

CSHB 4409 as amended was passed to third reading by a viva voce vote.

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

(President in Chair)**COMMITTEE SUBSTITUTE
HOUSE BILL 4409 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4409** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2256 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2256** at this time on its second reading:

CSHB 2256, Relating to mediation of out-of-network health benefit claim disputes concerning enrollees, facility-based physicians, and certain health benefit plans; imposing an administrative penalty.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2256** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 1467.057(d), Insurance Code (page 4, line 46), strike "Sections 151.012 and 151.013, Civil Practice and Remedies Code, do", and substitute "Section 151.012, Civil Practice and Remedies Code, does".

(2) In SECTION 2 of the bill, in added Section 1301.0055(2), Insurance Code (page 6, line 10), strike "health care practitioners" and substitute "contracted physicians and health care providers".

(3) In SECTION 2 of the bill, in added Section 1301.0055, Insurance Code (page 6, lines 12-14), strike Subdivision (3) and substitute the following:

(3) on good cause shown, may allow departure from local market network adequacy standards if the commissioner posts on the department's Internet website the name of the preferred provider plan, the insurer offering the plan, and the affected local market.

(4) In SECTION 5 of the bill, in added Section 324.101(a)(7), Health and Safety Code (page 7, line 9), strike "facility-based physician who" and substitute "facility-based physician or facility-based physician group that".

(5) In SECTION 5 of the bill, in added Section 324.101(a)(8), Health and Safety Code (page 7, line 16), strike "facility-based physician who" and substitute "facility-based physician or facility-based physician group that".

(6) In SECTION 6 of the bill (page 7, line 20), strike "This Act applies" and substitute "(a) Except as provided by Subsection (b), this Act applies".

(7) In SECTION 6 of the bill (page 7, between lines 24 and 25), insert the following:

(b) Section 1467.002(2), Insurance Code, as added by this Act, applies to a health benefit claim filed under a group policy or contract executed under Chapter 1551, Insurance Code, on or after September 1, 2010. A claim filed under a group policy or contract executed under Chapter 1551, Insurance Code, before September 1, 2010, is governed by the law as it existed immediately before September 1, 2010, and that law is continued in effect for that purpose.

The amendment to **CSHB 2256** was read and was adopted by a viva voce vote.

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

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2256** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1515 to read as follows:

CHAPTER 1515. INFORMATION CONCERNING RESCINDED HEALTH BENEFIT PLANS

Sec. 1515.001. DEFINITION. In this chapter, "coverage document" means a policy or certificate evidencing the coverage of an individual or group under a health benefit plan described by Section 1515.002.

Sec. 1515.002. APPLICABILITY. (a) This chapter applies only to a health benefit plan, including a small or large 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) This chapter does not apply to:

- (1) a health benefit plan that provides coverage only:

(A) for a specified disease or diseases or under an individual limited benefit policy;

(B) for accidental death or dismemberment;

(C) as a supplement to a liability insurance policy; or

(D) for dental or vision care;

(2) disability income insurance coverage or a combination of accident only and disability income insurance coverage;

(3) credit insurance coverage;

(4) a hospital confinement indemnity policy;

(5) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss), as amended;

(6) a workers' compensation insurance policy;

(7) medical payment insurance coverage provided under a motor vehicle insurance policy; or

(8) a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefits so comprehensive that the policy is a health benefit plan described by Subsection (a) and is not exempted from the application of this chapter.

Sec. 1515.003. REPORT. (a) Each health benefit plan issuer authorized to issue coverage documents in this state shall submit a report to the department containing the rescission rates of coverage documents issued by the issuer.

(b) In addition to the rescission rates described by Subsection (a), the report must contain:

(1) the number of individuals whose coverage document was rescinded by the health benefit plan issuer during the reporting period for each type of health benefit plan to which this chapter applies;

(2) the total number of enrollees that were covered by rescinded coverage documents before those documents were rescinded; and

(3) the reasons for rescission of rescinded coverage documents for each type of health benefit plan to which this chapter applies.

(c) The commissioner shall adopt rules necessary to implement this section, including rules concerning any applicable reporting period and the form of the report required under Subsection (a).

Sec. 1515.004. INTERNET POSTING; CONSUMER HOTLINE. (a) The department shall post on the department's Internet website:

(1) the information contained in the reports received under Section 1515.003 that is not confidential or proprietary; and

(2) a form through which consumers may report rescission of a health benefit plan and complaints or suspected violations of the law governing the rescission of health benefit plans.

(b) For purposes of Subsection (a), aggregated information regarding a health benefit plan issuer's rescission rates is not confidential or proprietary.

(c) The department shall operate a toll-free telephone hotline to:

(1) respond to consumer inquiries concerning the rescission of health benefit plans; and

(2) provide information to consumers concerning the rescission of health benefit plans and technical assistance with the completion of the form described by Subsection (a)(2).

SECTION _____. The commissioner of insurance shall adopt rules under Subsection (c), Section 1515.003, Insurance Code, as added by this Act, not later than January 1, 2010. The rules must require health benefit plan issuers to submit the first report under Section 1515.003, Insurance Code, as added by this Act, not later than April 1, 2010.

The amendment to **CSHB 2256** was read.

Senator Shapleigh withdrew Floor Amendment No. 2.

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

CSHB 2256 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1226 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2256** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 1243 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1243** at this time on its second reading:

CSHB 1243, Relating to net metering for retail electric service customers and compensation for excess electricity generated by a retail electric customer's on-site generator.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1243** (committee printing version) on page 4, lines 44-50, by striking new Subsection (r).

The amendment to **CSHB 1243** was read and was adopted by a viva voce vote.

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

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1243** (committee printing version) on page __, line __ insert the following new appropriately numbered sections and renumber subsequent sections accordingly:

"SECTION __. Section 161.002, Utilities Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Board meeting" means a deliberation between a quorum of the voting board, or between a quorum of the voting board and another person, during which electric cooperative business or policy over which the board has responsibility is discussed or considered, or during which the board takes formal action. The term does not include the gathering of a quorum of the board at a social function unrelated to the business of the cooperative, or the attendance by a quorum of the board at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of cooperative business is incidental to the social function, convention, workshop, ceremonial event, or press conference.

SECTION __. Subchapter A, Chapter 161, Utilities Code, is amended by adding Section 161.006 to read as follows:

Sec. 161.006. NONAPPLICABILITY. The following sections of this chapter do not apply to an electric cooperative that engages exclusively or primarily in the wholesale sale or transmission of electricity and does not have a certificated service area for the retail sale of electricity:

- (1) Sections 161.072(d) through (m);
- (2) Sections 161.075(a), (d), (e), (f), (g), (h), (i), (j), and (k);
- (3) Section 161.0751;
- (4) Section 161.077(d);
- (5) Section 161.080;
- (6) Section 161.081;
- (7) Section 161.082;
- (8) Section 161.126; and
- (9) Section 161.127.

SECTION __. Subsection (b), Section 161.064, Utilities Code, is amended to read as follows:

(b) The bylaws may contain any provision for the regulation and management of the affairs of the electric cooperative that is consistent with the articles of incorporation and this chapter.

SECTION __. Section 161.072, Utilities Code, is amended by adding Subsections (c) through (m) to read as follows:

(c) Director elections shall be conducted in a manner that is fair and open to all members of the electric cooperative.

(d) A board committee of a cooperative with more than 170,000 members may not cast a member's proxy vote in a director election.

(e) A director who is standing for reelection to the board of a cooperative with not more than 170,000 members may not serve on a committee established under the bylaws for the purpose of casting, or being authorized to cast, the proxy vote of a member in a director election.

(f) A member's proxy vote may be cast by a committee established under the bylaws in a director election only if:

(1) a proxy form is sent by regular mail to each member of record not later than the 30th day before the date of the meeting at which proxy votes are counted;

(2) the proxy form designates each candidate who is an incumbent director;

(3) an exact copy of the proxy form is posted on the cooperative's Internet website, if the cooperative maintains a website;

(4) the proxy form includes information describing the process by which proxy votes are authorized and cast, including:

(A) the name of each member of the committee, if any, established under the bylaws for the purpose of casting proxy votes in a director election;

(B) the process prescribed in the bylaws for selecting members to serve on the committee; and

(C) the districts represented by each committee member, if applicable;
and

(5) the proxy form contains the following statements, in bold type:

(A) "If you grant the committee your proxy, you are giving the committee full authority to vote your proxy for the candidates you selected, or, if you did not select any candidates, to vote your proxy for candidates the committee selects";

(B) "You may rescind your proxy at any time before votes are cast at the meeting to elect directors"; and

(C) "State law prohibits any person from using incentives or other enticements to encourage you to provide your proxy in any board election."

(g) Subsections (d) and (f) may not be construed as limiting the right of an individual member to collect or cast the proxy votes of another member in a director election, if allowed by the bylaws.

(h) This section may not be construed as limiting the use of a proxy as provided by Section 161.069 to establish a quorum to transact business other than the election of a director.

(i) A person may not use an incentive or other enticement to encourage a member to authorize another person to cast the member's proxy vote in a director election.

(j) A cooperative with more than 170,000 members may elect directors only by district. A member may vote for a director to represent a district only if the member resides in that district.

(k) A cooperative with more than 170,000 members may nominate qualified members as candidates in a director election only through a written petition by members. The bylaws must:

(1) specify the number of printed names and dated signatures a petition nominating a candidate must contain;

(2) specify a period within which a petition nominating a candidate must be submitted to the cooperative; and

(3) specify that only members residing in a district may sign a petition for the nomination of a candidate to represent that district.

(l) If the bylaws of a cooperative with not more than 170,000 members allow a committee of members to nominate qualified members as candidates in a director election, the bylaws must also:

(1) allow nominations to be made through one or more written petitions by members;

(2) specify the number of printed names and dated signatures a petition nominating a candidate must contain; and

(3) specify a period within which a petition nominating a candidate must be submitted to the cooperative.

(m) A petition submitted under Subsection (l) must provide on the petition the name and address of the member seeking nomination and, if the cooperative nominates or elects directors by district, the district the member seeks to represent.

SECTION __. Section 161.075, Utilities Code, is amended to read as follows:

Sec. 161.075. BOARD MEETINGS. (a) The board shall hold a regular or special board meeting at the place and time specified in ~~[on]~~ the notice required by Section 161.0751 and ~~[prescribed by]~~ the bylaws.

(b) The attendance of a director at a board meeting constitutes a waiver of notice to the director of the meeting unless the director attends the meeting for the express purpose of objecting to the transaction of business at the meeting because the meeting is not lawfully called or convened.

(c) A notice or waiver of notice of a board meeting given to a director is not required to specify the business to be transacted at the meeting or the purpose of the meeting.

(d) Except as provided by this section, each member of the electric cooperative is entitled to attend a regular or special board meeting. A person who is not a member of the cooperative is not entitled to attend a regular or special board meeting.

(e) At the board's discretion, the board may convene an executive session to which the members do not have access to deliberate and take action on sensitive matters, such as matters involving confidential personnel information, contracts, lawsuits, real estate transactions, competitively sensitive information, information related to the security of the electrical system or the cooperative, or other privileged, confidential, or proprietary information.

(f) The board shall reconvene the open session of the regular or special board meeting to announce the final action taken on a matter discussed in executive session, except matters involving confidential personnel information, real estate transactions, competitively sensitive information, or security information.

(g) The board secretary or person designated by the secretary shall make and keep written minutes of each regular or special board meeting.

(h) The board shall adopt and comply with procedures for providing a member with access to the entirety of a regular or special board meeting, other than an executive session.

(i) The board secretary or person designated by the secretary shall make and keep a written or audio record of each executive session. The secretary shall preserve the record for at least two years after the session. The record must include:

(1) a statement of the subject matter of each deliberation;

(2) a record of any further action taken; and

(3) an announcement by the presiding director at the beginning and end of the session indicating the date and time.

(j) Subsections (d), (e), (f), (g), (h), and (i) apply to an electric cooperative with more than 170,000 members.

(k) Each electric cooperative with not more than 170,000 members shall hold an election every five years at the electric cooperative's annual meeting on the question of whether to make Subsections (d), (e), (f), (g), (h), and (i) applicable to the electric cooperative.

SECTION __. Subchapter B, Chapter 161, Utilities Code, is amended by adding Section 161.0751 to read as follows:

Sec. 161.0751. NOTICE OF BOARD MEETINGS. (a) The board shall give members notice of the date, hour, place, and planned agenda of a regular or special board meeting. Notice of a board meeting must be given at least three days before the scheduled time of the meeting by:

(1) posting a notice on a bulletin board in a place convenient to members at the electric cooperative's main office and at each district office;

(2) posting a notice on the cooperative's Internet website, if the cooperative maintains a website; and

(3) providing a copy of the notice to a member on a request by the member.

(b) In the event of an emergency or urgent matter, notice may be given in the manner prescribed by Subsection (a) at any time before a regular or special board meeting is convened. An action taken by the board at a meeting for which notice is given under this subsection must be ratified by the board at the next meeting for which notice is given under Subsection (a)

(c) On approval of the Legislative Audit Committee, the state auditor at the cooperative's expense may audit the financial transactions and operations of an electric cooperative with more than 170,000 members if:

(1) a former or current member of the cooperative's board of directors or senior management is the subject of an ongoing criminal investigation by the office of the attorney general on May 1, 2009; and

(2) the cooperative has been the subject of a court-ordered independent investigation:

(A) performed by an independent consulting entity; and

(B) reviewed by the state auditor.

(d) This subsection and Subsection (c) expire September 1, 2013.

SECTION __. Section 161.077, Utilities Code, is amended by adding Subsection (d) to read as follows:

(d) The provisions of this chapter that apply to the board also apply to the executive committee.

SECTION __. Subchapter B, Chapter 161, Utilities Code, is amended by adding Sections 161.080, 161.081, and 161.082 to read as follows:

Sec. 161.080. MEMBER'S RIGHT OF ACCESS TO RECORDS. (a) Except as provided by Subsection (c), a member of an electric cooperative may, at any reasonable time and on written request that states a proper purpose for the request, inspect and copy the books and records of the cooperative relevant to that purpose.

(b) An electric cooperative may charge a member for the cost of providing information under Subsection (a).

(c) An electric cooperative may limit or deny a member's request to inspect its books and records if the member:

(1) does not meet the requirements of Subsection (a);

(2) seeks information the release of which would unduly infringe on or invade the privacy of a person;

(3) seeks information related to a trade secret;

(4) seeks personnel information the disclosure of which would violate the law or constitute a clearly unwarranted invasion of personal privacy;

(5) seeks information related to:

(A) pending or reasonably anticipated litigation;

(B) a real estate transaction for a project that has not been formally announced or for which contracts have not been formally awarded;

(C) the cooperative's competitive activity, including commercial information and utility-related matters that would, if disclosed, give an advantage to a competitor or prospective competitor; or

(D) the security of the cooperative's electrical system; or

(6) seeks information that is confidential, privileged, or proprietary.

Sec. 161.081. POLICIES AND AUDIT. (a) The board shall adopt written policies relating to:

(1) travel expenditures for board members, officers, and employees;

(2) reimbursement of expenses for board members, officers, and employees;

(3) conflicts of interest for board members, officers, and employees;

(4) whistleblower protections;

(5) criteria and procedures for the selection, monitoring, review, and evaluation of outside vendors or contracted professional services;

(6) budgets for use in planning and controlling costs; and

(7) the creation of a committee that audits the actions of the board.

(b) An electric cooperative shall provide for an independent financial audit, to be performed annually by an unaffiliated entity that is professionally qualified to perform such an audit.

Sec. 161.082. COMPLAINTS BY MEMBERS. (a) A member may file a written complaint with the general manager of the electric cooperative if the member is aggrieved by an action of the board or by an employee of the board or of the cooperative that the member alleges infringes on a right of the member under Sections 161.072, 161.075, 161.0751, 161.080, 161.081, and 161.126.

(b) Not later than the 20th day after the date the general manager receives a complaint under Subsection (a), the general manager shall take corrective action regarding the complaint, if the general manager determines that the action complained of infringed on the member's rights under Sections 161.072, 161.075, 161.0751, 161.080, 161.081, and 161.126.

(c) If the general manager determines that the action complained of did not infringe on the member's rights under Sections 161.072, 161.075, 161.0751, 161.080, 161.081, or 161.126, or if the general manager otherwise fails to resolve the member's complaint to the member's satisfaction before the 21st day after the general manager

receives the member's complaint, the member may file a written complaint with the attorney general's consumer protection division. A complaint filed with the attorney general under this subsection must:

- (1) identify the electric cooperative by name and address;
- (2) describe in detail the nature of the member's complaint; and
- (3) include copies of documents relevant to the member's complaint,

including:

(A) any relevant written request made by the member to the cooperative;

(B) the written complaint made by the member to the general manager under Subsection (a); and

(C) any relevant response from the cooperative regarding a request or complaint.

(d) In reviewing a member's complaint under this section, the consumer protection division may request that the cooperative provide to the division any information relevant to the complaint. The division must give a cooperative a reasonable opportunity to inspect and copy the requested information before providing the information to the division. The division shall designate an employee of the division to be the person responsible for receiving, inspecting, or copying information received under this subsection.

(e) An electric cooperative shall cooperate with a request for information under Subsection (d) and promptly provide the requested information to the consumer protection division's designated employee. The division may not disclose to any person information provided by a cooperative in response to the request unless:

(1) the division is required by a court to provide the information to the person;

(2) the person is an authorized employee of the division; or

(3) the cooperative that provided the information consents to the disclosure.

(f) The consumer protection division shall return to a cooperative any information provided under this section that is confidential or sensitive to the cooperative.

SECTION __. Subchapter C, Chapter 161, Utilities Code, is amended by adding Sections 161.126 and 161.127 to read as follows:

Sec. 161.126. PROHIBITION ON ACQUISITION OF GENERATOR CAPACITY BY CERTAIN ELECTRIC COOPERATIVES. An electric cooperative with more than 170,000 members that provides retail electric service may not acquire equipment capable of generating electricity for sale other than equipment that uses an alternative energy resource unless the Public Utility Commission of Texas first approves of the acquisition. The commission by rule shall establish the standards and procedures by which it will approve an electric cooperative's acquisition of electric generation capacity.

Sec. 161.127. NOTIFICATION OF CERTAIN INVESTMENTS. Not later than the 30th day following the completion of a transaction that results in an electric cooperative or an affiliate of the cooperative creating or acquiring an interest in an entity that does not generate, transmit, or distribute electricity, the cooperative shall provide a notice to members that contains:

(1) the name of the entity;

(2) a description of the entity;

(3) the reasons for the decision to enter into the transaction;

(4) a description of the costs associated with the transaction, and the method of financing for those costs; and

(5) a description of the anticipated effect the transaction will have on the cooperative's electric energy rates or prices.

SECTION __. (a) The changes in law made by Section 161.072, Utilities Code, as amended by this Act, apply only to a director election held on or after the effective date of this Act. A director election held before the effective date of this Act is subject to the law in effect on the date the election is held, and that law is continued in effect for that purpose.

(b) The changes in law made by Section 161.075, Utilities Code, as amended by this Act, and by Section 161.0751, Utilities Code, as added by this Act, apply only to a meeting convened on or after the effective date of this Act. A meeting convened before the effective date of this Act is subject to the law in effect on the date the meeting is held, and that law is continued in effect for that purpose.

(c) The changes in law made by Sections 161.080 and 161.082, Utilities Code, as added by this Act, apply only to a request to inspect records submitted on or after the effective date of this Act. A request submitted before the effective date of this Act is subject to the law in effect on the date of the request, and that law is continued in effect for that purpose.

(d) The changes in law made by Section 161.127, Utilities Code, as added by this Act, apply only to a transaction that is completed on or after the effective date of this Act. A transaction that is completed before the effective date of this Act is subject to the law in effect on the date the transaction is completed, and that law is continued in effect for that purpose.

SECTION __. Not later than December 31, 2010, each electric cooperative with not more than 170,000 members shall hold an election as required by Section 161.075(k), as added by this Act."

The amendment to **CSHB 1243** was read and was adopted by a viva voce vote.

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

Nays: Eltife.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1243** (committee printing version) by inserting the following new SECTIONS and renumbering subsequent SECTIONS accordingly:

"SECTION __. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9155 to read as follows:

Sec. 39.9155. DISTRIBUTED SOLAR GENERATION INCENTIVE PROGRAM. (a) It is the goal of the legislature that electric utilities administer incentive programs for residential and commercial customers to increase the amount

of distributed solar generation, utility scale solar generation, and energy storage installed within the state in a cost-effective, market-neutral, and nondiscriminatory manner.

(b) The commission by rule shall:

(1) establish a distributed solar generation incentive program, to be implemented by electric utilities;

(2) oversee the implementation of the program required by Subdivision (1);
and

(3) establish procedures to achieve the goal described by Subsection (a).

(c) The rules adopted under Subsection (b) must include provisions for:

(1) recovery of the cost of electric utility programs authorized by this section through nonbypassable fees, which may not exceed:

(A) 20 cents per month for residential customers;

(B) \$2 per month for commercial customers; and

(C) \$20 per month for industrial customers;

(2) rebates to customers to defray the cost of installing distributed solar generation as provided by Subsection (e); and

(3) the utility scale solar and energy storage program provided by Subsection (f).

(d) Electric utilities may not assess the fees authorized by this section after the fifth anniversary of the date the program required by this section is established by commission rule, except as provided by Subsection (k). The commission shall ensure that all fees collected under this section are used for the programs authorized by this section, except that utilities may not use more than 2.5 percent of the funds collected for administrative expenses related to this section, as approved by the commission.

(e) The commission shall set a rebate amount for the installation of solar generation. The commission shall periodically adjust the rebate amount such that the quantity of solar generation installed under this section is maximized, but shall reduce rebate amounts by not less than five percent per year. The commission may set a higher rebate amount for solar generation manufactured wholly or substantially in this state, provided that the higher amount is not more than 20 percent higher than the rebate applicable to all other solar generation. The commission may provide for rebates to be provided directly to customers or to qualified installers of solar generation. Unless otherwise adjusted by the commission, the initial rebates shall be:

(1) \$2.40 per watt for installations on residential buildings;

(2) \$1.50 per watt for installations on commercial buildings; and

(3) \$1 per watt for installations at industrial facilities.

(f) The commission may direct not more than 70 percent of the funds collected by the fees authorized by this section to utility scale solar generation and energy storage projects if the commission determines such projects are more cost-effective than distributed solar generation or will provide a greater benefit to the reliability of the electric grid. The commission may establish rebate amounts not to exceed \$1 per watt for such projects or may consider other methods to award funds in order to maximize the quantity of generation installed under this section. If the demand for funds under this section exceeds the available funds, the commission shall consider the following in determining which projects receive subsidies:

(1) projects that require the lowest amount of subsidy to be commercially viable;

(2) projects that use the transmission capacity built under Section 39.904(g) and require minimal additional transmission facilities;

(3) projects that enhance the reliability of the transmission and distribution grid or defer the need for additional transmission and distribution infrastructure;

(4) projects that provide maximum output during periods when electricity demand is highest in this state; and

(5) projects that can provide ancillary services to the electric grid.

(g) The commission shall develop a "Made in Texas" certification program for energy products that include distributed solar generation. The commission shall post a list of energy products that are wholly or substantially produced in Texas and shall conduct education efforts to inform customers of the availability of Texas-manufactured energy products. The commission may partner or contract with third parties or nonprofit organizations to achieve this goal.

(h) The commission, in consultation with the Electric Reliability Council of Texas, shall prepare and make available a study indicating geographic areas where utility scale non-wind renewable energy can be located with minimal additional transmission facilities.

(i) Selection of projects by the commission under Subsection (f) is not required to be conducted as a contested case proceeding. The commission may appoint an advisory committee to assist the commission in evaluating proposals made under Subsection (f), provided, however, that members of the committee may not have a financial interest in any of the proposals. After conclusion of a process authorized by Subsection (f), the commission shall release a complete record of the proposals and the evaluation of the factors required to be considered under Subsection (f).

(j) The commission may extend the fees and program authorized by this section for an additional five years if the commission finds that a substantial amount of manufacturing of solar generation products has located in Texas after the initial five-year program and that the extension of the fees does not present an undue burden to customers.

SECTION _____. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9156 to read as follows:

Sec. 39.9156. SOLAR GENERATION INCENTIVE PROGRAMS. (a) It is the goal of the legislature that:

(1) electric cooperatives and municipally owned utilities administer incentive programs that increase the amount of solar generation installed within the state in a cost-effective, market-neutral, and nondiscriminatory manner;

(2) customers of electric cooperatives and municipally owned utilities will have a choice of and access to incentives for the installation of distributed solar generation; and

(3) electric cooperatives and municipally owned utilities with retail sales of more than 500,000 megawatt hours in 2007 expend funds to increase the amount of solar generation and other renewable energy and energy storage projects consistent with the requirements for electric utilities in this state.

(b) Not later than September 1, 2015, a municipally owned utility or electric cooperative with retail sales of more than 500,000 megawatt hours in 2007 must report to the state energy conservation office, in a form and manner determined by the office, information regarding the efforts of the municipally owned utility or electric cooperative related to this section.

SECTION _____. Chapter 202, Property Code, is amended by adding Section 202.010 to read as follows:

Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section, "solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by this section, a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) This section does not prohibit the inclusion or enforcement of a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) threatens the public health or safety;

(2) violates a law;

(3) is located on property owned or maintained by the property owners' association;

(4) is located on property owned in common by the members of the property owners' association;

(5) is located in an area on the property owner's property other than:

(A) on the roof of the home; or

(B) in a fenced yard or patio maintained by the property owner; or

(6) is mounted on a device that is taller or more visually obtrusive than is necessary for the solar energy device to operate at not less than 90 percent of its rated efficiency.

SECTION _____. The heading to Subtitle F, Title 16, Property Code, is amended to read as follows:

SUBTITLE F. REGULATION ~~[INSPECTION]~~ OF ~~[NEW]~~ RESIDENTIAL CONSTRUCTION GENERALLY

SECTION _____. The heading to Chapter 446, Property Code, is amended to read as follows:

CHAPTER 446. INSPECTION OF RESIDENTIAL CONSTRUCTION IN UNINCORPORATED AREAS AND OTHER AREAS NOT SUBJECT TO MUNICIPAL INSPECTIONS

SECTION _____. Subtitle F, Title 16, Property Code, is amended by adding Chapter 447 to read as follows:

CHAPTER 447. REQUIREMENTS FOR NEW CONSTRUCTION CONTRACTS

Sec. 447.001. SOLAR PANEL OPTION REQUIRED IN CERTAIN SUBDIVISIONS. (a) In this section, "solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

(b) This chapter applies only to a contract for construction of a new home in a subdivision that contains more than 50 lots on which the builder has built or is offering to build new homes.

(c) A builder who enters into a contract to which this chapter applies shall offer the homebuyer an option to install a solar energy device on the home for heating or cooling or for the production of power.

SECTION _____. Subchapter D, Chapter 2305, Government Code, is amended by adding Section 2305.0321 to read as follows:

Sec. 2305.0321. PILOT REVOLVING LOAN PROGRAM FOR SOLAR ENERGY FOR SCHOOL BUILDINGS. (a) The energy office shall establish a pilot program under the loanstar revolving loan program to provide loans to pay the cost of installing photovoltaic solar panels on public school buildings and the cost of associated energy efficiency improvements to the buildings. The energy office shall allocate to the pilot program at least \$4 million from the funds available to the loanstar revolving loan program.

(b) The energy office by rule shall establish the terms under which a loan may be made under the pilot program, including the interest rate for repayment of pilot program loans.

(c) Through the pilot program, the energy office shall offer to each school district the opportunity to apply for a loan to pay the cost of installing photovoltaic solar panels on at least one school building of the school district's choice and the cost of associated energy efficiency improvements to that building. The energy office by rule shall establish a procedure for determining which school districts qualify for a loan under the pilot program, including rules for selecting the school districts that will receive a loan if there is not sufficient money set aside for pilot program improvements at all school districts.

(d) Each school district that receives a loan shall pay for the principal of and interest on the loan for each school building improvement primarily from the amount budgeted for the energy costs of the school at which the solar panels are installed. The school district may make additional payments of the principal of or interest on a loan from money rebated to it as compensation for electric energy generated by the solar panels or money received as a gift or grant for the purpose of paying the loan.

(e) This section expires September 1, 2011, and the pilot program established under this section is abolished on that date.

SECTION _____. The Public Utility Commission of Texas shall adopt rules establishing the programs required under Section 39.9155, Utilities Code, as added by this Act, as soon as practicable.

SECTION _____. Section 202.010, Property Code, as added by this Act, applies to a deed restriction enacted before, on, or after the effective date of this Act.

SECTION _____. Chapter 447, Property Code, as added by this Act, applies only to a contract for new home construction entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION _____. The state energy conservation office shall establish a program under Section 2305.0321, Government Code, as added by this Act, not later than January 1, 2010."

The amendment to **CSHB 1243** was read and was adopted by a viva voce vote.

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

Nays: Nelson, Patrick.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 1243** (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION ___. Section 31.002, Utilities Code, is amended by adding Subdivision (4-a) and amending Subdivision (10) to read as follows:

(4-a) "Distributed natural gas generation facility" means a facility installed on the customer's side of the meter that is used for the generation of not more than 2,000 kilowatts of electricity.

(10) "Power generation company" means a person, including a person who owns or operates a distributed natural gas generation facility, that:

(A) generates electricity that is intended to be sold at wholesale;

(B) does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under this section; and

(C) does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.

SECTION ___. The heading to Subchapter B, Chapter 35, Utilities Code, is amended to read as follows:

SUBCHAPTER B. EXEMPT WHOLESALE GENERATORS, DISTRIBUTED NATURAL GAS GENERATION FACILITIES, AND POWER MARKETERS

SECTION ___. Subchapter B, Chapter 35, Utilities Code, is amended by adding Section 35.036 to read as follows:

Sec. 35.036. DISTRIBUTED NATURAL GAS GENERATION FACILITIES.

(a)(1) A person who owns or operates a distributed natural gas generation facility may sell electric power generated by the facility.

(2) The electric utility, electric cooperative, or retail electric provider that provides retail electricity service to the facility may purchase electric power tendered to it by the owner or operator of the facility at a value agreed to by the electric utility, electric cooperative, or retail electric provider and the owner or operator of the facility, which may include a value based on the clearing price of energy at the time of day and location that the electricity is made available to the electric grid.

(3) At the request of the owner or operator of the facility, the electric utility or electric cooperative shall allow the owner or operator of the facility to use the transmission and distribution facilities to transmit the electric power to another entity that is acceptable to the owner or operator in accordance with commission rules or a tariff approved by the Federal Energy Regulatory Commission.

(b) If the owner or operator of a distributed natural gas generation facility requests to be interconnected to an electric utility or electric cooperative that does not have a transmission tariff approved by the Federal Energy Regulatory Commission, the electric utility or electric cooperative may recover from the owner or operator of the facility the reasonable costs of interconnecting the facility with the electric utility or electric cooperative that are necessary for and directly attributable to the interconnection of the facility. If the rated capacity of the distributed natural gas generation exceeds the capacity of the electric utility or electric cooperative and the owner or operator of the facility requests that such an electric utility or electric cooperative make upgrades to accommodate the distributed natural generation capacity, the electric utility or electric cooperative may recover from the owner or operator of the facility the reasonable cost of electric facility upgrades and improvements that are necessary for and directly attributable to the requested accommodation of the distributed natural gas generation capacity.

(c) In order to recover costs under Subsection (b), an electric utility or electric cooperative must have provided a good-faith cost estimate in writing to the owner or operator of the distributed natural gas generation facility and the owner or operator must have, prior to the incurring of any cost by the electric utility or electric cooperative, agreed in writing to pay the reasonable and necessary cost of interconnection or capacity accommodation requested by the owner or operator and described in the cost estimate. If an electric utility or electric cooperative seeks to recover from the owner or operator of the facility an amount that exceeds the good-faith estimate by more than five percent and the owner or operator of the facility disputes the amount that exceeds the good-faith estimate, the commission shall resolve the dispute at the request of the owner or operator of the facility.

(d) A distributed natural gas generation facility must comply with emissions limitations established by the Texas Commission on Environmental Quality for a standard emissions permit for an electric generation facility unit installed after January 1, 1995.

SECTION __. Subsection (c), Section 39.351, Utilities Code, is amended to read as follows:

(c) The commission may establish simplified filing requirements for distributed natural gas generation facilities ~~[A power generation company may register any time after September 1, 2000].~~

The amendment to **CSHB 1243** was read and was adopted by a viva voce vote.

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

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 1243** (Senate committee printing), in SECTION 4 of the bill, in amended Section 39.916(j), Utilities Code (page 3, line 31), between the period and "A distributed", by inserting "An electric cooperative may calculate avoided cost in accordance with commission rules or, at the option of the electric cooperative, as the sum of the average wholesale fuel and energy costs, expressed in cents per kilowatt hour, on the wholesale power bill for the applicable billing period."

The amendment to **CSHB 1243** was read and was adopted by a viva voce vote.

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

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

CSHB 1243 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1243 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1243** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3526 ON SECOND READING**

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3526** at this time on its second reading:

CSHB 3526, Relating to the powers and duties of the Texas Water Development Board and related entities, including the funding of projects by the board and the composition, duties, recommendations, and expenses of entities created to study and provide advice regarding environmental flows.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3526** (Senate committee report) as follows:

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

SECTION 3. __. Section 11.002(19), Water Code, is amended to read as follows:

(19) "Science [~~advisory~~] committee" means the Texas environmental flows science [~~advisory~~] committee.

SECTION 3. __. The heading to Section 11.02361, Water Code, is amended to read as follows:

Sec. 11.02361. TEXAS ENVIRONMENTAL FLOWS SCIENCE [~~ADVISORY~~] COMMITTEE.

(2) In the recital to SECTION 3.02 of the bill (page 3, line 7), strike "and (f)" and substitute "(d), (e), (f), and (g)".

(3) In SECTION 3.02 of the bill, in amended Section 11.02361(a), Water Code (page 3, line 9), strike "advisory" and substitute "[~~advisory~~]".

(4) In SECTION 3.02 of the bill, in amended Section 11.02361(b), Water Code (page 3, line 14), strike "advisory" and substitute "[~~advisory~~]".

(5) In SECTION 3.02 of the bill, in added Section 11.02361(b-1), Water Code (page 3, line 21), strike "advisory".

(6) In SECTION 3.02 of the bill, in amended Section 11.02361(c), Water Code (page 3, line 25), strike "advisory" and substitute "[~~advisory~~]".

(7) In SECTION 3.02 of the bill, in amended Section 11.02361(c), Water Code (page 3, line 26), strike "advisory" and substitute "[~~advisory~~]".

(8) In SECTION 3.02 of the bill (page 3, lines 29-38), strike amended Section 11.02361(f), Water Code, and substitute the following:

(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).

(9) In the recital to SECTION 3.03 of the bill, between "(g)," and "(n)" (page 3, line 40), insert "(k),".

(10) In SECTION 3.03 of the bill, in amended Section 11.02362, Water Code, between added Subsection (i-1) and amended Subsection (n) of the section (page 6, between lines 25 and 26), insert the following:

(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.

(11) In SECTION 3.03 of the bill, in amended Section 11.02362(q), Water Code (page 7, line 11), strike "advisory" and substitute "~~[advisory]~~".

(12) In SECTION 3.04 of the bill, in amended Section 11.1471(b)(9), Water Code (page 7, line 52), strike "advisory" and substitute "~~[advisory]~~".

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

SECTION 3.____. 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, 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 the commission, 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.

(14) In SECTION 3.05 of the bill, in amended Section 15.4063(1), Water Code (page 7, line 59), strike "advisory" and substitute "~~[advisory]~~".

(15) In SECTION 3.05 of the bill, in amended Section 15.4063(2), Water Code (page 7, line 68), strike "advisory" and substitute "~~[advisory]~~".

(16) IN SECTION 3.06 of the bill (page 8, line 18), strike "advisory".

The amendment to **CSHB 3526** was read and was adopted by a viva voce vote.

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

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3526** (Senate committee report) by adding the following appropriately numbered SECTIONS of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 11.0842(a) and (b), Water Code, are amended to read as follows:

(a) If a person violates this chapter, a rule or order adopted under this chapter, Section 12.052, or Section 16.236, 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.

(b) The penalty may be in an amount not to exceed \$5,000 for each day the person is in violation of this chapter, a [the] rule or order adopted under this chapter, or a [the] permit, certified filing, or certificate of adjudication issued under this chapter. The penalty may be in an amount not to exceed \$10,000 for each day the person is in violation of a rule or order adopted under Section 12.052. The penalty may be in an amount not to exceed \$1,000 for each day the person is in violation of a [the] rule or order adopted under Section 16.236 [of this code]. Each day a violation continues may be considered a separate violation for purposes of penalty assessment.

SECTION _____. Section 12.052, Water Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (g) and (h) to read as follows:

(a) The commission shall make and enforce rules and orders and shall perform all other acts necessary to provide for the safe construction, maintenance, operation, repair, and removal of dams located in this state.

(a-1) In order to maintain the structural integrity of dams located in this state, the commission may require the owner or owners of a dam to develop and implement an operation and maintenance plan to comply with the rules and orders promulgated under this section.

(a-2) In determining the frequency with which dams located in this state are inspected, the commission shall give preference to inspecting dams that are classified as posing a high or significant hazard as defined by commission rule.

(c) If the owner of a dam that is required to be constructed, reconstructed, maintained, operated, repaired, or removed in order to comply with the rules and orders promulgated under [Subsection (a) of] this section wilfully fails or refuses to comply within the 30-day period following the date of the commission's final, nonappealable order to do so or if a person wilfully fails to comply with any rule or other order issued by the commission under this section within the 30-day period following the effective date of the order, the person [he] is liable for [to] a penalty of not more than \$10,000 [\$5,000] a day for each day the person [he] continues to violate this section. The state may recover the penalty by suit brought for that purpose in the district court of Travis County.

(e) If the commission issues an emergency order under authority of this section without notice to the dam owner, the commission shall fix a time and place for a hearing which shall be held as soon as practicable to affirm, modify, or set aside the emergency order. The notice does not have to comply with Chapter 2001, Government Code. If the nature of the commission's action requires further proceedings, those proceedings shall be conducted as appropriate under Chapter 2001, Government Code ~~[the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes)]~~.

(g) The commission may assess an administrative penalty as provided by Section 11.0842 against a person who violates a rule or order adopted under this section.

(h) This section does not affect the right of any private corporation, individual, or political subdivision that has a justiciable interest in pursuing any available common law remedy to enforce a right or to prevent or seek redress or compensation for the violation of a right or otherwise redress an injury.

SECTION _____. Section 13.043(h), Water Code, is amended to read as follows:

(h) The commission or executive director may~~[on a motion by the executive director or by the appellant under Subsection (a), (b), or (f) of this section,]~~ establish interim rates to be in effect until a final decision is made in an appeal filed under Subsection (a), (b), or (f).

SECTION _____. Sections 13.187(f), (i), (j), (k), (l), (n), and (o), Water Code, are amended to read as follows:

(f) The regulatory authority may set the matter for hearing on its own motion at any time within 120 days after the effective date of the rate change. ~~[If more than half of the ratepayers of the utility receive service in a county with a population of more than 2.5 million, the hearing must be held at a location in that county.]~~

(i) The regulatory authority or the executive director, pending final action in a rate proceeding, may order the utility to deposit all or part of the rate increase received or to be received into an escrow account with a financial institution approved by the regulatory authority. Unless otherwise agreed to by the parties to the rate proceeding, the utility shall refund or credit against future bills all sums collected during the pendency of the rate proceeding in excess of the rate finally ordered plus interest as determined by the regulatory authority.

(j) For good cause shown, the regulatory authority or the executive director may authorize the release of funds to the utility from the escrow account during the pendency of the proceeding.

(k) If the regulatory authority receives at least the number of complaints from ratepayers required for the regulatory authority to set a hearing under Subsection (e), the regulatory authority or the executive director may, pending the hearing and a decision, suspend the date the rate change would otherwise be effective. Except as provided by Subsection (d-1), the proposed rate may not be suspended for longer than:

- (1) 90 days by a local regulatory authority; or
- (2) 250 [150] days by the commission or executive director.

(l) At any time during the pendency of the rate proceeding the regulatory authority or the executive director may fix interim rates to remain in effect until a final determination is made on the proposed rate.

(n) For good cause shown, the regulatory authority or the executive director may at any time during the proceeding require the utility to refund money collected under a proposed rate before the rate was suspended or an interim rate was established to the extent the proposed rate exceeds the existing rate or the interim rate.

(o) If a regulatory authority other than the commission or the executive director establishes interim rates or an escrow account, the regulatory authority must make a final determination on the rates not later than the first anniversary of the effective date of the interim rates or escrowed rates or the rates are automatically approved as requested by the utility.

SECTION _____. Section 13.242(c), Water Code, is amended to read as follows:

(c) The commission may by rule allow a municipality or utility or water supply corporation to render retail water or sewer service without a certificate of public convenience and necessity if the municipality has given notice under Section 13.255 [~~of this code~~] that it intends to provide retail water or sewer service to an area or if the utility or water supply corporation has less than 15 potential connections and is not within the certificated area of another retail public utility.

SECTION _____. Section 13.248, Water Code, is amended to read as follows:

Sec. 13.248. CONTRACTS VALID AND ENFORCEABLE. Contracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities, when approved by the commission or the executive director after public notice [~~and hearing~~], are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity.

SECTION _____. Sections 37.006(f) and (g), Water Code, are amended to read as follows:

(f) A person whose license or registration has been expired for 60 [~~30~~] days or less may apply for renewal of the license or registration by paying to the commission a renewal fee in an amount prescribed by commission rule not to exceed 1-1/2 times the normally required renewal fee.

(g) A person whose license or registration has been expired for more than 60 [~~30~~] days may not renew the license or registration. The person may obtain a new license or registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original license or registration.

SECTION _____. Section 49.321, Water Code, is amended to read as follows:

Sec. 49.321. DISSOLUTION AUTHORITY. After notice [~~and hearing~~], the commission or executive director may dissolve any district that is inactive for a period of five consecutive years and has no outstanding bonded indebtedness.

SECTION _____. Section 49.324, Water Code, is amended to read as follows:

Sec. 49.324. ORDER OF DISSOLUTION. The commission or the executive director may enter an order dissolving the district [~~at the conclusion of the hearing~~] if the commission or executive director [~~it~~] finds that the district has performed none of the functions for which it was created for a period of five consecutive years [~~before the day of the proceeding~~] and that the district has no outstanding bonded indebtedness.

SECTION _____. Section 49.326(a), Water Code, is amended to read as follows:

(a) Appeals from an ~~a commission~~ order dissolving a district shall be filed and heard in the district court of any of the counties in which the land is located.

SECTION _____. Section 54.030(b), Water Code, is amended to read as follows:

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes of the governing body a resolution declaring that in its judgment, conversion into a municipal utility district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district. The resolution shall also request that the commission approve ~~[to hold a hearing on the question of]~~ the conversion of the district.

SECTION _____. Section 54.032, Water Code, is amended to read as follows:

Sec. 54.032. CONVERSION OF DISTRICT; NOTICE. (a) Notice of the conversion ~~[hearing]~~ shall be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks ~~[with the first publication to be made not less than 14 full days before the time set for the hearing]~~.

(c) The notice shall:

(1) ~~[state the time and place of the hearing;~~

~~[(2)]~~ set out the resolution adopted by the district in full; and

~~(2) [(3)]~~ notify all interested persons how they may offer comments ~~[to appear and offer testimony]~~ for or against the proposal contained in the resolution.

SECTION _____. Section 54.033, Water Code, is amended to read as follows:

Sec. 54.033. CONVERSION OF DISTRICT; FINDINGS. (a) ~~If [After a hearing, if]~~ the commission or the executive director finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, the commission or executive director ~~[#]~~ shall enter an order making this finding and the district shall become a district operating under this chapter and no confirmation election shall be required.

(b) If the commission or the executive director finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, the commission or executive director ~~[#]~~ shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the commission or the executive director entered under this section shall be subject to appeal or review within 30 days after entry of the order ~~[of the commission]~~ granting or denying the conversion.

(d) A copy of the ~~[commission]~~ order converting a district shall be filed in the deed records of the county or counties in which the district is located.

SECTION _____. Sections 49.322 and 54.031, Water Code, are repealed.

SECTION _____. (a) The changes in law made by this Act to Sections 11.0842 and 12.052, Water Code, apply only to a violation that occurs on or after the effective date of this Act. For purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date.

(b) A violation that occurs before the effective date of this Act is governed by the law in effect on the date of the violation, and the former law is continued in effect for that purpose.

SECTION _____. The changes in law made by Section 13.187, Water Code, as amended by this Act, apply only to a rate application or appeal filed with the Texas Commission on Environmental Quality on or after the effective date of this Act. A rate application or appeal filed with the commission before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

The amendment to **CSHB 3526** was read and was adopted by a viva voce vote.

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3526** (Senate committee report) at ARTICLE 4 (page 8, line 26) by inserting the following new ARTICLE 4 and renumbering the subsequent articles accordingly:

ARTICLE 4. STATE PARTICIPATION ACCOUNT.

SECTION 4.01. Section 16.131, Water Code, is amended to read as follows:

Sec. 16.131. **AUTHORIZED PROJECTS.** The board may use the state participation account of the development fund:

(1) to encourage optimum regional development of projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of:

(A) ~~[(4)]~~ reservoirs and storm water retention basins for water supply, flood protection, and groundwater recharge;

(B) ~~[(2)]~~ facilities for the transmission and treatment of water; and

(C) ~~[(3)]~~ treatment works as defined by Section 17.001 of this code; and

(2) to acquire water rights or existing public water systems to encourage optimum regional development of desalination projects.

SECTION 4.02. Section 16.135, Water Code, is amended to read as follows:

Sec. 16.135. **BOARD FINDINGS.** Before the board may acquire a facility or interest in a facility, the board shall find affirmatively that:

(1) it is reasonable to expect that the state will recover its investment in the facility;

(2) the cost of the facility exceeds the current financing capabilities of the area involved, and the optimum regional development of the facility cannot be reasonably financed by local interests without state participation;

(3) the public interest will be served by acquisition of the facility; ~~[and]~~

(4) the facility to be constructed or reconstructed contemplates the optimum regional development which is reasonably required under all existing circumstances of the site; and

(5) if appropriate, the facility to be acquired encourages optimum regional development of a desalination project.

SECTION 4.03. This article takes effect September 1, 2009.

The amendment to **CSHB 3526** was read and was adopted by a viva voce vote.

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3526** (Senate committee printing) at ARTICLE 4 (page 8, line 26) by inserting the following new ARTICLE 4 and renumbering the subsequent articles accordingly:

ARTICLE 4. GRANTS BY THE TEXAS WATER DEVELOPMENT BOARD FOR WATER AND WASTEWATER SYSTEM IMPROVEMENTS IN ECONOMICALLY DISTRESSED AREAS.

SECTION 4.01. Subsections (b) and (c), Section 17.933, Water Code, are amended to read as follows:

(b) In providing financial assistance to an applicant under this subchapter, the board may not provide to the applicant financial assistance in the form of a grant ~~for which repayment is not required~~ in an amount that exceeds 50 percent of the total cost of a proposed project ~~[amount of the financial assistance plus interest on any amount that must be repaid,]~~ unless the Texas Department of State Health Services issues a determination ~~[finding]~~ that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project. The board and the applicant shall provide to the Texas Department of State Health Services information necessary to make a determination, and the board and the Texas Department of State Health Services may enter into necessary memoranda of understanding to carry out this subsection.

(c) In providing financial assistance under this subchapter, the board may combine a grant made under this subchapter with a loan from any other source, including another program administered by the board [The total amount of financial assistance provided by the board to political subdivisions under this subchapter from state-issued bonds for which repayment is not required may not exceed at any time 90 percent of the total principal amount of issued and unissued bonds authorized under Article III of the Texas Constitution, for purposes of this subchapter plus outstanding interest on those bonds].

SECTION 4.02. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 4.03. This Act takes effect September 1, 2009.

The amendment to **CSHB 3526** was read and was adopted by a viva voce vote.

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

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 3526** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) The executive administrator of the Texas Water Development Board shall appoint an advisory committee to assist the board in incorporating the potential effects of climate variability into the 2012 state water plan. The advisory committee shall consist of experts from any field who have experience in the process of creating a regional water plan.

(b) The advisory committee shall:

- (1) assess past and predicted variations in climate;
- (2) assess the potential effects of climate variability on:
 - (A) groundwater resources;
 - (B) surface water resources; and
 - (C) water demand;

(3) review case studies of major water providers that include quantitative sensitivity analyses for water demand and supply under a range of climate variation scenarios;

(4) review and analyze information regarding natural climate variability to determine whether an area of this state is experiencing a new drought of record;

(5) assess existing global climate models to determine whether the models may be helpful in water planning on a regional or local level;

(6) make recommendations for improving the collection of general information regarding:

- (A) groundwater resources;
- (B) surface water resources;
- (C) evapotranspiration; and
- (D) water use; and

(7) make recommendations for the use of innovative water technologies that will help mitigate water supply issues, in addition to those water supply issues that would be experienced in a drought of record, including:

- (A) desalination technology;
- (B) water reuse technology; and
- (C) other emerging technologies.

(c) Not later than December 1 of each even-numbered year, the advisory committee shall submit its findings and recommendations to:

- (1) the Texas Water Development Board;
- (2) the governor; and
- (3) the relevant committees of the senate and house of representatives.

(d) The advisory committee is abolished and this Act expires January 1, 2013.

The amendment to **CSHB 3526** was read and was adopted by a viva voce vote.

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

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 3526** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subsection (a), Section 16.051, Water Code, is amended to read as follows:

(a) Not later than January 5, 2012 [~~2002~~], and before the end of each successive five-year period after that date, the board shall prepare, develop, formulate, and adopt a comprehensive state water plan that incorporates the regional water plans approved under Section 16.053. The state water plan shall provide for the orderly development, management, and conservation of water resources and preparation for and response to drought conditions and the effects of climate variability, in order that sufficient water will be available at a reasonable cost to ensure public health, safety, and welfare; further economic development; and protect the agricultural and natural resources of the entire state.

SECTION __. Subsection (e), Section 16.053, Water Code, is amended to read as follows:

(e) Each regional water planning group shall submit to the development board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the development board under Section 16.051(d);

(2) provides information based on data provided or approved by the development board in a format consistent with the guidelines provided by the development board under Subsection (d);

(3) identifies:

(A) each source of water supply in the regional water planning area, including information supplied by the executive administrator on the amount of managed available groundwater in accordance with the guidelines provided by the development board under Subsections (d) and (f);

(B) factors specific to each source of water supply to be considered in determining whether to initiate a drought response;

(C) actions to be taken as part of the response; and

(D) existing major water infrastructure facilities that may be used for interconnections in the event of an emergency shortage of water;

(4) has specific provisions for water management strategies to be used during a drought of record;

(5) includes but is not limited to consideration of the following:

(A) any existing water or drought planning efforts addressing all or a portion of the region;

(B) approved groundwater conservation district management plans and other plans submitted under Section 16.054;

(C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, conjunctive use, acquisition of available existing water supplies, and development of new water supplies;

(D) protection of existing water rights in the region;

(E) opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities;

(F) appropriate provision for environmental water needs and for the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and the effect of plans on navigation;

(G) provisions in Section 11.085(k)(1) if interbasin transfers are contemplated;

(H) voluntary transfer of water within the region using, but not limited to, regional water banks, sales, leases, options, subordination agreements, and financing agreements; ~~and~~

(I) emergency transfer of water under Section 11.139, including information on the part of each permit, certified filing, or certificate of adjudication for nonmunicipal use in the region that may be transferred without causing unreasonable damage to the property of the nonmunicipal water rights holder; and

(J) the effects of climate variability on the water supply in the regional water planning area;

(6) identifies river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the regional water planning group recommends for protection under Section 16.051;

(7) assesses the impact of the plan on unique river and stream segments identified in Subdivision (6) if the regional water planning group or the legislature determines that a site of unique ecological value exists; and

(8) describes the impact of proposed water projects on water quality.

SECTION __. Subsection (e), Section 16.053, Water Code, as amended by this Act, applies only to regional water plans required to be submitted to the Texas Water Development Board beginning with the plan required to be submitted by January 5, 2016.

The amendment to **CSHB 3526** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

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

CSHB 3526 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3526 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3526** be placed on its third reading and final passage.

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

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

HOUSE BILL 4189 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4189** at this time on its second reading:

HB 4189, Relating to the conduct of compliance programs by institutions of higher education.

The bill was read second time.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 4189** (Senate committee printing) by adding the appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. This Act shall be known as the Jamie Schanbaum Act.

SECTION __. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9192 to read as follows:

Sec. 51.9192. BACTERIAL MENINGITIS VACCINATION REQUIRED FOR CERTAIN STUDENTS; EXCEPTIONS. (a) In this section:

(1) "Health practitioner" means any person authorized by law to administer an immunization.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(b) This section applies only to a first-time student of an institution of higher education or private or independent institution of higher education, including a transfer student, who resides in, or has applied for on-campus housing and been approved to reside in, an on-campus dormitory or other on-campus student housing facility at the institution.

(c) Except as provided by Subsection (d), a student to whom this section applies or a parent or guardian of the student must provide to the institution, at the time and in the manner prescribed by rules adopted by the Texas Higher Education Coordinating Board, a certificate signed by a health practitioner evidencing that the student has been vaccinated against bacterial meningitis.

(d) A student to whom this section applies or a parent or guardian of the student is not required to comply with Subsection (c) if the student or a parent or guardian of the student submits to the institution:

(1) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States in which it is stated that, in the physician's opinion, the vaccination required would be injurious to the health and well-being of the student; or

(2) an affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including a religious belief, except that the exemption provided by this subdivision does not apply during a disaster or public health emergency, terrorist attack, hostile military or paramilitary

action, or extraordinary law enforcement emergency declared by an appropriate official or other authority and in effect for the location of the institution the student attends.

(e) The Texas Higher Education Coordinating Board, in consultation with institutions of higher education and private or independent institutions of higher education, shall adopt rules for the administration of this section, including rules establishing the date by which a student who is required to comply with Subsection (c) must have received the vaccination required by that subsection, which may not be later than the date the student initially moves into an on-campus dormitory or other on-campus student housing facility at an institution.

SECTION __. Section 51.9192, Education Code, as added by this Act, applies only to first-time students enrolling in public or private or independent institutions of higher education in this state on or after January 1, 2010.

The amendment to **HB 4189** was read and was adopted by a viva voce vote.

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

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

HB 4189 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 4189 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4189** be placed on its third reading and final passage.

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

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

(Senator Watson in Chair)

COMMITTEE SUBSTITUTE

HOUSE BILL 103 ON SECOND READING

Senator Patrick moved to suspend the regular order of business to take up for consideration **CSHB 103** at this time on its second reading:

CSHB 103, Relating to the operation of certain health benefit plans through student health centers of certain institutions of higher education.

The motion prevailed.

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

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 103** (Senate committee report) as follows:

(1) In SECTION 2 of the bill, in added Section 51.953(e) (page 1, line 38), between "education" and "must", insert "described by Subsection (c)".

(2) In SECTION 2 of the bill, in added Section 51.953(h) (page 1, line 60), between "education" and "shall", insert "described by Subsection (c)".

The amendment to **CSHB 103** was read and was adopted by a viva voce vote.

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

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 103** (Senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Section 51.952, Education Code, is amended to read as follows:

Sec. 51.952. STUDENT HEALTH INSURANCE AT MEDICAL AND DENTAL UNITS.

SECTION _____. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9521 to read as follows:

Sec. 51.9521. STUDENT HEALTH INSURANCE AT GENERAL ACADEMIC TEACHING INSTITUTIONS. (a) In this section:

(1) "Health benefit plan" means any health benefit plan regulated under the Insurance Code, including:

(A) an individual, group, or blanket health insurance policy; or

(B) an evidence of coverage issued by a health maintenance organization.

(2) "High deductible health plan" has the meaning assigned by Section 223, Internal Revenue Code of 1986.

(3) "General academic teaching institution" and "university system" have the meanings assigned by Section 61.003.

(b) A general academic teaching institution shall offer or sponsor, directly or through the university system, if any, of which the institution is a component, one or more health benefit plans for the students of the institution. At least one health benefit plan offered under this section must be a high deductible health plan.

(c) The institution shall provide each student the option to:

(1) enroll in a health benefit plan offered under this section at the time of the student's registration; and

(2) pay the premium or other charges for coverage under the plan in the same payment that includes the student's tuition and fees.

SECTION _____. Section 51.9521, Education Code, as added by this Act, applies beginning with the 2010 fall semester.

The amendment to **CSHB 103** was read.

Senator Duncan moved to table Floor Amendment No. 2.

The motion to table was lost by the following vote: Yeas 6, Nays 24.

Yeas: Davis, Duncan, Ogden, Seliger, Watson, Zaffirini.

Nays: Averitt, Carona, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Wentworth, West, Whitmire, Williams.

Absent: Hegar.

Senator Patrick offered the following amendment to Floor Amendment No. 2:

Floor Amendment No. 3

Amend Floor Amendment No. 2 to **CSHB 103** (Senate committee report), on page 2, line 6, by inserting the following:

(d) When offering the health benefit plan to students, the institution shall collect information from each student that declines to accept the coverage offered through the institution, including whether the decision to decline coverage was as a result of:

(1) the student's existing health benefit plan coverage from another source;

(2) the cost of the health benefit plan;

(3) the type of health benefit plan offered by the institution; or

(4) the student does not desire a health benefit plan at this time.

(e) Data collected by the institution may be provided to the public in the aggregate.

The amendment to Floor Amendment No. 2 to **CSHB 103** was read and was adopted by a viva voce vote.

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

Question recurring on the adoption of Floor Amendment No. 2 to **CSHB 103**, the amendment as amended was adopted by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Carona, Davis, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams.

Nays: Duncan, Ogden, Seliger, Zaffirini.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 103** (Senate committee printing) by adding the appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. This Act shall be known as the Jamie Schanbaum Act.

SECTION __. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9192 to read as follows:

Sec. 51.9192. BACTERIAL MENINGITIS VACCINATION REQUIRED FOR CERTAIN STUDENTS; EXCEPTIONS. (a) In this section:

(1) "Health practitioner" means any person authorized by law to administer an immunization.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(b) This section applies only to a first-time student of an institution of higher education or private or independent institution of higher education, including a transfer student, who resides in, or has applied for on-campus housing and been approved to reside in, an on-campus dormitory or other on-campus student housing facility at the institution.

(c) Except as provided by Subsection (d), a student to whom this section applies or a parent or guardian of the student must provide to the institution, at the time and in the manner prescribed by rules adopted by the Texas Higher Education Coordinating Board, a certificate signed by a health practitioner evidencing that the student has been vaccinated against bacterial meningitis.

(d) A student to whom this section applies or a parent or guardian of the student is not required to comply with Subsection (c) if the student or a parent or guardian of the student submits to the institution:

(1) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States in which it is stated that, in the physician's opinion, the vaccination required would be injurious to the health and well-being of the student; or

(2) an affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including a religious belief, except that the exemption provided by this subdivision does not apply during a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency declared by an appropriate official or other authority and in effect for the location of the institution the student attends.

(e) The Texas Higher Education Coordinating Board, in consultation with institutions of higher education and private or independent institutions of higher education, shall adopt rules for the administration of this section, including rules establishing the date by which a student who is required to comply with Subsection (c) must have received the vaccination required by that subsection, which may not be later than the date the student initially moves into an on-campus dormitory or other on-campus student housing facility at an institution.

SECTION __. Section 51.9192, Education Code, as added by this Act, applies only to first-time students enrolling in public or private or independent institutions of higher education in this state on or after January 1, 2010.

The amendment to **CSHB 103** was read and was adopted by a viva voce vote.

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

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 103** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

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

The amendment to **CSHB 103** was read and was adopted by a viva voce vote.

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

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

CSHB 103 as amended was passed to third reading by a viva voce vote.

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

Nays: Zaffirini.

COMMITTEE SUBSTITUTE HOUSE BILL 103 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 103** be placed on its third reading and final passage.

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

Yeas: Averitt, Carona, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams.

Nays: Davis, Duncan, Ogden, Seliger, Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4.

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

Nays: Davis, Duncan, Ogden, Zaffirini.

COMMITTEE SUBSTITUTE HOUSE BILL 2553 ON SECOND READING

On motion of Senator Davis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2553** at this time on its second reading:

CSHB 2553, Relating to the registration and operation of certain motor vehicles.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2553** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. (a) Section 502.1725, Transportation Code, is amended by amending Subsections (d), (e), (f), and (g) and adding Subsections (e-1), (f-1), (i), and (j) to read as follows:

(d) A fee imposed under this section may take effect only on January 1 of a year. The county must adopt the order and notify the department not later than September 1 of the year preceding the year in which the fee takes effect. A fee imposed under this section is not required to be annually reauthorized and remains in effect until removed as provided by Subsection (e).

(e) Subject to Subsection (e-1), a [A] fee imposed under this section may be removed. The removal may take effect only on January 1 of a year. A county may remove the fee only by:

(1) rescinding the order imposing the fee; and

(2) notifying the department not later than September 1 of the year preceding the year in which the removal takes effect.

(e-1) If the revenue from a fee imposed under this section is pledged or assigned to secure the payment of obligations as provided by Subsection (f-1), the fee may not be removed until the obligations secured by the pledge or assignment have been paid or discharged.

(f) The county assessor-collector of a county imposing a fee under this section shall collect the additional fee for a vehicle when other fees imposed under this chapter are collected. The county shall deposit ~~send~~ the fee revenue in a special account in the county general fund. Money in the account may be used only for a purpose authorized under Section (7-a), Article VIII, Texas Constitution, and only to contract with:

(1) ~~to~~ the regional mobility authority of the county to promote and maintain a public purpose of the county that involves funding ~~fund~~ long-term transportation projects in the county;

(2) a transportation governmental entity designated under Subsection (j) to promote and maintain a public purpose of the county that involves funding long-term transportation projects in the county; or

(3) a public or private entity developing a long-term transportation project in the county under an agreement with the county, the regional mobility authority of the county, or a transportation governmental entity designated under Subsection (j) to promote and maintain a public purpose of the county.

(f-1) Revenue from a fee imposed under this section may be pledged or assigned by the county, the regional mobility authority of the county with which the county contracts under Subsection (f), or a transportation governmental entity with which the county contracts under Subsection (f) to secure the payment of obligations associated with the development of long-term transportation projects in the county as provided by Subsection (f).

(g) The department shall collect the additional fee on a vehicle that is owned by a resident of a county imposing a fee under this section and that, under this chapter, must be registered directly with the department. The department shall send all fees collected for a county under this subsection to the county for deposit and use as provided by Subsection (f) or (f-1) [regional mobility authority of the county to fund long term transportation projects in the county].

(i) Notwithstanding Subsection (b), the fee imposed under this section by the commissioners court of a county to which this subsection applies may not exceed \$50. This subsection applies only to a county that:

(1) borders the United Mexican States;

(2) has a population of at least 500,000; and

(3) does not contain a municipality with a population of more than 500,000.

(j) The department shall designate the governmental entities that serve primarily a transportation function and with which counties may contract under Subsection (f).

(b) This Section 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 Section takes effect September 1, 2009.

The amendment to **CSHB 2553** was read and was adopted by a viva voce vote.

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

Nays: Lucio.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2553** (Senate committee report) by adding the following appropriately numbered SECTIONS, and renumbering the following SECTIONS accordingly:

SECTION __. The heading to Section 29.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 29.011. SAFETY APPAREL REQUIRED; SEAT BELTS.

SECTION __. Section 29.011, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A person may not operate, ride, or be carried on an off-highway vehicle on public property unless the person wears:

(1) a safety helmet that complies with United States Department of Transportation standards; ~~and~~

(2) eye protection; and

(3) seat belts, if the vehicle is equipped with seat belts.

(c) This section does not apply to a motor vehicle that:

(1) has at least four wheels and is registered by the Texas Department of Transportation for use on a public highway, unless the vehicle is an all-terrain vehicle as defined by Section 502.001, Transportation Code;

(2) has four wheels and is equipped with bench or bucket seats and seat belts and includes a roll bar or roll cage construction to reduce the risk of injury to an occupant of the vehicle in case of the vehicle's rollover; or

(3) is in the process of being loaded into or unloaded from a trailer or another vehicle used to transport the motor vehicle.

SECTION __. The change in law made by this Act to Section 29.011, Parks and Wildlife Code, applies to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

The amendment to **CSHB 2553** was read and was adopted by a viva voce vote.

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

Senator Huffman offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2553** (Senate committee report) in SECTION 4 of the bill, in amended Sec. 502.006 (page 2, between lines 21 and 22), by adding the following new Subsection (c), and relettering the following Subsection accordingly:

(c) A recreational off-highway vehicle registered as provided by subsection (b) may be operated on a public or private beach in the same manner as a golf cart may be operated on a public or private beach under Section 502.0071. The operator must hold and have in the operator's possession a driver's license issued under Chapter 521 or a commercial driver's license issued under Chapter 522.

The amendment to **CSHB 2553** was read and was adopted by a viva voce vote.

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

Senator Davis moved to temporarily postpone further consideration of the bill.

The motion prevailed.

Question — Shall **CSHB 2553** as amended be passed to third reading?

COMMITTEE SUBSTITUTE HOUSE BILL 1320 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1320** at this time on its second reading:

CSHB 1320, Relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1320** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (d), Article 59.03, Code of Criminal Procedure, is amended to read as follows:

(d) A person in the possession of property at the time a peace officer seizes the property under this chapter may at the time of seizure assert the person's interest in or right to the property. Any peace officer, including the [A] peace officer who seizes the property, [under this chapter] may not [at the time of seizure] request, require, or in any manner induce any person, including a person who asserts an interest in or right to the property [seized], to execute a document purporting to waive the person's interest in or rights to [the] property seized under this chapter.

SECTION _____. Article 59.03, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) At any time before notice is filed under Article 59.04(b), an attorney representing the state may not request, require, or in any manner induce any person, including a person who asserts an interest in or right to property seized under this chapter, to execute a document purporting to waive the person's interest in or rights to the property.

SECTION _____. Article 59.06, Code of Criminal Procedure, is amended by adding Subsections (c-1), (d-1), and (d-2) and amending Subsections (d) and (g) to read as follows:

(c-1) Any postjudgment interest from money, securities, negotiable instruments, stocks or bonds, or things of value, or proceeds from the sale of those items, that are deposited in an interest-bearing bank account under Subsection (c) shall be used for the same purpose as the principal.

(d) Proceeds awarded under this chapter to a law enforcement agency or to the attorney representing the state may be spent by the agency or the attorney after a budget for the expenditure of the proceeds has been submitted to the commissioners court or governing body of the municipality. The budget must be detailed and clearly list and define the categories of expenditures, but may not list details that would endanger the security of an investigation or prosecution. Expenditures are subject to the audit and enforcement provisions established under this chapter [article]. A commissioners court or governing body of a municipality may not use the existence of an award to offset or decrease total salaries, expenses, and allowances that the agency or the attorney receives from the commissioners court or governing body at or after the time the proceeds are awarded.

(d-1) The head of a law enforcement [the] agency or an attorney representing the state may not use proceeds or property received under this chapter to:

- (1) contribute to a political campaign;
- (2) make a donation to any entity, except as provided by Subsection (d-2);
- (3) pay expenses related to the training or education of any member of the judiciary;

(4) pay any travel expenses related to attendance at training or education seminars if the expenses violate generally applicable restrictions established by the commissioners court or governing body of the municipality, as applicable;

(5) purchase alcoholic beverages;

(6) make any expenditure not approved by the commissioners court or governing body of the municipality, as applicable, if the head of a law enforcement agency or attorney representing the state holds an elective office and:

(A) the deadline for filing an application for a place on the ballot as a candidate for reelection to that office in the general primary election has passed and the person did not file an application for a place on that ballot; or

(B) during the person's current term of office, the person was a candidate in a primary, general, or runoff election for reelection to that office and was not the prevailing candidate in that election; or

(7) ~~the existence of an award to~~ increase a salary, expense, or allowance for an employee of the law enforcement agency or attorney representing the state ~~or agency~~ who is budgeted by the commissioners court or governing body of the municipality unless the commissioners court or governing body first approves the increase ~~[expenditure]~~.

(d-2) The head of a law enforcement agency or an attorney representing the state may use as an official purpose of the agency or attorney proceeds or property received under this chapter to make a donation to an entity that assists in:

(1) the detection, investigation, or prosecution of:

(A) criminal offenses; or

(B) instances of abuse, as defined by Section 261.001, Family Code;

(2) the provision of:

(A) mental health, drug, or rehabilitation services; or

(B) services for victims or witnesses of criminal offenses or instances of abuse described by Subdivision (1); or

(3) the provision of training or education related to duties or services described by Subdivision (1) or (2).

(g)(1) All law enforcement agencies and attorneys representing the state who receive proceeds or property under this chapter shall account for the seizure, forfeiture, receipt, and specific expenditure of all the ~~[such]~~ proceeds and property in an audit, which is to be performed annually by the commissioners court or governing body of a municipality, as appropriate. The annual period of the audit for a law enforcement agency is the fiscal year of the appropriate county or municipality and the annual period for an attorney representing the state is the state fiscal year. The audit must ~~shall~~ be completed on a form provided by the attorney general and must include a detailed report and explanation of all expenditures, including salaries and overtime pay, officer training, investigative equipment and supplies, and other items. Certified copies of the audit shall be delivered by the law enforcement agency or attorney representing the state to ~~[the comptroller's office and]~~ the attorney general not later than the 60th day after the date on which the annual period that is the subject of the audit ends.

(2) If a copy of the audit is not delivered to the attorney general within the period required by Subdivision (1), within five days after the end of the period the attorney general shall notify the law enforcement agency or the attorney representing the state of that fact. On a showing of good cause, the attorney general may grant an extension permitting the agency or attorney to deliver a copy of the audit after the period required by Subdivision (1) and before the 76th day after the date on which the annual period that is the subject of the audit ends. If the law enforcement agency or the attorney representing the state fails to establish good cause for not delivering the copy of the audit within the period required by Subdivision (1) or fails to deliver a copy of an audit within the extension period, the attorney general shall notify the comptroller of that fact.

(3) On notice under Subdivision (2) ~~[this subdivision]~~, the comptroller shall perform the audit otherwise required by Subdivision (1). At the conclusion of the audit, the comptroller shall forward a copy of the audit to the attorney general. The law enforcement agency or attorney representing the state is liable to the comptroller for the costs of the comptroller in performing the audit.

SECTION ____ . Chapter 59, Code of Criminal Procedure, is amended by adding Articles 59.061 and 59.062 to read as follows:

Art. 59.061. AUDITS AND INVESTIGATIONS. (a) The state auditor may at any time perform an audit or conduct an investigation, in accordance with this article and Chapter 321, Government Code, related to the seizure, forfeiture, receipt, and specific expenditure of proceeds and property received under this chapter.

(b) The state auditor is entitled at any time to access any book, account, voucher, confidential or nonconfidential report, or other record of information, including electronic data, maintained under Article 59.06, except that if the release of the applicable information is restricted under state or federal law, the state auditor may access the information only with the approval of a court or federal administrative agency, as appropriate.

(c) If the results of an audit or investigation under this article indicate that a law enforcement agency or attorney representing the state has knowingly violated or is knowingly violating a provision of this chapter relating to the disposition of proceeds or property received under this chapter, the state auditor shall promptly notify the attorney general for the purpose of initiating appropriate enforcement proceedings under Article 59.062.

Art. 59.062. ENFORCEMENT. (a) In the name of the state, the attorney general may institute in a district court in Travis County or in a county served by the law enforcement agency or attorney representing the state, as applicable, a suit for injunctive relief, to recover a civil penalty, or for both injunctive relief and a civil penalty if the results of an audit or investigation under Article 59.061 indicate that the law enforcement agency or attorney representing the state has knowingly violated or is knowingly violating a provision of this chapter relating to the disposition of proceeds or property received under this chapter.

(b) On application for injunctive relief and a finding that the law enforcement agency or attorney representing the state is knowingly violating a provision of this chapter relating to the disposition of proceeds or property received under this chapter, the district court shall grant the injunctive relief the facts may warrant, without requirement for bond.

(c) A law enforcement agency or attorney representing the state who knowingly commits a violation described by Subsection (a) is liable to the state for a civil penalty in an amount not to exceed \$100,000 as determined by the district court to be appropriate for the nature and seriousness of the violation. In determining an appropriate penalty for the violation, the court shall consider:

- (1) any previous violations committed by the agency or attorney;
- (2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (3) the demonstrated good faith of the agency or attorney; and
- (4) the amount necessary to deter future violations.

(d) If the attorney general brings a suit under this article and an injunction is granted or a civil penalty is imposed, the attorney general may recover reasonable expenses, court costs, investigative costs, and attorney's fees.

(e) Notwithstanding any other provision of this article, a law enforcement agency or attorney representing the state ordered to pay a civil penalty, expense, cost, or fee under this article shall make the payment out of money available in any fund established by the agency or attorney, as applicable, for the purpose of administering proceeds or property received under this chapter. If sufficient money is not available to make payment in full at the time the court enters an order requiring payment, the agency or attorney shall continue to make payments out of money available in any fund described by this subsection until the payment is made in full.

(f) A civil penalty collected under this article shall be deposited to the credit of the drug court account in the general revenue fund to help fund drug court programs established under Chapter 469, Health and Safety Code.

(g) A law enforcement agency or attorney representing the state is immune from liability under this article if the agency or attorney reasonably relied on:

- (1) the advice, consent, or approval of an entity that conducts an audit of the agency or attorney under this chapter; or
- (2) a written opinion of the attorney general relating to:
 - (A) the statute or other provision of law the agency or attorney is alleged to have knowingly violated; or
 - (B) a fact situation that is substantially similar to the fact situation in which the agency or attorney is involved.

SECTION _____. The changes in law made by this Act in amending Article 59.03, Code of Criminal Procedure, apply only to property seized on or after the effective date of this Act. Property seized before the effective date of this Act is covered by the law in effect when the property was seized, and the former law is continued in effect for that purpose. For purposes of this section, property was seized before the effective date of this Act if any portion of the property was seized before that date.

SECTION _____. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act in amending Article 59.06, Code of Criminal Procedure, apply to the disposition or use, on or after the effective date of this Act, of proceeds or property received by a law enforcement agency or attorney representing the state under Chapter 59, Code of Criminal Procedure, regardless of whether the receipt of the proceeds or property occurred before, on, or after the effective date of this Act.

(b) The changes in law made by this Act in amending Subsection (g), Article 59.06, Code of Criminal Procedure, and adding Articles 59.061 and 59.062, Code of Criminal Procedure, apply to any audit performed on or after the effective date of this Act.

The amendment to **CSHB 1320** was read and was adopted by a viva voce vote.

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

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

CSHB 1320 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1320 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1320** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 432 ON SECOND READING

Senator Estes moved to suspend the regular order of business to take up for consideration **CSHB 432** at this time on its second reading:

CSHB 432, Relating to the acquisition by state agencies of low-emissions vehicles and vehicles using alternative fuels.

The motion prevailed.

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

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 432** (Senate committee report), in SECTION 4 of the bill, in amended Section 2158.005(b), Government Code (page 3, line 22), by striking "commission" and substituting "Texas Commission on Environmental Quality [~~commission~~]".

The amendment to **CSHB 432** was read and was adopted by a viva voce vote.

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

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 432** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 386.252, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Money in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which not more than four percent may be used for the clean school bus program, five percent shall be used for the clean fleet program, and not more than 10 percent may be used for on-road diesel purchase or lease incentives;

(2) for the new technology research and development program, 9.5 percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, not less than 20 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan, and the balance is to be allocated each year to a nonprofit organization or an institution of higher education based in Houston to be used to implement and administer the new technology research and development program under a contract with the commission for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification; and

(3) for administrative costs incurred by the commission and the laboratory, three percent of the money in the fund.

(d) The commission may allocate unexpended money designated for the clean fleet program to other programs described under Subsection (a) after the commission allocates money to recipients under the clean fleet program.

SECTION _____. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Alternative fuel" means a fuel other than gasoline, diesel or biodiesel fuel, including electricity, compressed natural gas, liquified natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Golf cart" has the meaning assigned by Section 502.001, Transportation Code.

(4) "Hybrid vehicle" means a vehicle with at least two different energy converters and two different energy storage systems on board the vehicle for the purpose of propelling the vehicle.

(5) "Incremental cost" has the meaning assigned by Section 386.001.

(6) "Light-duty motor vehicle" has the meaning assigned by Section 386.151.

(7) "Motor vehicle" has the meaning assigned by Section 386.151.

(8) "Neighborhood electric vehicle" means a motor vehicle that:

(A) is originally manufactured to meet, and does meet, the equipment requirements and safety standards established for "low-speed vehicles" in Federal Motor Vehicle Safety Standard No. 500 (49 C.F.R. Section 571.500);

(B) is a slow-moving vehicle, as defined by Section 547.001, Transportation Code, that is able to attain a speed of more than 20 miles per hour but not more than 25 miles per hour in one mile on a paved, level surface;

(C) is a four-wheeled motor vehicle;

(D) is powered by electricity or alternative power sources;

(E) has a gross vehicle weight rating of less than 3,000 pounds; and

(F) is not a golf cart.

(9) "Program" means the Texas clean fleet program established under this chapter.

Sec. 391.002. PROGRAM. (a) The commission shall establish and administer the Texas clean fleet program to encourage a person that has a fleet of vehicles to convert diesel-powered vehicles to alternative fuel or hybrid vehicles or replace them with alternative fuel or hybrid vehicles. Under the program, the commission shall provide grants for eligible projects to offset the incremental cost of projects for fleet owners.

(b) An entity that places 25 or more qualifying vehicles in service for use entirely in this state during a calendar year is eligible to participate in the program.

Sec. 391.003. QUALIFYING VEHICLES. (a) A vehicle is a qualifying vehicle that may be considered for a grant under the program if during the calendar year the entity purchases a new on-road vehicle that:

(1) is certified to current federal emissions standards;

(2) replaces a diesel-powered on-road vehicle of the same weight classification and use; and

(3) is a hybrid vehicle or fueled by an alternative fuel.

(b) A vehicle is not a qualifying vehicle if the vehicle:

- (1) is a neighborhood electric vehicle;
- (2) has been used as a qualifying vehicle to qualify for a grant under this chapter for a previous reporting period or by another entity; or
- (3) has qualified for a similar grant or tax credit in another jurisdiction.

Sec. 391.004. APPLICATION FOR GRANT. (a) An entity operating in this state that operates a fleet of at least 100 vehicles may apply for and receive a grant under the program.

(b) The commission may adopt guidelines to allow a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, or a private nonprofit organization to apply for and receive a grant to improve the ability of the program to achieve its goals.

(c) An application for a grant under this chapter must be made on a form provided by the commission and must contain the information required by the commission.

Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The commission by rule shall establish criteria for prioritizing projects eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate.

(b) To be eligible for a grant under the program, a project must:

(1) result in a reduction in emissions of nitrogen oxides or other pollutants, as established by the commission, of at least 25 percent, based on:

(A) the baseline emission level set by the commission under Subsection (g); and

(B) the certified emission rate of the new vehicle; and

(2) replace a vehicle that:

(A) is an on-road vehicle that has been owned, registered, and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(B) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(C) satisfies any minimum percentage of annual usage requirements established by the commission; and

(D) is in operating condition and has at least two years of remaining useful life, as determined in accordance with criteria established by the commission.

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, registered, and operated in the state by the grant recipient for at least five years from the date of reimbursement of the grant-funded expenses. Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in the state.

(d) The commission shall include and enforce the usage provisions in the grant contracts. The commission shall monitor compliance with the ownership and usage requirements, including submission of reports on at least an annual basis, or more frequently as determined by the commission.

(e) The commission by contract may require the return of all or a portion of grant funds for a grant recipient's noncompliance with the usage and percentage of use requirements under this section.

(f) A vehicle or engine replaced under this program must be rendered permanently inoperable by crushing the vehicle or making a hole in the engine block and permanently destroying the frame of the vehicle. The commission shall establish criteria for ensuring the permanent destruction of the engine and vehicle. The commission shall monitor and enforce the destruction requirements.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road vehicles being replaced. The commission may consider and establish baseline emission rates for additional pollutants of concern, as determined by the commission.

(h) Mileage requirements established by the commission under Subsection (b)(2)(B) may differ by vehicle weight categories and type of use.

Sec. 391.006. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter shall use the grant to pay the incremental costs of the project for which the grant is made, which may include the initial cost of the alternative fuel vehicle and the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. The recipient may not use the grant to pay the recipient's administrative expenses.

Sec. 391.007. AMOUNT OF GRANT. (a) The amount the commission shall award for each vehicle being replaced is:

(1) 80 percent of the incremental cost for a heavy-duty diesel engine:

(A) manufactured prior to implementation of federal or California emission standards; and

(B) not certified to meet a specific emission level by either the U.S. Environmental Protection Agency or the California Air Resources Board;

(2) 70 percent of the incremental cost for a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1990 through 1997;

(3) 60 percent of the incremental cost for a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1998 through 2003;

(4) 50 percent of the incremental cost for a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 2004 and later;

(5) 80 percent of the incremental cost for a light-duty diesel vehicle:

(A) manufactured prior to the implementation of certification requirements; and

(B) not certified to meet either mandatory or voluntary emission certification standards;

(6) 70 percent of the incremental cost for a light-duty diesel vehicle certified to meet federal emission standards prior to 2004; and

(7) 60 percent of the incremental cost for a light-duty diesel vehicle certified to meet federal emission standards applicable after 2003.

(b) The commission may revise the standards for determining grant amounts, as needed to reflect changes to federal emission standards and decisions on pollutants of concern.

Sec. 391.008. EXPIRATION. This chapter expires August 31, 2017.

SECTION _____. (a) In this section:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, other than biodiesel fuel, including electricity, compressed natural gas, liquified natural gas, hydrogen, propane, methanol, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(b) The commission shall conduct an alternative fueling facilities study to:

(1) assess the correlation between the installation of fueling facilities in nonattainment areas and the deployment of fleet vehicles that use alternative fuels; and

(2) determine the emissions reductions achieved from replacing a diesel-powered engine with an engine utilizing alternative fuels.

(c) From the emissions reductions determined under Subsection (b) of this section, the commission shall determine the amount of emissions reductions which are fairly attributable to the installation of an alternative fuel fueling facility and the combustion of the alternative fuel in the vehicles fueled by the alternative fuel fueling facility.

(d) In connection with the study conducted under this section, the commission shall seek approval for credit in the state implementation plan from the United States Environmental Protection Agency for emissions reductions that can be:

(1) directly attributed to an alternative fuel fueling facility; and

(2) achieved as a consequence of an alternative fuel fueling facility encouraging the use of alternatively fueled vehicles.

(e) The commission shall include in the commission's biennial report to the legislature the findings of the study conducted under this section and the status of the discussions with the United States Environmental Protection Agency regarding credit for emissions reductions in the state implementation plan which can be achieved as a result of the installation of alternative fuel fueling facilities.

(f) This section expires August 31, 2011.

SECTION _____. The Texas Commission on Environmental Quality shall adopt rules under Section 391.005, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

The amendment to **CSHB 432** was read and was adopted by a viva voce vote.

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

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 432** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ___. (a) Subsection (d), Section 382.0191, Health and Safety Code, is repealed.

(b) Effective November 1, 2010, Subsection (b), Section 382.0191, Health and Safety Code, is amended to read as follows:

(b) Except as provided by Subsection (c), the [The] commission may not prohibit or limit the idling of any [a] motor vehicle with a gross vehicle weight rating greater than 8,500 pounds that is equipped with a 2008 or subsequent model year heavy-duty diesel engine that has been certified by the United States Environmental Protection Agency or another state environmental agency to emit no more than 30 grams of nitrogen oxides emissions per hour when idling [is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government mandated rest period. Idling is not necessary to power a heater or air conditioner if the vehicle is within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available].

SECTION __. Subchapter Z, Chapter 622, Transportation Code, is amended by adding Section 622.955 to read as follows:

Sec. 622.955. INCREASE OF MAXIMUM WEIGHT FOR VEHICLES WITH IDLE REDUCTION SYSTEMS. (a) For purposes of this section, "idle reduction system" means a system that provides heating, cooling, or electrical service to a commercial vehicle's sleeper berth for the purpose of reducing the idling of a motor vehicle.

(b) Notwithstanding any provision to the contrary, the maximum gross vehicle weight limit and axle weight limit for any vehicle or combination of vehicles equipped with an idle reduction system shall be increased by an amount necessary to compensate for the additional weight of the idle reduction system.

(c) The weight increase under Subsection (b) may not be greater than 400 pounds.

(d) On request by an appropriate law enforcement officer or an official of an appropriate regulatory agency, the vehicle operator shall provide proof that:

(1) the idle reduction technology is fully functional at all times; and

(2) the weight increase is not used for any purpose other than the use of an idle reduction system.

SECTION 3. Except as provided by Subsection (b), Section 1 of this Act, this Act takes effect August 31, 2009.

The amendment to **CSHB 432** was read and was adopted by a viva voce vote.

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

Senator Estes, on behalf of Senator Harris, offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 432** by adding the following appropriately numbered SECTION and renumber the subsequent SECTIONS of the bill accordingly:

SECTION __. Section 2158.0011, Government Code, is added to read as follows:

Sec. 2158.0011. APPLICABILITY OF SUBCHAPTER. The purchasing requirements relating to alternatively fueled vehicles established by this Subchapter do not apply if a state agency demonstrates that the state agency will incur net costs in meeting the requirements of this subchapter.

The amendment to **CSHB 432** was read and was adopted by a viva voce vote.

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

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

CSHB 432 as amended was passed to third reading by a viva voce vote.

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

Nays: Hegar, Shapiro.

COMMITTEE SUBSTITUTE HOUSE BILL 432 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 432** be placed on its third reading and final passage.

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

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

Nays: Hegar, Shapiro.

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

VOTE RECONSIDERED ON HOUSE BILL 3669

On motion of Senator Ogden and by unanimous consent, the vote by which **HB 3669** was finally passed was reconsidered:

HB 3669, Relating to the authority of certain counties to impose a hotel occupancy tax.

Question — Shall **HB 3669** be finally passed?

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 3669** (Senate committee printing) on third reading by adding appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 352.002(f), Tax Code, as added by Chapter 749 (H.B. 3132), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(f) The commissioners court of a county that has a population of 150,000 or more and that is bordered by the Brazos and Navasota Rivers may impose a tax as provided by Subsection (a). [~~This subsection expires September 1, 2015.~~]

SECTION _____. Section 352.003(h), Tax Code, as added by Chapter 749 (H.B. 3132), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(h) The tax rate in a county authorized to impose the tax under Section 352.002(f) may not exceed two percent of the price paid for a room in a hotel. ~~[This subsection expires September 1, 2015.]~~

The amendment to **HB 3669** was read and was adopted by a viva voce vote.

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

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

HB 3669 as again amended was again finally passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 3454 ON SECOND READING

Senator Williams moved to suspend the regular order of business to take up for consideration **CSHB 3454** at this time on its second reading:

CSHB 3454, Relating to the determination of the value of property for ad valorem tax purposes, including appeals of appraisal review board orders determining protests of property value determinations, and the use of certain values by school districts in adopting tax rates.

The motion prevailed.

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

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3454** (Senate committee printing) as follows:

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

SECTION _____. (a) Sections 23.46(c) and (d), Tax Code, are amended to read as follows:

(c) If land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three years preceding the year in which the land is sold or diverted ~~[plus interest at the rate provided for delinquent taxes]~~ becomes due. A determination that the land has been diverted to a nonagricultural use is made by the chief appraiser. For purposes of this subsection, the chief appraiser may not consider any period during which land is owned by the state in determining whether the land has been diverted to a nonagricultural use. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination.

If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes ~~[plus interest]~~ as soon as practicable after the change of use occurs. If the additional taxes are due because of a sale of the land, the assessor for each taxing unit shall prepare and deliver the bill as soon as practicable after the sale occurs. The taxes ~~[and interest]~~ are due and become delinquent and incur penalties and interest as provided by law for other delinquent ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(d) A tax lien attaches to the land on the date the sale or change of use occurs to secure payment of the additional tax ~~[and interest]~~ imposed by Subsection (c) ~~[of this section]~~ and any penalties and interest incurred if the tax becomes delinquent. The lien exists in favor of all taxing units for which the additional tax is imposed.

(b) Sections 23.55(a), (b), (e), (f), (m), and (n), Tax Code, are amended to read as follows:

(a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years ~~[- plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due]~~. For purposes of this subsection, the chief appraiser may not consider any period during which land is owned by the state in determining whether a change in the use of the land has occurred.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax ~~[and interest]~~ imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(e) A determination that a change in use of the land has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes ~~[plus interest]~~ as soon as practicable. The taxes ~~[and interest]~~ are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(f) The sanctions provided by Subsection (a) ~~[of this section]~~ do not apply if the change of use occurs as a result of:

- (1) a sale for right-of-way;
- (2) a condemnation;
- (3) a transfer of the property to the state or a political subdivision of the state to be used for a public purpose; or

(4) a transfer of the property from the state, a political subdivision of the state, or a nonprofit corporation created by a municipality with a population of more than one million under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code) to an individual or a business entity for purposes of economic development if the comptroller determines that the economic development is likely to generate for deposit in the general revenue fund during the next two fiscal bienniums an amount of taxes and other revenues that equals or exceeds 20 times the amount of additional taxes ~~[and interest]~~ that would have been imposed under Subsection (a) had the sanctions provided by that subsection applied to the transfer.

(m) For purposes of determining whether a transfer of land qualifies for the exemption from additional taxes provided by Subsection (f)(4), on an application of the entity transferring or proposing to transfer the land or of the individual or entity to which the land is transferred or proposed to be transferred, the comptroller shall determine the amount of taxes and other revenues likely to be generated as a result of the economic development for deposit in the general revenue fund during the next two fiscal bienniums. If the comptroller determines that the amount of those revenues is likely to equal or exceed 20 times the amount of additional taxes ~~[and interest]~~ that would be imposed under Subsection (a) if the sanctions provided by that subsection applied to the transfer, the comptroller shall issue a letter to the applicant stating the comptroller's determination and shall send a copy of the letter by regular mail to the chief appraiser.

(n) Within one year of the conclusion of the two fiscal bienniums for which the comptroller issued a letter as provided under Subsection (m), the board of directors of the appraisal district, by official board action, may direct the chief appraiser to request the comptroller to determine if the amount of revenues was equal to or exceeded 20 times the amount of taxes ~~[and interest]~~ that would have been imposed under Subsection (a). The comptroller shall issue a finding as to whether the amount of revenue met the projected increases. The chief appraiser shall review the results of the comptroller's finding and shall make a determination as to whether sanctions under Subsection (a) should be imposed. If the chief appraiser determines that the sanctions provided by Subsection (a) shall be imposed, the sanctions shall be based on the date of the transfer of the property under Subsection (f)(4).

(c) Sections 23.58(c) and (d), Tax Code, are amended to read as follows:

(c) A provision in an instrument pertaining to a loan secured by a lien in favor of the lender on land appraised according to this subchapter that requires the borrower to make a payment to protect the lender from loss because of the imposition of additional taxes ~~[and interest]~~ under Section 23.55 is void unless the provision:

(1) requires the borrower to pay into an escrow account established by the lender an amount equal to the additional taxes ~~[and interest]~~ that would be due under Section 23.55 if a change of use occurred on January 1 of the year in which the loan is granted or amended;

(2) requires the escrow account to bear interest to be credited to the account monthly;

(3) permits the lender to apply money in the escrow account to the payment of a bill for additional taxes [~~and interest~~] under Section 23.55 before the loan is paid and requires the lender to refund the balance remaining in the escrow account after the bill is paid to the borrower; and

(4) requires the lender to refund the money in the escrow account to the borrower on the payment of the loan.

(d) On the request of the borrower or the borrower's representative, the assessor for each taxing unit shall compute the additional taxes [~~and interest~~] that would be due that taxing unit under Section 23.55 if a change of use occurred on January 1 of the year in which the loan is granted or amended. The assessor may charge a reasonable fee not to exceed the actual cost of making the computation.

(d) Sections 23.46(c) and (d), Tax Code, as amended by this section, apply only to a sale or diversion to a nonagricultural use of land appraised under Subchapter C, Chapter 23, Tax Code, that occurs on or after the effective date of this section.

(e) Sections 23.55(a), (b), (e), (f), (m), and (n), Tax Code, as amended by this section, apply only to a change of use of land appraised under Subchapter D, Chapter 23, Tax Code, that occurs on or after the effective date of this section.

(f) Sections 23.58(c) and (d), Tax Code, as amended by this section, apply only to a loan secured by a lien on open-space land that is contracted for on or after the effective date of this section.

(g) This section takes effect September 1, 2009.

(2) In SECTION 18 of the bill (page 5, line 32) strike "This" and substitute "Except as otherwise provided by this Act, this".

(3) In SECTION 19 of the bill, the effective date provision (page 5, line 35), strike "This" and substitute "Except as otherwise provided by this Act, this".

The amendment to **CSHB 3454** was read and was adopted by the following vote: Yeas 30, Nays 1.

Nays: Shapleigh.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3454** (Senate committee report) as follows:

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

SECTION _____. Sections 23.175(a) and (b), Tax Code, are amended to read as follows:

(a) If a real property interest in oil or gas in place is appraised by a method that takes into account the future income from the sale of oil or gas to be produced from the interest, the method must use the average price of the oil or gas from the interest for the preceding calendar year multiplied by a market condition factor as the price at which the oil or gas produced from the interest is projected to be sold in the current year of the appraisal. The average price for the preceding calendar year is calculated by dividing the sum of the monthly average prices for which oil and gas from the interest was selling during each month of the preceding calendar year by 12. If there was no production of oil or gas from the interest during any month of the preceding

calendar year, the average price for which similar oil and gas from comparable interests was selling during that month is to be used. The comptroller shall calculate the market condition factor by dividing the ~~[comptroller's]~~ current calendar year statewide average price for oil or gas, as applicable, as forecasted by the Oil and Gas Valuation Advisory Committee using market-based data and a market-based methodology and approved by the comptroller, [for revenue estimating purposes] by the preceding calendar year actual statewide average price for oil or gas, as applicable. ~~[For purposes of calculating the market condition factor, "price" means the market value of oil or gas as determined under Subchapter C, Chapter 201, or Section 202.053, as applicable.]~~ The comptroller shall calculate the preceding calendar year actual statewide average prices for oil and gas and the market condition factors for oil and gas and publish that information to be used for ad valorem tax appraisal purposes concurrently with the current calendar year statewide average prices for oil and gas forecasted using market-based data and a market-based methodology [for revenue estimating purposes]. The price for the interest used in the second or a subsequent calendar year of the appraisal shall reflect the ~~[same]~~ percentage rate increase or decrease in the price for oil or gas, as applicable, as projected for that calendar year by the comptroller using market-based data and a market-based methodology. However, in no event may the price used in the second or any succeeding year of an appraisal exceed 200 percent of the price used in the current year of the appraisal [for revenue estimating purposes].

(b) The comptroller by rule shall:

(1) establish procedures for performing the calculations required by Subsection (a); and

(2) develop and distribute to each appraisal office appraisal manuals that specify methods and procedures to discount future income from the sale of oil or gas from the interest to present value.

SECTION _____. Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.176 to read as follows:

Sec. 23.176. OIL AND GAS VALUATION ADVISORY COMMITTEE. (a) The Oil and Gas Valuation Advisory Committee is created. The advisory committee is composed of:

(1) the comptroller, who serves as a nonvoting member and as presiding officer of the committee;

(2) three members who are members of a county commissioners court, appointed by the chief executive officer of the County Judges and Commissioners Association of Texas;

(3) two members who are chief appraisers of an appraisal district, appointed by the chief executive officer of the Texas Association of Appraisal Districts;

(4) two members appointed by the chief executive officer of the Texas Oil & Gas Association;

(5) two members appointed by the chief executive officer of the Texas Independent Producers and Royalty Owners Association; and

(6) one member appointed annually on a rotating basis by the chief executive officer of the Texas Alliance of Energy Producers, the chief executive officer of the Permian Basin Petroleum Association, or the chief executive officer of the Panhandle Producers & Royalty Owners Association.

(b) An appointed member of the advisory committee serves at the will of the appointing entity.

(c) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

(d) The advisory committee shall, by a vote of at least two-thirds of the voting members, determine the current calendar year statewide average price for oil or gas, as applicable, forecasted using market-based data and a market-based methodology.

(e) The determination of the advisory committee may not result in a current calendar year statewide average price for oil or gas, as applicable, forecasted using market-based data and a market-based methodology that deviates by more than 50 percent from the preceding calendar year actual statewide average price for oil or gas, as applicable, as calculated by the comptroller under Section 23.175(a).

(f) The advisory committee shall notify the comptroller of the committee's determination. The comptroller shall accept or reject the advisory committee's determination. If the comptroller rejects the advisory committee's determination, the comptroller shall:

(1) immediately notify the advisory committee of the comptroller's rejection of and reasons for rejecting the determination; and

(2) direct the advisory committee to make a new determination.

(g) A new determination by the advisory committee is subject to Subsections (d), (e), and (f) in the same manner as an initial determination.

(h) If the comptroller accepts the initial or a subsequent determination of the advisory committee, the comptroller shall use the current calendar year statewide average price for oil or gas, as applicable, as determined by the advisory committee in performing the calculations required by Section 23.175(a).

(i) The comptroller by rule shall establish procedures for the functions of the advisory committee, including procedures requiring the advisory committee to notify the comptroller of its initial determination for each tax year not later than January 31 of that year.

SECTION _____. The chief executive officers of the County Judges and Commissioners Association of Texas, Texas Association of Appraisal Districts, Texas Oil & Gas Association, Texas Independent Producers and Royalty Owners Association, and Texas Alliance of Energy Producers shall appoint the initial appointed members of the Oil and Gas Valuation Advisory Committee created by Section 23.176, Tax Code, as added by this Act, as soon as practicable on or after September 1, 2009.

SECTION _____. The comptroller shall adopt rules under Section 23.175(b), Tax Code, as amended by this Act, and Section 23.176(i), Tax Code, as added by this Act, not later than December 1, 2009.

(2) Strike SECTION 19 of the bill (page 5, line 35) and substitute the following:

SECTION 19. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2010.

(b) Sections 23.175(a) and (b), Tax Code, as amended by this Act, and Section 23.176, Tax Code, as added by this Act, take effect September 1, 2009.

The amendment to **CSHB 3454** was read and was adopted by a viva voce vote.

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

Nays: Seliger.

Present-not voting: Ogden.

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

CSHB 3454 as amended was passed to third reading by a viva voce vote.

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

Nays: Seliger.

COMMITTEE SUBSTITUTE HOUSE BILL 3454 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3454** be placed on its third reading and final passage.

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

Nays: Seliger.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2553 ON SECOND READING

The Presiding Officer, Senator Watson in Chair, laid before the Senate **CSHB 2553** by Senator Davis on its second reading. The bill had been read second time, amended, and further consideration temporarily postponed:

CSHB 2553, Relating to the registration and operation of certain motor vehicles.

Question — Shall **CSHB 2553** as amended be passed to third reading?

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 4

Amend Floor Amendment No. 1 to **CSHB 2553** (Senate committee printing) as follows and renumber SECTIONS of the bill as appropriate:

(1) In SECTION __ of Amendment 1, in Section 502.1725(i), Transportation Code (page 3 line 11) after "500,000" strike "." and substitute "; and".

(2) In SECTION __ of Amendment 1, in Section 502.1725(i), Transportation Code (page 3 lines 4 through 11) immediately after page 3 line 11 insert the following:

(3) a county:

- (A) that has a population of less than 300,000;
- (B) that has a municipality with a population of more than 150,000; and
- (3) that borders the United Mexican States.

The amendment to **CSHB 2553** was read and was adopted by a viva voce vote.

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

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

CSHB 2553 as amended was passed to third reading by a viva voce vote.

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

Nays: Patrick.

COMMITTEE SUBSTITUTE HOUSE BILL 2553 ON THIRD READING

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2553** be placed on its third reading and final passage.

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

Nays: Patrick.

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

VOTES RECONSIDERED ON COMMITTEE SUBSTITUTE HOUSE BILL 2086

On motion of Senator Whitmire and by unanimous consent, the vote by which **CSHB 2086** was finally passed was reconsidered:

CSHB 2086, Relating to the essential high school program and to the curriculum requirements for the recommended and advanced public high school programs.

Question — Shall **CSHB 2086** be finally passed?

On motion of Senator Whitmire and by unanimous consent, the vote by which the Three-day Rule was suspended for **CSHB 2086** was reconsidered.

Question — Shall the Three-day Rule be suspended for **CSHB 2086**?

On motion of Senator Whitmire and by unanimous consent, the vote by which **CSHB 2086** was passed to third reading was reconsidered.

Question — Shall **CSHB 2086** be passed to third reading?

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

Question — Shall Floor Amendment No. 2 to **CSHB 2086** be adopted?

Senator Williams withdrew Floor Amendment No. 2.

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

CSHB 2086 as amended was again passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2086 ON THIRD READING

Senator Whitmire again moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2086** be placed on its third reading and final passage.

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

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

(President in Chair)

HOUSE BILL 171 ON SECOND READING

Senator Gallegos moved to suspend the regular order of business to take up for consideration **HB 171** at this time on its second reading:

HB 171, Relating to consideration of mitigating factors in determining appropriate disciplinary action to be taken against a public school student.

The motion prevailed.

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

The bill was read second time.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 171** (Senate committee report) in SECTION 1 of the bill, in amended Section 37.001(a), Education Code (page 1, line 34), by striking "or expulsion and placement" and substituting "[~~or~~] expulsion, or placement".

The amendment to **HB 171** was read and was adopted by a viva voce vote.

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

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 171** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 37.008(a) and (l), Education Code, are amended to read as follows:

(a) Each school district shall provide a disciplinary alternative education program that:

- (1) is provided in a setting other than a student's regular classroom;
- (2) is located on or off of a regular school campus;
- (3) provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;
- (4) provides structured courses in ~~[focuses on]~~ English language arts, mathematics, science, history, and self-discipline that are equivalent in content and rigor to courses in those subjects as provided in the regular classroom setting;
- (5) provides for students' educational and behavioral needs;
- (6) provides supervision and counseling;
- (7) employs only teachers who meet all certification requirements established under Subchapter B, Chapter 21; ~~[and]~~
- (8) provides not less than the minimum amount of instructional time per day required by Section 25.082(a); and
- (9) provides an established curriculum for each grade level that provides students an opportunity to achieve promotion to the next grade level or to graduate from high school on the same schedule as students in the regular classroom setting.

(l) A school district is required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements ~~[only as provided by this subsection]~~. A school district shall offer a student removed to a disciplinary alternative education program an opportunity to complete coursework before the beginning of the next school year. The school district may provide the student an opportunity to complete coursework through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this subsection.

The amendment to **HB 171** was read and was adopted by a viva voce vote.

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

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 171** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0181 to read as follows:

Sec. 37.0181. STAFF DEVELOPMENT REGARDING DISCIPLINARY PROCEDURES. (a) Each principal or other appropriate administrator who oversees student discipline shall, at least once every three years, attend staff development training regarding this subchapter that includes information relating to the distinction between a discipline management technique used at the principal's discretion under Section 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Section 37.002(b).

(b) Staff development training under this section may be provided in coordination with regional education service centers through the use of distance learning methods, such as telecommunications networks, and using available agency resources.

The amendment to **HB 171** was read and was adopted by a viva voce vote.

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

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 171** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Subchapter A, Chapter 29, Education Code, is amended by adding Sections 29.020 and 29.021 to read as follows:

Sec. 29.020. OPTIONAL DISPUTE RESOLUTION METHODS. (a) A school district shall make available and provide information to parents regarding optional dispute resolution methods that may be used when a dispute arises between the district and a parent of a student with a disability regarding:

(1) identification of the student as a student entitled to special education services;

(2) evaluation or educational placement of the student; or

(3) the provision of a free appropriate public education to the student.

(b) A school district's optional dispute resolution methods:

(1) must include:

(A) requesting mediation through the agency in accordance with 20 U.S.C. Section 1415(e) and 34 C.F.R. Section 300.506;

(B) requesting independent individualized education program facilitation, as described by Section 29.021, if the district is included within the boundaries of a regional education service center participating in the pilot program implemented under that section; and

(C) filing a complaint with the agency in accordance with 34 C.F.R. Section 300.153; and

(2) may include:

(A) convening a meeting of a student's admission, review, and dismissal committee;

(B) meeting with a student's teachers;

(C) meeting with one or more of the following:

(i) a campus administrator;

(ii) the district special education director or the director of a shared services arrangement under Section 29.007 to which the district is a party;

(iii) the district superintendent; or

(iv) the board of trustees of the district; and

(D) requesting individualized education program facilitation similar to the facilitation provided under the pilot program implemented under Section 29.021, except that facilitation may be provided by either an independent facilitator or a district employee serving as the facilitator.

(c) The use of an optional dispute resolution method made available under this section and the availability of those methods may not in any manner be used to deny or delay the right to a special education due process hearing in accordance with federal law.

(d) Notwithstanding Subsection (c), on the filing of a request for a special education due process hearing in accordance with federal law, the school district and the parent shall be provided with the opportunity to attempt to resolve the dispute between the district and the parent through the agency's mediation process, provided that both the school district and the parent agree to participate in the mediation.

(e) If a school district and a parent participate in mediation under this section:

(1) the fact that the mediation occurred is not admissible into evidence in any subsequent proceeding involving the subject matter of the mediation;

(2) the mediator may not be subpoenaed to testify regarding the subject matter of the mediation at any subsequent special education due process hearing or civil action arising under federal special education law; and

(3) the school district and parent are not entitled to access to any records created by the mediator in connection with the mediation.

(f) Unless specifically provided otherwise by federal or other state law, the participation of an individualized education program facilitator in the development of a student's individualized education program does not violate confidentiality provisions under federal or state law.

(g) If a school district chooses to offer individualized education program facilitation under Subsection (b)(2)(D), the facilitation must be provided at no cost to a parent.

(h) The commissioner shall adopt rules necessary to implement this section.

Sec. 29.021. PILOT PROGRAM FOR INDEPENDENT INDIVIDUALIZED EDUCATION PROGRAM FACILITATION. (a) The agency shall develop an independent individualized education program facilitation process as a method of alternative dispute resolution.

(b) The agency shall implement the process developed under Subsection (a) on a pilot program basis within the boundaries of three regional education service centers selected by the commissioner for that purpose. Not more than 500 facilitations may be conducted under the pilot program.

(c) Notwithstanding Subsection (b), if the commissioner determines that adequate funding is available, the commissioner may authorize:

(1) the expansion of the pilot program to additional areas; or

(2) a greater number of facilitations than the limit specified under that subsection.

(d) The commissioner shall select the participating regional education service centers based on criteria established by the commissioner. The selection criteria must include criteria relating to:

(1) the geographic location of a center;

(2) student enrollment within the boundaries of a center;

(3) the number of formal complaints regarding special education issues filed by persons within the boundaries of a center; and

(4) the number of mediations and special education due process hearings requested by persons within the boundaries of a center.

(e) The facilitation process may be used when a school district located within the boundaries of a participating regional education service center and the parents of a student with a disability agree on the value of involving an impartial facilitator in the procedures used to develop the student's individualized education program.

(f) The role of a facilitator under the facilitation process developed under this section is to assist in creating an atmosphere for fair communication and the successful development of a student's individualized education program.

(g) Each participating regional education service center shall develop a network of impartial facilitators to be made available on request to school districts and parents that choose to use the facilitation process developed under this section. Facilitators must be provided at no cost to a school district or parent.

(h) The commissioner shall adopt rules necessary to implement this section.

(i) Not later than January 1, 2011, the agency shall submit a report to the legislature regarding the implementation and effectiveness of the pilot program. This subsection expires September 1, 2011.

SECTION _____. Sections 29.020 and 29.021 of this Act apply beginning with the 2009-2010 school year.

SECTION _____. Sections 29.020 and 29.021 of this Act do not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision, unless funding is provided from another source such as federal funds.

The amendment to **HB 171** was read and was adopted by a viva voce vote.

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

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 171** (Senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0012 to read as follows:

Sec. 37.0012. DESIGNATION OF CAMPUS DISCIPLINE OFFICER. (a) A person at each campus must be designated to serve as the campus discipline officer. The person designated may be the principal of the campus or any other campus administrator selected by the principal.

(b) The campus discipline officer is primarily responsible for maintaining student discipline and the implementation of this subchapter.

(c) The specific duties of the campus discipline officer may be established by campus or district policy. Unless otherwise provided by campus or district policy:

(1) a duty imposed on a campus principal or other campus administrator under this subchapter shall be performed by the campus discipline officer; and

(2) a power granted to a campus principal or other campus administrator under this subchapter may be exercised by the campus discipline officer.

(d) The campus discipline officer shall promptly notify a student's parent or guardian as provided by this subsection if under this subchapter the student is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer. A campus discipline officer must comply with this subsection by:

(1) promptly contacting the parent or guardian by telephone or in person; and

(2) making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

(e) If a parent or guardian entitled to notice under Subsection (d) has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, a campus discipline officer shall mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.

(f) If a campus discipline officer is unable or not available to promptly provide notice under Subsection (d), the principal or other designee shall provide the notice.

(g) This section does not create any liability for or cause of action against a school district or a school district's officers or employees.

SECTION _____. Section 37.002(a), Education Code, is amended to read as follows:

(a) A teacher may send a student to the campus discipline officer's ~~[principal's]~~ office to maintain effective discipline in the classroom. The campus discipline officer ~~[principal]~~ shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001 that can reasonably be expected to improve the student's behavior before returning the student to the classroom.

SECTION _____. Section 37.009(a), Education Code, is amended to read as follows:

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the campus discipline officer ~~[principal]~~ or other appropriate administrator shall schedule a conference among the campus discipline officer ~~[principal]~~ or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid

attempts to require the person's attendance, the campus discipline officer, after consideration of the factors under Section 37.001(a)(4), ~~[principal]~~ shall order the placement of the student for a period consistent with the student code of conduct. If school district policy allows a student to appeal to the board of trustees or the board's designee a decision of the campus discipline officer ~~[principal]~~ or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that[~~:-~~

~~[(+)]~~ the student is a threat to the safety of other students or to district employees[~~;- or~~

~~[(2) extended placement is in the best interest of the student].~~

The amendment to **HB 171** was read and was adopted by a viva voce vote.

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

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 171** (Senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0015 to read as follows:

Sec. 37.0015. RIGHT TO PROMPT NOTICE OF DISCIPLINARY ACTION.

(a) A parent is entitled to prompt notice from a school district as provided by this section if under this subchapter the parent's child is placed into in-school or out-of-school suspension, placed in a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer. A school district must comply with this subsection by:

(1) promptly contacting the parent by telephone or in person; and

(2) making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent.

(b) If a parent entitled to notice under Subsection (a) has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, a school district shall mail written notice of the action to the parent at the parent's last known address.

SECTION _____. Section 37.008, Education Code, is amended by adding Subsection (1-1) to read as follows:

(l-1) A school district shall provide the parents of a student removed to a disciplinary alternative education program with written notice of the district's obligation under Subsection (l) to provide the student with an opportunity to complete coursework required for graduation. The notice must:

(1) include information regarding all methods available for completing the coursework; and

(2) state that the methods are available at no cost to the student.

SECTION _____. Section 37.009, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A school principal or other appropriate administrator shall prepare and maintain documentation regarding each conference held under Subsection (a). The documentation must:

(1) indicate the date and time the conference was held;

(2) identify:

(A) each person who attended the conference by name and profession;

and

(B) each person who failed to attend the conference after being requested to attend, including the reason for the failure to attend, if known; and

(3) state the outcome of the conference.

SECTION _____. Section 37.0091(a), Education Code, is amended to read as follows:

(a) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with:

(1) a copy of any written notification relating to student misconduct under Section 37.006 or 37.007 that is generally provided by the district or school to a student's parent or guardian; and

(2) any notice required by Section 37.0015.

The amendment to **HB 171** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

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

HB 171 as amended was passed to third reading by a viva voce vote.

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

Nays: Nelson.

HOUSE BILL 171 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 171** be placed on its third reading and final passage.

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

Nays: Nelson.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 4833 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4833** at this time on its second reading:

CSHB 4833, Relating to the creation of district courts and statutory county courts and to the composition of juvenile boards in certain counties.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 4833** (Senate committee printing) by striking Subsection (a) of SECTION 10 of the bill, amending Section 25.1182, Government Code (page 4, lines 44 through 53), and substituting the following:

(a) Section 25.1182, Government Code, is amended to read as follows:

Sec. 25.1182. HUNT COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Hunt County has concurrent jurisdiction with the district court in:

(1) felony cases to:

(A) conduct arraignments;

(B) conduct pretrial hearings;

(C) accept guilty pleas; and

(D) conduct jury trials on assignment of a district judge presiding in

Hunt County and acceptance of the assignment by the judge of the county court at law;

(2) Class A and Class B misdemeanor cases;

(3) family law matters;

(4) juvenile matters;

(5) probate matters; and

(6) appeals from the justice and municipal courts.

(b) A county court at law's civil jurisdiction concurrent with the district court in civil cases is limited to cases in which the matter in controversy does not exceed \$200,000. A county court at law does not have general supervisory control or appellate review of the commissioners court or jurisdiction of:

(1) suits on behalf of this state to recover penalties or escheated property;

(2) felony cases involving capital murder;

(3) misdemeanors involving official misconduct; or

(4) contested elections [has the same terms of court as the County Court of Hunt County].

(c) The judge of a county court at law must have the same qualifications as those required by law for a district judge.

(d) The judge of a county court at law shall be paid a total ~~ann~~ annual salary set by the commissioners court at an amount that is not less than \$1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county ~~[that is at least \$42,500, to be paid from the same fund and in the same manner as the county judge. The judge is entitled to receive travel expenses and necessary office expenses in the same manner as is allowed the county judge].~~

(e) The judge of a county court at law ~~[shall diligently discharge the duties of his office on a full time basis and]~~ may not engage in the private practice of law.

(f) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law ~~[A special judge of a county court at law with the same qualifications as the regular judge may be appointed or elected in the manner provided by law for county courts. If the judge of a county court at law is disqualified to try a case pending in the judge's court, the parties or their attorneys may agree on the selection of a special judge to try the case. A special judge is entitled to receive \$100 for each day served to be paid out of the general fund of the county by the commissioners court].~~

(g) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law with the approval of the commissioners court ~~[The county sheriff shall, in person or by deputy, attend a county court at law as required by the judge].~~

(h) Jurors summoned for a county court at law or a district court in the county may by order of the judge of the court to which they are summoned be transferred to another court for service and may be used as if summoned for the court to which they are transferred ~~[Practice in a county court at law is that prescribed by law for county courts].~~

~~[(i) Section 25.0005(b) does not apply to a county court at law in Hunt County.]~~

The amendment to **CSHB 4833** was read and was adopted by a viva voce vote.

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

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 4833** (Senate committee printing) by striking Subsection (a) of SECTION 13 of the bill (page 6, lines 13 through 24) and substituting the following:

(a) Effective January 1, 2011, Subchapter C, Chapter 25, Government Code, is amended by adding Section 25.2362 to read as follows:

Sec. 25.2362. VAN ZANDT COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (b), a county court at law in Van Zandt County has concurrent jurisdiction with the district court in:

(1) felony cases to:

(A) conduct arraignments;

(B) conduct pretrial hearings;

(C) accept guilty pleas; and

(D) conduct jury trials on assignment of a district judge presiding in Van Zandt County and acceptance of the assignment by the judge of the county court at law;

(2) Class A and Class B misdemeanor cases;

(3) family law matters;

(4) juvenile matters;

(5) probate matters; and

(6) appeals from the justice and municipal courts.

(b) A county court at law's civil jurisdiction concurrent with the district court in civil cases is limited to cases in which the matter in controversy does not exceed \$200,000. A county court at law does not have general supervisory control or appellate review of the commissioners court or jurisdiction of:

(1) suits on behalf of this state to recover penalties or escheated property;

(2) felony cases involving capital murder;

(3) misdemeanors involving official misconduct; or

(4) contested elections.

(c) The judge of a county court at law must have the same qualifications as those required by law for a district judge.

(d) The judge of a county court at law shall be paid a total annual salary set by the commissioners court at an amount that is not less than \$1,000 less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary does not include contributions and supplements paid by a county.

(e) The judge of a county court at law may not engage in the private practice of law.

(f) The district clerk serves as clerk of a county court at law in matters of concurrent jurisdiction with the district court, and the county clerk shall serve as clerk of a county court at law in all other matters. Each clerk shall establish a separate docket for a county court at law.

(g) The official court reporter of a county court at law is entitled to receive a salary set by the judge of the county court at law with the approval of the commissioners court.

(h) Jurors summoned for a county court at law or a district court in the county may by order of the judge of the court to which they are summoned be transferred to another court for service and may be used as if summoned for the court to which they are transferred.

The amendment to **CSHB 4833** was read and was adopted by a viva voce vote.

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

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 4833** (Senate committee printing) by adding the following appropriately numbered sections and renumbering accordingly:

SECTION __. Effective January 1, 2011, Section 25.1311, Government Code, is amended to read as follows:

Sec. 25.1311. KAUFMAN COUNTY. Kaufman County has the following statutory county courts:

- (1) the County Court at Law of Kaufman County; ~~[and]~~
- (2) the County Court at Law No. 2 of Kaufman County; and
- (3) the County Court at Law No. 3 of Kaufman County.

Section __. Effective January 1, 2011, Section 25.1312, Government Code, is amended to read as follows:

Sec. 25.1312. KAUFMAN COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a statutory county court in Kaufman County has, except as limited by Subsections (b) ~~, and~~ (b-1), and (b-2), the jurisdiction provided by the constitution and general law for district courts.

(b) A statutory county court in Kaufman County does not have general supervisory control or appellate review of the commissioners court or jurisdiction of:

- (1) felony cases involving capital murder;
- (2) suits on behalf of the state to recover penalties or escheated property;
- (3) misdemeanors involving official misconduct; or
- (4) contested elections.

(b-1) The County Court at Law No. 2 of Kaufman County does not have jurisdiction of civil cases in which the amount in controversy exceeds the limit prescribed by Section 25.0003(c)(1).

(b-2) The County Court at Law No. 3 of Kaufman County does not have jurisdiction of civil cases in which the amount in controversy exceeds \$250,000.

SECTION __. Notwithstanding Section 25.0009, Government Code, the initial vacancy in the office of judge of the County Court at Law No. 3 of Kaufman County shall be filled by election. The office exists for purposes of the primary and general elections in 2010. A vacancy after the initial vacancy is filled as provided by Section 25.0009, Government Code.

SECTION __. The County Court at Law No. 3 of Kaufman County is created January 1, 2011.

The amendment to **CSHB 4833** was read and was adopted by a viva voce vote.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 4833** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION _____. (a) Subtitle E, Title 7, Health and Safety Code, is amended by adding Chapter 617 to read as follows:

CHAPTER 617. VETERANS COURT PROGRAM

Sec. 617.001. VETERANS COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "veterans court program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, controlled substance, mental health, and other related treatment and rehabilitative services;

(5) careful monitoring of treatment and services provided to program participants;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(10) development of partnerships with public agencies and community organizations, including the United States Department of Veterans Affairs.

(b) If a defendant successfully completes a veterans court program, as authorized under Section 76.011, Government Code, after notice to the attorney representing the state and a hearing in the veterans court at which that court determines that a dismissal is in the best interest of justice, the court in which the criminal case is pending shall dismiss the criminal action against the defendant.

Sec. 617.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

(a) The commissioners court of a county may establish a veterans court program for persons arrested for or charged with any misdemeanor or felony offense. A defendant is eligible to participate in a veterans court program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program and if the court in which the criminal case is pending finds that the defendant:

(1) is a veteran or current member of the United States armed forces, including a member of the reserves, national guard, or state guard; and

(2) suffers from a brain injury, mental illness, or mental disorder, including post-traumatic stress disorder, that:

(A) resulted from the defendant's military service in a combat zone or other similar hazardous duty area; and

(B) materially affected the defendant's criminal conduct at issue in the case.

(b) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the veterans court program or otherwise through the criminal justice system.

(c) Proof of matters described by Subsection (a) may be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including military service and medical records, previous determinations of a disability by a veteran's organization or by the United States Department of Veterans Affairs, testimony or affidavits of other veterans or service members, and prior determinations of eligibility for benefits by any state or county veterans office. The court's findings must accompany any docketed case.

Sec. 617.003. DUTIES OF VETERANS COURT. (a) A veterans court program established under this chapter must:

(1) ensure a person eligible for the program is provided legal counsel before volunteering to proceed through the program and while participating in the program;

(2) allow a participant to withdraw from the program at any time before a trial on the merits has been initiated;

(3) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and

(4) ensure that the jurisdiction of the veterans court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.

(b) A veterans court program established under this chapter shall make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside.

(c) This chapter does not prevent the initiation of procedures under Chapter 46B, Code of Criminal Procedure.

Sec. 617.004. ESTABLISHMENT OF REGIONAL PROGRAM. The commissioners courts of two or more counties may elect to establish a regional veterans court program under this chapter for the participating counties.

Sec. 617.005. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of veterans court programs established under this chapter.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a veterans court program established under this chapter.

(c) A veterans court program established under this chapter shall:

(1) notify the criminal justice division of the governor's office before or on implementation of the program; and

(2) provide information regarding the performance of the program to that division on request.

Sec. 617.006. FEES. (a) A veterans court program established under this chapter may collect from a participant in the program:

(1) a reasonable program fee not to exceed \$1,000; and

(2) a testing, counseling, and treatment fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided under the program.

(b) Fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the program. The fees must be:

(1) based on the participant's ability to pay; and

(2) used only for purposes specific to the program.

(b) Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) of this section; or

(B) convicted and subsequently pardoned; or

(2) each of the following conditions exist:

(A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

(ii) the court finds that the indictment or information was dismissed or quashed because the person completed a pretrial intervention program authorized under Section 76.011, Government Code, or because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

(C) the person has not been convicted of a felony in the five years preceding the date of the arrest.

The amendment to **CSHB 4833** was read and was adopted by a viva voce vote.

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

Nays: Ogden, Williams.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 4833** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subsection (a), Section 43.134, Government Code, is amended to read as follows:

(a) The voters of Hale County [~~and Swisher counties~~] elect a district attorney for the 64th Judicial District who represents the state in that district court only in Hale County [~~those counties~~].

(b) Subchapter B, Chapter 45, Government Code, is amended by adding Section 45.319 to read as follows:

Sec. 45.319. SWISHER COUNTY. The county attorney in Swisher County shall represent the state in all matters pending before the district court in Swisher County.

(c) Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 12th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th, 123rd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 286th, 329th, 344th, 349th, 355th, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Freestone, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Rains, Red River, Robertson, Rusk, Swisher, Terry, Webb, and Willacy.

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

The amendment to **CSHB 4833** was read and was adopted by a viva voce vote.

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

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 4833** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 24.212(b), Government Code, is amended to read as follows:

(b) The terms of the 110th District Court begin[=

~~[(+)] in each county [Briscoe County]~~ on the first Mondays in January and July ~~[June;~~

~~[(2) in Dickens County on the first Mondays in April and November;~~

~~[(3) in Floyd County on the first Mondays in February and July; and~~

~~[(4) in Motley County on the first Mondays in March and August].~~

The amendment to **CSHB 4833** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 4833** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

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

The amendment to **CSHB 4833** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7.

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

CSHB 4833 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 4833 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4833** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 1935 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1935** at this time on its second reading:

CSHB 1935, Relating to the establishment of the Jobs and Education for Texans (JET) Grant Program to support adult and postsecondary education and workforce development.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1935** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION __. Subtitle B, Title 4, Labor Code, is amended by adding Chapter 303A to read as follows:

CHAPTER 303A. GREEN JOB SKILLS DEVELOPMENT FUND AND
TRAINING PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 303A.001. PURPOSE. The purpose of this chapter is to:

(1) promote green industry employment opportunities, including through the establishment of training programs to enhance green job skills and create career opportunities that result in high-wage jobs;

(2) foster regional collaboration for the development of green industry employment opportunities;

(3) assist in the development of a highly skilled, high-wage, and productive workforce in the green industry; and

(4) assist workers with obtaining education, skills training, and labor market information to enhance their employability, earnings, and standard of living.

Sec. 303A.002. DEFINITIONS. In this chapter:

(1) "Development fund" means the Texas green job skills development fund.

(2) "Green job" means a job in the field of renewable energy or energy efficiency, including a job relating to:

(A) energy-efficient building, construction, and retrofitting;

(B) renewable energy, including biomass, hydroelectric, geothermal, and ocean energy, and wind and solar power;

(C) research and development or manufacturing of advanced battery or energy storage technologies;

(D) biofuels from non-feed food stocks;

(E) techniques to reduce, reuse, or recycle waste;

(F) techniques to recycle products and convert used materials into new products;

(G) energy efficiency assessments;

(H) manufacturing of sustainable products using sustainable processes and materials; and

(I) water conservation and water efficiency.

(3) "Recycle" means the process of extracting resources or value from waste by recovering or reusing the material, including the collection and reuse of everyday waste materials.

[Sections 303A.003-303A.020 reserved for expansion]

SUBCHAPTER B. GREEN JOB SKILLS DEVELOPMENT FUND

Sec. 303A.021. TEXAS GREEN JOB SKILLS DEVELOPMENT FUND.

(a) The Texas green job skills development fund is an account in the general revenue fund. The account is composed of:

(1) legislative appropriations;

(2) gifts, grants, donations, and matching funds received under Subsection

(b); and

(3) other money required by law to be deposited in the account.

(b) The commission may solicit and accept gifts, grants, and donations of money from the federal government, local governments, private corporations, or other persons to be used for the purposes of this chapter.

(c) Income from money in the account shall be credited to the account.

(d) Money in the development fund may be used only for the purposes of this chapter.

[Sections 303A.022-303A.030 reserved for expansion]

SUBCHAPTER C. GREEN JOB SKILLS GRANT PROGRAM

Sec. 303A.031. ESTABLISHMENT OF GREEN JOB SKILLS GRANT PROGRAM. The commission shall establish a green job skills grant program, funded by the development fund under Section 303A.021, through which the commission may award grants for the implementation, expansion, and operation of green job skills training programs.

Sec. 303A.032. GRANT PROGRAM REQUIREMENTS. (a) A training program funded through a grant awarded under this subchapter must:

(1) be hosted by a regional partnership that presents a plan to implement training programs that lead trainees to economic self-sufficiency and career pathways and includes at least:

(A) one university, college, technical school, or other nonprofit workforce training provider;

(B) one chamber of commerce, local workforce agency, local employer, or other public or private participating entity;

(C) one economic development authority; and

(D) one community or faith-based nonprofit organization that works with one or more targeted populations;

(2) assist an eligible individual in obtaining education, skills training, and labor market information to enhance the individual's employability in green industries; and

(3) assist in the development of a highly skilled and productive workforce in green industries.

(b) A training program awarded a grant under this subchapter shall target a population of eligible individuals for training that includes:

(1) workers in high-demand green industries who are in or are preparing for high-wage occupations;

(2) workers in declining industries who may be retrained for high-wage occupations in a high-demand green industry;

(3) agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in a high-demand green industry;

(4) veterans or past or present members of the armed forces of the United States, including the state military forces, or a reserve component of the armed forces or the national guard;

(5) unemployed workers;

(6) low-income workers, unemployed youth and adults, individuals who did not complete high school, or other underserved sectors of the workforce in high poverty areas; or

(7) individuals otherwise determined by the commission to be disadvantaged and in need of training to obtain employment.

(c) A training program may receive funding under this chapter for a period not to exceed three years.

(d) A training program may use grant funds for support services, including basic skills, literacy, GED, English as a second language, and job readiness training, career guidance, and referral services.

(e) A percentage of the grant, to be determined by the commission, must be devoted to administrative costs, costs related to hiring instructors and purchasing equipment, and tuition assistance.

Sec. 303A.033. APPLICATION. (a) A regional partnership, as described by Section 303A.032, may apply for a grant under this subchapter in the manner prescribed by the commission.

(b) The grant application must require the applicant to provide to the commission the applicant's plan to continue to operate the training program after the grant expires.

Sec. 303A.034. ADDITIONAL CONSIDERATIONS IN AWARDING GRANTS. (a) In addition to the factors described by Sections 303A.032 and 303A.033, in determining whether to award a grant to an applicant under this subchapter, the commission shall give preference to a training program that:

(1) provides certification and a career advancement mechanism to a worker who receives green job skills training under the program; and

(2) leverages additional public and private resources to fund the program, including cash or in-kind matches.

(b) Grants shall be awarded in a manner that ensures geographic diversity.

Sec. 303A.035. RESERVATION FOR CERTAIN PROGRAMS. Twenty percent of the funds available for grant programs under this chapter must be reserved for job skills training programs that serve the unemployed and individuals whose incomes are at or below 200 percent of the federal poverty level.

Sec. 303A.036. REPORT. (a) Not later than the 30th day after the date funding for a grant under this chapter ends, the grant recipient shall submit a report to the commission that contains the following information:

(1) the number of participants who entered the program;

(2) the demographics of the participants, including race, gender, age, and significant barriers to education such as limited English proficiency, a criminal record, or a physical or mental disability;

(3) services received by participants, including training, education, and support services;

(4) the amount of program spending per participant;

(5) program completion rates;

(6) factors determined to interfere significantly with program participation or completion;

(7) the average wage at placement, including benefits, and the rate of average wage increases after one year; and

(8) any post-employment support services provided.

(b) Not later than October 1 of each even-numbered year, the commission shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives that includes a summary of all information submitted under Subsection (a).

Sec. 303A.037. STANDARDS. The commission by rule shall adopt standards for a green job skills training program awarded a grant under this subchapter.

The amendment to **CSHB 1935** was read and was adopted by a viva voce vote.

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

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1935** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 29.011, Education Code, is amended to read as follows:

Sec. 29.011. TRANSITION PLANNING. (a) The commissioner shall by rule adopt procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs under this subchapter. The procedures must:

(1) provide that transition planning begins for a student not later than when the student reaches 14 years of age; and

(2) specify the manner in which a student's admission, review, and dismissal committee must consider, and if appropriate, address the following issues in the student's individualized education program:

(A) ~~(1)~~ appropriate student involvement in the student's transition to life outside the public school system;

(B) ~~(2)~~ if the student is younger than 18 years of age, appropriate parental involvement in the student's transition;

(C) ~~(3)~~ if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the school district in which the student is enrolled;

(D) [(4)] any postsecondary education options;
(E) [(5)] a functional vocational evaluation;
(F) [(6)] employment goals and objectives;
(G) [(7)] if the student is at least 18 years of age, the availability of
age-appropriate instructional environments;
(H) [(8)] independent living goals and objectives; and
(I) [(9)] appropriate circumstances for referring a student or the
student's parents to a governmental agency for services.

(b) The commissioner shall require each school district or shared services arrangement to designate an employee as the school transition and employment services coordinator to serve as the district's or shared services arrangement's specialist on transition and employment services for students enrolled in special education programs under this subchapter. An individual designated under this subsection must meet minimum transition training requirements established by the commissioner.

SECTION _____. Subchapter A, Chapter 29, Education Code, is amended by adding Sections 29.0111 and 29.0112 to read as follows:

Sec. 29.0111. TRANSITION INFORMATION. The agency shall develop a Performance-Based Monitoring Analysis System indicator regarding the preparation of students enrolled in special education programs to transition to life outside the public school system.

Sec. 29.0112. TRANSITION AND EMPLOYMENT MANUAL. (a) The agency, with assistance from the Health and Human Services Commission, shall develop a comprehensive transition and employment manual for students enrolled in special education programs and their parents to assist in the transition to life outside the public school system. The agency may contract with a private entity to prepare the manual.

(b) The transition and employment manual must contain information specific to this state regarding:

- (1) transition services;
- (2) employment and supported employment services;
- (3) social security programs;
- (4) community and long-term services and support;
- (5) postsecondary educational programs and services;
- (6) information sharing with health and human services agencies and providers;
- (7) guardianship and alternatives to guardianship;
- (8) self-advocacy, person-directed planning, and self-determination; and
- (9) contact information for all relevant state agencies.

(c) The transition and employment manual must be produced in an electronic format and posted on the agency's website in a manner that permits the manual to be easily identified and accessed.

(d) The agency must update the transition and employment manual posted on the agency's website at least once every two years.

(e) The agency shall develop a summary document of the transition and employment manual that briefly describes each topic addressed in the manual and includes contact information for each agency or program described in the manual. The summary must include information about obtaining access to the complete manual.

(f) The agency must update the summary required under Subsection (e) not later than the 30th day after the date the transition and employment manual is updated in accordance with Subsection (d).

(g) A school district shall:

(1) maintain at each campus in the district a hard copy of the transition and employment manual that is posted on the agency's website;

(2) on request, assist a parent or student in obtaining access to the transition and employment manual; and

(3) provide one hard copy of the summary document required under Subsection (e) to each parent of a student enrolled in a special education program or adult student enrolled in a special education program at:

(A) the first meeting of the student's admission, review, and dismissal committee at which transition is discussed; or

(B) the first committee meeting that occurs after September 1, 2009, if a student has already had an admission, review, and dismissal committee meeting discussing transition.

SECTION _____. Section 29.011, Education Code, as amended by this Act, and Sections 29.0111 and 29.0112, Education Code, as added by this Act, apply beginning with the 2009-2010 school year.

The amendment to **CSHB 1935** was read and was adopted by a viva voce vote.

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

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

Floor Amendment No. 3

Amend **CSHB 1935** by inserting the following new SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (a), Section 2155.505, Government Code, is amended by amending Subdivision (2) and adding Subdivision (3) to read as follows:

(2) "Small business" means a small business concern as defined by regulations of the United States Small Business Administration in 13 C.F.R. Section 121.201 or a veterans service agency.

(3) "Veterans service agency" means a community-based organization that:

(A) is exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described in Section 501(c)(3) of that code;

(B) has as its principal purpose to provide housing, substance abuse treatment, case management services, and employment training to low-income veterans, disabled veterans, and homeless veterans and their families; and

(C) employs veterans to provide at least 75 percent of the hours of direct labor by individuals required to produce goods or provide services required under a contract entered into under this section.

SECTION __. Subsection (a), Section 2155.505, Government Code, as amended by this Act, applies only to a contract for the procurement of goods and services for which the solicitation of bids or proposals, request for proposals, or similar required notification as to the goods or services is published on or after September 1, 2009. A contract for the procurement of goods and services for which the solicitation of bids or proposals, request for proposals, or similar required notification as to the goods or services is published before September 1, 2009, is governed by the law in effect at the time the solicitation, request, or notification is published, and that law is continued in effect for that purpose.

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

The amendment to **CSHB 1935** was read and was adopted by a viva voce vote.

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

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

CSHB 1935 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1935 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1935** be placed on its third reading and final passage.

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

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1152

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas
May 27, 2009

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1152** 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.

HINOJOSA

AVERITT

ELLIS

HARRIS

ELTIFE

On the part of the Senate

ANCHIA

HEFLIN

MCCALL

MARQUEZ

T. SMITH

On the part of the House

A BILL TO BE ENTITLED

AN ACT

relating to the making or acceptance of political contributions in a courthouse; providing penalties.

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

SECTION 1. Section 253.039, Election Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (h) to read as follows:

(a) A person may not knowingly make or authorize a political contribution while in the Capitol or a courthouse to:

(1) a candidate or officeholder;

(2) a political committee; or

(3) a person acting on behalf of a candidate, officeholder, or political committee.

(b) A candidate, officeholder, or political committee or a person acting on behalf of a candidate, officeholder, or political committee may not knowingly accept a political contribution, and shall refuse a political contribution that is received, in the Capitol or a courthouse.

(c) This section does not prohibit contributions made in the Capitol or a courthouse through the United States postal service or a common or contract carrier.

(h) In this section, "courthouse" means any building owned by the state, a county, or a municipality, or an office or part of a building leased to the state, a county, or a municipality, in which a justice or judge sits to conduct court proceedings.

SECTION 2. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 1152** was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 1028 by Lucio, In memory of José Dionicio "Nicho" Ramirez Esparza of El Ranchito.

SR 1030 by Lucio, In memory of Nolan Leon Counts of Austin.

SR 1038 by Wentworth, In memory of Jesse B. Poston of San Antonio.

SR 1043 by Shapleigh, In memory of Tommie Lee Bell of El Paso.

SR 1052 by Zaffirini, In memory of Henry G. Schuble.

HCR 243 (Williams), Honoring the memory of Stephanye Irene Sampley of Atascocita.

Congratulatory Resolutions

SR 1029 by Lucio, Recognizing Isabel and Hermenegildo Cisneros on the occasion of their 50th wedding anniversary.

SR 1031 by Lucio, Commending Anne Cynthia Leon for her contributions to our state and nation.

SR 1036 by Wentworth, Recognizing David Stewart on the occasion of his retirement as director of the Alamo.

SR 1037 by Wentworth, Congratulating Julia De Foor Jay for being named Piper Professor of 2009.

SR 1039 by Williams, Recognizing G. Edward Pickle on the occasion of his retirement from Shell Oil Company.

SR 1040 by Uresti, Commending Benjamin James Rivera for achieving the rank of Eagle Scout.

SR 1041 by Uresti, Congratulating Cynthia Reyna for her achievements.

SR 1042 by Shapleigh, Congratulating John C. Padalino of El Paso for being appointed to the United States Department of Agriculture.

SR 1045 by Nelson, Honoring the members of the United States Armed Forces on the occasion of KellerFest! 2009.

SR 1046 by Watson, Recognizing the Migrant Clinicians Network on the occasion of its 25th anniversary.

SR 1047 by Hinojosa, Recognizing Mary L. and Jose D. Ramirez on the occasion of their 50th wedding anniversary.

SR 1048 by West, Commending Edmund English for achieving the rank of Eagle Scout.

SR 1049 by West, Recognizing the members of the Williams-Livingston family on the occasion of their family reunion.

SR 1050 by Shapleigh, Recognizing El Maida Shrine Temple in El Paso on the occasion of its 100th anniversary.

SR 1051 by Watson, Recognizing the University Interscholastic League on the occasion of its 100th anniversary.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 2:26 a.m. Thursday, May 28, 2009, adjourned until 1:30 p.m. today.

APPENDIX

BILLS ENGROSSED

May 26, 2009

SB 266, SB 2342, SB 2587

BILLS AND RESOLUTIONS ENROLLED

May 26, 2009

SB 80, SB 202, SB 305, SB 334, SB 348, SB 375, SB 376, SB 410, SB 417, SB 455, SB 490, SB 524, SB 530, SB 584, SB 585, SB 588, SB 596, SB 637, SB 638, SB 662, SB 693, SB 707, SB 748, SB 749, SB 755, SB 794, SB 808, SB 812, SB 835, SB 873, SB 880, SB 892, SB 909, SB 926, SB 994, SB 1016, SB 1033, SB 1039, SB 1053, SB 1057, SB 1058, SB 1080, SB 1081, SB 1082, SB 1207, SB 1208, SB 1218, SB 1223, SB 1325, SB 1328, SB 1332, SB 1337, SB 1344, SB 1359, SB 1403, SB 1474, SB 1483, SB 1485, SB 1514, SB 1522, SB 1574, SB 1575, SB 1617, SB 1652, SB 1670, SB 1676, SB 1699, SB 1979, SB 2410, SB 2460, SB 2463, SB 2464, SB 2466, SB 2479, SB 2480, SB 2483, SB 2486, SB 2496, SB 2504, SB 2506, SB 2507, SB 2509, SB 2514, SB 2515, SB 2520, SB 2521, SB 2529, SB 2531, SB 2536, SCR 65, SR 998, SR 1014, SR 1015, SR 1016, SR 1017, SR 1018, SR 1019, SR 1020, SR 1021, SR 1022, SR 1023, SR 1024, SR 1025, SR 1026, SR 1027

SIGNED BY GOVERNOR

May 27, 2009

SB 161, SB 256, SB 316, SB 337, SB 409, SB 534, SB 899, SB 929, SB 930, SB 931, SB 932, SB 969, SB 1005, SB 1035, SB 1038, SB 1059, SB 1063, SB 1122, SB 1241, SB 1271, SB 1291, SB 1303, SB 1356, SB 1387, SB 1448, SB 1464, SB 1476, SB 1479, SB 1484, SB 1504, SB 1554, SB 1589, SB 1614, SB 1628, SB 1675, SB 1796, SB 1952, SB 1965, SB 2229, SB 2307, SB 2379, SB 2380, SB 2413, SB 2455, SB 2470, SB 2472, SB 2473, SB 2497, SB 2503

