

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, FIRST CALLED SESSION

PROCEEDINGS

TENTH DAY — THURSDAY, JUNE 16, 2011

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 92).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Absent, Excused — Woolley.

Absent — Frullo.

The invocation was offered by Don Garnêr, pastor, Capitol Commission, Austin.

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

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Madden and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

HR 115 - ADOPTED
(by L. Gonzales)

Representative L. Gonzales moved to suspend all necessary rules to take up and consider at this time **HR 115**.

The motion prevailed.

The following resolution was laid before the house:

HR 115, Congratulating Gretchen Zamora on her retirement from Austin State Hospital Support Services.

HR 115 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of family business:

Frullo on motion of Shelton.

(Hamilton in the chair)

HR 66 - ADOPTED
(by Menendez)

Representative Menendez moved to suspend all necessary rules to take up and consider at this time **HR 66**.

The motion prevailed.

The following resolution was laid before the house:

HR 66, Congratulating Michelle Thomas on her promotion to the position of executive director of financial analysis with AT&T in Dallas and honoring her for her many contributions to the San Antonio community.

HR 66 was adopted.

(Speaker in the chair)

SB 1 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE INSTRUCTED

On motion of Representative Otto, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1**.

Representative Murphy moved to instruct the Conference Committee on **SB 1** to retain Amendment Nos. 100 and 141.

The motion to instruct conferees prevailed by (Record 93): 101 Yeas, 41 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson;

Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Naishtat; Oliveira; Quintanilla; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Frullo; Woolley.

Absent — Guillen; Johnson; Menendez; Pickett; Raymond.

Representative Workman moved to instruct the Conference Committee on **SB 1** to retain Amendment No. 24.

The motion to instruct conferees prevailed.

SB 1 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1**: Pitts, chair; Eissler, Geren, Otto, and Villarreal.

SB 2 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE INSTRUCTED

On motion of Representative Darby, the house granted the request of the senate for the appointment of a Conference Committee on **SB 2**.

Representative P. King moved to instruct the Conference Committee on **SB 2** to exclude any language expending funds from the economic stabilization fund, specifically including Amendment Nos. 22 and 24.

The motion to instruct conferees prevailed by (Record 94): 87 Yeas, 59 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddock; Creighton; Crownover; Darby; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker;

Paxton; Perry; Phillips; Pitts; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler.

Nays — Allen; Alonzo; Alvarado; Anchia; Brown; Burnam; Castro; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Hopson; Howard, D.; King, T.; Kuempel; Lozano; Lucio; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Patrick; Peña; Pickett; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Smith, T.; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Frullo; Woolley.

Absent — Johnson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 94. I intended to vote no.

S. King

I was shown voting yes on Record No. 94. I intended to vote no.

L. Gonzales

I was shown voting yes on Record No. 94. I intended to vote no.

Sheffield

SB 2 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 2**: Pitts, chair; Crownover, Darby, Aycock, and McClendon.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Chisum on motion of Hancock.

Johnson on motion of Gooden.

Keffer on motion of Hancock.

MAJOR STATE CALENDAR

SENATE BILLS

SECOND READING

The following bills were laid before the house and read second time:

CSSB 8 ON SECOND READING
(Eissler - House Sponsor)

CSSB 8, A bill to be entitled An Act relating to the flexibility of the board of trustees of a school district in the management and operation of public schools in the district.

Amendment No. 1

Representative Eissler offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee report) in SECTION 9 of the bill, in amended Section 21.402(a), Education Code (page 7, line 12), by striking "Subsection (d)]~~-(e)]~~ or" and substituting "Subsection [~~(d)~~, ~~(e)~~, ~~or~~"]".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Eissler offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) as follows:

(1) In SECTION 2 of the bill, strike amended Section 21.103(a), Education Code (page 2, line 24, through page 3, line 7), and substitute the following:

(a) The board of trustees of a school district may terminate the employment of a teacher employed under a probationary contract at the end of the contract period if in the board's judgment the best interests of the district will be served by terminating the employment. The board of trustees must give notice of its decision to terminate the employment to the teacher not later than the 10th [~~45th~~] day before the last day of instruction required under the contract. The board's decision is final and may not be appealed.

(2) In SECTION 6 of the bill, strike amended Section 21.206(a), Education Code (page 4, lines 17-23), and substitute the following:

(a) Not later than the 10th [~~45th~~] day before the last day of instruction in a school year, the board of trustees shall notify in writing each teacher whose contract is about to expire whether the board proposes to renew or not renew the contract.

Amendment No. 2 was adopted. (Landtroop, Muñoz, Naishtat, and Phillips recorded voting no.)

Amendment No. 3

Representative Walle offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee report) as follows:

(1) Strike sections 4 and 5 of the bill (page 3, line 21, through page 4, line 14) and renumber subsequent sections of the bill accordingly.

(2) On page 6, line 18, strike ", except as provided by Subsection (b)(3)".

(3) On page 7, lines 6 and 7, strike "or to terminate a continuing contract at any time".

Representative Eissler moved to table Amendment No. 3.

The motion to table prevailed by (Record 95): 88 Yeas, 52 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Carter; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hopson; Howard, D.; King, T.; Lewis; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chisum; Frullo; Johnson; Keffer; Woolley.

Absent — Christian; Mallory Caraway; Peña; Strama.

STATEMENT OF VOTE

I was shown voting yes on Record No. 95. I intended to vote no.

Hilderbran

Amendment No. 4

Representatives D. Miller and Button offered the following amendment to **CSSB 8**:

Amend **CSSB 8** in SECTION 15 of the bill by striking added Section 552.2661, Government Code (page 14, lines 11-17), and substituting the following:

Sec. 552.2661. CHARGE FOR COPY OF PUBLIC INFORMATION PROVIDED BY SCHOOL DISTRICT. A school district that receives a request to produce public information for inspection or publication or to produce copies of public information in response to a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the district as provided under Section 552.261(b) may require the requestor to pay the estimated charges for the request before the request is fulfilled.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Shelton offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee report) in SECTION 16 of the bill (page 14, line 18), between "SECTION 16." and "Subsections" by inserting "Section 12.1331, Education Code, and".

Amendment No. 5 was adopted by (Record 96): 84 Yeas, 54 Nays, 1 Present, not voting.

Yeas — Aliseda; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Burkett; Button; Callegari; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Geren; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Pitts; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Bonnen; Brown; Burnam; Cain; Carter; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Hopson; Howard, D.; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Phillips; Pickett; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chisum; Frullo; Johnson; Keffer; Woolley.

Absent — Gonzalez; King, P.; King, T.; Lyne; Mallory Caraway; Peña.

STATEMENTS OF VOTE

I was shown voting no on Record No. 96. I intended to vote yes.

Cain

I was shown voting yes on Record No. 96. I intended to vote no.

Hilderbran

When Record No. 96 was taken, I was in the house but away from my desk. I would have voted yes.

P. King

When Record No. 96 was taken, I was in the house but away from my desk. I would have voted yes.

Lyne

When Record No. 96 was taken, I was in the house but away from my desk. I would have voted no.

Peña

Amendment No. 6

Representative Huberty offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) as follows:

(1) In SECTION 2 of the bill, strike amended Section 21.103(a), Education Code (page 2, line 24, through page 3, line 7), and substitute the following:

(a) The board of trustees of a school district may terminate the employment of a teacher employed under a probationary contract at the end of the contract period if in the board's judgment the best interests of the district will be served by terminating the employment. The board of trustees must give notice of its decision to terminate the employment to the teacher not later than the 10th [45th] day before the last day of instruction required under the contract. The notice must be delivered personally by hand delivery to the teacher on the campus at which the teacher is employed, except that if the teacher is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid certified mail or delivered by express delivery service to the teacher's address of record with the district. Notice that is postmarked on or before the 15th day before the last day of instruction is considered timely given under this subsection. The board's decision is final and may not be appealed.

(2) In SECTION 6 of the bill, strike amended Section 21.206(a), Education Code (page 4, lines 17-23), and substitute the following:

(a) Not later than the 10th [45th] day before the last day of instruction in a school year, the board of trustees shall notify in writing each teacher whose contract is about to expire whether the board proposes to renew or not renew the contract. The notice must be delivered personally by hand delivery to the teacher on the campus at which the teacher is employed, except that if the teacher is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid certified mail or delivered by express delivery service to the teacher's address of record with the district. Notice that is postmarked on or before the 15th day before the last day of instruction is considered timely given under this subsection.

(3) In SECTION 7 of the bill, in the recital (page 4, line 25), strike "amending Subsection (c)" and substitute "amending Subsections (a) and (c)".

(4) In SECTION 7 of the bill, between the recital and added Section 21.207(b-1), Education Code (page 4, between lines 26 and 27), insert the following:

(a) If the teacher desires a hearing after receiving notice of the proposed nonrenewal, the teacher shall notify the board of trustees in writing not later than the 15th day after the date the teacher receives hand delivery of the notice of the proposed action, or if the notice is mailed by prepaid certified mail or delivered by express delivery service, not later than the 15th day after the date the notice is delivered to the teacher's address of record with the district. The board shall

provide for a hearing to be held not later than the 15th day after the date the board receives the request for a hearing unless the parties agree in writing to a different date. The hearing must be closed unless the teacher requests an open hearing.

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

SECTION _____. Sections 21.103(a), 21.206(a), and 21.207(a), Education Code, as amended by this Act, apply beginning with contracts for the 2012-2013 school year.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business in the district:

Bohac on motion of C. Howard.

CSSB 8 - (consideration continued)

Amendment No. 7

Representative Castro offered the following amendment to Amendment No. 6:

Amend Amendment No. 6 on **CSSB 8** by Huberty as follows:

(1) Each time "10th" appears, substitute "30th" (page 1, line 10 and page 1, line 24).

(2) Each time "15th" appears, substitute "30th" (page 1, line 18, page 2, line 5, page 2, line 18, page 2, line 21).

Representative Huberty moved to table Amendment No. 7.

The motion to table prevailed by (Record 97): 84 Yeas, 56 Nays, 1 Present, not voting.

Yeas — Anderson, C.; Aycocock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Cain; Callegari; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; Workman; Zedler; Zerwas.

Nays — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Burnam; Carter; Castro; Coleman; Darby; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Hopson; Howard, D.; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon;

Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Phillips; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Chisum; Frullo; Johnson; Keffer; Woolley.

Absent — Button; Deshotel; Strama.

Amendment No. 8

Representative Huberty offered the following amendment to Amendment No. 6:

Amend Amendment No. 6 by Huberty by substituting "10th" on page 1, line 18 and page 2, line 5 for "15th".

Amendment No. 8 was adopted. (Phillips recorded voting no.)

Amendment No. 6, as amended, was adopted by (Record 98): 88 Yeas, 52 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Burkett; Button; Cain; Callegari; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Giddings; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hochberg; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Price; Quintanilla; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Brown; Burnam; Carter; Castro; Coleman; Darby; Davis, Y.; Dukes; Dutton; Farias; Farrar; Gallego; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hilderbran; Hopson; Howard, D.; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Phillips; Pickett; Pitts; Raymond; Reynolds; Riddle; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Chisum; Frullo; Johnson; Keffer; Woolley.

Absent — Allen; Deshotel; Strama.

STATEMENTS OF VOTE

I was shown voting no on Record No. 98. I intended to vote yes.

Alvarado

I was shown voting no on Record No. 98. I intended to vote yes.

Anchia

I was shown voting no on Record No. 98. I intended to vote yes.

V. Gonzales

I was shown voting no on Record No. 98. I intended to vote yes.

D. Howard

I was shown voting no on Record No. 98. I intended to vote yes.

Lucio

I was shown voting no on Record No. 98. I intended to vote yes.

Marquez

I was shown voting no on Record No. 98. I intended to vote yes.

Martinez

I was shown voting no on Record No. 98. I intended to vote yes.

Muñoz

I was shown voting no on Record No. 98. I intended to vote yes.

Naishtat

I was shown voting no on Record No. 98. I intended to vote yes.

Vo

REASONS FOR VOTE

While I supported the provisions of Representative Huberty's amendment requiring hand-delivery of notices to teachers, I voted no on the amendment because of the adopted amendment to the amendment that reduced notice to teachers from 15 days to 10 days.

Gooden and Pitts

Amendment No. 9

Representative Patrick offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) as follows:

- (1) Strike SECTION 3 of the bill, adding Section 21.1041, Education Code (page 3, lines 8 - 20).
- (2) Strike SECTION 5 of the bill, amending Section 21.159(b), Education Code (page 4, lines 2 - 14).
- (3) Strike SECTIONS 7 and 8 of the bill, amending Sections 21.207 and 21.251, Education Code (page 4, line 24, through page 7, line 8).
- (4) Renumber subsequent SECTIONS of the bill accordingly.

Representative Eissler moved to table Amendment No. 9.

The motion to table prevailed by (Record 99): 74 Yeas, 65 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Button; Cain; Callegari; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Geren;

Gonzales, L.; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; Kleinschmidt; Kolkhorst; Larson; Laubenberg; Lavender; Legler; Lyne; Madden; Miller, D.; Miller, S.; Morrison; Murphy; Orr; Otto; Parker; Paxton; Perry; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Brown; Burnam; Carter; Castro; Coleman; Darby; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Harless; Hernandez Luna; Hochberg; Hopson; Howard, D.; King, S.; King, T.; Kuempel; Landtroop; Lewis; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Nash; Oliveira; Patrick; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Thompson; Veasey; Villarreal; Vo; Walle; White.

Present, not voting — Mr. Speaker(C); Burkett.

Absent, Excused — Bohac; Chisum; Frullo; Johnson; Keffer; Woolley.

Absent — Deshotel; Strama; Turner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 99. I intended to vote no.

Kolkhorst

I was shown voting yes on Record No. 99. I intended to vote no.

Lavender

I was shown voting yes on Record No. 99. I intended to vote no.

Schwertner

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of a death in the family:

Deshotel on motion of Raymond.

The following member was granted leave of absence for the remainder of today because of important business:

Strama on motion of Scott.

CSSB 8 - (consideration continued)

Amendment No. 10

Representative Martinez offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee report) as follows:

(1) In SECTION 3 of the bill, on page 3, line 20, between "personnel" and the period, insert "as a result of a reduction in state funding levels that leaves the district with an amount of available state and local funds per weighted student that is less than the amount of state and local funds per weighted student available to the district in the preceding school year".

(2) In SECTION 5 of the bill, on page 4, line 14, between "personnel" and the period, insert "as a result of a reduction in state funding levels that leaves the district with an amount of available state and local funds per weighted student that is less than the amount of state and local funds per weighted student available to the district in the preceding school year".

(3) In SECTION 8 of the bill, on page 7, line 5, between "personnel" and the comma, insert "as a result of a reduction in state funding levels that leaves the district with an amount of available state and local funds per weighted student that is less than the amount of state and local funds per weighted student available to the district in the preceding school year".

Representative Eissler moved to table Amendment No. 10.

The motion to table prevailed by (Record 100): 87 Yeas, 54 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Carter; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hernandez Luna; Howard, D.; Huberty; King, T.; Lewis; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Strama; Woolley.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Mallory Caraway on motion of Carter.

CSSB 8 - (consideration continued)**Amendment No. 11**

Representative Farias offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee report) as follows:

(1) On page 4, line 25, strike "Subsection (b-1)" and substitute "Subsections (b-1) and (b-2)".

(2) On page 6, between lines 3 and 4, insert the following:

(d-2) The attorney designated by the board of trustees may issue subpoenas at the request of either party for the attendance of witnesses and the production of documents at the hearing and may administer oaths, rule on motions and the admissibility of evidence, maintain decorum by closing the hearing or taking other appropriate action, schedule and recess the proceedings, and make any other orders. The attorney designated by the board may issue a subpoena for the attendance of a person who is not an employee of the district only if the party requesting the issuance of the subpoena shows good cause for the subpoena.

Representative Eissler moved to table Amendment No. 11.

The motion to table prevailed by (Record 101): 90 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Christian; Cook; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Craddick; Darby; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Hopson; Howard, D.; King, T.; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Phillips; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Strama; Woolley.

Absent — Coleman.

Amendment No. 12

Representative Callegari offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee report) as follows:

(1) In SECTION 10 of the bill, in the recital (page 9, line 12), strike "adding Sections 21.4021 and 21.4022" and substitute "adding Sections 21.4021, 21.4022, and 21.4032".

(2) In SECTION 10 of the bill, immediately following added Section 21.4022, Education Code (page 11, between lines 25 and 26), insert the following:

Sec. 21.4032. REDUCTIONS IN SALARIES OF CLASSROOM TEACHERS AND ADMINISTRATORS. (a) This section applies only to a widespread reduction in the amount of the annual salaries paid to school district classroom teachers based primarily on district financial conditions rather than on teacher performance.

(b) For any school year in which a school district has reduced the amount of the annual salaries paid to district classroom teachers from the amount paid for the preceding school year, the district shall reduce the amount of the annual salary paid to each district administrator by a percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.

Amendment No. 13

Representative Marquez offered the following amendment to Amendment No. 12:

Amend the Callegari amendment by inserting the following appropriately numbered SECTION and renumbering subsequent sections accordingly:

SECTION ____ . Section 21.212, Education Code, is amended by adding Subsection (f) to read as follows:

(f) On the basis of a financial exigency declared under Section 44.011 that requires a reduction in personnel, the board of trustees of a school district may choose to terminate the employment of a superintendent employed under a term contract or to amend the terms of the contract. A superintendent whose contract is amended under this subsection may resign without penalty by providing reasonable notice to the board and may continue employment for that notice period under the prior contract.

Amendment No. 13 was adopted.

Amendment No. 12, as amended, was adopted by (Record 102): 137 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; King, T.; Kleinschmidt;

Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Nays — Hochberg.

Present, not voting — Mr. Speaker(C); Turner.

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Strama; Woolley.

Absent — Coleman.

Amendment No. 14

Representative Patrick offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) in SECTION 10 of the bill, in added Section 21.4021, Education Code, (page 10, between lines 21 and 22), by adding the following:

(i) Any reduction under this section in the amount of the annual salary paid to an employee must be equally distributed over the course of the employee's current contract with the school district.

Amendment No. 14 was adopted.

Amendment No. 15

Representative Patrick offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee report) as follows:

(1) In SECTION 10 of the bill, in added Section 21.4022(c), Education Code (page 11, line 14), strike "and".

(2) In SECTION 10 of the bill, in added Section 21.4022(c), Education Code (page 11, line 19), strike the underlined period and substitute "; and".

(3) In SECTION 10 of the bill, in added Section 21.4022(c), Education Code (page 11, between lines 19 and 20), insert the following:

(3) information regarding the local option residence homestead exemption.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Dutton offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) in SECTION 14 of the bill by striking added Section 44.011, Education Code (page 13, line 20, through page 14, line 8), and substituting the following:

Sec. 44.011. FINANCIAL EXIGENCY. (a) In this section, "financial exigency" means substantial and recurring financial deficits in the total operating budget of a school district that have occurred and are reasonably projected to continue to occur, placing the district at serious risk of insolvency. The term does not include:

(1) the expectation of short-term deficits in the operating budget of a district; or

(2) the elimination of or reduction in a district academic program for academic reasons.

(b) This section applies only if, in response to a financial exigency as determined by the board of trustees of a school district, the district proposes to terminate contracts of and discharge classroom teachers. A district shall consider termination of contracts and discharge of classroom teachers to be an exceptional action. The board of trustees of a district must comply with this section before the board may terminate contracts of and discharge classroom teachers on the basis of a financial exigency declared by resolution of the board.

(c) The board of trustees of a school district that proposes to terminate contracts of and discharge classroom teachers on the basis of a financial exigency must prepare and submit to the commissioner a report specifying the precise nature and extent of the district's financial problems. The report must include:

(1) a description of each measure the district has taken to address the financial problems;

(2) whether reduction or elimination of any academic program redundancies is recommended in addressing the financial problems;

(3) each reason for proposing termination of contracts and discharge of classroom teachers; and

(4) the number of classroom teachers whom the district is proposing to discharge.

(d) Not later than the 10th day after the date the board of trustees of a school district submits a report to the commissioner under Subsection (c), a financial exigency committee shall be established to review all documentation relevant in determining whether a district financial exigency exists. The committee shall be composed of five members, none of whom may be employed by the district. Two members of the committee shall be appointed by the board of trustees, two members shall be appointed by the commissioner, and one member shall be appointed to serve as presiding officer by the other members of the committee.

(e) In performing its duties under this section, the financial exigency committee may consult with any person and may consider oral or written submissions concerning the school district's financial condition and district academic program redundancies.

(f) The financial exigency committee shall prepare and submit to the commissioner and the board of trustees of the school district, in the time and manner required by commissioner rule, a report that includes:

(1) an analysis of the nature and extent of the district's financial problems;

(2) a determination of whether a district financial exigency exists;

(3) a description of the potential impact on the district's academic programs of the district's proposals under Subsection (c);

(4) a determination of whether district enrollment projections are consistent with the reduction in the number of classroom teachers proposed under Subsection (c);

(5) a determination of whether the district has proposed making any necessary reductions among district employees in a manner that best maintains the academic viability of the district; and

(6) a determination of whether the district has exhausted all reasonable means, other than termination of contracts and discharge of classroom teachers, to alleviate the district's financial problems, including:

(A) applying rigorous economies in all areas of the district's present and projected expenditures;

(B) using all reasonable means of increasing the district's income;
and

(C) reducing the number of classroom teachers by voluntary retirement, resignation, or reduction in workload or by other voluntary means.

(g) If the financial exigency committee determines that a school district financial exigency does not exist, the district may not terminate a contract of and discharge a classroom teacher for budgetary reasons. If the committee determines that a district financial exigency does exist and that the district has exhausted all other reasonable means to alleviate the district's financial problems, the committee may recommend a reduction in the number of classroom teachers or in the district's budgetary allocations for classroom teacher salaries or benefits. If the committee recommends a reduction in the number of classroom teachers that is different from the number proposed under Subsection (c), the committee shall explain the reasons for the difference in the report under Subsection (f).

(h) If the financial exigency committee determines that a school district financial exigency exists and no other satisfactory provision can be made for the continued employment of all district classroom teachers, the board of trustees of the district shall adopt a resolution declaring a financial exigency and prepare a plan for the reduction in the number of classroom teachers. The plan must be structured in a manner that allows the district to continue to operate to the greatest extent practicable in accordance with the district's mission and may include a reduction in or elimination of one or more academic programs. The district may terminate contracts of and discharge classroom teachers only to the extent necessary to alleviate the financial exigency. The number of classroom teachers discharged may not exceed the number recommended by the financial exigency committee under Subsection (g).

(i) The commissioner shall adopt rules as necessary for the administration of this section.

(T. Smith in the chair)

Representative Eissler moved to table Amendment No. 16.

The motion to table prevailed by (Record 103): 80 Yeas, 56 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Cain; Callegari; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lyne; Madden; Margo; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Carter; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hartnett; Hochberg; Hopson; Howard, D.; King, T.; Lewis; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Weber; White.

Present, not voting — Mr. Speaker; Smith, T.(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Strama; Woolley.

Absent — Button; Hernandez Luna; Miller, D.

STATEMENT OF VOTE

When Record No. 103 was taken, I was in the house but away from my desk. I would have voted no.

Hernandez Luna

COMMITTEE GRANTED PERMISSION TO MEET

Representative Guillen requested permission for the Committee on Culture, Recreation, and Tourism to meet while the house is in session, at 12:45 p.m. today, in 3W.9, to consider **HR 104**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Culture, Recreation, and Tourism, 12:45 p.m. today, 3W.9, for a formal meeting, to consider **HR 104**.

CSSB 8 - (consideration continued)

Amendment No. 17

Representative Y. Davis offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee report) by deleting on page 14, line 13, the phrase "inspection on".

Amendment No. 17 was adopted.

Amendment No. 18

Representative Shelton offered the following amendment to **CSSB 8**:

Amend **CSSB 8** by amending SECTION 4 to read as follows:

SECTION 4. Section 21.157, Education Code, is amended to read as follows:

Sec. 21.157. NECESSARY REDUCTION OF PERSONNEL. A teacher employed under a continuing contract may be released at the end of a school year and the teacher's employment with the school district terminated at that time because of a necessary reduction of personnel by the school district, with those reductions made [in the reverse order of seniority] primarily based upon teacher appraisals administered under Sec. 21.352 in the specific teaching fields.

Representative Hochberg moved to table Amendment No. 18.

The motion to table was lost by (Record 104): 52 Yeas, 84 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Brown; Carter; Castro; Darby; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gooden; Guillen; Hernandez Luna; Hochberg; Howard, D.; King, T.; Lozano; Lucio; Lyne; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Torres; Turner; Veasey; Vo; Walle; White; Workman; Zerwas.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Gonzalez; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Truitt; Weber; Zedler.

Present, not voting — Mr. Speaker; Smith, T.(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Strama; Woolley.

Absent — Coleman; Madden; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 104. I intended to vote no.

Carter

I was shown voting yes on Record No. 104. I intended to vote no.

Workman

Amendment No. 18 was adopted by (Record 105): 85 Yeas, 52 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bonnen; Branch; Burkett; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Brown; Burnam; Castro; Darby; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Hopson; Howard, D.; King, S.; King, T.; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker; Smith, T.(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Strama; Woolley.

Absent — Coleman; Smith, W.

Amendment No. 19

Representative Dutton offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) in SECTION 14 of the bill, in added Section 44.011, Education Code (page 14, between lines 8 and 9), by inserting the following:

(e) The commissioner by rule shall adopt minimum standards concerning school district financial conditions that must exist for declaration of a financial exigency by the board of trustees of the district.

(f) The commissioner may use emergency rulemaking procedures to adopt rules under Subsection (e). This subsection expires September 1, 2013.

Amendment No. 19 was adopted.

Amendment No. 20

Representative Huberty offered the following amendment to **CSSB 8**:

Amend **CSSB 8** to include the following sections and to renumber the following sections appropriately.

SECTION _____. Section 21.257, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A determination by the hearing examiner regarding good cause for the suspension of a teacher without pay or the termination of a probationary, continuing, or term contract is a conclusion of law and may be adopted, rejected, or changed by the board of trustees or board subcommittee as provided by Section 21.259(b).

SECTION _____. Section 21.259(b), Education Code, is amended to read as follows:

(b) The board of trustees or board subcommittee may adopt, reject, or change the hearing examiner's:

(1) conclusions of law, including a determination regarding good cause for suspension without pay or termination; or

(2) proposal for granting relief.

SECTION 3. The changes in law made by this Act apply only to a hearing examiner's determination regarding good cause that is contained in a written recommendation under Section 21.257, Education Code, issued on or after the effective date of this Act.

Amendment No. 20 was adopted. (Phillips recorded voting no.)

Amendment No. 21

Representatives Huberty and Burkett offered the following amendment to **CSSB 8**:

Amend **CSSB 8** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 33.902(b) and (c), Education Code, are repealed.

Amendment No. 21 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of family business:

Solomons on motion of Geren.

CSSB 8 - (consideration continued)**Amendment No. 22**

Representative Alonzo offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) by adding the following appropriately numbered SECTION to the bill, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 11.151, Education Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) Rules and bylaws adopted under Subsection (d) and any other written policies adopted by the trustees relating to the flexibility of the board of trustees of a school district in the management and operation of the district have the force of law in relation to the district, and the board of trustees, each trustee, and each school district employee shall comply with those rules, bylaws, and policies.

Amendment No. 22 was adopted by (Record 106): 108 Yeas, 22 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Callegari; Castro; Christian; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Lewis; Lozano; Lucio; Lyne; Madden; Martinez; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Workman; Zedler; Zerwas.

Nays — Anderson, R.; Cain; Carter; Creighton; Gonzalez; Hancock; Hartnett; Jackson; King, S.; Kuempel; Larson; Laubenberg; Lavender; Legler; Margo; Marquez; Murphy; Phillips; Price; Schwertner; Weber; White.

Present, not voting — Mr. Speaker; Smith, T.(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Solomons; Strama; Woolley.

Absent — Coleman; Gallego; Giddings; Hochberg; King, P.; Martinez Fischer; Morrison; Veasey.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 106. I intended to vote no.

Burkett

I was shown voting yes on Record No. 106. I intended to vote no.

Cook

I was shown voting no on Record No. 106. I intended to vote yes.

Gonzalez

I was shown voting yes on Record No. 106. I intended to vote no.

Harper-Brown

I was shown voting yes on Record No. 106. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 106. I intended to vote no.

Hunter

When Record No. 106 was taken, I was temporarily out of the house chamber. I would have voted no.

P. King

I was shown voting no on Record No. 106. I intended to vote yes.

Marquez

When Record No. 106 was taken, I was in the house but away from my desk. I would have voted no.

Morrison

I was shown voting yes on Record No. 106. I intended to vote no.

Nash

I was shown voting yes on Record No. 106. I intended to vote no.

Scott

When Record No. 106 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

I was shown voting yes on Record No. 106. I intended to vote no.

Zedler

Amendment No. 23

Representative Villarreal offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0491 to read as follows:

Sec.21.0491. EMPLOYMENT OF TEACHER WITH ALTERNATIVE CERTIFICATION. (a) Before a school district may employ as a classroom teacher a person who is certified only under Section 21.049, the person must complete at least 15 hours of field experience in which the person is actively engaged in instructional or educational activities in the classroom.

Amendment No. 23 was adopted. (Cain recorded voting no.)

Amendment No. 24

Representative Guillen offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) by adding to the bill the following appropriately numbered new SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 29.0822(a), Education Code, is amended to read as follows:

(a) Notwithstanding Section 25.081 or 25.082, a school district may apply to the commissioner to provide a flexible school day program for ~~students who~~:

(1) students who have dropped out of school or are at risk of dropping out of school as defined by Section 29.081;

(2) students who attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; [or]

(3) students who, as a result of attendance requirements under Section 25.092, will be denied credit for one or more classes in which the students have been enrolled; or

(4) a campus or campuses that would benefit from the program.

Amendment No. 24 was adopted.

Amendment No. 25

Representative Crownover offered the following amendment to **CSSB 8**:

Amend **CSSB 8** as follows:

Section 22.001, Education Code, is amended by adding Subsection (d) to read as follows:

(d) An organization for whom membership fees or dues are deducted must annually provide written notice to the employee of the total amount of dues deducted by the district for the year in order to be entitled to receive payments from the district under this section.

Amendment No. 25 was adopted.

Amendment No. 26

Representative Giddings offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

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

SUBCHAPTER J. FINANCIAL EXIGENCY AND SCHOOL DISCIPLINE TASK FORCE

Sec. 37.401. FINDINGS. (a) The legislature finds that:

(1) Section 1, Article VII, Texas Constitution, provides for the support and maintenance of an efficient system of public free schools because a general diffusion of knowledge is essential to the preservation of the liberties and rights of people;

(2) to serve the purpose described by Subdivision (1):

(A) public schools should be safe, welcoming, and engaging places for children to learn; and

(B) school discipline policies and practices should be designed to:

- (i) protect students from harm;
- (ii) create healthy and productive learning environments;
- (iii) assist students in learning from their mistakes; and
- (iv) maximize students' opportunities to learn;

(3) in public schools across the state, financial exigencies have caused changes in the management and operation of public schools that affect the administration of district and classroom discipline policies, creating an environment in which students are removed from school through out-of-school suspension, expulsion, and removals to disciplinary alternative education programs and juvenile justice alternative education programs for minor incidents of misbehavior that could be more appropriately dealt with using more effective strategies;

(4) students are being cited, arrested, or otherwise referred to law enforcement officials for minor misbehavior that could be dealt with using more effective school disciplinary methods; and

(5) these disciplinary problems exist and contribute to high dropout rates, low graduation rates, achievement gaps, and long-term costs to the community in the form of less educated and less productive citizens.

(b) As a result of the finding in Subsection (a), the legislature determines that it is necessary and appropriate to create a legislative task force to assess:

(1) changes in the administration of district and classroom disciplinary policies caused by financial exigencies;

(2) changes in the management and operation of public schools caused by financial exigencies;

(3) changes in the implementation of school discipline strategies, as they relate to the juvenile justice system, caused by financial exigencies; and

(4) evidence-based solutions that promote discipline strategies to keep students in school, reduce the criminalization of school-based behaviors, and address financial exigency changes in the management and operation of public schools.

Sec. 37.402. FINANCIAL EXIGENCY AND SCHOOL DISCIPLINE TASK FORCE. (a) The Financial Exigency and School Discipline Task Force is created to study and assess:

(1) changes to current school discipline practices and statutes relating to discipline practices in elementary and secondary public schools attributable to financial exigencies;

(2) the use of law enforcement citations, arrests, and other juvenile justice sanctions for school-based behaviors in elementary and secondary public schools; and

(3) the interaction of school discipline practices with the state juvenile justice system.

(b) The task force shall consist of six legislative members appointed as follows:

(1) three members of the senate, two of whom are appointed by the lieutenant governor and one of whom is appointed by the chair of the caucus of the minority party of the senate; and

(2) three members of the house of representatives, two of whom are appointed by the speaker of the house of representatives and one of whom is appointed by the chair of the caucus of the minority party of the house of representatives.

(c) The lieutenant governor shall select a task force member to serve as the chair of the task force, and the speaker of the house of representatives shall select a task force member to serve as vice chair of the task force.

(d) The chair and vice chair of the task force shall jointly select not more than 10 persons to serve as nonvoting members of the task force and assist the task force members in reviewing the issues described by Subsection (a).

(e) Nonvoting members appointed under Subsection (d) must include persons who have knowledge and experience in the areas of school discipline and juvenile justice and who represent the following constituencies:

(1) school districts;

(2) teachers and administrators employed by public schools;

(3) students and parents of students enrolled in public schools;

(4) law enforcement agencies;

(5) district attorneys;

(6) criminal defense attorneys;

(7) restorative justice practitioners; and

(8) community organizations.

(f) The nonvoting task force members shall serve without compensation and without reimbursement for expenses.

Sec. 37.403. MEETINGS. (a) The Financial and Exigency School Discipline Task Force shall hold at least four public meetings and may hold additional public meetings as determined necessary by the chair.

(b) At each meeting, the task force:

(1) shall take testimony on and discuss the issues described by Section 37.402(a); and

(2) may solicit and receive written comments from members of the public.

Sec. 37.404. DUTY AND AUTHORITY TO COMPILE RELEVANT INFORMATION. In addition to taking testimony under Section 37.403, the Financial Exigency and School Discipline Task Force:

(1) shall review any available, non-identifying data collected by the agency, school districts, or law enforcement agencies in studying issues relating to disciplinary policies and practices and the use of juvenile justice sanctions for school-based adolescent behaviors; and

(2) may solicit information from the National Conference of State Legislatures, other national research organizations, and other states or organizations that have studied or introduced legislation concerning evidence-based practices for addressing school discipline issues.

Sec. 37.405. STAFF SUPPORT. The Texas Legislative Council shall provide staff support to the Financial Exigency and School Discipline Task Force.

Sec. 37.406. REPORT. Not later than December 1, 2012, the Financial Exigency and School Discipline Task Force shall deliver to the lieutenant governor, the speaker of the house of representatives, and the clerks of the standing committees of the senate and the house of representatives with primary jurisdiction over public education a report that includes:

(1) the findings of the task force relating to the issues described by Section 37.402(a) studied and assessed under this subchapter; and

(2) a summary of any recommended legislation.

Sec. 37.407. EXPIRATION. This subchapter expires September 1, 2013.

SECTION ____. Not later than the 30th day after the effective date of this Act, the appointing authorities described by Section 37.402, Education Code, as added by this Act, shall make the appointments under that section.

Amendment No. 26 was adopted.

Amendment No. 27

Representative Weber offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) as follows:

(1) In SECTION 8 of the bill, in amended Section 21.251(a)(3), Education Code (page 6, line 22), between "pay" and the period, insert "for more than five days within a period of one year".

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

SECTION _____. The change in law made by Section 21.251(a)(3), Education Code, as amended by this Act, applies only to a proposed suspension without pay regarding which the board of trustees notifies a teacher on or after the effective date of this Act.

(Speaker in the chair)

Representative Huberty moved to table Amendment No. 27.

The motion to table prevailed by (Record 107): 82 Yeas, 53 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycocck; Beck; Branch; Brown; Burkett; Burnam; Carter; Castro; Coleman; Craddick; Davis, J.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; King, S.; King, T.; Kolkhorst; Kuempel; Larson; Lavender; Lewis; Lozano; Lucio; Lyne; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Rodriguez; Schwertner; Smith, W.; Smithee; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Workman; Zerwas.

Nays — Aliseda; Anderson, R.; Berman; Bonnen; Button; Cain; Callegari; Cook; Creighton; Crownover; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hughes; Hunter; Isaac; Jackson; King, P.; Kleinschmidt; Landtroop; Laubenberg; Legler; Madden; Miller, D.; Miller, S.; Morrison; Patrick; Paxton; Perry; Reynolds; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Taylor, L.; Truitt; Weber; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Solomons; Strama; Woolley.

Absent — Christian; Darby; Davis, Y.; Zedler.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 107. I intended to vote no.

Hilderbran

I was shown voting no on Record No. 107. I intended to vote yes.

Reynolds

When Record No. 107 was taken, I was temporarily out of the house chamber. I would have voted no.

Zedler

Amendment No. 28

Representative Weber offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 21.104(b), Education Code, is amended to read as follows:

(b) In lieu of discharge or pending discharge, a school district may suspend a teacher without pay for good cause as specified by Subsection (a) for a period not to extend beyond the end of the current school year.

SECTION _____. Section 21.156(b), Education Code, is amended to read as follows:

(b) In lieu of discharge or pending discharge, a school district may suspend a teacher without pay for good cause as specified by Subsection (a) for a period not to extend beyond the end of the current school year.

Amendment No. 28 was adopted. (Phillips recorded voting no.)

Amendment No. 29

Representative Weber offered the following amendment to **CSSB 8**:

Amend **CSSB 8** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 22.0512(a), Education Code, is amended to read as follows:

(a) A professional employee of a school district may not be subject to disciplinary proceedings for the employee's objectively reasonable use of physical force against a student to the extent justified under Section 9.62, Penal Code.

SECTION _____. Section 22.0512(a), Education Code, as amended by this Act, applies only to a school district employee disciplinary proceeding for conduct that occurs on or after the effective date of this Act. A school district employee disciplinary proceeding for conduct that occurs before the effective date of this Act is governed by the law in effect on the date the conduct occurs, and that law is continued in effect for that purpose.

Amendment No. 29 failed of adoption by (Record 108): 24 Yeas, 106 Nays, 1 Present, not voting.

Yeas — Anderson, R.; Cain; Crownover; Davis, S.; Eissler; Fletcher; Garza; Harper-Brown; Hartnett; Hughes; King, P.; Kolkhorst; Lyne; Morrison; Perry; Raymond; Riddle; Sheets; Taylor, L.; Weber; White; Workman; Zedler; Zerwas.

Nays — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Callegari; Carter; Castro; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Driver; Dutton; Eiland; Elkins; Farias; Farrar; Flynn; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Madden; Margo; Marquez; Martinez; Martinez Fischer; Menendez; Miles; Miller, D.; Miller, S.; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Reynolds; Ritter; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Solomons; Strama; Woolley.

Absent — Dukes; Guillen; Laubenberg; McClendon; Naishtat; Oliveira; Rodriguez; Simpson; Torres.

STATEMENT OF VOTE

I was shown voting yes on Record No. 108. I intended to vote no.

Kolkhorst

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Simpson on motion of Isaac.

CSSB 8 - (consideration continued)

CSSB 8, as amended, was passed to third reading by (Record 109): 74 Yeas, 59 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Aycock; Beck; Berman; Bonnen; Branch; Burkett; Button; Cain; Christian; Cook; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; Kleinschmidt; Kuempel; Larson; Laubenberg; Lavender; Legler; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; Workman; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Brown; Burnam; Carter; Castro; Coleman; Craddick; Darby; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Hopson; Howard, D.; King, S.; King, T.; Landtroop; Lewis; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Simpson; Solomons; Strama; Woolley.

Absent — Callegari; Guillen; Kolkhorst; Peña; Zedler.

STATEMENTS OF VOTE

When Record No. 109 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

I was shown voting no on Record No. 109. I intended to vote yes.

Craddick

When Record No. 109 was taken, my vote failed to register. I would have voted yes.

Kolkhorst

When Record No. 109 was taken, I was in the house but away from my desk. I would have voted no.

Peña

When Record No. 109 was taken, I was temporarily out of the house chamber. I would have voted yes.

Zedler

**GENERAL STATE CALENDAR
SENATE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**SB 6 ON SECOND READING
(Eissler - House Sponsor)**

SB 6, A bill to be entitled An Act relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools; providing penalties.

Amendment No. 1

Representative Eissler offered the following amendment to **SB 6**:

Amend **SB 6** (house committee report) by inserting into the bill the following appropriately numbered new SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 39.023(c), Education Code, is amended to read as follows:

(c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. The Algebra I, Algebra II, and geometry end-of-course assessment instruments must be administered with the aid of technology. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection. A district [and] shall adopt a policy addressing whether [that requires] a student's performance on an end-of-course assessment instrument for a course listed in this subsection in which the student is enrolled will be used by the district in determining [to account for 15 percent of] the student's final grade for the course and, if so, the manner in which the student's performance on an end-of-course assessment instrument will be used in determining the student's final grade for the course. If a student retakes an end-of-course assessment instrument for a course listed in this subsection, as provided by Section 39.025, a [school] district shall act in accordance with district policy concerning whether [is not required] to use and, if so, the manner in which to use the student's performance on the subsequent administration or administrations of the assessment instrument in determining [to determine] the student's final grade for the course. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).

SECTION _____. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0236 to read as follows:

Sec. 39.0236. REDUCED ASSESSMENT REQUIREMENTS PILOT PROGRAM. (a) In this section, "pilot program" means the reduced assessment requirements pilot program established under this section.

(b) The commissioner by rule shall establish a pilot program in which certain students in grades three through eight at a participating campus have reduced assessment requirements, as provided by this section.

(c) A campus may apply to the commissioner to participate in the pilot program.

(d) The commissioner shall select at least 20 campuses to participate in the pilot program. In selecting campuses for participation in the pilot program, the commissioner shall ensure that, to the greatest extent practicable, the diverse demographic, geographic, socioeconomic, and academic characteristics found in this state are represented and that elementary and middle or junior high schools are represented.

(e) Notwithstanding Section 39.023, a student attending a campus participating in the pilot program, other than a student administered assessment instruments under Section 39.023(b) or (l) or granted an exemption from administration of an assessment instrument under Section 39.027, shall be assessed using assessment instruments adopted or developed under Section 39.023(a) in:

(1) mathematics:

(A) in grades three and five without the aid of technology; and

(B) in grade eight with the aid of technology on any assessment instrument that includes algebra;

(2) reading, in grades three, five, and eight;

(3) writing, including spelling and grammar, in grades four and seven;

(4) social studies, in grade eight; and

(5) science, in grades five and eight.

(f) A student shall be assessed in grade four in mathematics or reading using an assessment instrument administered under Subsection (e) in grade three if, on the final assessment instrument in that subject administered to the student in grade three during the preceding school year, the student did not achieve a score determined through the analysis of previous years' testing data to predict with a high level of statistical confidence that a student will pass the following year.

(g) A student shall be assessed in grade six in mathematics or reading using an assessment instrument administered under Subsection (e) in grade five if, on the final assessment instrument in that subject administered to the student in grade five during the preceding school year, the student did not achieve a score determined through the analysis of previous years' testing data to predict with a high level of statistical confidence that a student will pass the following year.

(h) A student shall be assessed in grade seven in mathematics or reading using an assessment instrument administered under Subsection (g) in grade six if, on the final assessment instrument in that subject administered to the student in

grade six during the preceding school year, the student did not achieve a score determined through the analysis of previous years' testing data to predict with a high level of statistical confidence that a student will pass the following year.

(i) A participating campus may, for its own use in determining whether students are performing at a satisfactory level, administer to a student at the appropriate grade level, other than a student required to be assessed under this section, an assessment instrument. At the request of a participating campus, the agency shall provide, allow for the administration of, and score each assessment instrument administered under this subsection in the same manner and at the same cost as for assessment instruments required to be administered under the applicable subsection. The results of an assessment instrument administered under this subsection may not be included as an indicator of student achievement under Section 39.054 or any other provision.

(j) If there is a conflict between this section and federal law as a result of forgoing under this section certain administration of assessment instruments to students who have recently performed successfully on assessment instruments assessing the same subject, the commissioner shall seek a waiver from the application of conflicting federal law for a campus participating in the pilot program.

(k) The commissioner shall adopt rules as necessary to administer this section.

(l) The commissioner shall conduct a study to determine whether the pilot program has been successful. The study must compare the achievements in mathematics and reading of students at participating and nonparticipating campuses in similar geographic areas that have students of similar demographic, socioeconomic, and academic characteristics. The study must evaluate the differences between mathematics and reading performance of students at campuses participating in the pilot program and those in matched nonparticipating campuses. Not later than September 1, 2014, the commissioner shall submit the results of the study to the legislature.

(m) The commissioner by rule shall establish the pilot program for the 2012-2013 and 2013-2014 school years.

(n) This section expires December 31, 2014.

SECTION ____. Section 39.025, Education Code, is amended by amending Subsections (a), (a-1), (a-2), (a-3), (b), (b-2), (e), (f), and (g) and adding Subsections (a-4) and (a-5) to read as follows:

(a) The commissioner shall adopt rules requiring a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c) and requiring a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. ~~[A student is required to achieve, in each subject in the foundation curriculum under Section 28.002(a)(1), a cumulative score that is at least equal to the product of the number of end of course assessment instruments administered to the student in that subject and a scale score that~~

~~indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a). A student must achieve a minimum score as determined by the commissioner to be within a reasonable range of the scale score under Section 39.0241(a) on an end-of-course assessment instrument for the score to count towards the student's cumulative score. For purposes of this subsection, a student's cumulative score is determined using the student's highest score on each end-of-course assessment instrument administered to the student. A student may not receive a high school diploma until the student has performed satisfactorily on the end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.]~~

(a-1) The commissioner by rule shall determine a method by which a student's satisfactory performance on an advanced placement test, international baccalaureate examination, an SAT Subject Test, or another assessment instrument determined by the commissioner to be at least as rigorous as an end-of-course assessment instrument adopted under Section 39.023(c) may be used as a factor in determining whether the student satisfies the requirements of Subsection (a) and Subsection (a-2), (a-3), or (a-4), as applicable to the student, ~~including the cumulative score requirement of that subsection].~~ The commissioner by rule may determine a method by which a student's satisfactory performance on a Preliminary Scholastic Assessment Test (PSAT) assessment or a preliminary American College Test (ACT) assessment may be used as a factor in determining whether the student satisfies the requirements of Subsection (a) and Subsection (a-2), (a-3), or (a-4), as applicable to the student.

~~(a-2) To graduate under the recommended high school program [In addition to the cumulative score requirements under Subsection (a)], a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for the following:~~

- ~~(1) English III;~~
- ~~(2) [and] Algebra II;~~
- ~~(3) biology, chemistry, or physics; and~~
- ~~(4) world geography, world history, or United States history~~

~~[end-of-course assessment instruments to graduate under the recommended high school program].~~

~~(a-3) To graduate under the advanced high school program [In addition to the cumulative score requirements under Subsection (a)], a student must:~~

~~(1) achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a-1) on end-of-course assessment instruments for the following:~~

- ~~(A) English III; and~~
- ~~(B) Algebra II; and~~

~~(2) achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for the following:~~

- ~~(A) biology, chemistry, or physics; and~~

(B) world geography, world history, or United States history [in order to graduate under the advanced high school program].

(a-4) To graduate under the minimum high school program, a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for the following:

- (1) English III;
- (2) Algebra I;
- (3) biology, chemistry, or physics; and
- (4) world geography, world history, or United States history.

(a-5) The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on end-of-course assessment instruments.

(b) Each time an end-of-course assessment instrument is administered, a student who failed to achieve the [a minimum] score requirement under this section may [Subsection (a) shall] retake the assessment instrument. A student who fails to perform satisfactorily on an Algebra II or English III end-of-course assessment instrument under the college readiness performance standard, as provided under Section 39.024(b), may retake the assessment instrument. [Any other student may retake an end-of-course assessment instrument for any reason.] A student is not required to retake a course as a condition of retaking an end-of-course assessment instrument.

(b-2) If a school district determines that a student, on completion of grade 11, is unlikely to achieve the [cumulative] score requirement under this section [requirements] for one or more end-of-course assessment instruments as necessary [subjects prescribed by Subsection (a)] for receiving a high school diploma, the district shall require the student to enroll in a corresponding content-area college preparatory course for which an end-of-course assessment instrument has been adopted, if available. A student who enrolls in a college preparatory course described by this subsection shall be administered an end-of-course assessment instrument for the course, with the end-of-course assessment instrument scored on a scale as determined by the commissioner [not to exceed 20 percent of the cumulative score requirements required to graduate as determined under Subsection (a)]. A student may use the student's score on the end-of-course assessment instrument for the college preparatory course towards satisfying the [cumulative] score requirement under this section [requirements prescribed by Subsection (a)].

(c) The commissioner shall establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level required to be met under Subsection (a-2), (a-3), or (a-4), as applicable to the student [(a)].

(f) The commissioner shall by rule adopt a transition plan to implement the amendments made by Chapter 1312 (SB 1031), Acts of the 80th Legislature, Regular Session, 2007, replacing general subject assessment instruments administered at the high school level with end-of-course assessment instruments.

The rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the 2011-2012 school year. During the period under which the transition to end-of-course assessment instruments is made:

(1) for students entering a grade above the ninth grade during the 2011-2012 school year and to the extent necessary for purposes of Subdivisions (5) and (6), the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by Chapter 1312 (SB 1031), Acts of the 80th Legislature, Regular Session, 2007;

(2) a student subject to Subdivision (1) may not receive a high school diploma unless the student has performed satisfactorily on each required assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (SB 1031), Acts of the 80th Legislature, Regular Session, 2007; ~~and~~

(3) the agency may defer releasing assessment instrument questions and answer keys as required by Section 39.023(e) to the extent necessary to develop additional assessment instruments;

(4) a student entering ninth grade during the 2011-2012 or 2012-2013 school year shall be administered each end-of-course assessment instrument listed in Section 39.023(c) for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered;

(5) a student subject to Subdivision (4) may not receive a high school diploma under the recommended high school program unless the student:

(A) achieves a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for the following:

(i) English III;

(ii) Algebra II;

(iii) biology, chemistry, or physics; and

(iv) world geography, world history, or United States history;

or

(B) has performed satisfactorily on each required assessment instrument administered under Section 39.023(c), as that section existed before amendment by Chapter 1312 (SB 1031), Acts of the 80th Legislature, Regular Session, 2007;

(6) a student subject to Subdivision (4) may not receive a high school diploma under the minimum high school program unless the student:

(A) achieves a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) on end-of-course assessment instruments for the following:

(i) English III;

(ii) Algebra I;

(iii) biology, chemistry, or physics; and

(iv) world geography, world history, or United States history;

or

(B) has performed satisfactorily on each required assessment instrument administered under Section 39.023(c), as that section existed before amendment by Chapter 1312 (SB 1031), Acts of the 80th Legislature, Regular Session, 2007; and

(7) a student entering ninth grade during the 2013-2014 school year or a later school year may not receive a high school diploma unless the student has satisfied the requirements of Subsection (a) and Subsection (a-2), (a-3), or (a-4), as applicable to the student.

(g) Rules adopted under Subsection (f) must require that each student who will be subject to the requirements of Subsection (a), (a-2), (a-3), (a-4), or (f)(4) is entitled to notice of the specific requirements applicable to the student. Notice under this subsection must be provided not later than the date the student enters the eighth grade. For a student who entered eighth grade in the 2010-2011 school year, notice under this subsection must also be provided not later than the date the student enters the ninth grade to inform the student of modifications in the requirements applicable to the student. Subsection (f) and this subsection expire September 1, 2017 [2015].

Amendment No. 2

Representative Hochberg offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Eissler to **SB 6** by adding the following to the amendment:

SECTION ____ . Section 39.034, Education Code, is amended by adding Subsection (e) to read as follows:

(e) The agency may use a projection measure only in determining, for purposes of this section, an expected level of annual improvement in student achievement. The agency may not use a projection measure as a representation, for purposes of this section, of an actual level of annual improvement in student achievement.

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

Amendment No. 3

Representative Hochberg offered the following amendment to **SB 6**:

Amend **SB 6** as follows:

(1) On page 13, lines 24 and 25, strike ", to the extent authorized by the General Appropriations Act"

(2) On page 39, lines 20 and 21, strike "and subject to Section 31.021"

Amendment No. 3 was adopted.

Amendment No. 4

Representative Hochberg offered the following amendment to **SB 6**:

Amend **SB 6** as follows:

(1) On page 13, line 25 strike "and".

(2) On page 14, line 2, strike the period and substitute the following:

; and

(6) fund the technology lending grant program established under Section 32.201.

(3) Add a new appropriately numbered SECTION to the bill:

SECTION ____. Chapter 32, Education Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. TECHNOLOGY LENDING PROGRAM GRANTS

Sec. 32.201 ESTABLISHMENT OF PROGRAM. (a) The commissioner may establish a grant program under which grants are awarded to school districts and open-enrollment charter schools to implement a technology lending program to provide students access to equipment necessary to use electronic instructional materials.

(b) A school district or an open-enrollment charter school may apply to the commissioner to participate in the grant program. In awarding grants under this subchapter for each school year, the commissioner shall consider:

(1) the availability of existing equipment to students in the district or charter school; and

(2) other funding available to the district or charter school.

(c) The commissioner may determine the terms of a grant awarded under this section, including limits on the grant amount and approved uses of grant funds.

(d) The commissioner may recover funds not used in accordance with the terms of a grant from any state funds otherwise due to the school district or open-enrollment charter school.

Sec. 32.202 FUNDING. (a) The commissioner may set aside not more than 5 percent of the state instructional materials fund under Section 31.021 or a different amount determined by appropriation to administer a grant program established under this subchapter.

(b) The cost of administering a grant program under this subchapter must be paid from funds provided under Subsection (a).

Sec. 32.203. USE OF GRANT FUNDS. (a) A school district or open-enrollment charter school may use a grant awarded under Section 32.201 or other local funds to purchase, maintain, and insure equipment for a technology lending program.

(b) Equipment purchased by a school district or open-enrollment charter school with a grant awarded under Section 32.201 is the property of the district or charter school.

(4) On page 58, line 11, strike "and".

(5) On page 58, line 12, strike the period and substitute the following:

; and

(16) Subchapter H, Chapter 32.

(6) Renumber the SECTIONS of the bill accordingly.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Alvarado offered the following amendment to **SB 6**:

Amend **SB 6** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. (a) If **HB 692**, Acts of the 82nd Legislature, Regular Session, 2011, does not become law, Section 28.025(b-1), Education Code, is amended to read as follows:

(b-1) The State Board of Education by rule shall require that:

(1) except as provided by Subsection (b-2), the curriculum requirements for the recommended and advanced high school programs under Subsection (a) include a requirement that students successfully complete:

(A) four credits in each subject of the foundation curriculum under Section 28.002(a)(1), including at least one-half credit in government and at least one-half credit in economics to meet the social studies requirement;

(B) for the recommended high school program, two credits in the same language in a language other than English under Section 28.002(a)(2)(A) and, for the advanced high school program, three credits in the same language in a language other than English under Section 28.002(a)(2)(A); and

(C) for the recommended high school program, five and one-half ~~[six]~~ elective credits and, for the advanced high school program, four and one-half ~~[five]~~ elective credits;

(2) one or more credits offered in the required curriculum for the recommended and advanced high school programs include a research writing component; and

(3) the curriculum requirements for the minimum, recommended, and advanced high school programs under Subsection (a) include a requirement that students successfully complete:

(A) one credit in fine arts under Section 28.002(a)(2)(D); and

(B) one and one-half credits ~~[one credit]~~ in physical education under Section 28.002(a)(2)(C).

(b) If **HB 692**, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, Sections 28.025(b-1) and (b-11), Education Code, as effective in June 2011, are amended to read as follows:

(b-1) The State Board of Education by rule shall require that:

(1) except as provided by Subsection (b-2), the curriculum requirements for the recommended and advanced high school programs under Subsection (a) include a requirement that students successfully complete:

(A) four credits in each subject of the foundation curriculum under Section 28.002(a)(1), including at least one-half credit in government and at least one-half credit in economics to meet the social studies requirement;

(B) for the recommended high school program, two credits in the same language in a language other than English under Section 28.002(a)(2)(A) and, for the advanced high school program, three credits in the same language in a language other than English under Section 28.002(a)(2)(A); and

(C) for the recommended high school program, five and one-half [~~six~~] elective credits and, for the advanced high school program, four and one-half [~~five~~] elective credits;

(2) one or more credits offered in the required curriculum for the recommended and advanced high school programs include a research writing component; and

(3) the curriculum requirements for the minimum, recommended, and advanced high school programs under Subsection (a) include a requirement that students successfully complete:

(A) one credit in fine arts under Section 28.002(a)(2)(D); and

(B) except as provided by Subsection (b-11), one and one-half credits [~~one credit~~] in physical education under Section 28.002(a)(2)(C).

(b-11) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who is unable to participate in physical activity due to disability or illness to substitute one and one-half credits [~~one credit~~] in English language arts, mathematics, science, or social studies or one and one-half [~~one~~] academic elective credits [~~credit~~] for the physical education credits [~~credit~~] required under Subsection (b-1)(3)(B). The credits [~~A credit~~] allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credits [~~credit~~]. The rules must provide that the determination regarding a student's ability to participate in physical activity will be made by:

(1) if the student receives special education services under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee;

(2) if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act; or

(3) if each of the committees described by Subdivisions (1) and (2) is inapplicable, a committee established by the school district of persons with appropriate knowledge regarding the student.

Representative Eissler moved to table Amendment No. 5.

The motion to table prevailed by (Record 110): 73 Yeas, 65 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Button; Cain; Callegari; Christian; Cook; Creighton; Crownover; Darby; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Huberty; Hughes; Hunter; Jackson; King, P.; Kleinschmidt; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Patrick; Paxton; Perry; Phillips; Pitts; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Brown; Burkett; Burnam; Carter; Castro; Coleman; Craddick; Davis, J.; Davis, S.; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Harless; Hernandez Luna; Hochberg; Hopson; Howard, D.; Isaac; King, S.; King, T.; Kolkhorst; Kuempel; Larson; Lozano; Lucio; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Parker; Peña; Pickett; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Workman.

Present, not voting — Mr. Speaker(C); Howard, C..

Absent, Excused — Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Simpson; Solomons; Strama; Woolley.

Amendment No. 6

Representative Madden offered the following amendment to **SB 6**:

Amend **SB 6** (house committee printing) as follows:

(1) In SECTION 22 of the bill, in added Section 31.021(c)(4), Education Code (page 13, line 25), strike "and".

(2) In SECTION 22 of the bill, in added Section 31.021(c)(5), Education Code (page 14, line 2), between "shipping" and the underlined period, insert the following:

; and

(6) provide funding to the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and the Texas Youth Commission under Section 31.0215

(3) In SECTION 23 of the bill, in the recital (page 14, line 7), strike "and 31.0214" and substitute "31.0214, and 31.0215".

(4) In SECTION 23 of the bill, immediately following added Section 31.0214, Education Code (page 18, between lines 23 and 24), add the following:

Sec. 31.0215. PAYMENT TO OTHER ENTITIES. (a) The Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and the Texas Youth Commission are entitled to receive funds from the state instructional materials fund created under Section 31.021 in an amount determined by the commissioner, not to exceed the amount necessary to provide each entity with an amount of funding comparable to the amount that would have been provided through payments from the available school fund if S.B. 6, Acts of the 82nd Legislature, 1st Called Session, 2011, had not established a funding mechanism for the state instructional materials fund based on the amount distributed each year from the permanent school fund to the available school fund. The commissioner's determination under this subsection is final and may not be appealed.

(b) The Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and the Texas Youth Commission are not required to use funds received under this section for the purchase of instructional materials or as required by Section 31.0211(c).

Amendment No. 6 was adopted.

Amendment No. 7

Representatives Hancock and Hochberg offered the following amendment to **SB 6**:

Amend **SB 6** (house committee printing) as follows:

(1) In SECTION 30 of the bill, amending Section 31.0241(b), Education Code (page 30, line 15), strike "The" and substitute "Except as provided by Section 31.0242, the [The]".

(2) In SECTION 30 of the bill, amending Section 31.0241(b)(3), Education Code (page 31, line 1), strike "[~~and~~]" and substitute "and".

(3) In SECTION 30 of the bill, amending Section 31.0241(b)(4), Education Code (page 31, line 18), strike "; and" and substitute ".".

(4) In SECTION 30 of the bill, strike added Section 31.0241(b)(5), Education Code (page 31, lines 19-22).

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

SECTION _____. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.0242 to read as follows:

Sec. 31.0242. APPROVAL OF OPEN-SOURCE INSTRUCTIONAL MATERIAL. Not later than the 90th day after the date open-source instructional material is submitted as provided by Section 31.0241, the State Board of Education may review the instructional material. The board shall:

(1) post with the list comments made by the board regarding the open-source instructional material placed on the list; and

(2) distribute board comments to school districts.

Amendment No. 7 was adopted.

SB 6 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HUBERTY: Chairman Eissler, just for the purposes of some legislative intent for pre-K instructional materials. In **HB 4**, the supplemental budget that passed during the regular session, there was \$39 million in funds allocated for pre-K instructional materials. Is it the intent of **SB 6** for the funds to be spent by districts to purchase pre-K instructional materials?

REPRESENTATIVE EISSLER: Well, it's up to districts to use that allotment, and I believe they should be interested in that, and I imagine they will.

HUBERTY: **HB 4** also states that the \$39 million for pre-K instructional materials will be added to the instructional materials allotment as established in **SB 6**, contingent on the enactment of **SB 6**. Would **SB 6** change the intent of **HB 4** regarding pre-K instructional materials?

EISSLER: I believe pre-K will be treated as all other subjects, as school districts see fit, and that they'll be allowed to purchase those as needed.

HUBERTY: Okay. And then I think the last thing—there was some concern that there might be some delay in the opening of the educational material management system for the deliveries. I don't think that really is the intent of that at all—

EISSLER: No, we would like this to happen or occur as soon as possible because there's a lot of instructional materials that school districts are looking for.

REMARKS ORDERED PRINTED

Representative Huberty moved to print remarks between Representative Eissler and Representative Huberty.

The motion prevailed.

SB 6 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE MARTINEZ FISCHER: We talked about this with respect to the prioritization of funding decisions for instructional materials. It's your intent that this includes all subjects under proclamation 2011, which also includes ESL materials for grades K through three?

REPRESENTATIVE EISSLER: They are there.

REMARKS ORDERED PRINTED

Representative Martinez Fischer moved to print remarks between Representative Eissler and Representative Martinez Fischer.

The motion prevailed.

SB 6, as amended, was passed to third reading. (Brown recorded voting no.)

**MAJOR STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**HB 3 ON THIRD READING
(by Smithee)**

HB 3, A bill to be entitled An Act relating to the operation and name of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association; providing penalties.

Amendment No. 1

Representative Smithee offered the following amendment to **HB 3**:

Amend **HB 3** on third reading, in Section 2210.575(a), Insurance Code, as added by the bill and as amended on second reading by the Amendment to Amendment No. 1 by Smithee, by striking "Section 2210.557(a)" and substituting "Section 2210.577(a)".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Smithee offered the following amendment to **HB 3**:

Amend **HB 3** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. If **SB 652**, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, Section 2210.002(b), Insurance Code, as amended by that Act, is amended to read as follows:

(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 [~~2013~~] 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 [~~2013~~].

HB 3 - REMARKS

REPRESENTATIVE THOMPSON: Chairman, I want to ask you about this bill.

REPRESENTATIVE SMITHEE: Okay.

THOMPSON: The thrust of this bill is to make the persons whole who have been injured as a result of some kind of catastrophic event.

SMITHEE: To make them as whole as possible with the resources that we have.

THOMPSON: Okay. And is there anything in this bill that kind of corrects the disparity that existed in the administration of these funds from what they were in the past?

SMITHEE: Yes, if I understand your question, there is several things that are intended to ensure a consistency of result for policy holders, whether they have a lawyer, or don't have a lawyer, or who their lawyer might be.

THOMPSON: And let me ask you this question. What is the time period—the duration—for filing a complaint?

SMITHEE: Well, if you're talking about getting a claim under TWIA?

THOMPSON: Yes, sir.

SMITHEE: You would need to file your claim within a year after the event. You have a year. It can be extended for good cause. If there is a good reason you didn't discover it or weren't able to file your claim, there is an extension period, and then there is a two year statute of limitations, which is similar to other contracts—well, other insurance-type cases—two years after TWIA rejects the claim, you have two years to file suit.

THOMPSON: When you say one year after the event to file your complaint, but it can be extended for good cause, is there a certain period of time it can be extended to?

SMITHEE: I can't remember exactly. I don't have the bill in front of me, but I think we have a 90-day extension, I believe. I don't remember exactly. We've negotiated several different dates. We wanted to make sure that we didn't put any "gotchas" in here that were unfair. But on the other hand, if somebody's got an

insurance policy and they've got a problem, they really need to notify TWIA as soon as possible—or any insurance company, because you can have other intervening events where it becomes difficult to determine what was caused by the storm and what wasn't.

THOMPSON: Okay. And there would be a trial de novo?

SMITHEE: We do put a trial de novo for causation issues. It depends on what we're arguing about. If the disagreement between TWIA and the policy holder relates—if TWIA says you're covered; we're going to pay you for the cost of fixing your property, but we have a disagreement on how much it costs to fix the property, we go to the same procedure that virtually all of us have in our insurance policies, which is appraisal. That's where each side picks their own appraiser and if they can't agree, they pick an umpire. And that's how you do those. If there's a dispute where TWIA says we're not going to cover this claim, then it's mediated and goes to a trial de novo.

THOMPSON: And are there still penalty and interest?

SMITHEE: I'm sorry?

THOMPSON: In the lawsuit, there are still penalty and interest involved?

SMITHEE: There's no penalty, but there is interest, and interest is calculated like any other—under the Finance Code, the prejudgment statute.

THOMPSON: In arbitration, are you required to have experts within a certain period of time? Or is that anything that we put in this bill?

SMITHEE: No, we're trying not to have to use experts unless it's absolutely essential. And so one of the things we have in the bill is an expert panel, which the commissioner will appoint and hopefully it will be a neutral panel; it won't be infallible, but hopefully it will be fair. Hopefully that will help the policyholder because they won't have to go hire their own experts to prove this because the findings of this expert panel, appointed by the commissioner, will make findings that the commissioner will adopt as guidelines, and then we'll use those guidelines to make sure that everybody gets a fair result. Those guidelines can be challenged in court, but unless they're challenged they would be binding.

Amendment No. 2 was adopted.

REPRESENTATIVE L. TAYLOR: I want to be fairly quick, but I had some things that I wanted to be sure got in the record here about what has been going on with TWIA. You know the problem we had with Hurricane Ike—we had some problems with leadership over at TWIA. A lot of claims were not handled right, quickly, or fairly. But there were about 93,000 claims out of Hurricane Ike, and about six percent of those have been involved in some form of litigation. And many of you are aware that towards the end of the summer, I asked for some information about a large settlement that had received a lot of press during the summer. It had to do with a wind vs. water slab claim, and you may recall that it took me about three to four months to get that information. When I got that information, that took me over three to four months fighting in court for—this is information that should have been a matter of public record—but when I did

finally get it, I was shocked with the information that was found in there. And I also had a better understanding of why some may not have wanted me to see what was in that information.

For example, there were two settlements in there. There was a class action settlement and there was a global settlement. On the class, there were 1,247 claims for a total of the settlement, \$31.7 million that was paid to the policyholders. On top of that, \$31.7 million paid to the policyholders, there was \$11.5 million dollars in attorney fees, for about 38 percent—36 percent. So whatever the claim was, in addition to that, 36 percent was paid into legal fees. On the global settlement, there were 1,301 claims. They paid out the total of \$69.6 million to the policyholders, and the attorney fees that were added to that number were \$44 million, for 63 percent. So those two things added together, about 2,500 claims paid out of about \$101.3 million, that we spent \$55.5 million to the plaintiff's attorneys on that. Since then, I've gone back and asked for some information. I need to add we've been told since that happened by the people involved that those folks never received any more than they should have gotten in the first place. Now realize that this was almost two years after Hurricane Ike when these settlements finally were done, and it took them two years to get what they should have gotten up front. Now you tell me who benefits from that system. It's certainly not the TWIA policyholders who are having to pay for the higher increased costs due to this litigation. It's certainly not the people who had the claims who are having to wait for over two years to find out how much they were going to be paid. There was only one group of people who benefited from that, and it's pretty obvious who they are. If you watch TV or you drive down the freeway down the areas along the coast where the hurricane hit, they're advertising and they've been advertising pretty heavily: They've been advertising so well—

REPRESENTATIVE COLEMAN: I'm asking a question, because I don't think people would have gone to a lawyer had they not been denied and expected to have the claim paid—

L. TAYLOR: Mr. Coleman, you're correct.

COLEMAN: But you didn't say that. The other thing is—

L. TAYLOR: I did say that, Mr. Coleman. I started off with, TWIA had some real problems with leadership, they did not handle a large number of claims correctly—

COLEMAN: And we should do something about that—

L. TAYLOR: And that's what we're doing. We've done some of that already. We've already fired the head of TWIA, we've fired the head of the claims department of TWIA, and we've fired the head of the catastrophe claims department of TWIA.

COLEMAN: As a business person, I have been sued, and I have sued an individual. Don't you think it's probably—the hardest thing in the world is to sue someone, and particularly an insurance company, wouldn't you agree?

L. TAYLOR: Well, I would say this is not an insurance company.

COLEMAN: Well, whatever the case may be. And so, do you think people just go and sue because they think that that's the best remedy?

L. TAYLOR: Well let me ask you, Mr. Coleman—I was getting ready to say this before you got up to ask your question—there were over a thousand lawsuits that were filed after the two year anniversary of Hurricane Ike. And many of the claims had already been settled and done with, and the first that the people at TWIA had ever heard a problem was when they got the lawsuit papers. They were never given a phone call saying "hey, you didn't pay enough to get my roof fixed." That's called a supplemental claim, happens all the time, and the insurance company, in a real insurance company case, will pick it up and they'll look at it and say "okay, we didn't pay enough, here's your supplemental, go finish up that claim."

COLEMAN: Well, would you find it interesting that in the apartment complex, the non-profit I run, steward, we had so much trouble getting anything from the insurance company in settling it. It took two years to actually settle the claim.

L. TAYLOR: I appreciate that, and I don't know the particulars of that, but I do have about a few more minutes I'd like to get through this real quick.

COLEMAN: Okay. I just wanted to make it clear that it's hard being on the other side, whether it's insurance or not, and then having to sue someone. And the lawyer has to hire experts, and that costs money, too. I just know I learned a whole lot about it, I'd never want to sue anybody again—

L. TAYLOR: That's part of what we're trying to do in this bill, Garnet, is to try to come up with a process so the experts, or the acknowledged experts—

COLEMAN: I understand, but the difference between you and me, and Mr. Smithee, is that I don't do this, and so the confusing nature of the system, and having recourse for your home or your business requires that people be able to get their just remedy. And I think that's extremely important, and I just wanted to lay that out.

L. TAYLOR: And I appreciate that, Mr. Coleman, and we are still leaving in the process that at the end of the day if you are not happy, you can still go to court—that's still in there. But if I could just finish up real quick. I recently asked for some more updated information. You know, we had about 5,000 some odd claims—suits, I'm sorry—since the original information I'd gotten, I've gotten about another 1,100 settlements. On that 1,100 settlements, there has been a payout to insurers of \$100.7 million, and I'm just estimating the attorney fees being somewhere around 30 percent, which is low compared to what we had earlier, which was about 55 percent. So, so far in litigation costs for these 5,000—I'm sorry, less than that—4,000 some odd claims, we have spent, for \$202 million dollars in damages to folks, we have spent \$133 million in litigation costs. That includes \$48 million we paid to TWIA's defense lawyers. So to pay \$202 million dollars to put people's homes and businesses back together, we had to spend an additional \$133.5 million. As you can see, that's very inefficient, and

that's costing people who are paying TWIA premiums—they have to pay for that. If you increase the cost of the claim beyond what it takes to fix people's homes and businesses, that goes into what they have to pay in their premiums.

Now, you really want to know the bad news? We still have 1,900 lawsuits pending still on this Hurricane Ike. We cannot afford to repeat the mistakes we've made in Hurricane Ike. We can't afford to do it over and over again. We've changed the leadership, we're changing the structure at TWIA to include quality control. They're going to have staffing now at TWIA. They're doing this on their own through the board to do quality control and their own procedures. We're going to have an audit process from the Department of Insurance to make sure as these big claims come up, they're keeping up with the rules and doing the things they're supposed to be doing. We're changing the process with this bill so that people can get their claims handled more quickly and fairly. At the end of the day, our coastal policyholders will be much better taken care of than they were under Hurricane Ike—more efficient, quicker. We're going to save all TWIA policyholders from unnecessary premium increases.

SMITHEE: Larry, what I heard you say, and I want to make sure the membership understands, is we have diverted probably from \$140-150 million out of very precious dollars that are there to restore roofs and fix windows, and they have gone to pay lawyers, but primarily a pretty small fraternity of lawyers who have made most of this money. This money has ultimately got to be paid by someone, and as I understand your remarks, and I certainly agree with you, it's going to be paid primarily by coastal policyholders who will be paying this for several years to come.

L. TAYLOR: You're exactly correct, and I'll say it's paid by all. All coastal policyholders, with some of the upper layers being paid by policyholders across the state. And I just wanted to get that in the record, to show you what we're dealing with and why we've got to make changes. Mr. Smithee brought this up earlier: we're already getting premium quotes for reinsurance at TWIA and it's gone up somewhere around 35-40 percent. Some of it's from other factors, but some of it's from our experience under Hurricane Ike. They can predict the amount of property damage they'll have if a certain-sized storm hits a certain area, but what they couldn't predict was the amount of litigation costs added on to that, and with that, I move passage.

REPRESENTATIVE MARTINEZ FISCHER: Representative Taylor, I appreciate your perspective, and I know that you know TWIA very well, and I had a chance to get to know it last session on the Insurance Committee, and I just want to be clear. I mean, opinion notwithstanding, whether you say it's the cause of a combination of bad claims handling and lawyers that charge a lot of money, I mean, I don't think it's fair to attribute a lot of blame to people who get hired at the request of policyholders. You're not making any suggestion that there are people out here just signing up cases frivolously. I mean, these were done legitimately where clients went to lawyers to be represented and dispute some that TWIA knew about and some that they didn't know about. Is that fair?

L. TAYLOR: I wouldn't say that all of them were, obviously, but I think there are some claims out there where people were enticed by an attorney to sue. Those claims were actually settled a year ago, and then the next thing TWIA heard about it, they were being sued.

MARTINEZ FISCHER: Would you agree with me that enticing someone to sign up on a case is probably illegal, as well as unethical? Were there any grievances filed? Any lawyers sanctioned for that conduct?

L. TAYLOR: I'm not aware of that.

MARTINEZ FISCHER: It's okay to have the perspective that lawyers are to blame for this; I don't agree with you, but that's your perspective. I just want to make sure we're not casting all lawyers in this light.

L. TAYLOR: And let me clarify, Trey. I said TWIA was at fault, and I think a big part. TWIA is the genesis of this problem, and the more we found out about it, the worse it got. I think we can all agree with that. I think there's been some advantage taken of that situation. Hurricane Ike is behind us. What we can do with Hurricane Ike is learn from the experience and go from here. I'm not throwing anybody out, I'm not throwing anybody under the bus, I'm just trying to make sure that we have a process in the future where the folks who live along the coast who are forced to buy their windstorm coverage through TWIA will be handled fairly, it will be done in a more expeditious manner, and it will be done as efficiently as possible without trampling anyone's rights.

MARTINEZ FISCHER: And no one would disagree with that, but I do believe if you're going to hand out accolades and criticisms, it's also fair to say that some of the underhandedness that was taking place at TWIA was at the result of discovery and the civil litigation process that brought this information to light. I imagine you would agree with me on that.

L. TAYLOR: Well, I would agree with you to some extent, but my view of it, and my memory of it, is until I asked these questions, that stuff was out there, but it wasn't being promulgated to the public. It was being used for some people's advantage. It wasn't being given to folks like me.

HB 3, as amended, was passed by (Record 111): 97 Yeas, 41 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Gonzalez; Gooden; Guillen; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lucio; Lyne; Madden; Margo; Marquez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick;

Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Howard, D.; King, T.; Lozano; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Turner; Veasey; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Simpson; Solomons; Strama; Woolley.

Absent — Villarreal.

STATEMENTS OF VOTE

I was shown voting no on Record No. 111. I intended to vote yes.

Allen

I was shown voting no on Record No. 111. I intended to vote yes.

Dutton

I was shown voting no on Record No. 111. I intended to vote yes.

Giddings

I was shown voting no on Record No. 111. I intended to vote present, not voting.

Miles

I was shown voting no on Record No. 111. I intended to vote yes.

Turner

CONSTITUTIONAL RULE SUSPENDED

Representative L. Taylor moved to suspend the constitutional rule requiring bills to be read on three several days and to place **SB 6** and **SB 8** on third reading and final passage.

The motion prevailed by (Record 112): 133 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel;

Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Nays — Bonnen.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Simpson; Solomons; Strama; Woolley.

Absent — Anderson, R.; Eiland; Guillen; Orr; Villarreal.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of illness in the family:

Bohac on motion of Madden.

SB 8 ON THIRD READING (Eissler - House Sponsor)

The speaker laid before the house, on its third reading and final passage,

SB 8, A bill to be entitled An Act relating to the flexibility of the board of trustees of a school district in the management and operation of public schools in the district.

SB 8 was passed by (Record 113): 81 Yeas, 55 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Berman; Bonnen; Branch; Burkett; Button; Cain; Callegari; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Brown; Burnam; Carter; Castro; Coleman; Darby; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hernandez Luna; Hochberg; Hopson; Howard, D.; King, T.; Landtroop; Lewis; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Thompson; Turner; Veasey; Vo; Walle; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Simpson; Solomons; Strama; Woolley.

Absent — Beck; Villarreal.

STATEMENT OF VOTE

I was shown voting yes on Record No. 113. I intended to vote no.

Gooden

SB 6 ON THIRD READING (Eissler - House Sponsor)

The speaker laid before the house, on its third reading and final passage,

SB 6, A bill to be entitled An Act relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools; providing penalties.

On motion of Representative Eissler, Representatives Branch and Harper-Brown were added as cosponsors to **SB 6**.

(Bohac now present)

SB 6 was passed by (Record 114): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Simpson; Solomons; Strama; Woolley.

Absent — Villarreal.

MAJOR STATE CALENDAR
(consideration continued)

HB 5 ON THIRD READING

(by Kolkhorst, Creighton, and Bonnen)

HB 5, A bill to be entitled An Act relating to the Interstate Health Care Compact.

HB 5 was passed by (Record 115): 92 Yeas, 43 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Callegari; Carter; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; King, T.; Lozano; Lucio; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chisum; Deshotel; Frullo; Johnson; Keffer; Mallory Caraway; Simpson; Solomons; Strama; Woolley.

Absent — Cain; Darby; Lewis; Villarreal.

STATEMENTS OF VOTE

When Record No. 115 was taken, I was in the house but away from my desk. I would have voted yes.

Cain

When Record No. 115 was taken, my vote failed to register. I would have voted yes.

Lewis

GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING

The following bills were laid before the house and read second time:

HB 26 ON SECOND READING**(by Madden)**

HB 26, A bill to be entitled An Act relating to the containment of costs incurred in the correctional health care system.

Amendment No. 1

On behalf of Representative Allen, Representative Marquez offered the following amendment to **HB 26**:

Amend **HB 26** (house committee printing) as follows:

(1) On page 1, line 16, between "SECTION 2." and "Section 501.063", insert "(a)".

(2) On page 3, between lines 6 and 7, insert the following:

(b) Effective September 1, 2015, Section 501.063, Government Code, is amended to read as follows:

Sec. 501.063. INMATE COPAYMENTS FOR CERTAIN HEALTH CARE VISITS. (a) An inmate confined in a facility operated by or under contract with the department, other than a halfway house, who initiates a visit to a health care provider shall make a copayment to the department in the amount of \$3. The inmate shall make the copayment out of the inmate's trust fund. If the balance in the fund is insufficient to cover the copayment, 50 percent of each deposit to the fund shall be applied toward the balance owed until the total amount owed is paid.

(b) The department may not charge a copayment for health care:

(1) provided in response to a life-threatening or emergency situation affecting the inmate's health;

(2) initiated by the department;

(3) initiated by the health care provider or consisting of routine follow-up, prenatal, or chronic care; or

(4) provided under a contractual obligation that is established under the Interstate Corrections Compact or under an agreement with another state that precludes assessing a copayment.

(c) The department shall adopt policies to ensure that before an inmate initiates a visit to a health care provider, the inmate is informed that a \$3 copayment will be deducted from the inmate's trust fund as required by Subsection (a).

(d) The department may not deny an inmate access to health care as a result of the inmate's failure or inability to make a copayment.

(e) The department shall deposit money received under this section in an account in the general revenue fund that may be used only to pay the cost of administering this section. At the beginning of each fiscal year, the comptroller shall transfer any surplus from the preceding fiscal year to the state treasury to the credit of the general revenue fund.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Brown offered the following amendment to **HB 26**:

Amend **HB 26** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 501.147(d), Government Code, is amended to read as follows:

(d) Notwithstanding Subsection (c) or any other provision of this subchapter ~~[For services that the public medical schools and their components and affiliates cannot provide]~~, the committee shall initiate a competitive bidding process for contracts ~~[with other providers]~~ for medical care to persons confined by the department.

SECTION _____. (a) The change in law made by this Act to Section 501.147(d), Government Code, applies only to a contract for which the Correctional Managed Health Care Committee first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, on or after the effective date of this Act.

(b) A contract for which the Correctional Managed Health Care Committee first advertises or otherwise requests bids, proposals, offers, or qualifications, or makes a similar solicitation, 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.

Amendment No. 3

Representative Turner offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 by Brown to **HB 26** (house committee report) on page 1, line 9 of the amendment, by striking "shall" and substituting "may [~~shall~~]".

Amendment No. 3 was adopted.

Amendment No. 2, as amended, was adopted.

Amendment No. 4

Representative Christian offered the following amendment to **HB 26**:

Amend **HB 26** by adding appropriately numbered SECTIONS to read as follows and renumbering the remaining SECTIONS accordingly.

SECTION _____. INTERIM STUDY OF INDEPENDENT PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES. (a) The speaker of the house and the lieutenant governor shall create and appoint a joint interim committee composed of a combination of legislators, state officials and citizen members to conduct a joint study as described by Subsection (b).

(b) The study shall examine the independent authority of advanced practice registered nurses to diagnose and prescribe drugs and medical devices within the scope of the health care providers' practice and license, including:

(1) the impact on inmate health in Texas Department of Criminal Justice facilities; including any potential cost savings and other foreseeable consequences of expanding the authority in the Nursing Practice Act of advanced practice registered nurses in Texas Department of Criminal Justice facilities to prescribe medication to patients without statutory requirements for physician delegation or collaboration.

(c) Not later than January 1, 2013, the committees shall report the committees' finding and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor. The committees shall include in their recommendations specific changes to statutes and agency rules that may be necessary according to the results of the committees' study conducted under this section.

(d) Not later than November 1, 2011, the lieutenant governor and the speaker of the house of representatives shall issue the joint interim charge required by this section.

(e) This section expires January 1, 2013.

SECTION _____. (a) The Institute for Health Policy at the School of Public Health at The University of Texas Health Science Center at Houston shall study, with respect to patients who receive health care services from an advanced practice nurse, as that term is defined in Section 301.152, Occupations Code, patient safety and outcomes, including quality of care, health care costs, access to health care, and any other measures determined by the institute.

(b) Not later than October 15, 2012, the Institute for Health Policy shall report its findings to the governor, the lieutenant governor, the speaker of the house of representatives, the Senate Health and Human Services Committee or its successor, and the House Public Health Committee or its successor and the joint interim committee created and appointed to study independent prescriptive authority for Advanced Practice Registered Nurses.

(c) This section expires September 1, 2013.

Amendment No. 4 was adopted. (C. Anderson recorded voting no.)

HB 26, as amended, was passed to engrossment.

HB 19 ON SECOND READING

(by Aycock)

HB 19, A bill to be entitled An Act relating to hearings on public school educator contracts.

Representative Aycock moved to postpone consideration of **HB 19** until 9 a.m. Tuesday, June 21.

The motion prevailed.

HB 17 ON SECOND READING

(by Callegari)

HB 17, A bill to be entitled An Act relating to the minimum salary for and minimum service required of certain public school employees.

Representative Callegari moved to postpone consideration of **HB 17** until 9 a.m. Tuesday, June 21.

The motion prevailed.

REMARKS ORDERED PRINTED

Representative Crownover moved to print remarks by Representative L. Taylor and Representative Smithee on **HB 3**.

The motion prevailed.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

ADJOURNMENT

Representatives Farrar and Dukes moved that the house adjourn until 2 p.m. Monday, June 20, in memory of Jimmy Paloma of Houston and R. A. Callies, Sr., of San Antonio.

The motion prevailed.

The house accordingly, at 3:32 p.m., adjourned until 2 p.m. Monday, June 20.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 9 (By Solomons), Relating to the enforcement of state and federal laws governing immigration by certain governmental entities.

To State Affairs.

HB 10 (By Solomons), Relating to the duty of a law enforcement agency to request information regarding the immigration status of an arrested person.

To State Affairs.

HB 11 (By Solomons), Relating to the duty of a local law enforcement agency to verify the immigration status of certain arrested persons by use of the federal Secure Communities program.

To State Affairs.

HB 57 (By Riddle), Relating to the creation of the offense of criminal trespass by an illegal alien and to certain procedures for arresting illegal aliens for committing that criminal offense.

To State Affairs.

HB 58 (By Riddle), Relating to the creation of the offense of employing or contracting with an unauthorized alien.

To State Affairs.

HB 59 (By Riddle), Relating to reporting by state agencies on the financial effect of providing services to illegal immigrants.

To State Affairs.

HJR 14 (By Pickett), Proposing a constitutional amendment limiting the uses of revenue from motor vehicle registration fees, taxes on motor fuels and lubricants, and certain revenue received from the federal government.

To Appropriations.

HR 104 (By Raymond), Directing the Texas Historical Commission to work with the City of Austin to honor the memory of President John F. Kennedy with an official Texas Historical Marker at or near the site of the Austin Municipal Auditorium.

To Culture, Recreation, and Tourism.

HR 127 (By Craddick), Honoring Dr. John Mendelsohn for his 15-year tenure as president of The University of Texas M. D. Anderson Cancer Center.

To Rules and Resolutions.

HR 128 (By Lewis), Congratulating Glen Larum on his retirement from the Texas Department of Transportation.

To Rules and Resolutions.

HR 129 (By Lyne), In memory of the Honorable Graham Boynton Purcell, Jr., of Wichita Falls.

To Rules and Resolutions.

HR 130 (By Guillen), Congratulating Sijifredo "Chacho" and Diana Flores of Benavides on their 50th wedding anniversary.

To Rules and Resolutions.

HR 131 (By Guillen), Honoring Judge Benito V. Garza for his 34 years of service as justice of the peace for Precinct 3 in Duval County.

To Rules and Resolutions.

HR 132 (By Guillen), Honoring Julian F. Stockwell for his years of service to Duval County.

To Rules and Resolutions.

SB 9 to State Affairs.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

June 15

Criminal Jurisprudence - **HB 41, HB 75**

Government Efficiency and Reform - **HB 30**