

OF SPECIFIC INTEREST: SB 7, the healthcare cost containment bill, passed and is on the Governor's desk for his signature. It does NOT contain the amendment that would have allowed chiropractors and physicians to form professional associations, but it DOES contain the Carona/Chisum language that would allow chiros to use the billing codes of physical therapists; however, Dr. Schwertner amended this language to ensure that there is no wiggle room/latitude for mischief.

SPECIAL SESSION – Most of the bills in the governor's call for the special session passed. The exceptions were the anti-sanctuary cities legislation and the Transportation Safety Administration intrusive touching bill. Below is the final outcome of **issues in the governor's call**. Expanded bill summaries are in the issue categories below.

Fiscal Matters – The governor's call said, "Legislation relating to fiscal matters necessary for the implementation of HB 1 passed by the 82nd Legislature, including measures that will allow school districts to operate more efficiently." **SB 1**, the fiscal matters bill; **SB 2**, the supplemental appropriations bill; **SB 6**, establishing the instructional materials fund; **SB 8**, giving school districts flexibility on personnel and other matters; and **HB 79**, the fiscal matters bill streamlining operations of the judiciary, all passed.

Healthcare Cost Containment – The governor's call said, "Legislation relating to healthcare cost containment, access to services through managed care, and the creation of economic and structural incentives to improve the quality of Medicaid services." **SB 7**, which makes several changes that improve efficiencies in health and human services delivery, passed.

Congressional Redistricting – The governor's call said, "Legislation relating to congressional redistricting." **SB 4**, the **congressional** redistricting bill, passed.

Texas Windstorm Insurance Association – The governor's call said, "Legislation relating to the operation of the Texas Windstorm Insurance Association." **HB 3**, which makes changes to the Texas Windstorm Insurance Association, passed.

Abolish Sanctuary Cities – The governor's call said, "Legislation relating to the abolishment of sanctuary cities, the use of the federal Secure Communities Program by law enforcement agencies, and the issuance of driver's licenses and personal identification certificates." **SB 9** by Tommy Williams (R-The Woodlands), the sanctuary cities bill, passed the Senate but died in the House State Affairs Committee. **HB 9** by Burt Solomons (R-Carrollton), the House version of the bill, also died in the House State Affairs Committee. There was a last minute effort to add anti-sanctuary cities language into SB 1, but that was not accomplished. On the failure of anti-sanctuary cities legislation in the special session, Speaker Joe Straus said, "The Texas House passed anti-sanctuary cities legislation during the regular session, which the Senate failed to pass or even bring up. During the special session, the Governor, Lt. Governor and I reached consensus to attach compromise anti-sanctuary cities language to a broad government funding bill, SB 1. Unlike SB 9, the Senate's version, this compromise language would have withstood both a constitutional challenge and a Senate filibuster. Unfortunately, the Senate failed to fulfill its commitment." Governor Rick Perry also commented on the failure of anti-sanctuary cities legislation saying, "As the special session appears to be winding down, I am disappointed the legislature did not address sanctuary cities. Working with legislative leaders last weekend, we worked to include sanctuary city legislation in SB 1. Unfortunately, SB 1 Conference Committee Chairman Robert Duncan ultimately refused to allow language related to the ban of sanctuary cities into the final version of SB 1. Because of this action, the special session will not provide our peace officers with the discretion they need to adequately keep Texans safe from those that would harm them." Senator Robert Duncan issued a response to the governor's comments, "I am a joint author of SB 9, the sanctuary cities legislation that the Senate passed on June 15th. This was comprehensive legislation that dealt with the issue of enforcement of state and federal laws and prohibition of

sanctuary cities. The primary purpose of SB 1 was to certify the budget and provide funding for our public schools. Combining school finance issues in SB 1 with sanctuary cities issues would have placed both of these important measures in jeopardy. My Senate colleagues on the SB 1 conference committee and members of the Senate Republican Caucus were clear about their desire to keep these two issues separate. I agreed and held firm on this position." On behalf of the Senate Republican Caucus, Senator Robert Nichols also responded saying, "On Saturday, June 25, the Senate Republican Caucus convened to discuss the issue of possible merging sanctuary city provisions into SB 1. After a lengthy discussion of the issues, the caucus encouraged Senator Duncan and the Republican conferees on SB 1 to keep the issues separate, as combining them would put them both at risk of not passing. SB 9 was a strong bill that would have delivered significant reform and protections to Texas citizens. Senate Republicans unanimously supported and passed SB 9 nearly two weeks ago on the Senate floor."

Intrusive Touching – The governor's call said, "Legislation relating to the prosecution and punishment for the offense of official oppression on those seeking access to public buildings and transportation." **SB 29** by Dan Patrick (R-Houston) and David Simpson (R-Longview), which classifies intrusive touching used in searching persons seeking access to public buildings and transportation as official oppression, was brought up on the House floor on the last day of the special session but did not get the four-fifths vote required to suspend the constitutional rule requiring bills to be read on three several days, so it did not ultimately pass.

GOVERNOR – At the conclusion of the special session, Governor Rick Perry said, "I'm proud of Lt. Governor David Dewhurst, Speaker Joe Straus and lawmakers' principled leadership to pass a balanced budget that doesn't raise taxes and preserves billions unspent in our Rainy Day Fund, leaving our state on firm fiscal footing for the future. The decisions made were difficult, but lawmakers should take pride in the fact that they did what families all across Texas are doing: living within their means. I'm also proud we passed legislation that effectively reforms the Texas Windstorm Insurance Association, addresses necessary health care efficiencies, and completes congressional redistricting. Although I am disappointed lawmakers did not finalize legislation that would have banned sanctuary cities, I commend the Legislature's work to pass measures that further strengthen our legal system through loser pays lawsuit reform, uphold the integrity of the ballot box by requiring voters to present photo ID at polling places, protect unborn life by requiring an ultrasound before an abortion, strengthen private property rights, and increase penalties for individuals who participate in human trafficking. And although the airport pat-down bill did not pass, it did initiate a public discussion and some changes in airport security procedures. Ultimately the measures we have worked together to complete this session will keep Texas a model of good, efficient and limited governance that other states and the federal government should follow."

Governor Rick Perry spoke at the 28th annual conference of **National Association of Latino Elected Officials** in San Antonio. He said, "You might have heard Texans have a tendency to brag; I'm here to tell you that you heard right. You might have also heard it ain't bragging if it's true, and, by definition, Texas fits the bill. From 2001 to 2011, Texas generated more jobs than any other state with more than 730,000 private-sector jobs created. The next-best state managed to create just a little over 90,000 during that same span, which was also a time when the nation, as a whole, lost more than 2 million. Our state's workforce can fill any role needed by any company no matter how demanding and no matter how high-tech those jobs might be. We do what we can to maintain an economic climate that attracts businesses and industries seeking to expand or relocate by keeping taxes low, keeping regulations fair and predictable and maintaining a court system that doesn't allow for oversuing. Texas has always been a unique place where people from all

over the world come to pursue their dreams. According to the most recent census, we welcomed more than 4 million new Texans during the previous decade. That's helped create a unique culture, a diverse mix of thought and heritage, that's just a little bit different from anywhere else. It's a culture that emphasizes good schools for our children, safe neighborhoods for our families and a fair chance to succeed based on our own merit. That's especially true for Hispanic children in Texas; indeed, it has to be. Roughly a third of our citizens identify themselves as Hispanic, making them part of what will be our state's largest demographic group within this decade. It's no stretch to suggest the future of Texas is tied directly to the future of our Hispanic population. During my time as governor, I have worked to appoint the best, most qualified individuals to leadership roles across the state, including our first Latina Secretary of State, our first Latina on the Supreme Court, and our first Latina on the Texas Court of Criminal Appeals. These leaders and so many more in our public and private sectors make me proud to be a Texan and optimistic about our future. Indications are that our younger generation is getting the message about their opportunities and are heading to school in pursuit of those opportunities in record numbers. Between 2000 and 2010, Hispanic enrollment in Texas universities increased 88% compared to a 48% increase overall. Over that same time frame, the amount of bachelor's degrees, associate degrees and certificates earned by Hispanic students increased more than 102%. Hispanic-owned businesses have also been experiencing explosive growth, their numbers expanding by 40% during the previous decade and, according to one study, generating \$62 billion in revenue in 2007. That same study indicated Hispanic-owned businesses employed almost 400,000 Texans that year. The sky's truly the limit for these students, these businesses and for all Texans, as long as we adhere to the values that got us where we are today."

Governor Perry was joined by Representatives Harvey Hilderbran (R-Kerrville) and Trey Martinez Fischer (D-San Antonio) and Senator Carlos Uresti (D-San Antonio) and others for a **ceremonial signing of HB 3727 at the Boeing plant in San Antonio**. Governor Perry said, "HB 3727 makes it easier for companies like Boeing to have cost certainty when it comes to their tax bill, helping them commit to doing more business in this community and our state. This facility and the jobs it supports are part of Texas' economic success, and thanks to this bill, will continue to be part of San Antonio's robust economy." HB 2727 requires aircraft temporarily located in Texas for manufacturing or assembly to be appraised at 10% of its market value; and defines a temporary production aircraft as an aircraft with special airworthiness and flight permits and has a maximum takeoff weight of 145,000 pounds. Representative Hilderbran added, "Establishing clear rules for appraising property is a pro-business measure that will attract new aircraft manufacturers to our state and maintain the production contracts we already have. These manufacturers provide critical jobs to Texas, and tax predictability will help ensure they keep their business here."

Governor Perry announced a \$1 million **Texas Emerging Technology Fund award to Vital Art and Science Inc.** for the development of a handheld application capable of diagnosing and monitoring age-related macular degeneration and diabetic retinopathy. The governor said, "The Texas Emerging Technology Fund continues to be a critical tool to help develop and bring to market innovative technologies with the potential to change lives not just here in Texas, but across the U.S. and abroad. VAS's technology will provide an accurate and cost-effective monitoring solution for the millions around the world who suffer from macular degeneration and diabetic retinopathy, and will help physicians treat these age and vision-related diseases. VAS is developing myVisionTrack, which allows patients with age-related macular degeneration and diabetic retinopathy to easily and accurately test and monitor their retinal function at home, providing a lower cost alternative to doctor's office-based testing, and a more accurate alternative to current home testing methods."

There is currently no cure for these conditions, which must be constantly and accurately monitored in order to be properly treated.”

SENATE – The Senate met Monday and Tuesday of this week. On Monday, the Senate passed **HB 79** by Representative Tryon Lewis (R-Odessa) and Senator Robert Duncan (R-Lubbock), the fiscal matters bill **streamlining operations of the judiciary**.

The Senate also adopted the conference committee report on **SB 7** by Senator Jane Nelson (R-Flower Mound) and Representative John Zerwas (R-Fulshear), which makes several changes that **improve efficiencies in health and human services delivery**. About SB 7, Senator Jane Nelson said, “These reforms are critically needed to focus our health care dollars on the outcomes we want for our patients and to contain the unsustainable growth in our health and human services budget.” Lt. Governor David Dewhurst also commented on SB 7, saying, “SB 7 is a big step toward transforming our costly and inefficient fee-for-service health care model in a permissive, free market, performance-based payment system – incentivizing physicians and hospitals to improve health care outcomes for all Texans. This bill will remove regulatory barriers and give Texas the flexibility we need to control the exploding costs associated with federal entitlement programs, and put decision-making back in the hands of physicians and patients where it belongs. Allowing providers to take a team approach to patient care will help reduce errors and duplicative tests and treatments, resulting in healthier patients.”

And on Monday, the Senate adopted the conference committee reports on both of the education reform bills: **SB 6** by Senator Florence Shapiro (R-Plano) and Representative Rob Eissler (R-The Woodlands), which combines the textbook fund and the technology allotment fund into a new **instructional materials fund**; and **SB 8** by Senator Florence Shapiro (R-Plano) and Representative Rob Eissler (R-The Woodlands), which gives **school districts flexibility** on personnel and other matters; and they adopted the report on **SB 2** by Senator Steve Ogden (R-Bryan) and Representative Jim Pitts (R-Waxahachie), a **supplemental appropriations** bill. Senator Wendy Davis (D-Fort Worth) and nine other Democrats voted against adoption of the conference committee report on SB 2, and Davis and eleven other Democrats voted against adoption of the conference committee report on SB 8. Senator Davis said, “A measure that would have added up to \$2.2 billion to public education, added to SB 2 by Representative Donna Howard, was stripped from the bill in conference committee. . . Parents, teachers and others across the state have rallied and voiced alarm at the deep cuts to public education, because they are concerned with future job growth. But their voices were disregarded in favor of extreme special interest groups that are holding our elected officials politically hostage. Beholden to these special interests rather than constituents back home, those in charge in the legislature will force local school districts to fire teachers, increase classroom sizes and raise local property tax rates.”

The Senate then recessed into a caucus for two hours, and came back to pass **SB 29** by Senator Dan Patrick (R-Houston) and Representative David Simpson (R-Longview), which classifies **intrusive touching** used in searching persons seeking access to public buildings and transportation as official oppression. Senator Patrick said, “The TSA anti-groping bill is important legislation that sends an important message to the federal government. This is evidenced by the fact that it has more than 100 coauthors in the House and enough votes to pass in the Senate. Even before passage, this legislation has already yielded results in that the TSA recently changed their pat down policies on children.” Lt. Governor David Dewhurst added, “We all want our skies to be safe and we all want to fight terrorism. But airport security must focus on stopping terrorists, not harassing innocent travelers. With the passage of SB 29, the Texas Legislature is not only telling the TSA to change their

policies – we’re telling the Obama Administration we will not be intimidated and we will vigorously defend our Constitutional rights.”

On Tuesday, the Senate adopted the conference committee report on **SB 1** by Senator Robert Duncan (R-Lubbock) and Representative Jim Pitts (R-Waxahachie), the **fiscal matters** bill.

The Senate also adopted the conference committee report on **HB 3** by Representative John Smithee (R-Amarillo) and Senator John Carona (R-Dallas), which makes changes to the **Texas Windstorm Insurance Association**. Upon Senate adoption of the conference committee report on HB 3, Lt. Governor David Dewhurst said, “When hurricanes strike, Texans want to know that their homes and businesses are protected. Passing the TWIA bill – on the eve of hurricane season – will help protect our coastal policyholders, while preventing lawsuit abuse, promoting greater oversight and transparency and improving the overall solvency of the fund.”

The Senate adjourned *sine die* around 3:30 on Tuesday afternoon. Before leaving, Senators re-elected Senator Mike Jackson (R-LaPorte) as President Pro Tempore of the Texas Senate. And, prior to adjournment, **Lt. Governor David Dewhurst** said, “I want to congratulate all of our Members, Speaker Straus, and Governor Perry on one of the most conservative sessions in Texas history. I have enjoyed working together to make Texas an even better place to live, work and raise a family. When you consider the challenges we faced – particularly with the budget – it’s remarkable that we were able to get so much done. We have proven once again there is no limit to what we can accomplish when we put Texans first. Accomplishments of the 82nd Session of the Texas Legislature include:

- Balancing the budget without raising taxes
- Reducing current state spending by almost \$15 billion
- Saving nearly \$6.5 billion in our Rainy Day Fund
- Increasing state funding for public schools by almost \$4 billion
- Passing a historic ‘Loser Pays’ tort reform law to reduce frivolous lawsuits
- Passing landmark, free market initiatives to improve health care and reduce costs
- Enacting a strong Voter ID law to protect the integrity of our elections
- Providing pregnant women the opportunity to see a sonogram of their unborn child
- Protecting the Second Amendment rights of gun owners
- Redrawing Texas House, Senate and Congressional Districts for the next decade
- Creating an Instructional Materials Allotment for school districts
- Providing flexibility for school districts with their management and operations
- Reforming Texas Windstorm Insurance Association and limiting lawsuit abuse and protecting coastal property owners.”

HOUSE – The House was in session Monday, Tuesday and Wednesday of this week. On Monday, the House adopted the conference committee reports on **SB 2** by Senator Steve Ogden (R-Bryan) and Representative Jim Pitts (R-Waxahachie), a **supplemental appropriations** bill; **SB 6** by Senator Florence Shapiro (R-Plano) and Representative Rob Eissler (R-The Woodlands), which combines the textbook fund and the technology allotment fund into a new **instructional materials fund**; **SB 7** by Senator Jane Nelson (R-Flower Mound) and Representative John Zerwas (R-Fulshear), which makes several changes that **improve efficiencies in health and human services delivery**; and **SB 8** by Senator Florence Shapiro (R-Plano) and Representative Rob Eissler (R-The Woodlands), which gives **school districts flexibility** on personnel and other matters.

All but two House Democrats voted against the conference committee report on SB 2 and all of the House Democrats voted against the conference committee report on SB 8. The

Democratic Party of Texas issued a statement saying, "Today, the Republican majority in the Texas House and Senate adopted the conference committee reports for SB 2 and SB 8. The SB 2 report eliminated the Howard amendment, which would have allocated \$2.2 billion in contingency funds for public schools that would only become available when the Rainy Day Fund grew to a projected level that could reach \$12 billion. SB 8 included language that would permanently allow local school districts to cut teacher salaries, furlough teachers and weaken teacher contract rights, even though SB 8 provides no tangible savings to address the state budget shortfall. Even though billions remain in the Rainy Day Fund, which is expected to grow by billions more, the Republican majority chose to cut over \$5 billion from public schools and put our economic future at risk. By refusing to fund the Howard amendment, the GOP betrayed the state's commitment to provide a basic education for Texas children in order to prop up Rick Perry and other GOP politicians' primary election ambitions. Instead of funding our schools, the GOP used education cuts to launch an attack that will balance the budget on the backs of Texas educators and make it even more difficult to keep the best teachers in classrooms."

Also on Monday, the House debated and gave preliminary approval to **HB 41** by David Simpson (R-Longview), which would classify **intrusive touching** used in searching persons seeking access to public buildings and transportation as official oppression. Representative Simpson said, "This afternoon the Texas House of Representatives took the next step toward restricting government officials from groping innocent citizens as a condition of travel without cause, passing HB 41 on second reading by voice vote. Three amendments were offered and passed by myself, Representative Allen Fletcher (R-Houston) and Representative Pete Gallego (D-Alpine). We've been working with the Attorney General's office from the very beginning to ensure that the bill will accomplish our goal of stopping the humiliation of travelers while also maintaining language that will withstand judicial scrutiny. Texas citizens deserve to be protected under the 4th Amendment to the U.S. Constitution and Article 1, Section 9 of the Texas Constitution. Today the Texas House took a positive step toward protecting those rights." Speaker Joe Straus, who was instrumental in forging a compromise on the bill said, "I want to thank the numerous members of the Texas House who worked over the weekend to resolve the major concerns with HB 41. After consulting with the Attorney General and the Texas District and County Attorneys Association and making substantial revisions to the bill, I am satisfied with the House's efforts to pass legislation that lets Texans travel safely, protects the privacy of citizens, and enables law enforcement to do its job."

On Tuesday, it looked like the special session was going to blow up when the House took up the conference committee report on **SB 1** by Senator Robert Duncan (R-Lubbock) and Representative Jim Pitts (R-Waxahachie), the **fiscal matters** bill – the special session's most important piece of legislation. The Senate had already adjourned *sine die*. The motion to adopt the conference committee report initially failed by a vote of 64 to 79 with 32 of the House Republicans voting against it, and four Republicans were absent. The Republican Caucus retreated to the Agriculture Museum to try to salvage the bill. When they returned, Representative Phil King (R-Weatherford) made a motion to reconsider the vote by which the conference committee report on SB 1 failed, and it was finally passed by a vote of 80 to 57 (16 Republicans switched to "yes").

Also on Tuesday, the House scrambled to figure out a way to pass the TSA intrusive touching bill after the Senate had vacated the building and was not available to act on any measures the House sent over to them. The House version, HB 41, was on the House calendar for third reading. The Senate had passed SB 29 before adjourning, so it was quickly referred to the House Criminal Jurisprudence Committee. The Chairman, Representative Pete Gallego (D-Alpine) asked the House to suspend the rules in order for

his committee to have a formal meeting to consider SB 29 and pass it out so it could be substituted for the House bill on Wednesday. The House also passed **HCR 5** by Representative Linda Harper-Brown (R-Irving), urging Congress to take appropriate action to ensure acceptable treatment of the public by personnel of the Transportation Safety Administration.

On Wednesday, the House concurred in Senate amendments to **HB 79** by Representative Tryon Lewis (R-Odessa) and Senator Robert Duncan (R-Lubbock), the fiscal matters bill **streamlining operations of the judiciary**. Representative Lewis said, "HB 79 is a culmination of a six year effort by the judiciary. It is based on the work of the State Bar Task Force on Court Administration, which emphasized efficiency, simplicity, and flexibility for the court system, so that it can do more with less. Unlike an agency which can modify its internal policies and procedures to achieve such goals, the court system is a detailed creature of statute that requires statutory amendments to make significant changes to improve efficiencies and operations."

The House also had almost two hours of debate, parliamentary procedures, and an emotional personal privilege speech in regard to **SB 29** by Dan Patrick (R-Houston) and David Simpson (R-Longview), the **intrusive touching** bill. First, the House reconsidered the vote by which HB 41, the House version, passed to third reading to get it back to second reading. Then, SB 29 was substituted for HB 41. The House debated and passed SB 29 to third reading by a vote of 106 to 27. Then, the motion to suspend the constitutional rule requiring bills to be read on three several days requiring a four-fifths vote failed 96 to 26, with 26 absent. It fell 24 votes short. Representative Simpson followed that with a personal privilege speech lamenting the bill's failure and promising to keep up the fight. Representative Garnet Coleman (D-Houston) led the House opposition to SB 29. He characterized the legislation as "designed to criminalize the pat down procedures that TSA agents use to ensure the safety of air passengers." He said, "It is disconcerting that we spent the last moments of the special session attempting to take a petty political swing at our president. Although I supported the spirit of this bill in its original form, Lt. Governor Dewhurst, Senator Patrick, and the Senate, sent the House a phony bill to make a political statement. After the Lt. Governor's unnecessary attack on our President, I opposed this bill and encouraged my colleagues to vote the legislation down. The truth is, SB 29 could never have become law because the constitutional deadline for passage in the House had already passed. It was never their intent for this legislation to become law, just to posture and pander for political gain. Legislation designed to improve the safety of passengers is important and deserves serious consideration by the Texas Legislature. However, legislation designed to prove a political point against the federal government instead of putting public safety interests of the people of Texas betrays the best interests of our state."

The House **adjourned sine die** around 12:30 on Wednesday. Prior to adjourning, Speaker Joe Straus commended House members for 170 days of hard work and declared the conclusion of the two sessions to be very successful and productive, though difficult legislative sessions. He thanked the members for working hard in a responsible and responsive way, representing the interests of every Texan. He said, "Since day one of the 82nd legislative session, the members of the Texas House have worked diligently to address the important issues impacting the people of Texas. We balanced the state budget with no new taxes, passed required redistricting legislation and worked to protect the precious privilege of voting, among other central issues. Though the going was never easy, I'm proud of the work the Texas House has accomplished. While we are all looking forward to a few weeks away from here and a few weeks off, the end of this legislative session also marks the beginning of preparations for the next one. Soon, we will focus on interim

charges. And in the coming weeks, I will be asking each of you for your thoughts and suggestions on how we can have a productive interim, and one that will allow us to hit the ground running when we convene for the 83rd Legislative Session in January 2013. Members, I am honored to serve as your Speaker. Please know that my door is open to each and every one of you. No matter what the future brings, Texas has been well served by legislators who spent cautiously while working for better days in the future. I want to thank you again for working so hard this session and during the special session, and for debating difficult issues with passion and with civility."

The **Speaker listed important accomplishments** from the 82nd Session:

- "Balanced 2012-13 biennial state budget that uses no new taxes, is fiscally responsible and lives within our means.
- Provided \$1.6 billion more dollars directly to our state's public schools, a 5.6% increase in state funding.
- Reduced All Funds spending by over \$15 billion from the 2010-11 budget.
- Passed all four redistricting maps required this year.
- Promoted accountability and transparency in state government and in higher education and passed major sunset legislation including needed changes to the Texas Youth Commission.
- Reformed and updated the Texas Windstorm Insurance Association to protect homeowners along the Texas Coast.
- Protected the voting rights of military personnel who serve our country in the armed forces.
- Passed Governor's emergency items including private property protection, sonogram legislation, tort reform that further curbs lawsuit abuse, and Voter ID legislation that protects the integrity of the ballot."

BUDGET:

SB 1 by Robert Duncan (R-Lubbock) and Jim Pitts (R-Waxahachie) is the **fiscal matters** bill.

Foundation School Program Payments (Article 1) – delays the August 25, 2013 payment from the Foundation School Program to school districts to between September 5 and 10, 2013.

Taxation of Insurers (Article 2) – eliminates the premium tax credit for examination or evaluation fees paid by insurers in 2012 and 2013.

Tax Refunds for Ad Valorem Taxpayers (Article 3) – repeals Subchapter F, Chapter 111 of the Tax Code, which allows refunds of sales and franchise taxes paid in lieu of a school ad valorem tax abatement for businesses who create new jobs in reinvestment zones who have a city or county tax abatement. The total amount of refunds for all taxpayers under this program is currently capped at \$10 million prorated among all qualified businesses.

Maintenance of Tax Records (Article 4) – lengthens the period a taxpayer must maintain records to cover any period for which a tax penalty, or interest may be assessed, collected or refunded or any period when an administrative hearing or judicial proceeding is pending to determine the amount of tax, penalty, or interest to be assessed, collected or refunded; and requires a taxpayer to keep and produce contemporaneous records and supporting documentation appropriate to the tax type to substantiate and permit verification of an amount of tax, penalty, or interest to be assessed, collected, or refunded in an administrative or judicial proceeding.

Unclaimed Property (Article 5) – presumes utility deposits are abandoned on the first anniversary of refund checks or last communication from the owner.

Judicial and Court Personnel Training Fund (Article 6) – requires funds in the Judicial and Court Personnel Training Fund to be appropriated only to the court of criminal

appeals; and eliminates the requirement that funds in excess of \$500,000 at the end of each state fiscal year to be swept into the general revenue fund.

Process Server Certification Fees (Article 7) – authorizes the Office of Court Administration of the Texas Judicial System to collect fees recommended by the process server review board and send them to the general revenue fund; but allows money in the fund to support regulatory programs for process servers, guardians, and court reporters. (Article 8 reserved)

Motor Fuels Taxes (Article 9) – accelerates motor fuel tax payments equal to 25% of the July tax amount to August 28, 2013 with a credit taken in September 2013; and delays the transfer of motor fuel taxes from the general revenue fund to the State Highway Fund from August 2013 to September 2013.

Alcoholic Beverage Taxes (Article 10) – accelerates payments of alcoholic beverage taxes to require remittances for the month of September to be paid in August.

Cigarette Tax Stamping Allowance (Article 11) – allows cigarette distributors to keep 2.5% (rather than 3%) of the face value of stamps purchased as a stamping allowance for providing the service of affixing stamps to cigarette packages.

Sales for Resale (Article 12) – changes the definition of sale for resale to mean the sale of tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of reselling it with or as a taxable item to a purchaser who acquires the property for the purpose of transferring it under a contract with the federal government only if the purchaser allocates and bills the contract and transfers title to the federal government (defense contracts are exempt).

Sales and Use Tax Remittance (Article 13) – accelerates collection of sales and use taxes for monthly electronic filers requiring a 25% prepayment in August 2013 with a credit taken in September 2013.

Penalties for Failure to Report and Remit Taxes and Fees (Article 14) - provides for an additional \$50 fee for failure to file a tax report.

Voter Registration (Article 15) – transfers from the comptroller to the secretary of state reporting and voucher payment responsibilities related to voter registrars.

Powers and Duties of the Comptroller (Article 16) – allows the comptroller to execute a simplified version of a depository agreement with any eligible institution desiring to hold state deposits (rather than \$90,000 or less in state deposits).

Publications and Reports (Article 17) – allows comptroller reports to be provided electronically.

Surplus Lines and Independently Procured Insurance (Article 18) – provides that surplus lines agents who collect insurance premiums for risks in Texas are only liable for premium taxes on premiums paid for insurance in Texas; and authorizes the comptroller to establish an alternate basis for taxation for multistate and single-state insurance policies.

Oil and Gas Regulation (Article 19) – establishes the Oil and Gas Regulation and Cleanup Fund (replacing the Oil Field Cleanup Fund) funded through oil and gas regulatory fees, which are suspended when the fund exceeds \$20 million and re-enacted when the balance is below \$10 million; and directs penalties to the general revenue fund.

Publication of Session Laws (Article 20) – allows the Secretary of State to publish session laws electronically and eliminates the requirement to publish and distribute bound copies.

Legal Service Contracts with the Attorney General (Article 21) – allows the attorney general to charge a fee for the electronic filing of documents; authorizes administrative fees for review of state agency legal service contracts; and requires toll projects to pay an examination fee to the attorney general for review of a comprehensive development agreement.

Texas Preservation Trust Fund (Article 22) - allows income in the Texas Preservation Trust Fund account to provide financial assistance in connection with

preservation of historic property and to be used for the operation of the Texas Historical Commission.

Information Technology (Article 23) – extends the Department of Information Resources sunset date to 2013. It requires the DIR board to establish approval requirements for all contracts, including a monetary threshold above which board approval is required before a contract may be executed. It authorizes DIR to charge state agencies a fee for services provided by the agency to cover the cost of providing the service and allows the fees to be used to develop statewide information resources technology policies and to provide shared information resources technology services and network security services. It requires DIR to negotiate with vendors to obtain the best value for the state purchase of commodity items and allows them to consider strategic sourcing and other methodologies to select the vendor offering the best value.

Attorneys Employed by the Attorney General (Article 24) – requires the State Bar of Texas to credit a full-time attorney in the Attorney General's office for continuing legal education provided by the Attorney General's office (for 2012-2013 only); however, the attorney must still meet the CLE requirements for legal ethics and professional responsibility.

Lobbyist Registration Fee (Article 25) – increases the lobby registration fee from \$100 to \$150 for non-profits and from \$500 to \$750 for other registrants.

Public Assistance Reporting Information System (Article 26) – authorizes money in the Veteran's Assistance Fund to be used to analyze and investigate data received from the federal Public Assistance Reporting Information System that is administered by the Administration of Children and Families of the United States Department of Health and Human Services.

Regional Poison Control Center Management Controls and Efficiency (Article 27) – authorizes the Commission on State Emergency Communications to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Dedicated Permanent Funds (Article 28) – allows money in dedicated funds including earnings and the corpus of the fund to pay the principal and interest on bonds; and expands the use of tobacco settlement funds to pay the principal or interest on Cancer Prevention and Research Institute bonds.

Surplus and Salvage Property (Article 29) – designates the Texas Facilities Commission as the entity responsible for the disposal of surplus and salvage property of the state and allows the commission to contract with a private vendor to assist with the sale of property.

Sales and Use Tax Allocation for Remote Sales (Article 30) - requires remote sellers to collect sales tax if they use a website to sell digital goods or they are affiliated with (50% control test) an entity in Texas which performs sales related to activities for the retailer or sells products similar to the retailer under a similar business name.

Carryforward of Franchise Tax Credits (Article 31) – allows unused franchise tax credits under the old franchise tax law to be carried forward through 2016 (rather than 2012).

State Purchasing (Article 32) – authorizes the comptroller to engage a consultant as a procurement specialist to assist with a state agency's procurement, with the cost of the consultant paid from the cost savings generated.

Sales Tax Holiday (Article 33) – moves the annual sales tax holiday for clothing and footwear from the third weekend in August to the eighth day preceding the earliest date on which any school district may begin instruction for the school year (beginning in 2013).

Legislative Budget Board Meetings (Article 34) – requires the Legislative Budget Board to hold a public hearing each year to receive a report from the comptroller on the financial condition of the state; requires the board to post on the Internet all documents provided to a legislative committee in connection with an appropriations bill; requires the

board to hold a public hearing and solicit public testimony on state agency expenditure reduction plans prepared in connection with an interim budget reduction request; requires the comptroller to report after each session a schedule of revenue generated from fees; and requires the state cash management committee to hold a public hearing on the comptroller's cash flow shortfall forecast and the use of tax and revenue anticipation notes.

Economic and Workforce Development Programs (Article 35) – authorizes the governor to transfer money from the Texas Enterprise Fund to the Texas Workforce Commission to fund the Texas Back to Work Program to transition Texans from receiving unemployment compensation to employment.

Surviving Spouse of Disabled Veterans Ad Valorem Tax Payments (Article 36) – authorizes the unmarried surviving spouse of a disabled veteran to pay ad valorem taxes in installment payments.

Small Business Franchise Tax Exemption (Article 37) – extends the \$1 million small business franchise tax exemption through 2013.

Assistant Prosecutors (Article 38) – authorizes counties to suspend longevity pay supplements for assistant prosecutors.

Process Servers (Article 39) – authorizes the process server review board members to be reimbursed for expenses and requires the Supreme Court's Office of Court Administration to establish a process server certification division.

Reimbursement of Jurors (Article 40) – requires the minimum reimbursement for jury service to be set in the general appropriations bill, but it can be no less than \$6 per day.

Collection Improvement Program (Article 41) – requires counties with a population of 50,000 or more to participate in the Collection Improvement Program.

Correctional Managed Care (Article 42) – changes the membership of the Correctional Managed Health Care Committee and authorizes the Texas Department of Criminal Justice to implement a managed health care plan for inmates.

Homeless Housing and Services Program (Article 43) – authorizes the Texas Enterprise Fund to be used for the Texas Homeless Housing and Services Program administered by the Texas Department of Housing and Community Affairs in cities with a population of 285,500 or more to provide for the construction, development, or procurement of housing for homeless persons and provide local programs to prevent and eliminate homelessness.

Uniform Grant and Contract Management (Article 44) – transfers administration for uniform grant and contract management from the governor's office to the comptroller.

Franchise Tax Exclusions (Article 45) – excludes payments made to artists by a qualified live event promotion company from the total revenue of the promotion company for franchise tax purposes; excludes unincorporated entities organized as a political committee under the Election Code of the Federal Election Campaign Act from the franchise tax; and excludes passthrough charges paid by a courier and logistics company to nonemployee agents from the franchise tax.

Land Used to Raise or Keep Bees (Article 46) - allows land used for raising or keeping bees for pollination or for the production of human food or other tangible products having a commercial value to be taxed as open-space land.

Unclaimed Property Reports (Article 47) – requires the Department of Public Safety, Employees Retirement System, Teacher Retirement System, and the Texas Workforce Commission to report to the comptroller every five years (instead of every year) a list of persons entitled to unclaimed property.

Goods-in-Transit Exemption (Article 48) – re-defines goods-in-transit to include property stored under a contract of bailment by a public warehouse operator at one or more public warehouse facilities that are not owned or controlled by the owner of the personal property; and prohibits a taxing unit from taxing goods-in-transit in a tax year beginning January 1, 2012 unless the governing body takes official action to tax the goods-in-transit.

Advanced Placement (Article 49) – provides that the state will only pay for advanced placement tests for students that demonstrate financial need.

Tuition Exemptions (Article 50) – limits tuition reimbursement for educational aides to students enrolled in institutions of higher education for teacher certification in one or more critical shortage subject areas.

Apparel Rental Activities (Article 51) – classifies apparel rental activities as retail trade for purposes of the franchise tax rate (50%).

Foundation School Fund Payments (Article 52) – authorizes the South Texas ISD to retain additional state aid until September 1, 2013.

State Compression Percentage (Article 53) – requires the Commissioner of Education to reduce a district's entitlement under the Foundation School Program if the school district's ad valorem tax rate is below its compressed rate for the 2009 tax year.

Texas Guaranteed Student Loan Corporation (Article 54) – changes the board of directors of the Texas Guaranteed Student Loan Corporation to remove the comptroller and allow the governor to appoint an additional member and to designate the chair.

Leases of Public Land for Mineral Development (Article 55) – requires royalties from mineral interests to be remitted monthly to the General Land Office for the Texas A&M University System, Texas State University System, Texas Tech University and Texas A&M Kingsville.

Foundation School Program Financing (Article 56) – requires the Commissioner of Education to reduce by one-half the amounts of the reduction of entitlement amounts to account for taxes deposited into a tax increment fund for school years between 2004 and 2009.

Public School Finance (Article 57) – changes the calculation of Foundation School Program formulas to achieve a savings of approximately \$2 billion per year with the reduction in 2012 through an across-the-board cut of approximately 6% and in 2013 by 25% through an across-the-board reduction and 75% from a reduction in target revenue. It provides that the Department of Defense school districts cannot receive more than an 8% reduction. It allows school districts that do not receive any transportation allotment funds to receive a reasonable fee for the transportation of a student to and from the school the student attends. It requires the Commissioner of Education to apply the regular program adjustment factor to open-enrollment charter schools. It requires the Commissioner of Education to recommend the salary schedule (this provision expires September 1, 2013).

Mixed Beverage Tax Reimbursements (Article 58) - provides that the county mixed beverage tax reimbursements may not be less than (instead of greater than) 10.7143% of receipts from permittees within the county.

Open-Enrollment Charter School Bond Guarantees (Article 59) - establishes the Charter District Bond Guarantee Reserve Fund and allows charter schools to apply for bonds guaranteed by the permanent school fund; and caps the total amount of bonds issued to charter schools to the percentage of all students enrolled in charter schools compared to students enrolled in all public schools in the state.

Service Provider Contracts for Adult Education Programs (Article 60) – requires the Texas Education Agency to use a competitive procurement process for contracts with service providers of adult education programs.

Virtual School Network (Article 61) – allows students younger than 21 years of age and 26 years of age who are entitled to benefits under the Foundation School Program to enroll in a course through the Virtual School Network; requires school districts to adopt policies that provide districts and students with the opportunity to enroll in electronic courses provided through the state virtual school network; allows students and parents to provide comments on courses provided through the network and requires the comments to be accessible to the public; allows school districts to count students enrolled in courses through the network based on average daily attendance for determining Foundation School

Program entitlement; and bases funding for courses through the network on successful course completion.

Texas Department of Rural Affairs (Article 62) – abolishes the Texas Department of Rural Affairs and transfers its duties to a new Office of Rural Affairs in the Texas Department of Agriculture, and establishes the Texas Rural Health and Economic Development Advisory Council.

Suits Affecting the Parent-Child Relationship (Article 63) - authorizes an extension of time in which a court that has continuing jurisdiction of a young adult in foster care to maintain extended jurisdiction during a trial independence period and requires judicial status reviews at least every six months.

Texas Commission on Fire Protection Fees (Article 64) – prohibits the comptroller from depositing Texas Commission on Fire Protection Fees in the dedicated account for use by the commission in excess of the amount appropriated to the commission for that biennium and requires deposit of the remainder of the fees in the general revenue fund.

Correctional Health Care (Article 65) - requires the inmate population to be managed based on similar health conditions; institutes an annual inmate health care services fee of \$100; makes over-the-counter medications available for inmate purchase; and requires the use of corrections medication aides.

Guardianship Matters (Article 66) – establishes procedures for transfer of guardianship and guardianship proceedings.

Habitat Protection (Article 67) – authorizes the comptroller to develop or coordinate a habitat conservation plan or candidate conservation plan to promote compliance with federal law protecting endangered species; authorizes the comptroller to enter into an agreement for the implementation of a candidate conservation plan with the United States Department of the Interior or to assist another entity in entering into such an agreement; and authorizes a mitigation fee in connection with a habitat conservation plan.

License Plates for Golf Carts (Article 68) – removes the population brackets regarding the registration of golf carts on U.S. Corps of Engineers property.

Failure to Secure a Child Passenger in a Motor Vehicle (Article 69) – repeals the 15-cent state court cost associated with the offense of failure to secure a child passenger in a motor vehicle.

Juvenile Justice Alternative Education Programs (Article 70) – exempts Smith County from Juvenile Justice Adult Education Program requirements.

Chronic Health Conditions Services Medicaid Waiver Program (Article 71) – requires the Health and Human Services Commission to apply for a waiver from the federal Centers for Medicare and Medicaid Services to more efficiently leverage the use of state and local funds to maximize the receipt of federal Medicaid matching funds by providing benefits under the Medicaid program to individuals who meet income and other eligibility criteria and are eligible to receive services through the county for chronic health conditions.

Driver's Licenses and Personal Identification Certificates (Article 72) – requires the Department of Public Safety to designate some driver's license offices as temporary visitor stations; requires proof of citizenship to receive driver's license or personal identification certificates; and establishes expiration dates for driver's licenses issued to people who are not citizens or legal residents of the United States.

Fees for 9-1-1 Services (Article 73) – establishes equalization of the 9-1-1 surcharge on telecommunications services.

Texas Department of Housing and Community Affairs (Article 74) – extends the sunset date for the Texas Department of Housing and Community Affairs to 2013; requires the board to adopt a qualified allocation plan and corresponding manual at least biennially; authorizes housing tax credits of up to \$3 million (rather than \$2 million) in a single application round or to an individual development of no more than \$2 million in a single application round; and requires the director to establish a third-party installation

inspection program if the department is not able to inspect at least 75% of manufactured homes installed in the next three calendar years.

Federal Funds Designation (Article 75) – authorizes the governor to designate one or more state agencies to administer the state’s allocation of federal funds provided under the community development block grant nonentitlement program for disaster recovery funds.

Political Contributions and Expenditures Reporting (Article 76) – requires personal funds deposited in a candidate or officeholder account to be reported as a loan and prohibits the reimbursement from exceeding the amount reported as a loan; changes the reporting threshold for political contributions from \$50 to \$100; provides that it is not a valid basis of a complaint to allege that a report contains the improper name or address of a person making a political contribution if the information reported is the same as the name or address appears on the check; and authorizes complaint respondents to designate an agent to receive communications regarding the complaint.

Groundwater Conservation Districts (Article 77) – prohibits the Texas Commission on Environmental Quality from creating a groundwater conservation district in a county in which the annual amount of surface water used is more than 50 times the annual amount of groundwater produced, that is located in a priority groundwater management area, and that has a population greater than 2.3 million. (Article 78 reserved)

Education Jobs Fund (Article 79) – prohibits the Teacher Retirement System from considering salaries of personnel paid wholly or partly from the Education Jobs Fund distributed to school districts from federal funds.

Confidentiality of Peace Officer Vouchers (Article 79A) – exempts travel vouchers and supporting documentation of peace officers assigned to provide protection for an elected official or a member of the elected official’s family from public disclosure for 18 months following the date of travel; and requires agencies that pay the vouchers to prepare a quarterly report summarizing amounts paid for the vouchers.

Effective Date (Article 80) – provides that the bill takes effect September 1, 2011 if it receives a vote of 2/3 of the membership of both the Senate and House on final adoption and otherwise it takes effect on the 91st day after the last day of the legislative session.

SB 2 by Steve Ogden (R-Bryan) and Jim Pitts (R-Waxahachie) is a **supplemental appropriations** bill that includes appropriations:

- for state contributions to the Law Enforcement and Custodial Officer Supplemental Retirement Fund for a state contribution of 0.5% - \$7.5 million in all funds;
- contingent on the passage of legislation to fund the expansion of the number of physician and nurse trauma care fellowships by the Department of State Health Services - \$2.25 million per year plus carryforward of unexpended balances from the previous fiscal year;
- contingent on passage of SB 1, debt service on Cancer Prevention and Research Bonds;
- to the Foundation School Program - \$18.62 billion in 2012 and \$18.56 billion in 2013 and equalized facilities funding of \$650 million in 2012 and \$716 million in 2013, but contingent on the passage of SB 1, the appropriation to the Foundation School Program is reduced by \$2.3 billion in fiscal year 2013 due to the school district payment deferral, and contingent on the passage of HJR 109, appropriations from the Foundation School Fund are reduced by \$150 million per year with an equal amount appropriated to the FSP from the Available School Fund;
- to the Office of Court Administration license fees and the use of fees for process servers, guardians, and court reporters - \$119.603 in 2012 and \$119,714 in 2013;
- from oil and gas fees from the Oil and Gas Regulation and Cleanup Fund to the Railroad Commission to cover oil and gas regulatory activities - \$16.7 million per year ;

- for voter registration programs to the Secretary of State - transferred from the comptroller;
- authorizes the governor to transfer funds from the Texas Enterprise Fund to the Back to Work (\$10 million) and Homeless Housing program (\$10 million), it also authorizes the governor to use unexpended federal stimulus funds for those two purposes;
- to the Health and Human Services Commission for managed care in Cameron, Hidalgo, and Maverick counties - \$179 million in general revenue and \$273 million in federal funds contingent on the passage of SB 7;
- to Department of Aging and Disability Services for expansion of the managed care model;
- to the Health and Human Services Commission for creation of the Institute of Health Care Quality and Efficiency - \$228, 800 per year contingent on the passage of SB 7;
- to Texas Department of Insurance for creation of health care collaborative - \$423,518 in 2012 and \$1, 154,752 in 2013 contingent on the passage of SB 7;
- to the Supreme Court of Texas for basic civil legal services and indigent defense - \$11.2 million in 2012 and \$14 million in 2013;
- to the Office of the Governor for disaster funding - \$39 million;
- to the Commission on State Emergency Communications for operations and equipment replacement for the 9-1-1 network - up to \$11.7 million;
- to Texas State Technical College – Waco for institutional operations - \$2 million;
- to Lamar Institute of Technology for repair of the Technical Arts building - \$5 million;
- to the Health and Human Services Commission for the Umbilical Cord Blood Bank - \$2 million;
- to Sul Ross University for institutional operations - \$7 million;
- to Texas Department of Insurance to implement legislation regarding Texas Windstorm Insurance Association - \$131,370 in 2012 and \$121,767 in 2013, and to the Texas Public Finance Authority to assist the Texas Windstorm Insurance Association -\$750,000;
- to Texas Department of Criminal Justice for inmate trust funds - \$7.7 million in 2012 and \$5.8 million in 2013 contingent on passage of HB 26 or similar legislation;
- to the Texas Armed Services Scholarship Program - \$2.685 per year;
- the proceeds from specialty license plates to several state agencies;
- to Texas State University System for costs at the system office - \$1.6 million;
- to Jobs and Education for Texans to provide grants - unobligated balances of \$5 million;
- to Texas Education Agency to guarantee charter school bonds - \$550,000 per year contingent on the passage of SB 1;
- to University of Texas at Austin for the College of Fine Arts to develop a program in partnership with the Texas Cultural Trust to extend the fine arts digital literacy curriculum to 10th grade fine arts - \$500,000 per year;
- to Texas Forest Service for combating wildfire - \$40 million;
- to Texas Department of Public Safety for border security - \$800,000 for tactical vessels, \$266,667 for weaponry, \$133,333 for agency operations and training;
- to Parks and Wildlife Department for border security - \$501,359 for SAFEBOATS, \$77,600 for weaponry and ammunition, \$330,800 for operations and training costs;
- transfer of funding from Texas Department of Rural Affairs to Texas Department of Agriculture; and
- to the General Land Office for community development block grant disaster recovery funding.

HEALTH:

SB 7 by Jane Nelson (R-Flower Mound) and John Zerwas (R-Fulshear) makes several changes that **improve efficiencies in health and human services delivery** including:

- Places prescription drug benefits into Medicaid managed care with existing patient protections;
- Implements an electronic visit verification system to deter fraud in community care programs;
- Repeals the prohibition against managed care in South Texas;
- Implements co-payments for non-emergency visits to hospital emergency rooms;
- Aligns Medicaid and CHIP reimbursement with patient outcomes rather than quantity of services;
- Creates the health care collaborative certificate to provide safe harbor from antitrust laws for providers who join together to provide care that promotes quality, patient engagement and coordination of services;
- Implements public reporting of hospital rates of preventable re-admissions and complications;
- Authorizes Texas to enter into a health care compact with other states to design programs that meet the state's needs; and
- Contains limitations against public tax dollars being used for abortions.

TORT REFORM:

HB 3 by John Smithee (R-Amarillo) and John Carona (R-Dallas) makes changes to the **Texas Windstorm Insurance Association**.

Cease and Desist Orders – It authorizes the Commissioner of Insurance to issue cease and desist orders against TWIA inspectors.

Damage Limits – It provides that the treble damages provisions of the Insurance Code do not apply to actions brought against TWIA.

Sunset Date – It sets the TWIA sunset review date at 2015 (instead of 2013).

Catastrophe Year Definition – It defines “catastrophe year” as a calendar year in which an occurrence or a series of occurrences results in insured losses, regardless of when the insured losses are ultimately paid.

Conservatorship – It authorizes the Commissioner of Insurance to put TWIA under conservatorship if it is unable to satisfy its bond obligations.

Conflicts of Interest – It requires assigned arbitrators, mediators, and judges to notify all parties if they have a TWIA policy and establishes a process for parties to object to the assignment. It prohibits TWIA board members and employees from accepting gifts, engaging in a business activity that would induce them to disclose confidential information relating to TWIA, accepting employment or compensation that could impair their judgment or performance of duties with respect from TWIA, making personal investments that could cause a conflict, or accepting any benefit for performance of duties as a TWIA employee.

Fraud Reporting – It requires employees and board members that have knowledge of or suspect that a fraudulent insurance act has been committed to give that information to the Travis County District Attorney within 30 days.

Nepotism – It prohibits nepotism with TWIA board members and employees in hiring and contracting (within the third degree by blood or marriage).

Class Action Lawsuits Prohibited – It prohibits class action lawsuits against TWIA unless brought by the attorney general at the request of the Texas Department of Insurance.

Incentives for Private Insurers – It allows Texas Department of Insurance to develop a program to encourage private insurers to write windstorm insurance in coastal counties. It authorizes private insurers in coastal areas to provide for a contractual statute of limitations for filing a suit as an incentive to write more policies along the coast as long as the limitation period does not exceed the earlier of 2 years from the date of acceptance

or rejection of a claim or 3 years from the date of the loss, and allows it to require a claim to be filed within 2 years of the date of the loss (with an extension for good cause).

Bankruptcy Filing Prohibited – It prohibits TWIA from filing for Chapter 11 bankruptcy.

Audits – It requires TWIA to file an annual audit with the State Auditor, and requires TWIA to pay for audits by the state auditor. It requires the Commissioner of Insurance to conduct a random audit of claims files to determine whether the association is adequately and properly documenting claims decisions and to ensure appropriate claims handling.

Public Information on Salaries and Bonuses – It requires TWIA to post salary and bonus information for all managers and contractors that make over \$100,000 per year.

Pre-Event Bonds – It authorizes TWIA to purchase pre-event bonds of up to \$1 billion (in outstanding bonds at a time) with a maximum repayment period of 14 years.

Vacancies on the Board – It authorizes the Commissioner of Insurance to make a temporary appointment of up to 120 days to fill a vacancy on the TWIA board.

Open Meetings – It requires TWIA hearings to be posted on the TWIA and Texas Department of Insurance websites at least seven days in advance of the meeting, subjects them to open meetings and open records laws, and requires the meetings to be broadcast on the Internet (and archived for at least 2 years). It provides that TWIA board meetings must be open to the commissioner or the commissioner's representative.

Claims Settlement Guidelines – It requires TWIA to use claims settlement guidelines published by the Commissioner of Insurance to determine the extent to which a loss is a result of wind, waves, tidal surges or rising water not caused by waves or surges.

Simplified Renewal Process – It requires TWIA to develop a simplified renewal process that allows automatic renewal of policies but requires insureds to accept or decline coverage every three years.

Commission for Agents – It requires the Commissioner of Insurance and the TWIA board to approve a fair and reasonable commission structure for agents. It requires agents to return TWIA commissions earned on a cancelled policy and any unearned premiums; and changes the minimum retained premium from 180 to 90 days.

Filing Claims – It requires insureds to file a claim within one year of the damage or loss with a good cause extension of up to 180 days, requires TWIA to notify a claimant within 30 days of filing the claim if more information is necessary, and gives TWIA 60 days to accept or reject a claim (subject to commissioner's 120 day extension). It includes military deployment in the definition of "good cause" for the commissioner to grant an extension for filing claims or actions.

Policy Notices – It requires policies to contain a notice concerning the dispute resolution process including deadlines and the requirement that all administrative remedies must be exhausted prior to taking a claim to court.

Exclusions – It prohibits coverage for wind turbines.

Inspectors – It authorizes TDI to establish an annual renewal period for qualified inspectors, to appoint and oversee qualified inspectors, requires the commissioner to appoint approved engineers as inspectors upon the engineer's request, and authorizes the commissioner to enter an emergency cease and desist order against a qualified inspector.

Non-Compliant Property – It authorizes the commissioner to provide a discount or credit against a premium surcharge on a non-compliant property if the property contains at least one structural building component that complies with the building code standards set forth in the plan of operation, and provides that the surcharge on any property cannot be greater than the one under the current alternative eligibility program.

Binding Arbitration Discount – It allows a discount of up to 10% of the premium if a property owner elects binding arbitration when the policy is purchased.

Reinsurance – It provides that if TWIA does not purchase reinsurance, it must submit an annual plan for paying claims in the event of a loss exceeding \$2.5 billion to the commissioner and legislative leadership.

Catastrophe Plan – It requires TWIA to submit an annual catastrophe plan to the commissioner and legislative leadership.

Claims Handling – It allows voluntary binding arbitration. It limits recovery to covered losses. It requires TWIA to make payment within 10 days of accepting coverage.

Disputed Claims – It authorizes claimants to request appraisal for disputed claims, with the cost shared between the parties. It requires claimants to give notice of intent to file suit within 2 years of TWIA's denial or partial denial of a claim, allows TWIA to require alternative dispute resolution in the form of mediation or a moderated settlement conference (within 60 days of receiving a claimant's notice of intent to bring an action), and it allows claimants to bring an action in a district court in the county of loss or a first or second tier coastal county following completion of alternative dispute resolution. It requires actions to be presided over by a judge appointed by the judicial panel on multidistrict litigation who must be an active judge from the county of loss or an adjacent tier 1 or tier 2 county.

Mediators – It allows the commissioner to require mediators to register with TDI.

Damages – It limits damages to covered losses less any amount already paid by TWIA, prejudgment interest from the date TWIA should have paid a claim, court costs, reasonable and necessary attorney fees, consequential damages under common law, and double damages if a claimant can prove by clear and convincing evidence that TWIA intentionally mishandled the claim.

Panel of Experts – It requires the commissioner to appoint a panel of experts with appropriate expertise to advise TWIA on the extent to which losses are caused by wind, waves, tidal surges, or rising waters, and requires the commissioner to publish settlement guidelines based on the recommendations of the panel.

Declaratory Judgment – It prohibits TWIA from bringing an action for declaratory or other relief against a claimant before the 180th day following appraisal or dispute resolution is completed.

Ombudsman Program – It requires TDI to establish an ombudsman program to assist claimants through informational materials, toll-free telephone numbers, public meetings, outreach centers, the Internet, and other reasonable means.

Budget – It requires TDI to prepare a budget by March 1st of each year and adopt it by April 1st of each year, requires TWIA to transfer budget funds by May 1st, and requires TDI to file an amended budget within 60 days of a catastrophic event.

Cost/Benefit Analysis – It requires TWIA to submit a cost-benefit analysis of financing methods and funding structures to the commissioner when requesting issuance of public securities, allows TWIA to use public securities proceeds to repay private loans or costs to TWIA from the sale of bonds, and includes FAIR Plan policies in surcharges for Class 2 public securities.

Interim Study – It requires a legislative interim study on alternative ways to provide insurance to the seacoast territory of the state, including through a quasi-governmental entity, and requires the commissioner and TWIA to study whether a single-adjuster program would improve effectiveness and the feasibility of TWIA directly writing policies.

Effective Date – It provides that this law applies to policies issued, delivered, or renewed on or after January 1, 2012 with the prior law governing all prior claims and disputes.

Severability – It includes a severability clause that provides that if any provision of the law is held invalid, it will not affect other provisions of the law.

PUBLIC EDUCATION:

SB 6 by Florence Shapiro (R-Plano) and Rob Eissler (R-The Woodlands) combines the textbook fund and the technology allotment fund into a new **instructional materials fund**.

Statutory references - changes statutory references to "textbook" to mean "instructional materials";

Economics Curriculum - requires school districts to offer as a required curriculum (rather than the enrichment curriculum), economics, with emphasis on the free enterprise system and its benefits;

Free Instructional Materials - prohibits school districts from charging a student for instructional material or technological equipment purchased by the school district with the district's instructional materials allotment;

Definition of Instructional Material - defines "instructional material" as content that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to a student including a book, supplementary materials, a combination of a book, workbook, and supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, on-line services or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means including open-source instructional material; and it allows school districts to use instructional materials adopted by the State Board of Education, materials adopted or purchased by the commissioner, open-source instructional materials, and instructional materials developed or purchased by the school district to determine whether each student has instructional materials that cover all elements of the essential knowledge and skills;

Open-Enrollment Charter Schools - clarifies that open-enrollment charter schools are entitled to the instructional materials allotment as if they were a school district;

Uses of the Instructional Materials Fund - allows money in the fund to be used for the instructional materials allotment, to purchase special instructional materials for the education of blind and visually impaired students in public schools, pay expenses associated with instructional materials adoption, expenses associated with the purchase or licensing of open-source instructional material, expenses associated with the purchase of instructional material (including intrastate freight and shipping and the insurance expenses associated with the intrastate freight and shipping), to fund the technology lending grant program, and funding for the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and the Texas Youth Commission;

Carry-Over of Funds - allows money in the instructional materials fund to be carried over to the next fiscal year;

Per-Student Allotment - requires the Commissioner of Education to determine the per-student allotment based on the amount of funding available;

Juvenile Justice Alternative Education Program - provides that a juvenile justice alternative education program is entitled to an allotment in an amount determined by the commissioner;

Purchase of Instructional Materials - allows money to be used to purchase materials on the commissioner's list, instructional materials (regardless of whether they are on the list), consumable instructional materials including workbooks, instructional materials for use in bilingual education classes, supplemental instructional materials, state-developed open-source instructional materials, instructional materials and technological equipment under continuing contracts of the district in effect on September 1, 2011, and technological equipment necessary to support the use of materials included on the list adopted by the commissioner or any instructional materials purchased with an allotment; and to pay for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use, and the salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning;

Priority for Funding - requires school districts to each year use the district's allotment to purchase in the following order: instructional materials necessary to permit the district to certify that the district has instructional materials to cover all elements of the

essential knowledge and skills of the required curriculum (other than physical education) for each grade level, and any other instructional materials or technological equipment as determined by the district;

Performance Standards on Assessment Instruments – only in the state fiscal biennium beginning September 1, 2011, school districts are required to use the allotment to purchase instructional materials that will assist the district in satisfying performance standards on assessment instruments;

Per-Student Adjustments - requires school districts to request by May 31st of each school year for the commissioner to adjust the number of students for which the district is entitled to receive an allotment as the number of students in the district increases or decreases, and allows the commissioner to adjust the number of students per district without request;

Instructional Materials Accounts - requires the commissioner to maintain an instructional materials account for each school district and pay the cost of instructional materials requisitioned by a school district and allows money in the district's fund to be carried forward into the next biennium;

Certification of Use of the Fund - requires school districts to annually certify that the district's instructional materials allotment has been used only for allowable expenses;

High Growth Districts - requires the commissioner to annually adjust the allotment for school districts experiencing high enrolment growth;

State Board of Education Review Cycle - requires the State Board of Education, in its review and cycle, to give priority to instructional materials in foundation curriculum subjects for which the essential knowledge and skills have been substantially revised and for which assessment instruments are required including career and technology courses that satisfy foundation curriculum requirements and enrichment curriculum subjects; and requires the board to organize the cycle for subjects in the foundation curriculum so that no more than one-fourth (rather than one-sixth) of the instructional materials for subjects in the foundation curriculum are reviewed each biennium (rather than year), with a full review every six years;

Essential Knowledge and Skills - requires the board to determine the percentage of the elements of the essential knowledge and skills of the subject and grade level covered by each instructional material submitted and deletes statutory references to the nonconforming list;

Commissioner's List - allows the SBOE to comment on material on the commissioner's list and allows them to require the commissioner to remove material from the list within 90 days after the date the material is placed on the list; and allows the SBOE to review open-source instructional material for 90 days after it is submitted and requires them to post their comments regarding the open-source instructional materials placed on the list and distribute their comments to school districts;

Electronic Samples - requires publishers to supply electronic samples of submitted instructional materials if requested by a school district or open-enrollment charter school;

Bilingual Education Materials - requires school districts to purchase instructional materials for use in bilingual education classes pursuant to rules adopted by the commissioner;

Supplemental Instructional Materials - requires school districts that requisition supplemental instructional materials to certify to the agency that the materials, in combination with any other instructional materials or supplemental instructional materials cover the essential knowledge and skills for the subject and grade level for which the district is requisitioning the materials;

Ownership of Materials - provides that state-developed open-source instructional material is the property of the state, but instructional material purchased for a school district or open-enrollment charter school is the property of the district or school;

On-line Requisition System - requires the commissioner to maintain an online requisition system for school districts to requisition instructional materials and requires school districts to use the online system;

Sale of Used Instructional Materials - authorizes school districts to sell electronic instructional materials and technological equipment owned by the district and to sell printed instructional materials on the date the material is discontinued for use by the SBOE, and the proceeds must be used to purchase instructional materials and technological equipment;

Depository - deletes the requirement that publishers or manufacturers of instructional materials maintain a depository in the state;

Technology Lending Program - establishes the Technology Lending Program of up to \$10 million to provide grants to school districts to loan students equipment necessary to access and use electronic instructional materials and provides that equipment purchased with grant money is the property of the district or school;

Distribution from Permanent School Fund - requires the State Board of Education to set aside 50% of the distribution from the Permanent School Fund to the Available School Fund into the instructional materials fund beginning in September 1, 2013 (40% is set aside for next biennium).

SB 8 by Florence Shapiro (R-Plano) and Rob Eissler (R-The Woodlands) gives **school districts flexibility** on personnel and other matters.

Teacher Contracts – It provides that a probationary, continuing, or term contract is void if the employee does not hold a valid certificate or fails to renew or extend the employee's temporary, probationary, or emergency certificate. It requires notice of termination to be delivered personally if possible and requires notice to be given before the 10th day (rather than the 45th day) before the last day of instruction. It requires reductions made due to financial exigency to be based upon teacher appraisals.

Hearings – It entitles a teacher to a hearing if the teacher is protesting the nonrenewal of a term contract or termination of a probationary contract based on financial exigency before the end of the contract period. It requires a teacher requesting a hearing to notify the board of trustees within 15 days after receiving notice of the termination or nonrenewal. It allows school districts with an enrollment of at least 5,000 students to designate an attorney to hold the hearing on behalf of the school board to create a hearing record for the board's consideration and action, and to recommend an action to the board. The attorney is required to provide its report to the board within 15 days of the hearing, the board must consider the report at its next board meeting, and the board must provide its decision to the teacher within 15 days of the meeting.

New Teachers – It requires new teachers to complete at least 15 hours of field-based experience in which the teacher is actively engaged in instruction or educational activities under supervision at a public or private school campus accredited, recognized, or approved by the Texas Education Agency.

Superintendent Contracts – It provides that if a district reduces personnel due to financial exigency, the board may choose to amend the terms of the superintendent's contract.

Minimum Salary Schedule – It removes the formula calculation of the minimum salary for teachers, librarians, counselors, and nurses and replaces it with a minimum amount for each level of experience.

Employee Furloughs – It authorizes the board of trustees of a school district to implement a furlough program and reduce the number of days or service by up to six days of service during a school year; and allows the district to reduce the salary of a furloughed employee in proportion to the number of days the employee is furloughed. All contract personnel must be subject to the same number of furlough days. It prohibits an educator from being furloughed on an instruction day, prohibits an educator from using personal, sick or any other paid leave while the educator is on a furlough, provides that a furlough

program cannot result in an increase in the number of required teacher workdays, and provides that an imposed furlough does not constitute a break in service or a day of service for Teacher Retirement System of Texas purposes. A decision by the school board to implement a furlough program is final and may not be appealed, and does not create a cause of action or require collective bargaining. Before implementing a furlough or salary reduction program, the board of trustees must include the district professional staff in the development process and hold a public meeting during which district employees and the public can express opinions and where the district must explain how the district intends to implement the program in a manner that will limit the number of employees who will be discharged or whose contracts will not be renewed. The explanation must include the specific number of furlough days proposed. They must also provide information regarding the local option residence homestead exemption.

School Administrators – It provides that in a school year in which a school district has reduced the salaries of classroom teachers from the amount paid the preceding school year, the district must reduce the amount of the annual salary paid to each district administrator and other professional employee by an amount equal to the average reduction of teacher salaries.

Determination of Funding Levels – It provides that by July 1st of each year, the Commissioner of Education must determine whether the estimated amount of state and local funding per student in weighted average daily attendance (WADA) to be provided to a school district under the Foundation School Program for the upcoming year is less than the amount provided to the district for the 2010-2011 school year; and requires the commissioner to make adjustments to reflect changes in the district's maintenance and operations tax rate, consider any recapture amount, and determine the district's weighted average daily attendance as it existed on January 1, 2011. If the amount is less, the commissioner must certify the percentage decrease in funding.

Financial Exigency – It allows the board of trustees of a school district to adopt a resolution declaring a financial exigency for the district. The declaration expires at the end of the fiscal year unless the board continues it for the following fiscal year. There is no limit on the number of times the board can declare continuation of the financial exigency. It requires the board to notify the commissioner when it adopts a resolution declaring a financial exigency. It requires the commissioner to adopt minimum standards concerning school district financial conditions that must exist for the declaration of financial exigency by the board of trustees of a school district.

Public Information Requests – It allows school districts that receive a request to produce public information or copies of public information from a requestor who has accepted but failed to pay written itemized statements of estimated charges from the district to require the requestor to pay the estimated charges before the request for copies of public information is fulfilled.

REDISTRICTING:

SB 4 by Kel Seliger (R-Amarillo) is the **congressional redistricting** bill.

Additional information can be obtained via the Senate, House, and capitol websites:

www.senate.state.tx.us

www.house.state.tx.us

www.capitol.state.tx.us