EXHIBIT

17
The Week in the Rearview Mirror

This started with his own headline — "A LETTER FROM LT. GOVERNOR DAVID DEWHURST ON VOTER I.D. BILL" — but Dewhurst himself is disavowing this statement on the issue after senators took him to task for it. Sen. Royce West, D-Dallas, came back with, "I'm as American as he is." Here's Dewhurst's now-disavowed version:

Yesterday Republican Senator Troy Fraser brought up in the Senate for consideration House Bill 218 by Representative Betty Brown, which simply requires voters to present a driver's license or some other common form of identification at the election polls to prove they are who they say they are: U.S. citizens.

Inexplicably, this legislation has drawn sharp criticism from Democrat Party operatives and affiliated groups. Yesterday all 11 Democrat members of the Texas Senate voted against the bill and blocked it from going forward. I think this is an outrage against all Americans. With eight to 12 million illegal aliens currently living in the U.S., the basic American principle of one person, one vote, is in danger. While critics say the legislation isn't necessary because voter fraud isn't a problem in Texas, the facts tell a different story.

On June 22, 2006, Harris County Tax Assessor-Collector and Voter Registrar Paul Bettencourt testified before the U.S. House Administration Committee that foreign nationals are both applying for and receiving voter registration cards. Data given to my office indicates that in Harris County alone since 1992, 3,742 voters have been removed from the voter rolls because they were not U.S. citizens. From 2003 to 2005 in Bexar County, 303 voters were removed and at least 41 had actually voted before being deleted. Since 1999 in Dallas County, 1,889 voters have been removed and 356 voted before being deleted. During the same period in Tarrant County, 584 were removed. Just last year, El Paso County saw the highest number of non-citizens voting in a state election over a 10 month period, as 213 ineligible voters were removed from the rolls. How many more voted but were never caught? Ten-thousand? Twenty-five thousand? How many legitimate American votes were canceled out by illegal voters?

To most Americans, requiring voters to show some form of ID at the polls seems like a simple and reasonable solution. It's common sense and the standard in other countries and many U.S. states. Considering that a photo ID is required to buy Sudafed, rent a movie, board an airplane, or rent an apartment, I can't understand why anyone would argue the same standard, if not a higher standard, should apply to voting. Why would any Texan oppose legislation that ensures only U.S. citizens vote in elections?

The truth is, most Texans agree. Independent polls, like one recently conducted by Austin-based Baselice & Associates, show Texans overwhelmingly support House Bill 218. The poll found 95% of Republicans, 91% of Independents, and 87% of Democrats believe voters should be required to show a driver's license or other common photo identification before being allowed to vote. This independent poll surveyed 1,001 voters statewide and has a margin of error of plus or minus three percent.

Friends, you and I know that freedom is not free. I believe protecting the sanctity of American elections is critical to the future of our nation. In the Middle East, American men and women are putting their lives at risk every day to protect American freedom, including the right to vote. Americans have fought for centuries and lost their lives for the right to vote in free and fair elections.

To address critics' concerns about voters who may not have a current ID, House Bill 218 was
amended to allow voters to present other forms of identification such as a military ID, valid employee ID, citizenship certificate, passport, student ID card issued by a public college or university, handgun permit, utility bill, bank statement, pay stub, mail from a government entity, marriage license, birth certificate, adoption certificate, pilot’s license, hunting license, or even a library card. What's so hard about this?

Seriously, how can any American argue that this requirement is too onerous? I can only conclude that the Senators who voted to block consideration of House Bill 218 did so not because it’s good public policy, but because they don’t believe in the basic American principle of one person, one vote.

On the floor of the Senate yesterday, the longest-serving Democrat Senator ironically gamed the voting process by walking out of the Senate Chamber in an attempt to stall consideration of the Voter ID bill. When he returned to the Senate floor after his name had been called three times and the vote closed, he cursed and tried to make himself a victim. I wonder how the Senator's constituents feel about this deliberate attempt to block legislation that affects every citizen's right to vote.

As Lieutenant Governor, I have a responsibility to protect and defend our Constitution and the laws of our state and nation. And I'm proud to stand with the vast majority of Texans and the 20 Republican members of the Texas Senate who strongly support preserving the right of Americans who reside in Texas to vote in Texas elections.

The lieutenant governor disavowed his earlier statement about the Voter ID bill — issued while the Senate was caucusing on that subject and on whether 11 senators should be allowed to block a vote on it. He says he didn’t authorize the earlier statement; here's his new version, with his cover letter.

Earlier today a draft letter on HB 218 was inadvertently released before I reviewed it. It does not represent my position on certain topics. The paragraph on Senator Whitmire went over the top. While I stand by what I, the Secretary of the Senate, Parliamentarian, and some press observed yesterday, the Senator is a personal friend of mine and goes hunting with me each fall.

We were planning on letting him use a rifle this year, so I'm especially interested in Whitmire being real friendly with me before our hunting trip in October.

The attached letter reflects my views and my long-standing principle that while my Senate colleagues and I may disagree on certain issues from time to time, we are all first good Americans, and in the Senate, good friends.

Sincerely,

David Dewhurst

Lieutenant Governor

A LETTER FROM LT. GOVERNOR DAVID DEWHURST ON VOTER I.D. BILL

Yesterday Republican Senator Troy Fraser brought up in the Senate for consideration House Bill 218 by Representative Betty Brown, which simply requires voters to present a driver’s license or some other common form of identification at the election polls to prove they are who they say they are.

Inexplicably, this legislation has drawn sharp criticism from some partisan Democrat Party operatives, and the Democrats in the Senate blocked the bill from going forward yesterday. Now, all 11 Democrat Senators are friends of mine and good Americans, but I want people to consider that with eight to 12 million illegal aliens currently living in the U.S., the basic American principal of one person, one vote, is in danger. While critics say the legislation isn’t necessary because voter fraud isn’t a problem in Texas, the facts tell a different story.

On June 22, 2006, Harris County Tax Assessor-Collector and Voter Registrar Paul Bettencourt testified before the U.S. House Administration Committee that foreign nationals are both applying for and receiving voter registration cards. Data given to my office indicates that in Harris County alone since 1992, 3,742 voters have been removed from the voter rolls because they were not U.S. citizens. From 2003 to 2005 in Bexar County, 303 voters were removed and at least 41 had actually voted before being deleted. Since 1999 in Dallas County, 1,889 voters have been removed and 356 voted before being deleted. During the same period in Tarrant County, 584 were removed. Just last year, El Paso County saw the highest number of non-
citizens voting in a state election over a one year period. How many more voted but were never caught? One-thousand? Two-thousand? Ten-thousand? How many legitimate American votes were canceled out?

To most Americans, requiring voters to show some form of ID at the polls seems like a simple and reasonable solution. It's common sense and the standard in other countries and many U.S. states. Considering that a photo ID is required to buy Sudafed, rent a movie, board an airplane, or rent an apartment, I can't understand why anyone would argue the same standard, if not a higher standard, should apply to voting.

The truth is, most Texans agree. Independent polls, like one recently conducted by Austin-based Baselice & Associates, show Texans overwhelmingly support House Bill 218. The poll found 95% of Republicans, 91% of Independents, and 87% of Democrats believe voters should be required to show a driver's license or other common photo identification before being allowed to vote. This independent poll surveyed 1,001 voters statewide and has a margin of error of plus or minus three percent.

Good friends can disagree on a subject, but you and I know that freedom is not free. Protecting the sanctity of American elections is critical to the future of our nation.

To address critics' concerns about voters who may not have a current ID, House Bill 218 was amended to allow voters to present other forms of identification such as a military ID, valid employee ID, citizenship certificate, passport, student ID card issued by a public college or university, handgun permit, utility bill, bank statement, pay stub, mail from a government entity, marriage license, birth certificate, adoption certificate, pilot's license, hunting license, or even a library card. Bluntly, what's so hard about this?

As Lieutenant Governor, I have a responsibility to protect and defend our Constitution and the laws of our state and nation. I'm proud to stand with the vast majority of Texans who strongly support preserving the right of Americans who reside in Texas to vote in Texas elections.

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For much of the day Monday, the House was in a state of suspense — like the moment between the squeal of brakes and the crunch of metal. When the crash finally came, it was just a fender-bender. (*There's an audio copy of his speech in our Files section; a text version is in our Soapbox section.*)

Rep. Byron Cook, R-Corsicana gave an impassioned speech to a hushed House. When he finished with quotes from one of the all-time pep talks — the St. Crispin's Day bit from Shakespeare's *Henry V* — there was moment of quiet and then... nothing. Cook walked back to his desk and House Speaker Tom Craddick called up the next bill.

"These guys could fuck up a rock fight," a Democratic state representative cracked earlier in the day.

It's possible to watch these things too closely, to get caught up in the minute-to-minute stuff and miss the story. The story, so far, is that the opposition to Craddick can't put together a coup.

Rep. Jim Keffer, R-Eastland, officially threw his name into the race last week. Rep. Jim Pitts, R-Waxahachie, lost a challenge to Craddick in January, stayed almost invisible for the rest of the session, and has filed for a rematch now at the end. The front-runner at this point, other than Craddick himself, appears to be Rep. Bryan McCall, R-Plano, the fourth official candidate. His challenge earlier this year gave way to Pitts, but his is the name we hear most from members looking for an alternative to the current management. On Tuesday, Rep. Fred Hill, R-Richardson, joined the contest by filing his papers with the Texas Ethics Commission.

Craddick's task now is to survive the week. A challenge would come, if it comes, with a call to "vacate the chair" which would force two and maybe three votes. First is a vote on whether to keep Craddick in place. If the House decided to do that, they'd next have to decide who should be speaker for the months leading into the next regular session in January 2007.

The third vote, if needed, would be one of those procedurals that are dramatic inside the Pink Building and hard to translate outside. One reading of the rules is that Craddick could delay a motion to vacate the chair by up to a day, so long as he honors it. But challengers might not want to give him that time. They could challenge any delay, and a vote on that challenge could
be the first vote in this sequence. And the first vote — whether it's on that or a motion to vacate — is where you'd get a look at the split in the House.

Craddick's opponents are circulating a list of $168.6 million in appropriations items they say he's using to firm up his votes in the race for speaker, and say the reason the state budget is delayed is that he's holding it to make such deals. His aides say the budget is in about the same spot it was two years ago, and two years before that.

Both sides were working the floor closely as the last week of the session began. Craddick spent much of his time working the floor while other House members took his place on the dais.

There's a biennial ritual where members get large lithographs or pictures of the Capitol building and troll the floor getting all of their colleagues to sign them. It's like passing around the high school annual at the end of the school year. And it gives legislators a chance to talk to their friends and, importantly, to people they don't normally talk to. It's an opener for a conversation — "Hey, would you sign this?" — that can then turn to other things, like who's backing which candidate. Some are just getting signatures; some are also counting noses for and against Craddick.

If and when they get enough — or think they've got enough — they'll try to push Craddick out. Until then, the House will remain suspended between that squeal of brakes and that crunch of metal.

Mr. Speaker and members, I stand before you tonight for one reason and one reason only, and that's because I love this Texas House. I love every member in here. I've come to appreciate every different point of view that's expressed here.

Members, over the past week's time I have expressed both privately and publicly to Speaker Craddick that it is time for a new speaker of the Texas House.

Now this is very difficult for me to get up here and say this. I've lost a lot of sleep and I've worried myself silly and the reality of the fact is I've got to go through with this.

I also want to emphasize my strongest conviction that this House must either by rule or through principled statesmanship adopt a policy of a three-term limit to the office of Speaker of the House.

The consolidation of money, power, and influence is detrimental to this House and the State and it must end now.

I am a Republican who has voted for Speaker Craddick three times, but I will not and can not support his re-election and I beg him to step down.

My position is not without cost. I have been threatened, I've had my ability as Chair called to question, and I was told as recently as Saturday that they're actively recruiting an opponent to run against me in my district.

And to this, members, I say, so be it. So be it.

To all I say simply:

I will not yield.

I will not yield to tyranny, bullying, or threats.

This body will never realize its potential as long as fear, intimidation, retaliation, and character assassination are allowed to be tolerated.

Greatness is never found in leaders that place their self interest and financial gain above the public good. This is wrong. I believe it's unethical, and it must be stopped.

This session we've witnessed a manipulation of the rules and the legislative process. It appears the budget is being stopped, delayed and exploited for political gain. I say this is wrong! It appears we have lost our traditional of a grueling work schedule. We appear to be working at a bill-killing pace.
Now we have the threat that the Speaker will use his $4 million speaker account — or should I add a zero and make it $40 million? — to attack fellow Republicans. Now let me tell you this, and I feel better. I did have a good, positive meeting with the Speaker today, for about an hour, and he told me unequivocally that that would not happen to any member in this body. Any member. And I am very pleased that he has that commitment, that he won't do that and nobody associated with him. And I appreciate that because I've got to tell you, this is hanging over this body, in what I believe is a very terrible way.

It's out of bounds — it is an abuse of office. Mr. Speaker, I regret to tell you, that your action may force this House to take an historical position. So be it.

Mr. Speaker, please consider stepping down. Don't put this body through 18 months of hell. Your re-election will only result in a bloody and brutal and, I believe, non-productive 81st session. Be a statesman.

We need a new direction, inspired leadership, and a member-driven body.

If a call on the Speaker is made this session, it will be a referendum on whether we collectively, as leaders, want to continue to be lead by a person who doesn't have the confidence of the body, or whether we dare — or whether we dare — to chart a new course, trusting that there are great leaders among us!

This body can flourish under a new Republican leadership. Release us and submit to the will of the House. Please.

This battle is worth fighting. For me it means risking my political career. And I'm at peace with that. I understand the consequences, but it's still worth fighting. And I close with Shakespeare:

"We few, we happy few, we band of brothers;
For he to-day that sheds his blood with me
Shall be my brother...
And gentlemen in England, now a-bed
Shall think themselves accursed they were not here;
And hold their manhoods cheap whiles any speaks
That fought with us."

God bless Texas!

**Byron Cook** is a Republican state representative from Corsicana. He gave this speech on the floor of the House on the evening of May 21, with a week left to go in the regular session.

One guess what the state's bloggers are chittering about... in addition to that one, they're scribbling about publisher protection, guilt and innocence, early whiffs of the next elections, and the Senate's bedside manner

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**The Speaker**

Rep. **Aaron Peña**, D-Edinburg, *thinks the session will end without a change* in the management of the House. He says members are joking openly now about where to form the line to sign papers to interrupt **Tom Craddick's** reign over the House. Maybe it'll go away, but it's *the same thing he was writing about a week ago*, so it's apparently a sticky idea.

*PinkDome* isn't buying the story line. *BurkaBlog* can't decide what's next (that's one of the big problems with the prediction business), jumping from *the inevitability of a challenge* to Craddick on Sunday to the Death of the Insurgency 48 hours later, including *a listing of all the candidates* interested in the job (keep in mind that **Pete Laney** line we quoted a while back about a speaker being every House member's second choice). They'll have a .500 batting average if they leave it there...

Rep. **Byron Cook**'s plea to Craddick to step down and avoid a bloody battle got lots of coverage
from bloggers and MSM alike, with varied speculations about what it means, if it means anything at all. South Texas Chisme wonders if cronyism is going out of style. The blog titled Rick Perry vs. The World (yeah, really) takes a William McKenzie column in The Dallas Morning News as its starting point. McKenzie wonders if the battle over Craddick is really a battle over the future of the Texas GOP; RPvTW contends it’s about Craddick.

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** Going Nekkid **

A shield law for journalists died, appropriately enough, because of a typo exploited by Rep. Debbie Riddle, R-Tomball. That occupational hazard of writers and lawmakers was enough to tank legislation that was getting mixed reviews from lawmakers and others, anyway. Capital Annex went after Riddle for making the kill (ever notice that losers in rule fights always refer to the things that got ’em as technicalities, but never try to change the rules to allow more slop?). The big papers and TV stations were pushing for the law; support from working reporters was much thinner, but hardly anyone asked. Bloggers were disappointed, in part, because they weren’t included.

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** Get Those Running Shoes **

U.S. Rep. Ron Paul, R-Surfside, has that presidential thing going. And his interest in the executive branch has some candidates back home looking at his congressional spot, according to Capital Annex’s Vince Leibowitz. He’s got the skinny on Friendswood Mayor Pro Tem Chris Peden, a Republican.

U.S. Rep. Nick Lampson, D-Stafford, is talking to a Republican city councilman from Sugar Land — Tom Abraham — about running for Lampson’s seat as a Democrat. (The premise is that Lampson would be the Democrat running against U.S. Sen. John Cornyn, R-San Antonio). How’s that for Man Bites Dog? The scoop started, apparently, with FortBendNow, and you can read the take on that from Half Empty, where they claim to have known about this but decided to let somebody else break it. They raise the possibility that Abraham, a Republican, could run as a Democrat and then turn around, upon election, and switch parties, back to the GOP. In a district that’s supposed to be Republican in the first place.

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** Who’s Guilty? **

Grits for Breakfast has an autopsy of the Texas Innocence Commission, which made it all the way to the last week of the session before meeting its apparent death (we operate on the principle that nearly anything is still possible when the big rooms in the Pink Building are occupied). The special curiosity here is that the bill, product of a Democratic author, died in one of the few House committees where Democrats outnumber Republicans.

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** Texas Tough **

Sen. Mario Gallegos, D-Houston, is supposed to be recovering from liver transplant surgery. He’s doing that in Austin instead of Houston, and there’s a hospital bed for him in the Senate Sergeant’s office if he has to rest. He wants to be here so Lt. Gov. David Dewhurst won’t bring up the voter ID bill the Democrats are blocking the Republicans from passing. And that’s got the blogs going. Charles Kuff (Off the Kuff) is in awe; read the comments, as one of his readers, a nurse, offers to come to Austin to sit bedside. Eye on Williamson County suggests the Republicans should give up and let him go recover. South Texas Chisme chips in with props to Sen. Bob Deuell, R-Greenville, a doctor who arranged for the sick bed for the Democrat.

We cherry-pick the state’s political blogs each week, looking for news, info, gossip, and new jokes. The opinions here belong (mostly) to the bloggers, and we’re including their links so you can hunt them down if you wish. Our blogroll — the list of Texas blogs we watch — is on our links page, and if you know of a Texas political blog that ought to be on it, just shoot us a note. Please send comments, suggestions, gripes or retorts to Texas Weekly editor Ross Ramsey.

Look at the newly declared candidacies as votes against House Speaker Tom Craddick, toss in a few changed minds, and you can see why the tension’s so thick in the House. The outcome of the challenge to Craddick hinges on a group small enough to fit in a booth at The Cloak Room near the Capitol.
Here’s how they’re counting on the floor.

The critical vote back there on January 9 was 80-68, with one member absent (Fred Brown, R-Bryan) and one seat vacant (since filled by Mike O’Day, R-Pearland). Give both votes to Craddick, just for sport. That makes the start 82-68; you can’t knock him down unless you move eight votes from his column to the opposition.

Assuming (always dangerous) that none of the people who voted to overthrow Craddick in January have changed their minds, the rebellion is within striking range, depending on how the arm-twisting proceeds. You can read that the other way, too, if you want: Craddick’s within striking range of another win.

Craddick’s January support included two Republicans who say they want to run against him: Jim Keffer of Eastland and Fred Hill of Richardson. Rep. Byron Cook, R-Corsicana, gave a little speech Monday night calling on Craddick to give up the high chair. They make it 79-71.

Two Democrats who supported Craddick — Eddie Lucio III of Brownsville and Patrick Rose of Dripping Springs — are now telling the Austin American-Statesman and others they’re off the team. That’s 77-73.

We know of two more Republicans who are working against Craddick but haven’t stuck their heads up. If they turn out to be turncoats, that puts it within a couple of votes (it’s math, sure, but you have to allow for liars, so it’s not exact). That’s where the real power in the House is, for just this moment: In the two or three members who put one side or the other over the top.

Here’s the scorecard from January (this is the vote on the so-called Geren amendment that would have made the vote on Craddick and Jim Pitts a secret one; after it failed, Pitts dropped out and Craddick won reelection to a third term):

**AYES - 80 (65 Republicans, 15 Democrats)**

**Democrats:** Bailey, Chavez, Deshotel, Dukes, Dutton, Flores, Giddings, Guillen, T. King, Lucio, McClendon, Peña, Puente, Rose, Turner.


**NAYS - 68 (54 Democrats, 14 Republicans)**


**Republicans:** Elkins, Geren, Haggerty, Hughes, D. Jones, Kaempel, Latham, McCall, Merritt, Pitts, T. Smith, Straus, Talton, West.

Several members are pestering Appropriations Chairman Warren Chisum about "trades" that might be going on in the budget to gain favor with members who’ll decide whether Speaker Tom Craddick keeps his job. Chisum says he hasn’t handled anything like that, but there’s room in his answers to allow for some chicanery. And there’s a list floating around with the items in question. Here’s a copy (click on it to get a printable .pdf file):
House members shouldn’t kid themselves. Speaker Tom Craddick has badly tarnished the reputation of the House. Not only has he flouted the House’s own rules, but he has abused the state’s corporate prohibition and speaker statute and blocked needed tightening of the corporate and union prohibition.

Craddick’s alleged promises and threats as to appropriations and legislation to keep his speaker’s mantle (posted here) are not just the usual House hardball. If true, these promises and threats are likely criminal on his behalf and those legislators that succumb to them.

Don’t believe me? Then read the legislative bribery provisions of the speaker’s statute (Tex Gov. Code Sections 302.031-302.033). It is a felony to promise or threaten “with the intent to influence a member of or candidate for the house of representatives in casting a vote for speaker of the house... preferential treatment on any legislation or appropriation.” It is also a felony for a legislator “to solicit, accept, or agree to accept” such preferential treatment. And I can assure...
you that these bribery provisions are constitutional — whatever the problems with other provisions of the statute — for courts regularly have rejected challenges to bribery statutes.

Many people also forget that the indicted TRMPAC (Texans for a Republican Majority PAC) was as much Tom Craddick’s PAC as Tom DeLay’s, which after all was set up to elect him speaker:

- TRMPAC used corporate-funded direct mail pieces first in the 2002 Republican primary to aid candidates who were Craddick loyalists;
- Craddick personally accepted a $100,000 corporate check for TRMPAC, claiming that he didn’t look in the envelope;
- Craddick, telephone records show, repeatedly called the field director for TRMPAC in the 6 weeks before the general election, although he claimed no involvement;
- Craddick collected corporate money for his successor Stars Over Texas PAC, despite an on-going grand jury investigation of TRMPAC for taking corporate money.

And despite strong bi-partisan support, Craddick killed in 2005 comprehensive legislation by Reps. Craig Eiland of Galveston and Todd Smith of Euless (HB 1348) to tighten the corporate and union prohibition so sham issue ads and other abuses wouldn’t happen in the future — whether in Republican primaries or general elections. Despite unanimous editorial support and 93 House bill sponsors, Craddick had the bill killed in committee. Then he claimed that he had nothing to do with killing the bill. He killed the bill, I believe, because his lawyers told him (incorrectly in my legal opinion) that it might hurt his legal position before the grand jury investigating TRMPAC. In short, it appears he again put his interests over those of the state and his party.

In 2007, Rep. Todd Smith again proposed a comprehensive corporate prohibition bill that I helped draft. HB 1085 followed standard modern corporate prohibition provisions of federal and other states’ laws. I met early in the session with business representatives and lobbyists (who will go nameless so they and their clients aren’t retaliated against) who liked and supported the bill. We even talked about an “odd couple” editorial tour with big business and ethics reformers going around together to support the bill. Yet, when folks went a few days later to talk to the Speaker, they were told NYET, killing any chance of reform. So Craddick again killed reform that would maintain Texas’ 104-year-old corporate and union prohibition, that is supported by the public (Republicans and Democrats), the legislature, the lobby and business, and that would end nasty, sleazy anonymous sham issue ads.

I came to conclude that he killed the bill this session, even though he no longer had even any arguable legal jeopardy, so he and his allies could use corporate-funded anonymous sham issue ads to attack recalcitrant legislators, whether Republican or Democrat. Otherwise, why kill reform with strong bipartisan support?

If the House wants to restore its reputation, Craddick must go.

Fred Lewis is an Austin attorney and an advocate for campaign finance and ethics reform.

Texas Weekly’s Soapbox is a venue for opinions, spins, alternate takes, and other interesting stuff sent in by readers and others. We moderate submissions to keep crazy people out, and anonymous commentary is ineligible. Readers can respond (through the moderator) to things posted here. Got something to submit? We’re interested in everything from full-blown opinion pieces to short bits to observations or tidbits that have escaped us and the mass media. One rule: Your name goes on your words. Call or send an email: Ross Ramsey, Editor, Texas Weekly, 512/288-6598, ramsey@texasweekly.com.

The Legislature is putting another private toll road moratorium on Rick Perry’s plate, and if he doesn’t find SB 792 palatable, they’re prepared to force-feed him a bill he pooh-poohed last week.

Perry vetoed the first moratorium, HB 1892, as part of a trade; lawmakers won’t override that veto if he’ll sign this second moratorium bill, SB 792. That was supposed to all happen a week ago, but the new bill got bogged down by House amendments the governor didn’t like. Now it’s prepared the way he’d eat it: Excised is an unlucky House amendment, Number 13, which Perry’s Legislative Director Ken Armbrister said would lead to a second veto.
The second bill would prevent, for two years, government contracts with the private sector to build and maintain roads, sometimes in exchange for control of the road and its toll receipts for several decades.


It wouldn’t have had much of a practical effect on road projects, he said, likening it to a pair of "suspenders" for the moratorium. "If environmental assessments are not complete in the next two years, and they’re not projected to be, then no work would be done anyway," he said.

Smith said the amendment is out of the conference committee report. But he said the legislature still has leverage with the governor (who would rather have no bill at all). If Perry does not sign within a certain time frame, the House will override his veto of HB 1892, Smith said, putting the original bill into law. A two-thirds majority in each chamber is needed to overturn the veto; if the initial votes stick, both chambers have more than enough votes to do it. There’s some resistance to the idea, though; the Lege hasn’t overridden a veto since 1979.

A veto override could lead to the special session threatened earlier by the Governor. But Armbrister said that the only way a special session is a definite is if the Legislature fails to pass the budget.

Senate Transportation Chair **John Carona**, R-Dallas is trying to keep things cool: "My advice to my colleagues is to negotiate in goodwill on SB 792, to not focus and concentrate on a veto override."

Carona said the worst-case scenario would be for no moratorium bill to be passed at all and for the "status quo" to remain.

Almost all current toll projects in major cities and in highly populated border counties would be exempt from the moratorium. Carona said the three goals of SB 792 are to impose the moratorium, to reform future CDAs and to allow local authorities to continue building in their regions.

SB 792 addresses how TxDOT can turn over its right-of-ways to local authorities, how public agencies can build competing roads near CDA roads, and how an agency can "buy back" a CDA road if it wishes to renege on a long-term lease. Once the moratorium ends, the bill also authorizes local agencies to entertain CDA proposals with terms in 10-year increments, up to a max of 50 years.

— by **Patrick Brendel**

A lawyer we know was out drinking with a lobster the other night and saw some members of the House’s anti-**Tom Craddick** rebellion sitting at a big table having a good time. Nothing wrong with that, he said, except that he was guessing Craddick was sitting next to a telephone somewhere, writing notes in his tiny scrawl on a legal pad, talking to people, working.

This guy's harder to kill than Bugs Bunny.

If you give someone like the current speaker of the Texas House time to work, you greatly decrease your odds of toppling him. And the Republicans trying to put together a coup have given Craddick almost two weeks since they began talking openly about moving to vacate the chair he occupies. They might still try it (they’re still trying hard to put it together), and they might still prevail, but they’ve given him time to counter, and he’s taken advantage of it.

He’s given the gavel to others in the House, so they could run the proceedings while he works the floor and pulls members into his office for private chats. He’s allegedly offered plums to friends and stones to foes, dealing local appropriations in some cases and election troubles in others (his aides say he’s never offered anything for a vote for speaker, and has never worked against incumbents seeking reelection).

He’s lost a few, won a few, and created new ways to win the contest with the time they’ve given him, and he’s remained in his increasing hot seat for longer than some of his enemies thought possible. Somebody even told us this week, they think he’ll hang on until 2011, when the Legislature takes up redistricting. Just the idea of that shows you how the odds have moved in the last week or so.

Omnibus water legislation streamed past both the House and the Senate, picking up an amendment that won’t beach the bill but may land the state in court again. Even with that, SB 3
by Sen. **Kip Averitt**, R-Waco, is headed to conference committee.

Two hotly contested reservoir sites — Marvin Nichols and Fastrill in Northeast Texas — were stripped from his bill in the House. Similar water legislation, sans reservoirs, has also passed each chamber. Rep. **Robert Puente**, D-San Antonio, was still considering whether or not to request conference committees for HB 3 and HB 4 when we went to press.

HB 3 has language to protect environmental flows. HB 4 pertains to water conservation. The two are duplicated in Averitt’s bill, and the Senate fixed the House bills so they won’t take effect unless Averitt’s bill also passes.

Rep. **Charlie Geren**, R-Fort Worth, said last week that the two reservoirs were vital to the Dallas-Fort Worth Metroplex. However, Geren then voted in favor of SB 3 without the reservoirs. His reason? Geren says Averitt promised him he would try to re-add the two reservoirs in conference committee; Averitt says he'd like to add those and two other reservoirs trimmed from his bill by the House.

That seems likelier if the makeup of the conference committees is more urban than rural, because it’s the cities that want the water and the rural areas that don’t want the new lakes.

**Ken Kramer**, director of the Texas Chapter of the Sierra Club, is wholeheartedly backing the House bills, but has reservations about the reservoirs in the Senate legislation. He says the designation of reservoir sites would do little, in practical terms, for the actual construction of reservoirs, and would succeed only in reducing the value of property within the sites.

Kramer says Fastrill's designation as a reservoir site is especially iffy, since it's already been designated as a federal wildlife refuge, and federal law trumps state law. Texas is battling in court, but Kramer thinks that's a fight the state can't win.

Rep. **Larry Phillips**, R-Sherman, added an amendment to SB 3 that made two reservoir sites in his district subject to the approval of the Fannin County Commissioners Court. Other amendments placed restrictions on reservoir building, basically making it so that a city has to demonstrate a commitment to water conservation before it can build a reservoir. That's aimed directly at the Metroplex, which has been accused of being a water hog by reservoir opponents.

Kramer says he can live with the House version of SB 3, but not with an Edwards Aquifer Authority amendment by **Glenn Hegar**, R-Katy. He predicts that could lead to a court fight. Puente, however, isn’t impressed with the possibility of being sued by the Sierra Club.

"Tell me when they haven't said that. Tell me when they haven’t threatened that, to go to court," he says. Hegar's amendment — added to two of the three bills — involves "shared sacrifice" and "shared benefit," he says.

Kramer says Hegar's amendment does four things: 1) increases the amount of water that can be pumped from the aquifer; 2) creates restrictions on the amount that can be pumped during times of drought or when the aquifer is low; 3) allows the EAA to raise money to build and operate recharge facilities to put more rainwater into the aquifer; 4) spells out the procedure for a federally-mandated Recovery Implementation Process (RIP), where aquifer stakeholders get together and try to reconcile their concerns.

Kramer's main objection is with that pumping provision, which he says would choke off springs and threaten endangered species. That's the same reason the Sierra Club took the state to court a decade-and-a-half ago, leading to a federal judge's 1993 decision that prompted the legislature to create the EAA in the first place. He says the fourth provision — the RIP — isn’t needed and is tilted to favor pumpers over environmentalists.

Hegar says he’d be "really disappointed" if the Sierra Club takes the state to court over his amendment. The state guidelines for the RIP are meant to speed up negotiations, which under ideal circumstances may take 15 to 20 years. The purpose of the steering committee is to designate a RIP leader, whose job would simply be to keep the negotiations swimming along, he says. The RIP will ensure that future Edwards Aquifer decisions are "truly science driven — not driven by a person's or group's different agendas," Hegar says.

- **Averitt's omnibus air bill** — SB 12, is headed to conference, too. Among other things, the bill encourages reducing vehicle emissions and increasing energy efficiency. It attracted a bunch of amendments and Averitt said some pruning is needed in conference. One apparently doomed amendment, by Rep. **David Leibowitz**, D-San Antonio, would change the utility code to
prevent homeowner's associations from banning solar energy. Perry's pushing for the bill, according to Armbrister, who says Texas needs this legislation in place when the feds change the way they monitor air quality in 2008. Right now, it's measured in 8-hour increments; that's changing to every 12 hours. Armbrister likens it to standing in the rain; the longer you stand, the wetter you get. This may bode ill for near-non-attainment areas, which are already on the cusp of not complying with federal air standards, and Averitt's bill could help.

— by Patrick Brendel

Four House members who are running for speaker have joined together to form the 3 R PAC (short for "Ronald Reagan Republicans for Local Community Control and Speaker Term Limits" political action committee). The object, they say, is to promote a three-term limit for speakers and to "protect Republican legislative incumbents and candidates from attack in the upcoming 2008 primary."

Reps. Fred Hill of Richardson, Jim Keffer of Eastland, Brian McCall of Plano, and Jim Pitts of Waxahachie will be on the board. Rep. Byron Cook of Corsicana will be the treasurer. All five oppose Tom Craddick's effort to win a fourth term as speaker, and the PAC, they say, is to defend members who oppose Craddick from retaliation.

Some Republicans outside the Capitol made a big deal of the fact that the press release announcing the PAC was written by Fort Worth political consultant Bryan Eppstein. It wasn't sent from one of his firm's email addresses, but his name and The Eppstein Group show up in the author box on the electronic document sent to reporters. Only one of the five guys mentioned in the press release — Pitts — has never been an Eppstein client. And Eppstein, asked if he's running the revolution against Craddick, says he wrote the press release at the request of his clients and pointed out that "about half" of the Republicans who still support Craddick also employ Eppstein as a consultant.

House Republicans already have one PAC, called Stars Over Texas, which is run by the speaker's daughter, Christi Craddick. She was on the floor of the House this week talking to members while the House was in session.

House Speaker Tom Craddick's reading of the rules governing challenges to the chair. This is the version entered into the House Journal. On the speaker's letterhead:

May 26, 2007

The following is being entered into the House Journal by Speaker Tom Craddick:

* * *

The office of Speaker of the Texas House of Representatives is the only constitutionally-mandated officer of the Texas House by virtue of Article 3, Section 9 of the Texas Constitution. All other officers of the House, including committee chairs, are chosen by rule. The Speaker occupies a unique position in this state as an officerholder in his capacity as a state representative from a particular district of this state and also as the constitutional officerholder of the position of Speaker of the Texas House of Representatives.

The Texas Constitution speaks to the exclusive grounds for the removal of officeholders. Article 16, Section 5 is applicable to all officeholders and is automatic upon conviction for bribery. Article 3, Section 11 is specific to the legislature, and authorizes each house of the legislature to expel members for offenses upon a two-thirds vote. Article 3, Section 8 vests procedural authority upon each house to judge election contests and qualifications to hold office as a state legislator.

Furthermore, a unique provision of the Texas Constitution, Article 15, Section 7, mandates that the legislature can only provide for the trial and removal from office of any officer of this State by enactment of a law if a mode for a state officer's removal has not otherwise been specifically provided for in the Texas Constitution.

This unambiguous provision of the Texas Constitution overrides any supposed merit to the suggestion that a process to remove an officer of this State can be created by one house of the legislature during a legislative session and used to remove that officer from office. Because Article 15, Section 7 specifically forbids the result that Representatives Smith, Hill and Dunnam...
seek to accomplish by motion, their reliance on precedent from sources outside of the Rules of this House, the Texas Constitution and the laws of this state is misplaced and violates the specific substantive provisions and procedural guarantees of the Texas Constitution.

Additionally, and independent of the foregoing, the House Rules do not have a provision for members to remove a Speaker during mid-session for the reason that Article 3, Section 9 of the Texas Constitution governs the timing and authority for the election of the Speaker. A motion to amend the rules to provide for electing a Speaker by a new and different method than that set out in the Texas Constitution is, in essence, an attempt to amend the Texas Constitution by the passage of a motion in one house. Amendments to the Texas Constitution can only come about by the passage by two-thirds vote in both houses of the proposed amendment which must then receive voter approval in an election called for that purpose.

Given that the motion being proposed is not authorized by law, and furthermore conflicts with applicable provisions of the Texas Constitution, the effect of passage of such a motion would be invalid. As a matter of public policy, for a Speaker to recognize a member for such a motion would not only be disruptive of the legitimate business on behalf of the citizens of this state that the House should instead be conducting, but it also would undermine the institution of the office of the Speaker of the Texas House of Representatives.

Therefore, pursuant to my authority under Rule 5, Section 24 of the House Rules, I denied the requests to be recognized for the motion.

House Speaker Tom Craddick held off an attack on his leadership Friday night by refusing to allow members to vote for or against him.

He refused to allow the House to consider motions to vacate the chair (the term for deposing a speaker), repelling the mutiny for now by saying he has the power to ignore any motion questioning his rulings from the chair.

You can't challenge the speaker, in other words, without his permission.

The House quit around 2 a.m. The various factions are regrouping and start again late Saturday morning.

The House plans to take up the state budget Sunday afternoon, so there's no quitting before then, and the mutineers now have cause to battle the speaker. In the hours between now and Sine Die, we get to find out whether he strengthened his position or simply gave the House new reasons to throw him out.

When the parliamentary melee started, Craddick pulled a Richard Nixon move (though Craddick's was a Friday Night Massacre and Nixon's happened on a Saturday), appointing advisors who'd agree with him in place of the advisors who didn't. In this case, that meant accepting the resignations of House Parliamentarian Denise Davis and Chris Griesel and replacing them with former Reps. Terry Keel, R-Austin, and Ron Wilson, D-Houston. Davis and Griesel asked to be reassigned to other jobs within the House, and didn't say anything particularly illuminating in their identically worded resignation letters.

Craddick's office issued a statement saying, if you read between the lines, that he got advice elsewhere that he preferred to that offered by the parliamentarians. It's attributed to his press secretary, Alexis DeLee: "In the last few weeks, the Speaker has received a number of informal inquiries on intricate and complicated constitutional issues. Consequently, he has canvassed a wide range of legal opinions, and in some cases has put a higher premium on that counsel. As a result, Denise has resigned and has asked to be transferred. The Speaker will be complying with her wishes."

Once they were in place, he announced his rulings that the chair has the unappealable power to recognize motions — or in this case, not to recognize them. You can't challenge the speaker, in other words, unless the speaker says you can challenge the speaker.

The official version of this — which Craddick entered into the House Journal — says no member of the House can be tossed out of office except by a two-thirds vote or a bribery conviction. And he said the House Rules don't include provisions for removing the speaker during session. And trying to add such a rule now would, he said, amount to an attempt to amend the state constitution.
The outside drumbeats began while the House was still in session. The Republican Party of Texas sent out a flight of emails urging people to "Please call your State Representatives RIGHT NOW and tell them to put principle first by getting back to the business of the House — debating legislation, not dishonoring the people of Texas and our legislative process! The move to vacate the chair at this time will cause anarchy in the House."

The Texas Eagle Forum noted the start of the "cout d'etat" and characterized it like this: "A handful of RINOs, Republicans in Name Only, and about 50 Democrats are trying to wrestle the leadership position away from the House from Speaker Craddick." They also urged calls to members, telling legislators to stick with Craddick.

In the papers:

AUSTIN -- House Speaker Tom Craddick threw the chamber into turmoil and caused the House parliamentarian to resign on Friday night when he told lawmakers he could shut down an attempt to overthrow him simply by refusing to recognize the request to do it.

Craddick asserts power as members shout 'Anarchy!'  
By JAY ROOT, Fort Worth Star-Telegram, 5/26/07

AUSTIN -- Republican House Speaker Tom Craddick, clinging to power in the face of a rising mutiny, sparked a firestorm in the House chamber Friday night when he asserted absolute authority to cut off any moves to boot him from office.

Mutiny in Texas House/Lawmakers move to push out Craddick, but he won't give in  
By Laylan Copelin, Mike Ward, Austin AMERICAN-STATESMAN STAFF, 5/26/07

Speaker Tom Craddick refused early this morning to recognize a motion to remove him from office after a long, raucous evening on the House floor. During several hours of pandemonium and tedium (during lengthy recesses), Craddick's two parliamentarians resigned, former Reps. Terry Keel and Ron Wilson assumed those posts and members began discussing taking the speaker's ruling to court.

Texas Legislature ignites with push to oust Craddick/Speaker says he wouldn't have to recognize motion for ouster  
By R.G. RATCLIFFE and JANET ELLIOTT, Houston Chronicle Austin Bureau, 5/25/07

While the leadership in the House looks for ways to escape the legislative session alive, two senators are talking filibuster on the budget.

Sen. Kyle Janek, R-Houston, is threatening to filibuster the state budget because of an indigent health care issue. It's complicated, but the simple version is that Galveston's teaching hospital isn't getting $13 million it needs to take care of patients who can't pay for their own health care.

Janek says he's been working on the issue for the entire session and didn't learn, finally, that the money wasn't in the budget until this week. He's meeting with officials from the University of Texas System, which operates UT Medical Branch's John Sealy Hospital, and with folks from the Legislative Budget Board, to try to work something out. If he can't, he'll filibuster.

Janek says he already has the votes to block early consideration of the budget. Unless they vote to suspend their rules, the Senate can't start talking about the appropriations bill until Sunday evening. If it starts then, and the session is to end on Monday, Janek's easily within the time frame to kill the budget by talking.

He's not the only senator talking about putting on comfortable shoes and talking the budget to death. Sen. Rodney Ellis, D-Houston, says the late decision to kill a provision for Texas Southern University could prompt him to filibuster. It would have provided $25 million in contingency funding for the troubled school, but was wiped at the request of the House, allegedly a pawn in the speaker race.

Ellis isn't saying he'll filibuster, but says he liked that rider and is considering whether to talk the budget to sleep because it's out.
The late Senate consideration of the budget, for whatever reason, And that increases the budget's value as a hostage in the battle over House Speaker Tom Craddick's reign. If the budget doesn't pass, the governor doesn't have any choice but to call a special session. And if you're trying to save your hide, as Craddick is doing, you don't want to give your antagonists another month to work on you.

The House plans to bring up the budget for consideration on Sunday afternoon.

The House's vote on a budget for 2008-09 might have nothing at all to do with state spending and everything to do with the Speaker of the House.

With the mutiny against House Speaker Tom Craddick corked for the moment by his reading of the rules, the mutineers' best chance to remove him from office could come in the form of a late-session vote against the state budget.

A rule from basketball: If you can't play an inside game, you have to develop an outside game. That transfers to legislative politics. If you're thwarted inside the system, you have to go outside. Lawmakers trying to whack Craddick lost their inside game early Saturday morning when Craddick ruled that, in effect, they can't remove him from office without his permission.

If he won't recognize them for a vote on whether he should stay, there's no other way, inside the system, for them to displace him with less than two days remaining in the regular session. But there might be if they had more time, so some members want to block final approval of the state budget, forcing Gov. Rick Perry to call a 30-day special session. That would give the mutineers more time to work, trying to build outside public opposition to Craddick while looking for procedural ways to topple him.

The budget could be blocked in either House. At least two senators are talking about filibusters if they don't get what they want (indigent care money for Galveston's state-owned hospital in one case, and contingency funding for Texas Southern University in the other). With so little time left, a filibuster could kill the thing.

In the House, the budget vote could become a referendum on Craddick. He won't recognize anyone to make a motion to vacate the chair. There's not enough time — and probably not enough votes — to impeach him outright. A special session is one of the last remaining tricks in their bag, and the budget is probably the only issue that would force Perry to bring them back. The new budget doesn't take effect until September, so there's little risk that anything would get shut down if its passage is delayed.

House Appropriations Chairman Warren Chisum, R-Pampa, has told others in the chamber that he's got more than 85 votes for the bill. If that holds and if the senators can be talked out of talking the bill to death, the budget — and probably Craddick himself — will survive the session that ends tomorrow.