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# The Lone Star Report

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## Racing PAC fundraising tactics questioned

by Mark Lavergne

A state representative, joined by Baptist leaders, is questioning a program they suspect of channeling racetrack money into Texas political races.

Semi-voluntary assessments levied on horse owners went last winter to a political action committee linked to a pro-gambling PAC that ran negative, and sometimes not-quite-accurate, TV ads against three incumbent House Republicans facing primary challenges.

Rep. **Linda Harper-Brown** (R-Irving) is raising questions about the donation program that was in place at several Texas horseracing tracks. Horse owners, unless they specifically declined to participate, paid an assessment of \$10 each time one of their horses competed.

Starting in mid-January, deductions from racehorse owners' accounts were sent to a political action committee run by Texas Horsemen's Partnership (THP), the private entity the Texas Racing Commission relies on to distribute

prize winnings to horse owners.

Earlier that month, THP pledged \$150,000 to Texans for Economic Development, the pro-gambling PAC whose TV ads criticized Reps. **Nathan Macias** (R-Bulverde), **Phil King** (R-Weatherford), and **Betty Brown** (R-Terrell), at the tail end of the primary cycle.

At the Sunset Advisory Commission's April 22 meeting Harper-Brown expressed concern that whereas Texans for Economic Development "was supposed to promote horseracing and economic development from horseracing," it instead became involved in primary elections.

"I'm trying to track the money and how a percentage of each wager evidently is going into that organization to then be used against legislators," Harper-Brown said.

Some of the racehorse owners were for-profit corporate entities and foreign nationals.

The deductions have ceased according to THP executive director **Tommy Azopardi**, who

is treasurer both of THP PAC and the Texans for Economic Development (TED) PAC, with all moneys refunded to the affected parties.

Azopardi told *LSR* that THP ended the new practice after receiving "some concerns and some comments and some suggestions" from members.

Further, he said, the \$150,000 pledge to Texans for Economic Development has not been funded yet, and "at no point did the Texas Horseman's Partnership PAC use that money [the deductions] to contribute to the Texans for Economic Development." It had not yet been determined, Azopardi told *LSR*, how the deductions would be used.

**Jason Johnson**, political consultant for Macias, said that this is just the latest in what appears to be a pattern of "possibly non-compliance, certainly unorthodox ways of funneling money into campaigns." In the last week of February, right about the same time Macias'

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## State, NTTA reach deal on State Highway 161 value

by William Lutz

Are you ready for some football?

As of last week, the answer would have been maybe not.

The new stadium in Arlington for the Dallas Cowboys is scheduled to open for the 2009 football season. And State Highway 161 — a proposed north-south tollway — would run right by the stadium. So there is a lot of interest in the Metroplex in having that road open by the fall of 2009.

But construction got delayed while the Texas Department of Transportation (TxDOT) and the North Texas Tollway Authority (NTTA) were feuding over how much money the toll proposal should bring in. The two sides, along with the North Texas Regional Transportation Council, cut a deal April 20 that allows the road to be built — in time for football season.

The SH 161 fight has statewide significance, as the highway is subject to the "market valuation" process created in 2007 by SB 792 — the compromise transportation bill agreed to by

the governor and lawmakers in the closing days of the legislative session.

SH 161 is also explicitly exempted from the moratorium, declared in SB 792, on comprehensive development agreements — contracts whereby the state leases right-of-way to a private company for construction and operation of a toll road.

In the end, NTTA and TxDOT agreed that the toll agency would provide \$458 million upfront to be used for other projects in the region.

After the 53<sup>rd</sup> year, NTTA would evenly split remaining revenues with TxDOT. NTTA now has six months to decide whether it wishes to build the project.

If it declines, TxDOT can issue a comprehensive development agreement for the highway.

*So what is market valuation?* A philosophical debate in the Legislature centers on whether tolls should be set higher than the cost to build

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legal representation got a temporary restraining order against TED PAC, the Baptist General Convention of Texas Christian Life Commission filed an ethics complaint against TED PAC for the same reason: contributions from corporate entities including the Retama Partners, which runs Retama Park outside San Antonio.

TED PAC corrected the paperwork the weekend before the March 4 primary and claimed all was well. The ethics complaint is still pending.

Johnson said the fact that THP gave back the deductions was beside the point. As with the case of TED PAC receiving money from businesses, "You're not supposed to take the money to begin with," Johnson said.

King said he did not know all the facts yet "but what I have heard is highly disturbing and raises a lot of red flags, big tall red flags."

"Taking part of the prizes and turning into political funds to be used in political campaigns is alarming," said **Rob Kohler** of the Christian Life Commission.

Texans for Economic Development announced in late Dec. 2007 that it had \$1 million to spend on campaigns targeted at legislators who opposed video lottery terminals (i.e., slot machines).

Harper-Brown wanted to discuss the matter with a representative of THP, but no such person was present at the Sunset Committee meeting on April 22.

Azopardi told *LSR* that he was out of town on a business trip at that time and regretted not being present to answer questions, and that he was "a little bit caught off guard by that because it was outside the scope of the Sunset Committee's report, so we didn't make preparations to be there."

Harper-Brown did ask **Paula Flowerday**, an attorney representing Texans for Economic Development, how the money from THP made its way into her client's coffers. She said she was "not involved in that aspect of the organization at all," and could not answer.

THP has been withholding \$10 from the prize winnings of owners (sometimes businesses) of horses participating in races at the Sam Houston Race Park in Houston, Retama Park, and Lone Star Park at Grand Prairie. Before the new system was implemented, prize winnings went exclusively to the top five race finishers. First place got 60 percent, second place 20, third place 11, fourth place six, fifth place three.

The most recent practice "actually reduces the amount of what the horsemen would get," Kohler told *LSR*. That system distributed \$100

to each of the sixth through last-place finishers. (There are typically nine or 10 horses in a race.) After those hundreds were divvied out among the latter-place finishers, 60 percent of the *remainder* of the purse for that race was distributed to the first place finisher, 20 to the second, and so on.

Then there's the \$10 deduction taken from every participating race horse owner automatically. So for example, if the first place finisher is supposed to get \$500 in prize winnings, he would actually net \$490 from THP after the \$10 goes to the THP PAC.

If the racer happens to prefer netting \$500, he must inform THP. In other words, he must opt out rather than opting in.

Azopardi said that THP made clear to owners that they can opt out at any time and be refunded retroactively. "We gave members plenty of opportunities to say, 'I don't want to play,'" i.e., contribute the \$10.

Kohler said THP started awarding \$100 to the latter-place finishers "just to take away ten dollars ..."

On THP's website the Texas Thoroughbred Horsemen's Benevolent and Protective Association (TTHBPA), an organization housed within THP, says one of its goals is to ensure "maximum purse distributions for Thoroughbred horseman."

Azopardi said that the most recent system replaced a system under which an owner could opt *into* have \$5 deducted whenever he started a horse. He then had two options regarding how much of the prize winnings could be taken out, with as much as \$100 in deductions possible. THP decided to change the system to an opt-*out* across the board \$10 deduction from all race horse owners' accounts, Azopardi said.

THP has no existing program like the above two for raising money from horse owners. A vote will likely be taken on a new program when the THP board of directors meets again, Azopardi said — likely in late May.

Azopardi defended the opt-out component of the most recent program, saying that organizations in neighboring states employ automatic deductions, so "those are the types of programs that our members are used to."

THP PAC's January semi-annual campaign finance report shows \$5,267.29 in political contributions of \$50 or less. Because the "contributions" are less than \$50 each, THP was not required to itemize them, so "you have no idea who it's from," Kohler said. In that same report, THP reports a single political expenditure: a \$1,000 donation to the campaign of

**Doug Miller**, who beat Macias in the primary for HD 73. That race is currently under litigation, however. (It is also worth noting that Miller did not keep all the contributions to his campaign from the gambling lobby.)

Johnson said the activities of THP and TED PAC "without question had an impact on the Macias race, a big one."

We do know that some of the "contributions" did come from sources outside the United States, and from for-profit corporate entities. How?

A report on political expenditures from THP PAC issued on March 31, eight days before the runoff, shows a list of over 500 individuals or entities, each receiving the refund as confirmed by Azopardi in mid-March from the PAC for exactly \$10 each.

The "contributions" appeared to come from all across the fruited plane - and even outside them. Several \$10 deductions were returned to individuals or entities in Canada and Mexico.

Several more of the \$10 contributions were returned to for-profit companies. The following sources listed on the THP PAC's political expenditure report are listed on the Comptroller's database of taxable business entities: Ace Thoroughbreds LLC in Plano, Agave Racing Stable in San Antonio, B/L Racing Stable LLC in Madisonville, Barnett Stables L C in Plano, Elite Thoroughbred Racing LLC in Plano, Griffon & Griffon Enterprises in Friendswood, Hooper Racing LLC in Georgetown, Israel Flores LLC in Houston. That's just the first half of the report.

King and Johnson both called for investigations. Said Johnson: "Somebody with authority needs to be able to go in and get the books of all these organizations ... [of] THP and TED PAC primarily."

Said King: "Somebody from the Ethics Commission or [Attorney General] or the Racing Commission or the Sunset Commission, somebody needs to find out all the facts, because on its face this sounds very, very, very disturbing."

The executive directors for the Texas Quarter Horse Association and the Texas Thoroughbred Association both distanced themselves and their organizations from the dealings between THP and Texans for Economic Development.

Azopardi said he plans to respond either to Sunset staff or to the entire Sunset Commission to the specific questions raised by Harper-Brown. ○



## Berman to colleagues: Get illegal immigration reform done

by Mark Lavergne

Rep. **Leo Berman** (R-Tyler) sent a message to the House State Affairs Committee on April 21: As a political issue in the state of Texas, illegal immigration is not going away, because it is still a major problem, and members of the committee can count on seeing many of the reforms that died last session rising again in the upcoming one. Here are some highlights:

"Members, when the Legislature met in 2007 a number of bills were filed to deal with the problem of illegal aliens in Texas," he said Monday. "By the end of the session, the only information on this critical issue that was heard on the floor of the House of Representatives was presented by me, in a personal privilege speech on May 7, 2007."

Some of those bills died in the State Affairs Committee to which Berman was speaking.

Berman kicked off his statement to the committee by citing the 2006 study *The Economics of U.S. Immigration*, by **David Hartman**, chairman of the Lone Star Foundation, publisher of this newsletter. Says the study: 1.5 million illegal aliens lived in Texas in 2006, at a net cost of \$3.5 billion per year to state taxpayers.

There is likely now closer to 2 million illegal immigrants living in Texas following the passage of strict illegal immigration legislation in Oklahoma and Arizona, Berman said. He also lamented the pervasiveness of illegal labor in the state as a result of lax if not non-existent legislation prohibiting employers from hiring illegal immigrants. He cited a Harvard study showing that illegal immigrants depress wages below those earned by skilled labor by five to eight percent.

"Unscrupulous employers who knowingly hire illegal aliens violate federal labor laws and create an incentive that encourages mass migration from Mexico and other nations to the United States," Berman said. "Illegal aliens in the United States workforce signal to others that crossing the border in search of a job is an acceptable risk. Without jobs the illegal alien problem would not have become the national crisis that it is."

But State Affairs Committee Chairman **David Swinford** (R-Dumas) argued in the last session that it was precisely because of those federal immigration laws which pre-empt state law that the state could not itself pass legislation to crack down on illegal immigration. It's up to the federal government, the argument went, to

drop the hammer on employers that hire illegal immigrants in large numbers.

A solution to the problem that has given other members of the committee hope is the prospect of 287(g) agreements, named for a subsection in federal immigration law that allows local law enforcement authorities to receive training from federal authorities to enforce federal immigration laws.

Berman told the committee members that legislation is needed to, among other things: penalize employers who hire illegal immigrants; challenge automatic birthright citizenship supposedly granted under the 14<sup>th</sup> amendment; allow local police to enforce federal immigration laws; cut off state assistance programs for illegal immigrants; prevent lawsuits by anyone in the United States illegally; require a photo ID to vote.

The legislature may have to do some cost-benefit analysis in weighing 287(g) agreements. Irving Chief of Police **Larry Boyd** told the committee that a 287(g) agreement would actually hamper Irving PD's operations combating illegal immigration. Those operations have made national headlines.

For example, Boyd said, if an Irving officer arrests someone for DWI, a 287(g) agreement would require Irving PD to allow the prisoner to "go through the court process," which would take eight months, before looking into the suspect's immigration status. Under Irving PD's current program, which involves open constant cooperation and communication with the federal agency Immigrations and Customs Enforcement, they can take steps to identify the suspect's citizenship status as soon as he walks through the doors of the jail.

Berman also said that the federal government underestimates the number of illegal immigrants in the United States, and that it is likely closer to 20 million. Of those, 5 million work for cash and do not pay income or FICA taxes. Of those that do, he said, they are illegally paying social security with either a stolen ID "from one of your constituents," or a fraudulent social security card.

"Colleagues," said he, "we all know that illegal aliens have better health benefits than many of your own middle income constituents who are U.S. citizens. Our middle income constituents earn too much money to qualify for Medicaid. They don't earn enough money to

purchase their own health insurance. They cannot go to a hospital and demand free health care like an illegal alien can. That is outrageous, members, and must be dealt with by all of us."

Berman said that automatic birthright citizenship was a "crisis," leading to 70 or more percent of births being from illegal immigrants in multiple hospitals in urban areas across the state.

He even went so far as to explain his terminology: "An immigrant, members, is someone who comes to a country legally. They willingly adopt our culture. They willingly learn and use our language. They willingly pay all of the taxes just like all U.S. citizens. And then they willingly raise their right hand and swear allegiance to their new country, the United States. Members, an alien according to Webster's is someone who owes allegiance to another country. Thus the federal term 'illegal alien.'"

"Elected officials who support illegal aliens in our country in violation of their oath of office downplay this crisis by calling illegal aliens 'undocumented immigrants.' There's no such thing. They are illegal and they are aliens because they have allegiance to another country."

Rep. **Debbie Riddle** (R-Tomball) applauded Berman for his "courage, and what you're doing in order to do your first job" - to ensure the "safety and security of the citizens that we represent is well-established." She told Berman that he "should have had a standing ovation" after giving his personal privilege speech last session. O

### Does your group need a speaker?

*Lone Star Report* managing editor Will Lutz and other *LSR* contributors are available for speaking engagements before political clubs, trade associations, or other civic organizations.

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### **Craddick creates property tax relief committee**

Speaker **Tom Craddick** has announced formation of the Select Committee on Property Tax Relief and Appraisal Reform, with Rep. **John Otto** (R-Dayton) as chairman and Rep. **Ken Paxton** (R-McKinney) as vice chairman.

"The House," Craddick said, "is committed to doing everything it can to provide meaningful and responsible property tax relief to those who are strained by the burden of soaring taxes. Under the experienced leadership of Rep. Otto, I have full confidence that the members of this committee will come together and create a workable solution to this issue."

It is worth noting that both of the chairmen of the standing committees that normally deal with property tax issues have chairmen — **Fred Hill** (R-Richardson) and **Jim Keffer** (R-Eastland) — who joined the anti-Craddick insurgency toward the end of the 2007 legislative session. Hill is also a leading opponent of lowering the homestead appraisal cap and making it easier for local voters to roll back city and county tax increases — two key ideas that have been proposed to keep property taxes in check.

Other committee members: Reps. **Drew Darby** (R - San Angelo), **Gary Elkins** (R - Houston), **Ismael "Kino" Flores** (D - Palmview), **Dan Flynn** (R - Van), **Dan Gattis** (R - Georgetown), **Joe Heflin** (D - Crosbyton), **Phil King** (R - Weatherford), **Tracy King** (D - Batesville), **Ruth Jones McClendon** (D - San Antonio), **Inocente "Chente" Quintanilla** (D - Tornillo) and **Larry Taylor** (R - Friendswood).

Texas Conservative Coalition Chairman Rep. **Wayne Christian** (R-Center) praised the formation of the committee. "Today I join the millions of Texans who suffer under the growing and painful weight of property taxes in thanking Speaker Tom Craddick for creating a Select Committee to study property tax relief. This is a top issue for all Texans and a major priority for the Texas Conservative Coalition. In the last three sessions, the Legislature has worked to make property taxes less burdensome. Yet, despite billions of dollars in legislatively-appropriated property tax rate relief, local rates, appraisals, and bond debt continue to push property tax bills ever-higher."

### **Lena Guerrero dies**

Former Railroad Commissioner **Lena Guerrero**, who made her political mark as 1) the first Hispanic and female member of the Texas Railroad Commission, only 2) to lose the race

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### Around Texas

for a full term after disclosure of her false claim to have a University of Texas degree, is dead at age 50. Laid low a decade ago by brain tumors, Guerrero was named to the commission in 1991 by Gov. **Ann Richards** herself a female political pioneer. She previously served three full terms in the Texas House.

### **Combs gives extra time for franchise tax filing**

Comptroller **Susan Combs** says businesses, upon request, can get an extra month to file their franchise tax returns in this, the first year they must file returns under the revised franchise tax passed in 2006. The normal due date for a return is May 15. However, businesses can request an additional 30 days to file without penalty.

"We want to make sure businesses and tax practitioners have adequate time to make sure they're complying with the revised franchise tax," Combs said. "Because they're dealing with new calculations and enhanced technology for filing reports, the one month penalty waiver will help taxpayers accurately complete their returns in the first year of this brand new tax."

### **TAB requests additional education reform**

The Texas Association of Business is calling for lawmakers to enact another round of education reform. This week marks the 25th anniversary of publication of the federal report *A Nation at Risk*, highlighting the problems with the American education system. TAB President **Bill Hammond** used the anniversary to call for higher standards in education.

"After a quarter of a century, mediocrity still is the standard by which Texas schoolchildren are measured," Hammond said. "Unless we want our education system to remain static, it is time for Texas schools to use a new measuring stick."

Hammond noted that under current standards a mere 45 percent of students have to pass the math test for a school to get an "acceptable" rating, only 40 percent must pass the science test, and only 65 percent have to pass the reading, social studies, and science tests. "As a result of

this failed policy, Texas high school graduates remain ill prepared for either college or the workforce," Hammond said.

### **Coordinating board: No to creation science**

The Texas Higher Education Coordinating Board April 24 declined the request of the Institute for Creation Research, an educational institution that believes the Bible is literally true, for a Certificate of Authority to offer a master of science in science education degree. Texas law requires coordinating board approval for institutions wishing to offer something called a degree, unless they are accredited. The law was declared unconstitutional by the Texas Supreme Court, as applied to seminaries.

### **Texas jumps in tort rankings**

The State of Texas tort system has improved to 41<sup>st</sup> in the nation, according to a survey by the U.S. Chamber of Commerce's Institute for Legal Reform. That's up three slots from last year's ranking. The Texas Civil Justice League credits the tort reform bills passed by the Legislature in 2003 with much of the improvement. "The Texas Legislature has passed landmark legal reform during the past two decades, fueling job creation and increasing access to healthcare," said league president **George S. Christian**. "The Supreme Court's role is equally important. The current court has worked hard to restore faith in the system, and the nation is taking notice."

### **Macias election contest update**

Currently, the election contest trial of **Doug Miller's** narrow victory over Rep. **Nathan Macias** (R-Bulverde) is set for May 19.

However, Macias has filed a motion with the 3rd Court of Appeals in Austin seeking to have visiting judge **James Clawson** removed from the case. Macias's attorney requested that Clawson remove himself from the case, but that request was denied.

"Under the law, Chapter 74 of the Texas Government Code, every civil litigant has the right to one objection of an assigned visiting judge," Macias said. "It is simply a matter of right, not cause, and I trust the panel that hears the appeal will agree with our position."

Macias is challenging whether sufficient illegal votes were cast to alter the 17-vote margin of the Republican primary election.



*NTTA/from 1*

and maintain a road, with the excess going toward other non-tolled road building projects.

Some lawmakers, believing toll roads should pay only for themselves, see the setting of higher tolls to pay for other projects as “Robin Hood”-style redistribution or a back-door tax increase.

However, Gov. **Rick Perry** is a firm believer in that approach. He also strongly believes in “public-private partnerships” — the use of lease agreements to secure private-sector financing for roads.

The market valuation process is a compromise between lawmakers and the Governor. It must either be completed or waived (by both TxDOT and local transportation authorities) before a new toll road may be built.

Under the procedure, TxDOT and the local tolling authority have to agree on terms and conditions — including toll rates — for a project. Then the two entities agree on a third-party to conduct the market valuation. Next, both entities have to agree on the final value. After that, the tolling authority has six months to exercise right-of-first-refusal — to build the project and make the up-front payment determined by the market valuation. If the tolling authority doesn’t exercise its right-of-first-refusal, then TxDOT can issue a comprehensive development agreement.

If both TxDOT and the local tolling authority agree, market valuation can be waived.

The up-front payment TxDOT receives from the local tolling entity must be used to build other roads in that region.

*What happened in the SH 161 case?* TxDOT and NTTA could not agree on business terms for the market valuation. (Business terms are not specifically defined in the bill, other than that they have to include the toll rate and toll escalation methodology).

They have been negotiating since the summer of 2007. During these negotiations, literally hundreds of business terms have been negotiated, not the handful envisioned as a part of SB 792. At the Senate Transportation and Homeland Security Committee’s April 23 meeting, NTTA officials accused TxDOT of trying to impose on the local toll authority the same rules that are imposed on a private company under a comprehensive development agreement.

TxDOT had warned that it may try to construct SH 161 as a free road if an agreement on a market valuation wasn’t reached by April 15, 2008. This would mean that no new money would be generated by SH 161 for other projects

in the region.

In the final days of the negotiations, Lt. Gov. **David Dewhurst** and several members of the Texas Senate helped negotiate a final deal between TxDOT and the NTTA.

In the final deal, TxDOT and NTTA agreed to waive the formal market valuation process. NTTA then agrees to pay \$458 million if it wishes to build the road. NTTA and TxDOT also agreed to split revenue from the road 50/50, starting 53 years after execution of the project agreement.

Construction on the road begins immediately. Funding paid by NTTA to build the State Highway 121 project in the Northern part of the Metroplex is being used to build SH 161. Once it opens as a toll road, the up-front funds paid to start construction will be repaid.

*What are the state policy implications?* The most obvious state policy question is whether the state should continue to allow public-private partnerships and setting toll rates above what it costs to build and maintain that specific highway. Sen. **Tommy Williams** (R-The Woodlands) distanced himself from the market valuation language at the April 23 Senate Transportation and Infrastructure Committee and wondered whether it should remain in the code.

Perry, on the other hand, argues the state is growing and needs roads. He noted in a speech to the Texas Transportation Forum that highway contract lettings are almost half what they were in 2005. He wants to see more roads built, not less.

The authority to issue comprehensive development agreements will expire in 2009 for most roads and 2011 for all roads, unless the legislature renews it. Therefore, this issue will likely get fought out in the 2009 legislative session, and possibly as a part of the Texas Department of Transportation sunset bill.

Another key question is what business terms should be negotiated in advance of the market valuations. Toll rates and toll escalation are expressly mentioned in law. But **Phillip Russell**, assistant executive director for innovative project development for TxDOT, told attendees of the Texas Transportation Forum that he had envisioned a few key terms, while the SH 161 negotiations included hundreds of terms.

The other state policy implication is whether Houston got treated the same way as the Dallas-Fort Worth Metroplex. During the committee’s hearing, representatives of both Harris County and TxDOT agreed that the market valuation on the Grand Parkway would likely be around zero,

because the North and West sections (which are lucrative) are off-set by the Eastern sections, which would likely lose money. In other words, Houstonians won’t likely have to make a big up-front payment to develop the Grand Parkway.

But TxDOT has sometimes valued projects in segments. And the Dallas area had to make big up-front payments to develop both SH 121 and SH 161. Sens. **Florence Shapiro** (R-Plano) and **John Carona** (R-Dallas) both questioned why NTTA had to make these payments, while folks in Houston may not have to.

Another key policy choice is whether state policy favors private comprehensive development agreements or the use of public authorities to build toll roads. In some ways, this is a question of debt versus equity financing. Public entities usually issue bonds to finance highways. Bond lawyers like to see traffic and revenue studies produced by one of a handful of firms respected by Wall Street. Even TxDOT officials argue these traffic and revenue studies are notoriously conservative and limit the amount of bonds that can be issued with good ratings.

So TxDOT officials frequently argue that public-private partnerships provide access to capital beyond what may be available in the public sector.

In the end, the real policy choice the legislature will have to make is what exactly is meant by local control. In 2003 — when the legislature first authorized privatized highways and using tolls from one project to pay for another — it was sold to legislators as “local control.” “More tools in the toolbox” was a common TxDOT refrain.

But many of the local tolling authorities and local leaders see TxDOT as an obstacle, rather than a help in meeting mobility needs.

Should TxDOT have the right — as it has under SB 792 — to demand above-cost tolls, where revenue can be transferred to other projects? Or should that be a decision solely of local officials and metropolitan planning organizations?

Another related question is how much the state wants to spend on roads. For Perry, it’s “the more the merrier.” But when government (or quasi-government activities carried out by private companies) expands, someone has to pay.

The gasoline tax per capita is declining. So if the state wants to dramatically expand revenue, risky moves become necessary, such as raising that tax in the face of soaring gasoline prices.

In short, the issues surrounding SH 161 reflect most of the key issues surrounding Texas transportation financing. ○



## English grammar belongs in schools

Disquisitions on teaching technique commonly give off the odor of learned monographs on, say, jute manufacture in British India. Not so the rhetorical dust-ups we see — if we're looking and listening — over arguments for the explicit teaching of grammar to Texas public school students. Here we confront a first-order educational issue. You can tell by the voice tones.

On May 22, the State Board of Educations is to consider proposals for a new reading and English curriculum. Board conservatives seek stronger emphasis on the teaching of grammar: participles, predicates, and apostrophes; the bone structure of a sentence. Professional educators express horror at the idea of returning to rules and regulations rather than helping students pick up the essence of the thing through their own reading and writing.

"Learning the basics of the English language," insists **Donna Garner**, herself a former English teacher and now a well-known back-to-basics activist, "will provide students with a strong foundation upon which to write sophisticated papers and upon which to base clear communication."

A fellow educator, Dr. **Stephen Krashen**, ripostes: "Teaching grammar to older students has value, to fill in gaps that nearly all well-read readers have, and as an introduction to linguistics. But there is no substitute for reading, the basis of our ability to read and write well, the source of much of our vocabulary and spelling knowledge, and the source of our ability to handle complex grammatical constructions."

The president-elect of the National Council of Teachers of English, **Kylene Beers**, of The Woodlands, sniffs that the kind of people who want to go back to the basics mostly got their schooling in the 1950s.

Yessum. I did get my book-larin' way back in them ole days. It's one reason that, on this question, I stand alongside Donna Garner. It's not the only reason.

### William Murchison

For five years, after retiring from the newspaper business, I taught persuasive writing to journalism students at a much-esteemed Texas university: good kids, smart and likable, and less prepared than they should have been, as Dr. Krashen would have it, "to handle complex grammatical constructions." I was startled at first. Not only, I found, did my students not appreciate the scandal of the dangling participle, they didn't know, many of them, what it was in the first place...

**“ Grammar isn't “theory.”  
It's reality: the way things work.  
Kids deserve to know, and to  
understand. If we're all com-  
mitted to getting there, so  
much the better. Then we can  
theorize to beat the band. ”**

I said to them, look, if I write, "Jumping from the sinking ship and swimming away, his heart was in his throat" — if I write that, I'm saying his heart jumped from the ship and swam away. It proved an elusive concept for many. As did noun-pronoun agreement. Everybody has their book? No! Ixnay! Everybody has *his* book — or, if you want to get all feminist about it, everybody has his or her book. Anyway, not "their" book.

We went on like this for a long spell. I diagrammed sentences. (Talk about 1950s stuff!) I plugged Latin as an entry port to the wonders of grammar. Which, by the way, it is: thank you, Miss Frances Broadstreet, thank you everlastingly for the Latin you gave us in the '50s. I argued for good grammar in writing as the

rhetorical equivalent of shoes at a job interview.

"Oh, Mr., Murchison," one of my students said to me one day, "we weren't taught!" Weren't taught? Weren't escorted around the framework of the English language? Weren't shown the studs and joists, and given to understand that language is, in the end, plain old architecture: every nail, every beam exhibiting purpose and design?

Nope. "We weren't taught." So why not? Not because the bad old '50s, being Stalinistic in their approach to schooling, required massive repudiation. Rather, because the whole course of pedagogy changed about 40 years ago. It wasn't fashionable any longer to impose Expectations on young people. Oh, goodness, no! We'd warp, perhaps, their tender sensibilities. They might not feel affirmed or complimented sufficiently. They might — sniff! — come to doubt themselves, as well as their intellectual parity with the rest of the world.

No, they "weren't taught," which is a pity. But what of those coming on now and in the future for tutelage? No help for them either? Here we move beyond educational theory. Grammar isn't "theory." It's reality: the way things work. Kids deserve to know, and to understand. If we're all committed to getting them there, so much the better. Then we can theorize to beat the band.

My own "theory"? Compulsory Latin in grade school. *Amo, amas, amat... Gallia est omnis divisa in partes tres... Arma virumque cano...*

It works. Which is more than anyone can say for the fine "theories" that gave us the mess our public officials are diligently — I pray — trying at last to sweep away.

We welcome your leads, suggestions and comments. Please contact us at 512/832-4702, Fax 832-9905 or e-mail [lsr@lonestarreport.org](mailto:lsr@lonestarreport.org).

#### Publisher

The Lone Star Foundation

#### Chairman

David Hartman

#### Contributing Editors

David Hartman, William Murchison  
Bud Schauerte, Peggy Venable

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#### Managing Editor

William Lutz

#### Correspondent

Mark Lavergne



Around Texas/from 7

News from the Democrats

\* The Texas Democratic Party announced record fundraising results for the first quarter of 2008, far exceeding first-quarter totals in past years. The party brought in \$623,976, compared with \$312,760 in 2007 and less still in 2006. "In response to our efforts to build a more effective grassroots organization, both on the ground and online, we are developing the kind of donor base that can sustain a growing Texas Democratic Party as we strive to regain majority party status in Texas," said Texas Democratic chairman **Boyd Richie**. "As the driving force behind our Party, enthusiastic grassroots Texas Democrats can make the difference in key victories this November."

\* **Richie** named Reps. **Rene Oliveira** (D-Brownsville) and **Yvonne Davis** (D-Dallas) as honorary co-chairwomen of the state Democratic convention this June. The chairwoman and chairman are, respectively, Sens. **Leticia Van de Putte** (D-San Antonio) and **Kirk Watson** (D-Austin).

\* Rep. **Roberto Alonzo** (D-Dallas) says he now has the support of Mexican President **Felipe Calderon** for his proposal to allow Mexican immigrants to use the *Matricula Consular* card to get a Texas drivers license. The Legislature has repeatedly refused to enact his proposal.

\* **Diana Maldonado**, a Round Rock School trustee, has received the first check from Texas Blog PAC, run by seven liberal Texas blogs. Maldonado is running for the open seat vacated by Rep. **Mike Krusee's** (R-Round Rock) retirement.

TxDOT shifts money from road maintenance to construction

The Texas Transportation Commission voted Apr. 24 to shift \$4.9 billion dollars in the 10-year Unified Transportation plan from road maintenance to road construction. The Texas Department of Transportation has taken fire from lawmakers after the department admitted to a \$1 billion accounting mistake, and several projects lawmakers thought would be built suddenly got scrapped.

The commission's move may mollify some local leaders and lawmakers concerned about the prior cuts.

TEA announces new science coordinator

The Texas Education Agency has hired a new science coordinator. Commissioner of Education **Robert Scott** announced that Dr. **Kenneth W. Heydrick** will become the agency's new director of science. Heydrick has more than 25 years experience in science education and has edited a biology textbook. Most recently, he was curriculum coordinator of science and health for the Pflugerville Independent School District.

Heydrick replaces **Christine Castillo Comer**, whose resignation under threat of termination in Nov. 2007 made national headlines. Comer's personnel file shows she was repeatedly written up for failure to follow Texas Education Agency policy. Some in the press have tried to link Comer's dismissal to pro-evolution views. In particular, Comer was criticized for forwarding from her state email, in violation of agency policy, information about a speaking engagement of a speaker critical of Intelligent Design. This caused the press to insinuate that evolution was a factor in her termination. ○

Transportation/from 8

tions disproportionately affected the federal government's equity bonus program. That program ensured that all states received a minimum percentage of their gas tax dollars back. Texas, historically a donor state, disproportionately benefits from the program. Thus it was disproportionately hurt by the rescissions, Bass said.

The panelists estimated that over the next 10 years, traditional financing sources will yield \$28.2 billion, which they called a fraction of the amount needed to pay for the state's transportation needs. Hence, the need for new approaches to transportation finance.

Meanwhile, Perry wasn't alone in refusing to back down on a transportation agenda. Republican U.S. Sen. **Kay Bailey Hutchison** said she's not budging in her opposition to tolling existing highways.

At a hearing of the Senate Commerce Committee April 22, Hutchison made clear she still opposes converting freeways to toll roads.

"I am concerned about the views on tolling that were put forward," she said, "I do support the right of local communities to build new infrastructure through tolling. I support tolling if it is going to create an additional lane, where you keep the freeways that are already built with the same number of free lanes. I just can't support the proposal to toll existing lanes.

"The federal government and the states built these roads using federal funding with the commitment that they would remain *freeways*. These existing roads are a public good, built with public funding, and should not be converted to generate money for local entities to take away from the federal taxpayers." ○

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# Perry throws down gauntlet on transportation

by William Lutz

Gov. **Rick Perry** had a clear message for lawmakers at the Texas Transportation Forum in Austin April 22: He's not budging on transportation issues — foreign-operated toll roads and the rest.

"This is progress, and it works," the Governor said.

The transportation forum was created by TxDOT as an alternative to industry conferences less friendly to the agency's agenda.

"While I am looking forward to addressing this issue [transportation] when the Legislature meets in 2009," Perry said, "the state cannot afford to repeat 2007. Members of the Legislature must understand that 'no' is not a solution to this challenge. It is an abdication of responsibility." Perry made clear his determination to defend the renting of state right-of-way to private companies in exchange for a fee and building and operating a toll road.

He also defended foreign and private-sector capital, saying, "In Texas, we pursue private money to build our communications infrastructure, we leverage private money to build our rail infrastructure, and we welcome private investment from overseas if it means putting in a new Samsung plant or a new Toyota manufacturing facility. So why in the world shouldn't we pursue private funds to help us build roads."

Toyota and Samsung, to be sure, face competition in their industries. Nor do they hold government-issued exclusive franchises to build and operate toll roads—a point neither included in Perry's speech nor lost on

many legislators.

Perry also reiterated his opposition to issuing any more bonds against future gas tax revenues until a long-term transportation finance plan has been adopted.

Perry's key point: Even while the state is growing, highway contract lettings are declining, due to dwindling state and federal gas tax revenues. "[T]he simple truth," said Perry, "is, when it comes to roads we need more of them."

Besides Perry's speech, the forum furnished interesting panels, of which the most worthwhile, possibly, dealt with transportation finance. Texas Department of Transportation director **Amadeo Saenz**, chief financial officer **James Bass**, and assistant executive director for innovative financing **Phillip Russell** provided one of the clearest explanations to date of current TxDOT policy.

Bass, discussing problems with transportation finance at the federal level, noted that when the last federal transportation bill was passed (called SAFETEA-LU by the Washington crowd), the federal highway trust fund had a positive balance, which was distributed to states in a lump-sum in the bill.

Now, said Bass, that balance is gone, and the federal highway trust fund is in financial trouble.

Bass said the last round of rescissions (cuts in previously appropriate funding) was a disaster.  
*See Transportation/7*

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10711 Burnet Rd., Suite 333, Austin, TX 78758

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