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05 | 06 | 2011

OBSERVER



Can a former Mexican cabinet minister steer Texas Republicans into the future?

Meet the Middle Man

BY MELISSA DEL BOSQUE



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ON THE COVER
Juan Hernandez
PHOTO BY ALEXANDER ALEMAN

ABOVE: **Los Three Republicanos**: (l to r) **Juan Hernandez**, **George P. Bush** and **George Antuna** outside a Houston fundraiser.
PHOTO BY JEN REEL



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OUR MISSION

We will serve no group or party but will hew hard to the truth as we find it and the right as we see it. We are dedicated to the whole truth, to human values above all interests, to the rights of humankind as the foundation of democracy. We will take orders from none but our own conscience, and never will we overlook or misrepresent the truth to serve the interests of the powerful or cater to the ignoble in the human spirit.

DIALOGUE

Student Power

As a teacher who was laid off for next year, I appreciate what these kids are doing (“As Their Teachers Get Laid Off, Students Stage Protests,” texasobserver.org, April 15). But now that most of the layoffs have already occurred, it is a little too late. They needed to be protesting months ago before the decisions were made.

Natalie Hart Collins

POSTED ON FACEBOOK.COM

I SUPPOSE THE PROTEST IS A NICE GESTURE, BUT WHERE the rubber meets the road is the parents either not voting or voting for candidates who do not support or invest in education. The kids are great, but really they and their parents need to register and consistently vote for candidates that support education.

Genevieve Van Cleve

AUSTIN

Tea Party Hangover

CHANGING ONE’S MIND BECAUSE YOU FOUND OUT THE information that you were basing your opinions on was flat out wrong (“The Sheepish Revolutionary,” texasobserver.org, April 18) is an action to be encouraged by any reasonable person or politician. That said, Connie Scott is not qualified to be in the Texas House of Representatives and the voters who elected her should have misgivings about her personal qualifications to legislate.

Michael Cospers

AUSTIN

I AGREE WITH MR. COSPER THAT ONE SHOULD BE capable of changing one’s mind when new information is discovered. However, I also agree that that isn’t really what this woman did—she retreated into a hard-line “philosophy” that money must not be spent or taxes raised no matter what the consequences are. I appreciate the attempt to humanize Rep. Scott and make her ilk seem less insane, but the reality is that she benefited from social programs that she now wants to take away from everyone else because she fundamentally misunderstands the role and purpose of government (and how it is different than a personal household “tightening its belt.”) It is clear she has no business being in the Legislature. That she calls an 18 percent cut in funding insignificant is mind-boggling. That she suggests the very wealthy in Texas are being hurt by these cuts is just dishonest.

Elizabeth Eakin

POSTED ON FACEBOOK.COM

The Great Sonogram Debate

I’M PRETTY DARN SURE THAT WHEN A WOMAN IS resorting to abortion, it’s not her first choice (“Uresti Defends Sonogram Compromise,” texasobserver.org, April 14). She’s already lost plenty of sleep over the decision all by herself, without any extra “help” from our legislators. Seriously, men-who-don’t-know-the-pregnant-woman: Stay out of it, unless you want to hold her hand and comfort her, if she asks you to.

Jan Wheeler

POSTED ON FACEBOOK.COM

AT THE END OF THE DAY, IT DOES NOT MATTER TO THE [anti-abortion right] if you are informed or not. Jesus said abortions are bad, so you can’t have them. So anything they say or do is just another step toward God’s law being the law of the land.

Jason Ison

HOUSTON

Smoke-filled Chamber

HARD TO BELIEVE TCEQ COULD BE MADE TO MAKE IT easier on polluters, they already do a pretty good job of that (“House Republicans Make it Harder to Fight Polluters,” texasobserver.org, April 19). But I guess if anybody can, it’d be the current Texas House of Representatives, with its brand new Republican supermajority headed willy-nilly toward the total destruction of the once great state of Texas.

Art Brownmin

CYPRESS

Sound Off

editors@texasobserver.org

or comment on facebook.com/texasobserver and texasobserver.org

POLITICAL INTELLIGENCE



Burned bed in Willingham's house

PHOTO COURTESY THE FAMILY OF CAMERON TODD WILLINGHAM/ CAMERONTODDWILLINGHAM.COM

DEPT. OF INJUSTICE

Burning Questions

THE MOMENT HAD AN AIR OF FINALITY. IN A SMALL HEARING room in downtown Austin, eight members of the Texas Forensic Science Commission voted on April 15 to adopt the final report on the long-disputed arson conviction of Cameron Todd Willingham, who was executed in 2004. It was a moment five years in the making. The New York-based Innocence Project had originally asked the commission to investigate the case back in 2006, but the high-profile investigation was frequently stalled, most recently by the commission chair and Williamson County district attorney, John Bradley. When the final vote was taken to adopt the report, members of Willingham's family and a staff member of the Innocence Project—who claim that Texas executed an innocent man—applauded from the front row.

It felt like an ending. But what the end result was—like so much in the Willingham saga—seems unclear. If this was the end, it was a nebulous one.

The commission's nearly 50-page report is an odd mix. It documents at length the flawed state of fire investigation in Texas and details the kind of outdated evidence that led to Willingham's 1992

conviction for starting the house fire that killed his three daughters. In that sense, the report confirms the opinions of nine national experts who examined the case and found no evidence of arson.

The report also makes 17 recommendations to improve fire investigations in Texas. Most important, it urges the Texas Fire Marshal's office to re-examine older arson cases for similar flaws. Many of the 750 people in Texas prisons on arson convictions may be innocent. The state desperately needs an official inquiry into these older cases.

Yet for all its documentation of problems with arson evidence, the report rarely connects these flaws directly to the Willingham case. The report sidesteps two central questions: Were the original fire investigators negligent, and did the Fire Marshal's office have a duty to inform the governor or the courts prior to Willingham's 2004 execution that evidence in the case was no longer reliable?

The commission refused to address those questions because it's not clear it has the authority to do so. In January, the commission requested an opinion from the Texas attorney general on whether it had

READ the final Willingham report at txlo.com/fscreport

jurisdiction to determine “professional negligence” in arson cases. Ironically, the final report on the Willingham case has little to say about the quality of the Willingham investigation.

Willingham’s relatives—his stepmother Eugenia Willingham and his cousin Patricia Cox—pronounced themselves satisfied. Stephen Saloom with the Innocence Project was frustrated that the commission couldn’t address the negligence issue. Given that limitation, he said the commission did commendable work. “It’s a good report,” Saloom said. “This gives a chance for justice for all those past cases where people may have been wrongly convicted of arson.”

The report’s recommendations are nonbinding. It’s not clear if anything will come of the recommendations or if the report will land in a drawer somewhere and never be heard from again. Nonetheless, the report felt like a milestone in the Willingham case. Seven years after Willingham’s death, we finally have a government-produced report examining the flawed evidence. What it means and where the saga goes from here are anyone’s guess. —DAVE MANN

WATER DEPT.

From a Gusher to a Drip

IN RETROSPECT, THE PLAN SEEMS ALMOST LUDICROUS. For over a decade, Boone Pickens has been peddling a project to pipe billions of gallons of water from the Panhandle to Dallas or San Antonio. It’s an audacious privatization boondoggle that was supposed to make Pickens billions. Alas, the project was too expensive, controversial and unnecessary. Folks in West Texas hated the idea of letting Pickens pump the Ogallala Aquifer dry for the benefit of big cities downstate. Landowners balked at Pickens using eminent domain to confiscate their land and lay a 330-mile pipeline.

Instead, Pickens’ Mesa Water settled in April for a much less lucrative deal: Under the tentative agreement, the Canadian River Municipal Water Authority will purchase 211,000 acres of water rights, or nearly 4 trillion gallons, from Mesa for \$103 million. For the West Texas cities that the authority serves—Amarillo, Lubbock, Pampa and eight others—the huge cache of groundwater is added security at a time when reservoirs are plummeting and scarcity woes are setting in.

Pickens and the authority have long been rivals, engaging in a bidding war for water rights over the last decade. Since 2004, the two had been in on-again, off-again negotiations. Meanwhile, Pickens garnered fawning profiles in the business press for his audacious privatization plan. In 2008, *BusinessWeek* dubbed him “a modern-day John D. Rockefeller” and estimated

he could make as much as \$165 million a year selling Dallas his water. Various news stories have pinpointed Pickens’ investment at more than \$100 million, which means the octogenarian may have broken even at best.

Regardless of where the water ends up—in Dallas or Dalhart—the ultimate effect on the Ogallala Aquifer will be the same for decades. Agribusiness and conservation-averse cities have been draining the aquifer at a rapid clip. The Pickens holdings in Roberts County represent one of the last untapped portions of the Ogallala. Amy Hardberger, an attorney with the Environmental Defense Fund of Texas, says the cities should try conservation and efficiency before tapping the Ogallala.

“If we tap into it now and then it’s gone, then we don’t have it for anything else,” said Hardberger, “not for agriculture, not for cities, not for anything.”

—FORREST WILDER

STUDS AND LEATHER DEPT.

Born to be Profiled

FOR MOTORCYCLE CLUBS IN TEXAS, RIDING THE OPEN ROADS isn’t as easy as it used to be. At a recent Senate hearing, bikers in leather vests emblazoned with names like the Rebel Riders and the Regulators said that, ever since 9/11 and the growth in homeland security, they’ve been harassed by police and tracked in databases. “I’ve been told by numerous police officers that I’m in seven or eight different databases,” said biker Arlis Luck. “I had one speeding ticket 15 years ago, and that’s the only ticket I’ve gotten.”

The bikers were testifying in favor of Senate Bill 1572, authored by Democratic state Sen. Kirk Watson of Austin. The bill would prevent security-related data centers from keeping information not directly linked to criminal activity. Two bikers who testified pointed out that the profiling was especially offensive for motorcycle clubs like the Rebel Riders and Regulators, whose members are mostly active-duty and ex-military. “I fought overseas for our freedom,” said Andrew Cantrill. “It’s appalling that active-duty soldiers or veterans in a motorcycle club would be treated like terrorists.”

Benjamin Neuner, a member of the Rebel Riders, said he and other bikers were pulled over by six squad cars in Williamson County. They were on their way to a Wounded Warriors rally in Waco to raise funds for injured veterans. “I’m an airplane mechanic in the U.S. Air Force,” he said. “And I have a security clearance that allows me to work on nuclear and explosive loaded aircraft. I need to keep my security access ... now I’m in a database. How do I get out?”

Neuner said the police kept the bikers on the side of the road for nearly three hours. Finally police released



Climate Change

11%
Portion of U.S. greenhouse gas emissions coming from Texas in 2005.

10-25°F
Number of degrees the July Texas heat index is expected to rise by 2100.

500 SQ. MILES
Amount of Texas shoreline that could be reduced by 2100, due to a rise in sea level.

Sources: *The Impact of Global Warming on Texas*; The Intergovernmental Panel on Climate Change; and the Union of Concerned Scientists.

READ more about the water wars in the Panhandle at txlo.com/cashflow

WATCH the hearing for SB 1572 at txlo.com/sen

DR. DEATH SENT PACKING

“Dr. Denkowski... hereby agrees that he shall not... perform forensic psychological services in the evaluation of subjects for mental retardation.”

—Summarized from the settlement between the Texas State Board of Examiners of Psychologists and George C. Denkowski, whose questionable methods of evaluating capital cases were exposed in a Jan. 2010 *Observer* article.

“Somehow criminal defendants’ background and lifestyle must be factored into the score interpretation process.”

— Dr. Denkowski, writing in the *American Journal of Forensic Psychology*, a non-peer reviewed journal.

“When you have junk science in a case, it’s like pouring punch into a punch bowl ... you have to start all over again.”

—Attorney Kathryn Case, arguing that 14 death row inmates evaluated by Dr. George Denkowski should have their cases reopened.

FOR THE LATEST legislative news and analysis, read Floor Pass at www.texasobserver.org/floorpass



Allen Weeks
PHOTO BY DANIEL SETIAWAN

READ the *Observer* story on Denkowski at txlo.com/cracked

LEARN more about the Save Texas Schools rally at txlo.com/schoolrally

them, and there were no charges or citations, Neuner said. “The officer was polite—that was a shock,” he said. “But he went on in frightening detail how routine it was to put our information in the database—it’s what he was told to do.” After the bikers filed out of the hearing room, the bill was left pending by the Senate committee. —MELISSA DEL BOSQUE

TYRANT’S FOE

The Student’s Friend

WHEN 11,000 TEXANS FLOODED THE CAPITOL GROUNDS in March to protest proposed cuts to education, there were plenty of memorable characters on stage—the young teacher facing a pink slip, the gifted fifth-grade orator demanding funding for his school, the super-intendent who compared the fight for education to the fight for the Alamo. Folks might not have remembered Allen Weeks, but the rally wouldn’t have happened without him. He’s the nerdy guy who kept the Save Texas Schools program moving along—and who chaired the effort to create one of the biggest Texas rallies in recent political memory.

Weeks, the director of Austin Voices for Education and Youth, hasn’t always been a political organizer. Before moving to Texas, he spent 20 years teaching high school and coaching track in Virginia. He taught at a prep school and at what he calls “the toughest school in Richmond.” Then he moved to Austin and helped form the St. Johns Community Alliance to advocate for the North Austin neighborhood’s needs. But the bookish former track coach was focused on health care in the community. He’d never even been to a school board meeting.

Less than five years ago, the Austin Independent School District threatened to shut down a middle school in the St. Johns neighborhood because of low test scores. Weeks found himself in the midst of a fight to keep the school open. “The district hadn’t warned anybody,” Weeks says. “I went home and said to my wife, ‘This is not going to stand, this cannot happen.’” Thanks in part to the Community Alliance, St. Johns was already organized. Parents and advocates came out in force.

Weeks went inside the schools to interview teachers about what they needed and how the school could improve. “Nobody had asked them that,” he says. “They had the answers.” The effort paid off—the school board decided to let the school stay open, and as the changes brought improved test scores, the school was out of danger of being closed.

Weeks took a similar approach to fighting the budget cuts. In January, concerned parents and volunteers met. The House had just unveiled the first draft of its budget, with almost \$10 billion in education cuts. As Weeks began organizing a coalition, he and his volunteers found similar groups of parents all over the state. “It was just great, the diversity,” Weeks says. “It was a pretty big logistics effort, but it was pure volunteer.”

The effort is far from over. As the budget process continues, Weeks has helped Save Texas Schools become a sustained, all-out effort. Fifty volunteer organizers continue holding events around the state. “I think Save Texas Schools reflects that 80 percent of people out there believe we need basic services to have a prosperous state,” he says. —ABBY RAPOPORT

EDITORIAL

The Payday Scam

TOM CRADDICK AND HIS BLEEDING HEART are right. The former speaker and Big Business-friendly Texas House veteran from Midland wants to muzzle the wolves of predatory lending. Apparently, Craddick had a come-to-Jesus moment several years ago when the Midland paper ran a story about one of his constituents. Linda Lewis was a caretaker who took out an auto title loan backed by her Toyota Camry to pay for her stepson's funeral. After paying \$12,000 on the loan without making an appreciable dent in what she owed, she filed for bankruptcy.

"No longer do I think the Legislature can stand back and watch these businesses take advantage of people in need," Craddick said last month in a hearing. Craddick and many other Republicans and Democratic lawmakers want to close a legal loophole that allows payday and auto title lenders to operate without regulation. Consumer groups and faith leaders, who've turned out in force to testify about what they see as usury, support Craddick's approach. Hell, everyone *but* the payday sharks supports the bill.

However, Rep. Vicki Truitt, a Republican from the Fort Worth suburbs, chairs the House committee that controls banking legislation. She has made it clear that she won't be letting Craddick's bill, or

any other bill that puts a cap on interest rates, pass out of her committee. Truitt favors a much softer approach—her own: consumer education, transparency of loan terms and some limits on how many times you can roll over a loan. That's as far as she'll go.

Truitt has ignored the Biblical injunction against usury in favor of a peculiar strain of market fundamentalism. "There is a market for short-term loans," she said in March. "Consumers will not be well-served by eliminating these sources of short-term and unsecured loans. The alternative for them will be even worse."

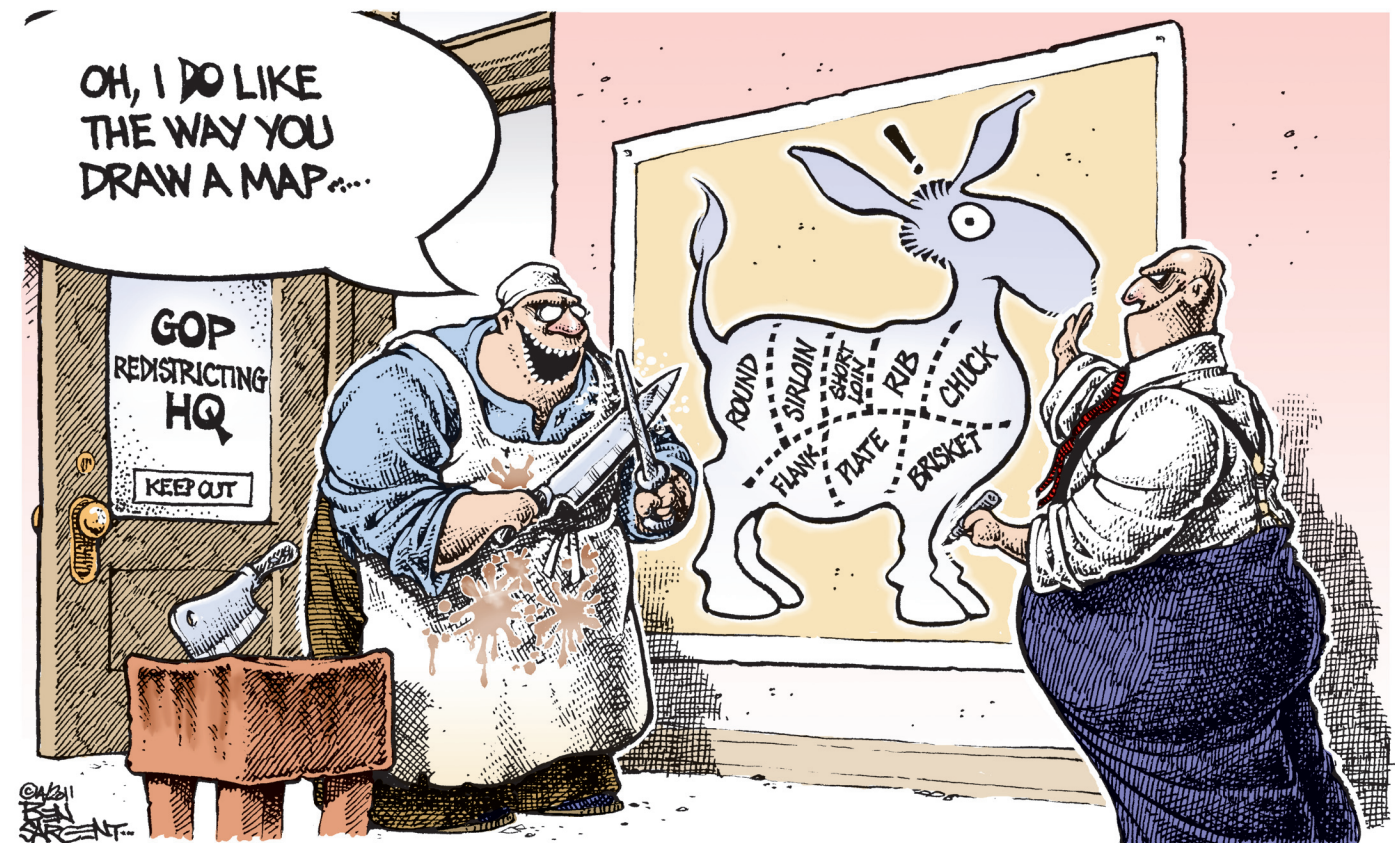
There is indeed a huge demand for credit. With nowhere else to turn, desperate folks—and Lord knows there's no shortage of those—are taking out loans that are neither fair nor necessary.

Roughly one-third of the states have imposed strict caps on interest rates, typically around 36 percent APR. Another third have a reasonably strong regulatory structure. No state allows payday and auto title lenders to operate with impunity—except Texas. Here, unregulated lenders aren't legitimate businesses. They prey on victims of an economic crisis caused by other greedy and reckless financial players.

But it's not the payday business that needs to be shamed. It's lawmakers like Truitt who defend an indefensible industry. ❏

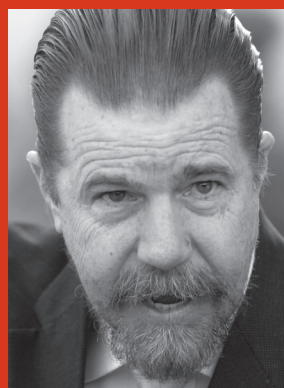
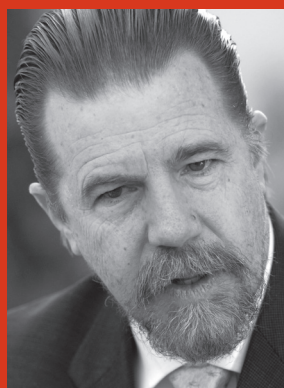
No state allows payday and auto title lenders to operate with impunity—except Texas.

LOON STAR STATE Ben Sargent



Can a former Mexican cabinet minister steer Texas Republicans into the future?

MIDDLE



MAN

by **Melissa del Bosque**

FOUR WEEKS BEFORE THE 2008 PRESIDENTIAL election, Juan Hernandez flew from Washington, D.C., to Phoenix for an interview on the Spanish-language news channel Univision. A charismatic public speaker and cheerleader for the Republican cause, Hernandez had been candidate John McCain's Hispanic outreach director for 14 months. "I'd left my home and family in Fort Worth, not even thinking about how I was going to make money for the next year, because I would be working as a volunteer," he recalls. "I was living in a cheap hotel called the Americana so that I could work out of the Washington, D.C., headquarters and be there every morning for the 7:30 strategy meetings."

When Univision came calling, Hernandez figured it was a no-brainer. The United States' top-rated Spanish-language channel was crucial to reaching Hispanic voters. Before saying yes, he says, "I checked it out with the campaign manager. He said 'fine,' and I flew to Phoenix." When Hernandez arrived at the TV station, he encountered the puzzled faces of a receptionist and a producer. "They said, 'Uh-oh. We've got a problem, because someone from your campaign called and told us the interview was canceled.'"

It wasn't the first time. Since McCain had asked Hernandez to lead his Hispanic outreach, the campaign had agonized to the point of paralysis over how to appeal to Hispanics without alienating the Republican base of older Anglos. "McCain would tell me, I want to have behind me many Hispanic-looking faces at this press conference," Hernandez recalls. "So I would call and have 10, 12 women, men, doctors, nurses, laborers, and they would be invited and then not be put in the photograph. Instead there would only be white males over 50 in the photograph, and this would happen over and over again."

Hernandez says the campaign filmed TV spots with McCain talking about the need for immigration reform and praising Hispanic veterans, but it never aired—or even appeared on the candidate's website. "At one point, in great frustration, I went up to John and said, 'I just want to thank you, sir, but I really have to leave. None of what I believe you hired me to promote is being promoted.' He embraced me and wouldn't stop embracing me, and he said, 'Juan, don't leave.' And so I stayed for the rest of the campaign, but I was frozen."

It didn't help that groups like Americans for Legal Immigration were attacking Hernandez on the airwaves and over the Internet, calling him an "open borders extremist" and urging McCain to fire him. Bilingual and a citizen of Mexico and the United States, Hernandez had once worked for Mexican President Vicente Fox, advocating for Mexican migrants in the United States. Some accused him of being a *reconquistador*, especially when he became a frequent foil on Cable TV for anti-immigration champions like Lou Dobbs and Bill O'Reilly. In a 2001 *Nightline* news segment about his work for the Mexican government, Hernandez said of undocumented immigrants, "We want them to know they're not second-class citizens because they crossed a line." When Hernandez was asked whether it was right to participate in the politics of both countries, he responded: "There are 20 million in the United States with one foot in Mexico and the other foot in

the United States—if they want to attack me, then they're attacking 20 million people."

Hernandez, a conservative Christian and a lifelong Republican, sounded like a heretic to the anti-immigration set—or, even worse, "an open borders and sovereignty undermining extremist," as the conservative pundit Michelle Malkin called him on her blog. On Fox News, Hernandez battled O'Reilly, Malkin and other conservatives over immigration reform. During one heated debate with Malkin in 2008, he exhorted her to "have a heart" for 1,300 undocumented workers arrested in an immigration raid shortly before Christmas. "I have a heart for people who have followed the laws to come into this country," Malkin shot back.

"Every day it felt like acid in my stomach," Hernandez says, remembering his tumultuous months trying to build a bridge between the McCain campaign and Hispanic voters. The right-wing attacks and the paralysis within McCain's campaign over Hispanics taught Hernandez a powerful lesson, he says. "Hispanics need to be participating in the debate from the inside, not the outside. How can we ever fix immigration if Hispanics aren't at the table?"

The only way to save the Republican Party, he decided, was to get more Hispanic candidates to run under the Republican banner. "Maybe it's getting too religious, but I think Republicans have gotten too far away from the basic values that Hispanics hold very precious: family, hard work and faith in God," Hernandez says. "So winning elections, getting more Hispanics into the Republican Party, can only do the party good."

IN A POLITICAL AGE where everything is boiled down to a label or a 30-second sound bite, 55-year-old Hernandez defies easy categorization. He's a blue-eyed Mexican American, bilingual and bicultural. He looks like a Paris café intellectual with his blond hair, streaked with gray, slicked tightly against his scalp. His face is framed by a full mustache and beard. He's written several books of poetry and once made a living playing guitar for tourists on the streets of San Miguel de Allende.

He admits he often confounds people. "I'll quote Walt Whitman: 'Do I contradict myself? Very well, then I contradict myself. I am large, I contain multitudes,'" he says. A born-again Christian, he reads his Bible every morning. He is married to his childhood sweetheart, Estela, and has three daughters and a son. He is pro-life, anti-gay marriage (though it's "OK if they have some kind of legal agreement") and a proponent of small government—core Republican values he believes a majority of Hispanics share. But he has liberal views on immigration and border security.

"My inclination is to build bridges, not fences," he says. "I have a great compassion for the poor, immigrants ... people think, 'wait a minute, this guy should be on the other side with the liberals.' But I live by choice in the most conservative county in the nation, and I go to a very conservative church because that's what I've chosen."

Little more than a decade ago, Hernandez was a college professor in English and Latin American literature at the University of Texas-Dallas. Then, he jokes, he took his "grave turn into politics." In a twist, it was Mexican politics that introduced Hernandez to the higher echelons of the Republican Party in the United

WATCH the 2001 *Nightline* segment on Hernandez at tlo.com/nigh

"If they want to attack me, then they're attacking 20 million people."

OPPOSITE PAGE
Juan Hernandez
PHOTOS BY JUAN SISAY

“Juan is an immigrant, heart and soul,” says Vicente Fox.

States. “We had created a center for U.S.-Mexico studies to bring artists, poets—very famous writers came like Carlos Fuentes—and then I made the great mistake of inviting a politician,” he says. “My brother-in-law had just gone to work for Vicente Fox, who had become the governor of Guanajuato. He was telling me that Fox spoke English, he had been the president of Coca-Cola and his grandfather was from Cincinnati, Ohio. I thought it would be a nice link.”

Through the university, Hernandez had also met George W. Bush, then governor of Texas. The day after Fox spoke at the university, Hernandez drove him to the Texas Capitol for a meeting with Bush.

“I introduced Fox to Bush, not knowing that both of them would run for president in two years,” he says. Fox, the lanky, conservative CEO and erstwhile rancher, hit it off with Bush, the “compassionate conservative” cowboy. Hernandez waited outside while the two talked in Bush’s office. “It was five in the afternoon, and all the staffers wanted to go home, but they weren’t ready to leave. Sometimes we could hear them laughing in there,” he says. “At one point, it sounded like they were moving furniture.”

By 1999, Hernandez was working full-time on Fox’s campaign, sometimes serving as a conduit between the Bush and Fox presidential camps. “I’m getting calls from Governor Fox and calls from a lady I’ve never heard of named Condoleeza Rice,” he says, “and from a guy named Karl Rove wanting to know if Vicente is going to run for president of Mexico, and Vicente is wanting to know if George Bush is going to run and how the polls are doing.”

Hernandez campaigned with Fox for nearly two years, crossing Mexico by plane, car and sometimes horseback. He introduced “gringo-style” politics into Fox’s campaign by bringing in Dick Morris, a former Bill Clinton strategist turned Fox News regular, and Dallas political consultant Rob Allyn. Fox won in 2000, toppling the one-party system in Mexico. An appreciative Fox made Hernandez the first U.S. citizen to serve in a Mexican presidential cabinet. He was appointed to head the Presidential Office of Mexicans Abroad. He shuttled back and forth to the United States to advocate on behalf of Mexican migrants.

In 2002, Hernandez left his post after rankling some of Fox’s cabinet ministers. Once he approved 200,000 survival kits for Mexicans crossing the border illegally, which created a diplomatic tiff. Another time, Hernandez showed up at a hospital in Arizona to visit migrants recuperating after nearly dying while trying to cross the border. Hernandez defended the survival kits in the media. “We are not going to close our eyes,” he told reporters. “We have individuals who are dying at the border. This office was created specifically to watch out for their needs.”

Hernandez and Fox remained on close terms, though. “Juan is an immigrant, heart and soul,” Fox says over the phone. “He’s a very special class that understands both cultures, and he’s the right guy to recruit more Hispanics into the Republican Party. It’s a pretty wise decision, because today’s minorities will be leading the United States in a decade or two.”

NOW HERNANDEZ HAS summoned his considerable energy and political contacts to change Texas’ Republican Party from within. Last August,

Hernandez helped form a political action committee called the Hispanic Republicans of Texas, or HRT, which includes George P. Bush (nephew of George W.), who is 34, and 42-year-old Schertz businessman George Antuna. The HRT is the first Republican group in Texas focused on recruiting Hispanic candidates and helping them win. Hernandez says the HRT is not going to tell candidates which issues to run on.

“All we do is find candidates, recruit them, find money for them, train them if they need it and then defend them once they are in office,” he says. He does expect that having more Hispanics in the Republican Party is going to change it. “I think in another 10 years, you’re going to see a much more moderate tone on immigration in the state’s Republican Party platform,” he says.

Last November, Texas elected two HRT-backed Hispanic Republicans to Congress, a Latina to the Texas Supreme Court and four Hispanic Republicans to the Texas House of Representatives—the most in history. The victories took even the Texas GOP by surprise, says Steve Munisteri, the party’s state chairman. “I’m glad they came into existence,” he says of HRT, “because the Republican Party is living on borrowed time. If every Latino were to vote today in Texas, the Republican Party would lose all of its statewide seats.” About the HRT, Munisteri says, “My only complaint is that we could have used them four years ago.”

Most grassroots Texas Republicans are unaware of Hernandez’s past role in Mexico or his advocacy for migrant rights. Informed of some of Hernandez’s views, state Rep. Leo Berman, a Tyler Republican who recently filed a version of the controversial Arizona immigration bill, says the Texas GOP is doing fine without more Hispanic “outreach.” “There’s been a debate about how to include Hispanics for the last 20 years, and it hasn’t helped,” Berman says. “Still, the Republican Party holds 29 state offices and has a majority in both the House and Senate.”

Maybe there’s a place for someone with Hernandez’s immigration views within the party, according to Berman, but it’s on the fringe: “Just like there’s a place for pro-choice Republicans. You can cast your vote, but you’ll lose because it’s the majority that rules.”

ON A CRISP FEBRUARY MORNING in Austin, Juan Hernandez, his 24-year-old son Juan Roberto and political consultant Trey Newton, whom George P. Bush calls “our Karl Rove,” walk briskly through the Texas Capitol rotunda. Tapping away on a smartphone, Hernandez looks like a busy legislator on his way to a committee meeting. As they push through a crowd of visitors, Hernandez spies Francisco Cigarroa, chancellor of the University of Texas System. “Oh,” he says, “I’ve got to go say hello,” and veers toward Cigarroa. They shake hands and exchange a few words. Hernandez returns. “What a great guy,” he says.

Hernandez has a meeting with two of the newly elected Hispanic Republicans in the House. But first there’s a private chat with state Rep. Harvey Hilderbran, a Kerrville Republican and member of Texas’ redistricting committee, which will help draw new legislative and congressional maps. Thanks

WATCH Hernandez debate Michelle Malkin on Fox News at txio.com/malk

mostly to its burgeoning Hispanic population, Texas will get four new congressional seats. “It’s no secret that we want to keep Republicans in power,” Hernandez says as he exits Hilderbran’s office. “Those seats should belong to Hispanics. And we’ve already proven we can get them elected.”

Asked whom he has in mind, he smiles. “Oh, I’ve got a total rock star in Houston, someone who has never run for office before, but I’m not ready to give names yet,” he says. “Hispanic Republicans are coming out of the woodwork. They felt isolated for so many years. Now they know they’re not alone.”

Can Hispanic Republican candidates convince other Hispanics to vote for them? Democratic strategist Matt Angle points out that so far, Hispanic Republican candidates haven’t translated into Hispanic voters. “In every case, the Hispanic Republicans, with the exception of [state Rep. Aaron] Peña, who had been elected as a Democrat, were elected on the strength of Anglo votes in 2010, not Hispanic votes,” Angle says. “Groups like the HRT are trying to create the illusion that by having Hispanic candidates, it’s the same thing as winning Hispanic support.”

Hernandez dismisses the criticism by paraphrasing one of his idols, President Ronald Reagan. “Hispanics are by nature conservatives and therefore Republican—they just don’t know it yet,” he says. By offering more Hispanic Republican candidates, he says the Republican Party would win over more Hispanic voters. One candidate HRT was banking on was state Rep. Raul Torres, a Republican from Corpus Christi who’d been elected in the 2010 sweep.

Torres is waiting in the bustling Capitol cafeteria with Republican state Rep. Larry Gonzalez of Round Rock. Both received funding and political consulting from HRT in 2010, and both beat incumbent Hispanic Democrats. Gonzalez defeated Rep. Diana Maldonado in Round Rock, while Torres unseated Rep. Solomon Ortiz Jr. in Corpus Christi with 52 percent of the vote.

Now HRT was “cocooning” the freshmen, which meant raising buckets of money so that each candidate had a formidable war chest to warn off potential challengers. “What more can we do for you guys?” Hernandez asks.

“You can help us raise more money,” Torres says, smiling. “You guys really helped me out. The conservative Hispanic message is going to take hold in Texas. You guys are helping us break down that door.”

“We’re working on it,” Hernandez says, nodding. “I’m so proud of you guys with your Hispanic hearts,” he says, placing his hand over his heart. “You’re bringing a different attitude to the House floor. When it comes to cutting programs, you’ll be thinking, how can I make this hurt less for my community?”

Torres says Hispanic Democrats still don’t know what to make of the newly elected Republicans. He describes an uncomfortable meeting of the Mexican American Legislative Caucus, chaired by Democratic state Rep. Trey Martinez-Fischer of San Antonio, at the beginning of legislative session. “When we arrived, they looked at us like, ‘What are y’all doing here?’” he says, raising his eyebrows in mock surprise. “And we said, ‘Well, we were invited.’ And so they didn’t talk about anything of substance for the rest of the meeting. And it’s not much different at the Tea Party Caucus—we’ve got to bridge that gap somehow.”

“In one twinkle of an eye, Texas will become a solid blue state if Texas Republicans don’t warm up to Latinos.”

Torres, Gonzalez and the others formed their own caucus for Hispanic Republicans. They invited non-Hispanic members to join if they had 40 percent or more Hispanic voters in their districts. So far, they have six Hispanic members, including El Paso Rep. Dee Margo, “whose grandfather is 100-percent Hispanic,” and three Anglo members. Hernandez beams at the two legislators. “Keep up the good work,” he says, giving Torres a high five.

WHEN THE HISPANIC REPUBLICANS of Texas announced their political action committee in a press conference last summer, it was easy to be cynical. Here was another Republican group pretending to do Hispanic outreach. Party chairman Munisteri agrees there was reason for skepticism. “There’s been a real lack of communication with Hispanics” by Republicans, he says. But, he swears, “you are going to find this time it’s different. We have a commitment from a group of significant donors who are committed to making this group succeed. They are very well aware that we need a larger majority of Hispanic voters to remain a majority, and at the same time HRT came around to fill that need.

“At our trough in 2006, we were probably getting 25 to 30 percent of the Hispanic vote. Right now we think we’re probably in the 35 to 40 percent range, but that’s not going to be significant enough for us going forward,” he says. “In the long term, we’re hoping for 50 percent of the Hispanic vote because we cannot win elections with just 30 percent. We need to do much better than that.”

In February, HRT held its second fundraiser since the November election—a Friday luncheon at the private Houston Club in a downtown skyscraper. It doesn’t get any more Republican establishment than the Houston Club, where generations of the city’s industrialists have made their million-dollar deals over lunch in the club’s hushed, mahogany-lined conference rooms. About 25 Republican donors had been invited. John Nau, a wealthy Houston Republican donor, had already RSVP’d. “He sends a very important signal that we are legitimate,” Newton said.

Hernandez was especially upbeat because George P. Bush would be the keynote speaker at the luncheon. For nearly a year, Bush had been serving in Afghanistan as an intelligence officer for the U.S. Navy Reserve. He’d just returned, and Hernandez said the 34-year-old Bush was excited to get more involved with the HRT. But no one was quite sure where he was at the moment. “He said he’d be here,” Newton assured Hernandez.

There was a commotion in the hallway. Bush had arrived, alone and unassuming, lugging a briefcase. “*Mi amigo*,” Bush said, slapping Hernandez on the back. “*Que pasó Jorgisimo*,” Hernandez said, hugging Bush and giving him a back slap.

LEARN more about Hispanic Republicans of Texas at txlo.com/rep

George P.'s father, Jeb Bush, is the former governor of Florida. His mother, Columba, comes from the Mexican state of Guanajuato, like Hernandez's father. Bush and Hernandez met in 2004 when they both worked on George W.'s re-election, trying to secure the Hispanic vote. Many Republicans, including Hernandez, expect that George P. Bush, because of his Mexican ancestry and Bush heritage, will be an important player in Republican politics. For now, Bush says, he is content working behind the scenes with HRT. "I'd like to stick closer to home for a while and have kids first," he says. Bush moved to Texas in 2004 and, like Hernandez, lives in Fort Worth. "Texas is eternally important to the GOP, not only because of its historic importance, but because of the Hispanic growth story, which is already happening here," he says. "Hispanics will be the majority here in less than 10 years."

Bush and Hernandez kept in touch over the years, and they collaborated on a couple of projects for the McCain campaign. "He's completely bicultural, and he's a celebrity in the Hispanic community," Bush says of Hernandez. "He's been a staunch advocate for immigrant rights, and he's recognized throughout the hemisphere for his work on that issue."

But had his advocacy for immigrants made him controversial among some of the Republican base? "It's a difficult road to walk," Bush says, choosing his words carefully. "The controversy around him is more about the larger controversy that goes on within the party over immigration reform."

His father and his uncle always brought the Hispanic community to the table, Bush says, but "the party has to do more than just show up for the *diez y seis* parade in the neighborhood right before election day. It's got to be an ongoing commitment. Otherwise it's just not going to work."

"I love working with Juan on HRT right now," he adds. "I like to think that with the team we've assembled, we can demonstrate some tangible results. Hispanics are not a monolithic group of voters. You have to have pinpointed messages all the way from the undocumented to the third-generation Hispanic who doesn't know a word of Spanish."

HURLING THROUGH DOWNTOWN Guatemala City in an armored SUV surrounded by stone-faced bodyguards in tinted sunglasses, Hernandez is upbeat as usual. He texts on two smartphones—one for Guatemala, the other for the United States. The driver and two bodyguards are tense and watchful. Guns bulge from their waistbands under their black blazers. In Guatemala, one of Latin America's most violent countries, political assassinations are common. Hernandez, who clearly relishes being in the heat of a campaign again, doesn't appear to be bothered by the bodyguards' pistols.

Hernandez says we'll have to use code names when talking about people in the campaign, because the government and other candidates spy on one another. This is common all over Latin America, he says. "One time on the Fox campaign, I had my cell phone swept for bugs, and security told me there were five different people listening in on my conversations," he says. In Guatemala, he will be called "Tocayo," and Dick Morris, his consulting partner, will be the "Author."

Hernandez is meeting Morris and their client, long-shot presidential candidate Juan Gutierrez, at the

campaign's headquarters in downtown Guatemala City. Gutierrez's wealthy family is often referred to as the "chicken kings of Guatemala" because they founded a popular fried chicken chain called Pollo Campero. Gutierrez fled to Canada in the 1980s after being kidnapped. Now he's in his mid-50s, balding and with blue eyes, running for president under the banner "Gutierrez is employment."

In the United States, Gutierrez would be a conservative Republican. In Guatemala, he seems liberal compared with the retired army general leading in the polls with the campaign slogan "*mano dura*," or "strong hand." Hernandez and Morris have conducted focus groups and had volunteers walking door-to-door conducting surveys to see what's on voters' minds. And they've created a social media campaign to appeal to younger voters—one of the first in a Guatemalan presidential race.

Morris arrives 30 minutes late at campaign headquarters, a former bungalow in a residential district. Bleary-eyed after a delayed connection in Miami, Morris sports a crumpled black suit and red tie. A fuel tank exploded at the Miami airport, he says. "It was an accident, not a terrorist attack," he says, deadpan, then asks for a Diet Coke—the first of many.


Hernandez considers Morris a mentor. Once, when he was tempted to run for office, Morris advised against it. "I believe that running for office is a violation of the 13th Amendment of the Constitution—the one that prohibits slavery," Morris says. "Basically, you hand over control of your life, and Juan has a tremendous ability to relate to people on both sides of the border, and there are very few people who are positioned that way. I think to throw that away to be one of 435 votes [in Congress] would be downright silly."

Hernandez can do more for Republicans behind the scenes, Morris says. "In one twinkle of an eye, Texas will become a solid blue state if Texas Republicans don't warm up to Latinos," he says. "HRT is absolutely crucial." There are signs already that the party is coming around, Morris says. "I think it's a tremendously positive sign when a guy like [Sen. Marco] Rubio in Florida defeats an Anglo incumbent Republican governor in a Republican primary," he says. "It shows that the Republican electorate is not racist and it's not anti-Latino."

Earlier that day, in a contemplative mood in a hotel courtyard in Guatemala City, Hernandez says he has even bigger plans for HRT than securing Texas for the GOP. He hopes to build a similar candidate incubator in Latin America, maybe Mexico, where he can facilitate an exchange of ideas, bringing Latin American conservatives to the United States and U.S. Republicans to Latin America.

In a time when Republicans across the country are filing English-only bills and plotting to take away U.S. citizenship from babies born to undocumented Latinas, it sounds a little far-fetched. Hernandez shakes his head. His younger brother often chastises him for being such a dreamer, he says. But he's come this far on the journey by dreaming big. Three years ago, he was frozen out of the McCain campaign, and nobody listened to him. Now he's one of the Texas Republican Party's great hopes. "I don't even know if I'm good at this," he says, "but I'm passionate about it. And if not now, when?" 📺

VIEW a Juan Gutierrez campaign commercial at txlo.com/gut



American businessman
James Ling and his wife
Dorothy in front of their
palatial Dallas home, 1965.
PHOTO BY RALPH CRANE/TIME &
LIFE PICTURES/GETTY IMAGES

Life with the

Merger King

Dallas entrepreneur
JIMMY LING dreamed up the
modern conglomerate. And then
it crashed. **BY NEAL BARRETT JR.**

Before Enron and Lehman Brothers, there was JIMMY LING,

a 1960s-era Dallas businessman who founded the company LTV, and invented what he called “redeployment.” During an era when most companies made products and sold them, he saw the future of business: acquisitions and mergers.

It’s now a fact of business life. But Ling, like many pioneers, took too many risks and paid the price.

I worked for him during some of the most active days of the Ling saga. I was director of international information. I had two secretaries, a plastic plant, and a grand view of downtown Dallas from the LTV Tower. My job was to produce an up-to-date history of the accomplishments and objectives of LTV. That wasn’t an easy task, because what we’d done and what we planned to do often changed daily.

I didn’t meet Jimmy Ling until a week or so after I got the job. One afternoon, there was a scurrying about in the office, something like a swarm of bees suddenly aware of a change in the air. I walked into the outer office and found the rest of the staff already there. Someone told me Ling was on his way down. This was a new experience for me. On my last job, everyone hid when the boss was around.

Jimmy Ling had presence. He was there, in the room, and everyone knew it. Famous people like movie stars, presidents, even some striking stranger on the street have a certain bearing, and Ling had that. I liked Ling, admired him at once. He shook my hand and welcomed me to the company. When he was gone, everyone in the office felt he had come down from the heights just to see them.

That first encounter taught me a great deal about Ling’s success. Even when you were with him, he never stood still. His mind raced from one idea to the next. His presence drew others to him. When you met him, you wanted to invest in his new, brilliant project, to be a part of his success.

Scarcely anyone understood that Ling’s unshakable self-confidence, and the incredible speed of his business ventures, would be the elements that would bring him down.

Ling was a high school dropout from Hugo, Okla. He showed ambition from the start. He became a journeyman electrician, which usually takes several years, in six months. He joined the fight in World War II, and when he got out, he sold his Dallas house and set up a small electrical contracting firm. He sold shares at the Texas State Fair and raised \$738,000. It’s easy to imagine he was looking for money to finance his next venture.

Ling was shrewd, and he had a mind-boggling idea for how to make a lot of money. Ling defined his business tactic as “redeployment,” which doesn’t really say much unless you were there watching Ling do it. Even then, it didn’t seem quite real, like a kid in a candy store grabbing one of these and one of that.

His idea worked so well that he turned the business world upside down and scared a lot of old-timers out of their executive chairs. Soon *Time*, *Fortune* and everyone else knew who he was: “Jim Ling, the Merger King,” “The Dazzling, Legendary Jimmy Ling,” “Jimmy Ling’s Wonderful Growth Machine....”

In 1956, after taking his electronics firm public, he merged it with L.M. Electronics. Then, on to Altec Electronics, Ling-Altec, Ling-Temco and in 1961, after a difficult takeover battle with aircraft manufacturer Chance-Vought, Ling’s empire became Ling-Temco-Vought, eventually shortened to LTV. With that first venture, Ling’s term “redeployment” became clear for what it is: Make money to buy firms that make money to rapidly move the process along.

Ling and a couple of his contemporaries created the modern conglomerate. He would pick a certain company and offer a minority of shares to the public. As buyers drove the share price up, collateral at the bank rose, letting him look for more companies on the market.

Ling had a nearly awesome instinct for the task. His mystique, his persona kept the machine rolling. As long as people believed in him, shares went up, and Ling made money. It could never have happened if Ling hadn’t believed in himself. At one point, he held 80 percent ownership in LTV. He was betting his personal fortune on his own success.

He was often up before daylight studying markets. People followed Ling. Many had no idea what he was doing, but they felt he was onto something. Ling, in turn, understood them. Not long after he started, he sensed that public involvement created confidence and trust. People wanted to invest in Ling’s enterprises. They felt it was the right thing to do.

With his new ideas, he took his company from 204th to the 14th largest in the nation in 14 years. Ling saw how he could buy one company and turn it into three separate companies. He called it his “rule of three.”

For example, Ling gained control of Wilson & Co. in early January 1967. Wilson sold meat, but it was clear to Ling there was more to this organization than sausage and steak. The company produced byproducts such as leather for footballs and pharmaceuticals from animal organs. Soon there were three companies: Wilson & Co., Wilson Sporting Goods and Wilson Pharmaceuticals. Not long after the three companies went public, LTV’s piece of the action added up to a great deal more than its initial investment.

One afternoon after the Wilson acquisition, I got a company car and drove to the airport to pick up a shipment. By the time I was done, the trunk and the backseat were crammed with boxes of golf balls. It was no big surprise that each ball was imprinted with the name Jimmy Ling.

Ling liked people, and people liked him. His employees were loyal. I recall an old “been through the mill” PR guy who, at the end of a business trip in Ling’s plane, received a nicely wrapped box containing a set of “I Flew With Jim” crystal glasses. It wasn’t an uncommon gesture.

Ling was a paradox. Polite and soft-spoken, he was also a man with an office that took up the entire 34th floor of the building, a space so vast you had to learn where to find his desk. He was a good old boy who happened to own a Louis XV-style castle in Dallas.

I thought I was getting the feel of things until Ling asked me to go out to a building between Dallas and

READ the New York Times obituary for Ling at txlo.com/ling

Fort Worth. He said I'd see "some interesting stuff" I could use in the publication I was putting together about the company's projects.

I hadn't dreamed Ling was into anything like this. A scientist in a proper robe gave me a wooden tongue depressor, turned on a laser and burned a hole right through the thing. Then he turned on a hologram, a picture floating in midair. You could walk around it and see it from every angle. I had never heard of a laser or a hologram. I'm not sure anyone else had, either. My science friend said he was also working on a near-invisible device that would send information through little bits of crystal. No wires, no nothing.

No one else in the office had heard about all this. I wondered, later, when things weren't going so well, if "weird science" wasn't one of Ling's projects that he flung into the ether to fly by itself. Maybe he intended to do something about it and other matters got in the way. That was Ling. He often plowed ahead on his own, never checking to see if his board, associates or friends were lagging behind.

Once Ling decided he wanted a company, he would risk everything to get it. In 1961, he went after aircraft maker Chance-Vought, but only got it after a fight that included civil and federal anti-trust suits against his company. With this takeover, Ling's conglomerate was so huge it was pushing the boundaries of the law. It was one step in his career that would haunt him in the end. But Chance-Vought added the "V" to LTV.

The reign of the conglomerates continued into the 1960s. By 1970 a bad economy, coupled with increasing interest by the Justice Department, began to have serious consequences for LTV. It was clear to everyone in the building that things weren't going well, but only a few well-placed people knew what was going on. That was the way things were at LTV. We believed in Jimmy, and if you saw him, you'd never guess he had a worry in his head. Ling simply raced on.

In 1968 he gained a controlling interest in Jones & Laughlin Steel. To Ling it seemed a done deal. On March 22, 1969, he was playing cards at his country club when he got a call from the office. An antitrust suit had been filed to divest LTV of J&L. Ling could scarcely believe it. His own journal says it all: "My God, every time we get our head up, somebody tries to knock it off."

The J&L deal would be the one that took Ling down. An historical perspective offers a clear idea of what went wrong. Conglomerate kings are jugglers. Ling was a good investor, but it's hard to judge and manage companies that have nothing in common. The people at the top often lack the expertise to manage the companies they control. Eventually, LTV got too big and collapsed.

At the end, during the fight for J&L Steel, I had little time to work on my project. Everyone in the office was writing press releases fighting the Justice Department's assault on LTV. Sometimes we'd send out two or three releases an hour. Then one day in 1968, my boss came in and told me to just leave everything on my desk and go home.

I was as shocked as Enron employees would be decades later. I had believed in Ling. No one believed in Ling more than Ling himself, but that wasn't enough to keep LTV flying. The J&L crisis was his last round. The board forced him to resign in 1970. He surfaced in a few years with new ideas that failed. Still, he kept at it to the end of his days. He died at 81 in 2004. In 2005, the board of directors of Empire Energy, the company that once was called LTV, noted Ling's "unending dedication to the Company." ❏

Neal Barrett Jr. has published over 50 novels, including The Hereafter Gang, as well as several short story collections. Last May, he was named Author Emeritus by The Science Fiction Writers of America for "Lifetime Achievement."

As long as people believed in him, shares went up, and Ling made money.



BAD BILLS

House Bill 2187

Rep. John Davis (R-Houston)

Given all the pressing needs in Texas right now, it's good to know that our state lawmakers have time this session for an especially down-on-their-luck group. Not nursing home residents, not school kids, not state employees or the disabled.

Nope, it's yacht owners. And mega-yacht owners at that.

On April 18, the House Ways and Means committee heard a bill that would give a tax break to wealthy yacht-buyers. Under House Bill 2187 by Rep. John Davis, a Houston Republican,

the tax on boats sold for more than \$250,000 would be capped at \$15,625. For a \$20 million yacht, this would mean a tax reduction of 99 percent. Those buying smaller, cheaper boats (under \$250,000) would continue to pay the current 6.25 percent sales tax.

Representatives of the yacht industry argued that the tax break is needed because Florida passed a similar law last year. They said many rich Texans are now docking their boats in Florida or elsewhere to avoid paying sales tax here,

taking jobs and spending on services with them.

"I truly believe in my heart that Texas is a big-boat territory, but because we haven't been progressive in our laws most of the buyers of large vessels have chosen other places to keep these boats," said Jim Hedges of Lone Star Yacht Sales.

It requires a certain mind set to contend that a tax break for yacht owners is "progressive," but we digress.

Some lawmakers on the committee seemed quite sympathetic. "It doesn't take much to get over \$250,000 anymore," mused Rep. Lanham Lyne, a Republican from Wichita Falls. We'll have to take his word on that.

As the hearing went on, the tension mounted in the

committee room as ordinary citizens (read: the non-yacht-owning set) who happened to be waiting for other bills appeared stunned at what they were witnessing. Finally, Rep. Mike Villarreal (D-San Antonio), arriving late to the committee, piped up.

"So this bill is a tax break for mega-yacht owners?," he asked. "I feel like I just walked through the Twilight Zone. Is that what we're talking about—a tax break for mega-yacht owners?"

The hapless yacht-booster at the podium—Peter Davidson, superintendent of the Corpus Christi Marina—certainly didn't help his case when he parried, "This is not just for rich people. You can get used yachts as well."

Laughter roiled the committee room. —Forrest Wilder

Tax and Divert

Texans pay billions in special fees and taxes for worthwhile programs. Why does the money go elsewhere? **BY FORREST WILDER**

Parks

SOURCE: A portion of the sales tax paid on sporting goods, such as fishing and hunting gear, bicycles and camping equipment. **INTENDED PURPOSE:** Designed to provide a permanent source of revenue for the perennially underfunded state parks system.

\$251.3 Million

\$188.3 Million

To Certify the Budget

Utility Bill Assistance

SOURCE: A monthly 65-cent fee on the electricity bills of folks in deregulated areas goes to the System Benefit Fund. **INTENDED PURPOSE:** Created in 1999, the fund is supposed to help elderly and poor Texans afford the state's high electricity prices.

\$997 Million

\$169 Million

Intended Purpose

\$828 Million

To Certify the Budget

Trauma Care

SOURCE: The controversial Driver Responsibility Program, which imposes steep surcharges on drivers who commit certain offenses.

INTENDED PURPOSE: Set up in 2003, the Trauma Facility and EMS Fund is supposed to invest in a strong statewide trauma system.

\$498 Million

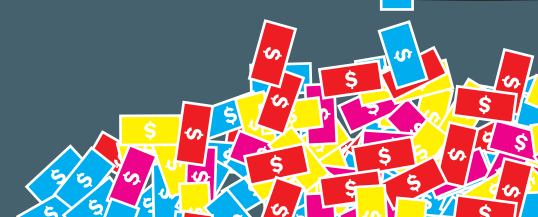
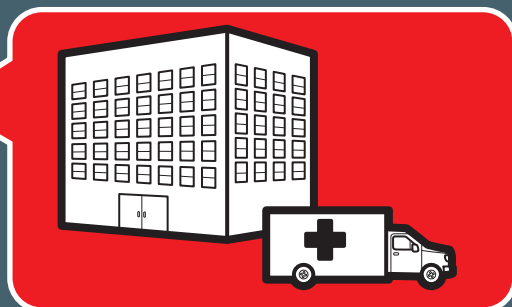
\$115 Million

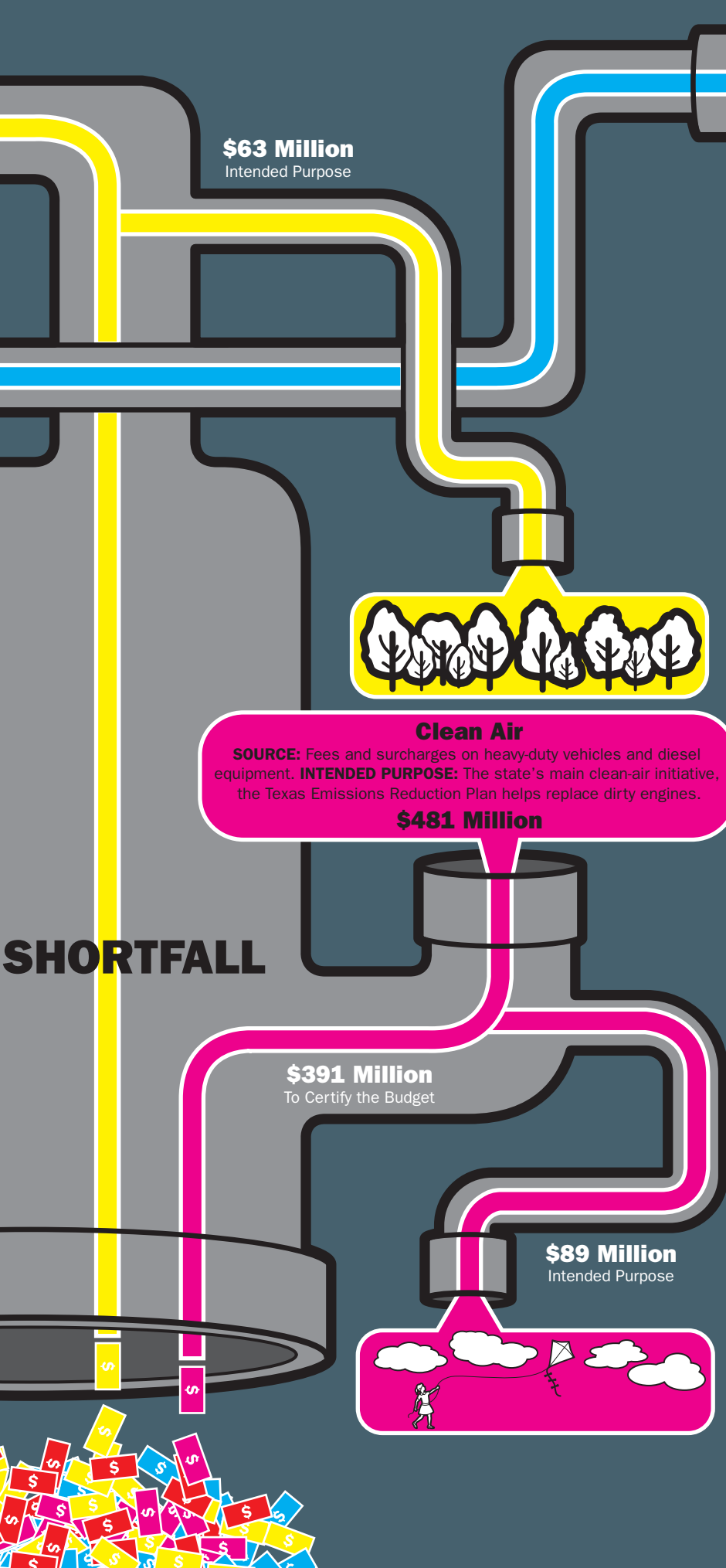
Intended Purpose

\$383 Million

To Certify the Budget

BUDGET SHO





\$63 Million
Intended Purpose



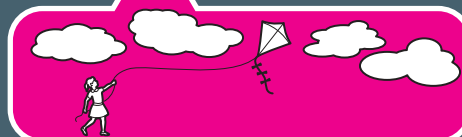
Clean Air

SOURCE: Fees and surcharges on heavy-duty vehicles and diesel equipment. **INTENDED PURPOSE:** The state's main clean-air initiative, the Texas Emissions Reduction Plan helps replace dirty engines.

\$481 Million

\$391 Million
To Certify the Budget

\$89 Million
Intended Purpose



BY PASSING A HARSH, CUTS-ONLY BUDGET IN April, Texas House Republicans proudly say they delivered on their campaign promises. “The voters spoke,” says Rep. Erwin Cain, a freshman Tea Party Republican from Northeast Texas. “We listened. Today the House approved a bill that, if enacted, will balance the budget without raising taxes.”

It's true: There are no new taxes in the House proposal. Instead, it savagely punches a \$23 billion hole in state government by imposing crippling cuts to public schools, health care and higher education. To make the budget balance, lawmakers have relied on massive chicanery, tapping an assortment of hidden fees, special taxes and fines in ways that “the voters” might not appreciate. If budgets are moral documents, as they say, then this one has a problem with transparency and honesty.

Over the decades, lawmakers have created dozens of programs funded by specific revenue streams. There's a tax on chewing tobacco designed to help rural doctors pay back their student loans. Fees and taxes on heavy-duty trucks and equipment are meant to pump millions into the state's main clean-air program. A \$10 fee on annual CPA licenses is supposed to pay for fifth-year student scholarships. Specialty license plates are intended to generate millions for abused children, veterans and cancer patients. The revenue produced by these programs is supposed to be separate from the main budget, “dedicated” to a specific purpose.

Since the mid-1990s, lawmakers have been helping themselves to these little rainy day funds, diverting them from their intended purposes. This session, the no-new-taxes mania has driven the practice to a new level. The result is that Texas citizens and businesses could end up paying billions in special taxes and fees, but not see the promised benefits. To some legislators, it's another sign of a failed fiscal approach.

“We're using general revenue-dedicated dollars as a crutch to lean on instead of fixing our broken revenue system,” says Rep. Mike Villarreal, a San Antonio Democrat and an unabashed budget wonk. “It's one of the reasons we're in the mess we're in today. If we had more transparency, voters would be able to hold us accountable, and we'd better be able to pass a budget reflecting the needs of the people.”

SHORTFALL



Rep. Jim Pitts of Waxahachie, the Republican chairman of the House Appropriations Committee, defends the diversions. “If we didn’t do that, we’d have to be looking for \$3 billion more to certify our budget because that’s how much we depend on these balances,” Pitts says.

Those calling for a more sensible tax system don’t necessarily disagree—they just think the practice is ledger-dominant. “We just don’t want to say we need \$4 billion a year from taxes, so we play all these smoke-and-mirrors games,” says Eva de Luna Castro, senior budget analyst with the left-leaning Center for Public Policy Priorities.

AT THE LEGISLATURE, the tax-and-divert system is an open secret. And no consumer-created fund has generated more discussion and controversy than the System Benefit Fund. Created in 1999 as part of electricity deregulation, the fund was designed primarily to provide a safety net for poor and elderly Texans buffeted by the “liberated” electric market. A monthly 65-cent fee on every ratepayer’s bill pays for the System Benefit Fund—about \$150 million per year. Originally, the money was supposed to pay for a 10 to 20 percent discount on low-income folks’ utility bills.

A few years later, the Public Utility Commission and the Texas Legislature began whittling away at the discount. Money kept coming in, but lawmakers sat on most of it. By denying aid to the needy, the state built up a large account balance. Today budget

writers have \$997 million in the System Benefit Fund. Under the House budget, only \$169 million—one-quarter less than the current biennium—would go to citizens struggling with their electric bills. The rest would be used to balance the budget.

The confiscation of the fund infuriates Rep. Sylvester Turner, a Houston Democrat and champion of programs for the poor. “The governor has said repeatedly in his State of the Union addresses that we should not take money from people for one purpose and spend it on another in this veil of secrecy,” Turner says. The Tea Party and small-government conservatives, he says, have “railed against government and said government cannot spend people’s money better than they can spend it themselves. And now they’re taking people’s money and building up a huge cash reserve, not in their constituents’ bank accounts, but in the government’s bank account with the people’s money.”

In the Senate, chief budget-writer Sen. Steve Ogden, a Bryan Republican who describes himself as a “tight-fisted Aggie,” wants to drain the System Benefit Fund entirely to restore part of Medicaid funding (the House budget cut about \$9 billion from Medicaid). Regardless of where the money ends up, the state will keep collecting the fee every month from millions of Texans.

“It is a tax,” says Carol Biedrzycki, executive director of consumer group Texas Ratepayers’ Organization to Save Energy. “They just don’t call it one. All they do is put a different label on it, and that makes it OK.”

READ continuing coverage of the budget crisis at texasobserver.org/floor-pass



WING DING Class Warfare

In the interest of safety on college campuses, Sen. Jeff Wentworth, R-San Antonio, has been working all session to make sure that there are more guns on college campuses. Senate Bill 354 would allow professors and students who are licensed to carry a concealed weapon to bring it on campus. Students must be at least 21 years old and “of sound mind” to bring firearms to college. So not only are you of legal age to drink, you’re also of legal age to shoot while binge drinking.

But a funny thing happened on the way to the Senate. What should have been a slam dunk in a Republican-controlled

Legislature has encountered considerable resistance that may ultimately kill the bill. Wentworth was forced to shut off debate on the bill after two Democrats who had previously supported it—Eddie Lucio Jr. of Brownsville and Mario Gallegos of Houston—announced they would vote against it. Gallegos said he was opposing the legislation after listening to the concerns of constituents and university officials in his district, while Lucio said he would only support the legislation if universities can decide whether or not to ban licensed guns.

To Wentworth’s credit, he made it clear

that he wants only licensed students who have been through a 10-hour course to carry guns. (Ten hours? Girl scouts working for their next merit badges have to put in more hours than that.) The bill also stipulates that convicted felons, fugitives from justice, drug addicts and other delinquents would be barred from carrying guns on campus. Thankfully, convicted felons always respect the law.

Rep. Joe Driver, R-Garland, is carrying the companion bill (HB 750) in the House. Last session Driver and Wentworth sponsored the same bill, which passed the Senate but stalled in the House. At the time, Driver suggested that the 2007 killings at Virginia Tech could have been stopped if another student had been armed. Officials at Virginia Tech came to

a very different conclusion, advocating instead for increased federal gun control measures and strengthening the National Instant Criminal Background Check System. That measure was signed into law by President Bush in 2008. Last year’s shooting at the University of Texas at Austin reignited the debate over concealed weapons on campus, even though the gunman had legally obtained his AK-47.

Perhaps Wentworth is taking his cues from the rural Harrold Independent School District, which set up a concealed weapons policy in 2007 to allow guns in K-12 schools. Yes, kindergarten. You never know when Buzz Lightyear is going to completely lose it. According to the Brady Campaign to Prevent Gun Violence, even trained police officers,

on average, hit their intended targets less than 20 percent of the time. Are we to assume that a third-grade teacher will be a better shot?

Utah is currently the only state to allow guns on campus. (If students aren’t allowed to drink or have sex, at least they’re allowed to pack heat.) In Arizona, lawmakers just passed a campus carry bill—which would only allow concealed weapons on sidewalks and streets, not buildings and classrooms—but the governor’s vetoed it. Similar gun legislation is making its way through Oklahoma, Michigan and Tennessee.

Putting more guns into the hands of the “right people,” as opposed to fewer guns into the hands of the wrong people, might just be crazy enough to work. Or it might be, you know, just plain crazy.

— Eileen Smith

The sporting goods sales tax, on the other hand, is indisputably a tax. A portion of the sales tax paid on items such as hunting and fishing gear, camping equipment and bicycles is supposed to go to the perennially underfunded state parks system. But ever since it was set up in 1993, the sporting goods sales tax has been under assault from lawmakers.

This session is no exception. Every year, the tax generates well over \$100 million, money that theoretically should go to purchasing new parkland, improving existing parks and funding conservation efforts. This session, the House is directing just one-quarter of the sporting goods tax to parks. That's less money than parks were getting in the 1990s. The rest is being diverted into general revenue to pay for schools, prisons and roads.

Lawmakers are also targeting specialty license plates that drivers buy with the understanding that proceeds go to help a cause of their choice. A budget rider confiscates half the money from sales of nine plates that fund projects at the Parks and Wildlife Department, including the popular Horned Lizard and Bluebonnet plates. Those two plates generate about \$880,000 each biennium. For the horned lizard plate, a state website promises, "All projects funded by this plate are used to implement the Texas Wildlife Action Plan."

"The truth is that legislators are using most of the license plate money and the majority of the sporting goods tax revenue to try to balance the budget," says Ken Kramer, executive director of the Lone Star chapter of the Sierra Club. "The Legislature needs to keep the faith with the public and use the money raised for parks and wildlife to maintain our parks and protect our wildlife."

No good cause is spared: Also being halved are funds from the Texans Conquer Cancer plate, which assists cancer-prevention grants; the American

Legion plate, which helps veterans and their families get benefits; and the CASA plate, which funds advocates for abused and neglected children.

In 2003, the Legislature created the Driver Responsibility Program, a high-minded effort that has proved to be an unmitigated disaster. The idea was to punish unsafe drivers with steep fines while raising money for trauma facilities. But more than 1.2 million drivers, unable to afford the surcharges, have lost their driver's licenses. Many of those people end up in court on charges of driving without a license. Bowing to public pressure, the Department of Public Safety offered an amnesty this year. Enough drivers do pony up to generate more than \$150 million each biennium. Originally, every penny was supposed to help hospitals set up trauma care facilities and pay treatment costs for uninsured patients.

"We all jumped up and down for joy because we thought we had solved the uncompensated trauma care problem in this state," says Dinah Welsh, CEO of Texas EMS, Trauma & Acute Care Foundation. "I was very naïve." As it turned out, the Legislature only passed on the full amount the first year. Since 2005, Welsh says, "the trauma care account has been used to help certify the budget, and now with this budget cycle, we're very, very watchful and practically anticipate that those dollars are going to be swiped."

Some lawmakers are so fed up with the shell game that they're calling for certain fees and taxes to be abolished. Rep. Turner, for example, wants to end the 65-cent fee on utility bills.

"I'd rather for people to hold onto their money than for the government to take it in a nontransparent fashion and use it as a tax," says Turner. "I just think that's governing with a lack of integrity and a lack of honesty and a lack of transparency." ❏

"We just don't want to say we need \$4 billion a year from taxes, so we play all these smoke-and-mirrors games."

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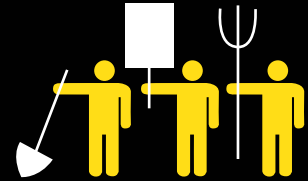
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LEGE BY THE NUMBERS

BY DAVE MANN AND ABBY RAPOPORT

ON APRIL 3, the Texas House passed a brutal budget, with enormous cuts to public education, Medicaid and other vital government programs. Representatives voting for the budget said there was no alternative—with a \$23 billion budget shortfall for 2012-2013, significant cuts were their only option. But that's not true. In addition to cuts, the state could also revamp its tax code, close loopholes and use the state's Rainy Day Fund, a savings account with a potential \$6.1 billion for the next biennium. Drastic budget cuts aren't inevitable—they're a choice.



\$23 BILLION TOTAL BUDGET SHORTFALL FOR 2012-2013

PROGRAM CUTS TO CLOSE BUDGET SHORTFALL:

CUTS TO MEDICAID: **\$6 BILLION**

CUTS TO PUBLIC EDUCATION: **\$8 BILLION**

CUTS TO REST OF STATE GOVERNMENT: **\$9 BILLION**

TOTAL: **\$23 BILLION**
in cuts

HERE'S WHAT THE BUDGET SHORTFALL WOULD LOOK LIKE IF BUDGET CUTS WEREN'T THE ONLY OPTION THE HOUSE WAS CONSIDERING:

ELIMINATE GASOLINE TAX COLLECTION ALLOWANCE: **\$100 MILLION**

ELIMINATE TAX EXEMPTIONS: **\$100 MILLION**

ELIMINATE SALES TAX HOLIDAY: **\$105 MILLION**

ELIMINATE OPTIONAL PERCENTAGE HOMESTEAD EXEMPTION: **\$930 MILLION**

ELIMINATE EXEMPTION FOR HIGH-COST NATURAL GAS DRILLING: **\$2.3 BILLION**

SALES TAX ON BUSINESS AND PROFESSIONAL SERVICES (EXCEPT HEALTH CARE)*: **\$6.1 BILLION**

RAINY DAY FUND AVAILABLE FOR 2012-2013: **\$6.1 BILLION**

TOTAL: **\$15.7 BILLION**
we wouldn't have to cut.

SOURCE: Center for Public Policy Priorities

*The Texas economy is heavily based on services—real estate, architecture, accounting, etc.—but our sales tax is based largely on goods. Expanding the tax to include more services would bring in significantly more revenue.



FLOOR PLAY

ABBY RAPOPORT

Profiles in Courage

DURING THE LEGISLATIVE SESSION, EVERYTHING IN THE TEXAS Capitol becomes relative. A woman with hair the size of a hot-air balloon is just “a fashionable lady from Fort Worth.” Belt buckles the size of pizza platters are just “good ol’ East Texas.” And longstanding political enemies? They still introduce one another as “my good friend.” All is askew—and maybe that’s why the state senators have come to regard themselves as heroes for doing things that most people would simply call responsible.

Early in the session, it was clear that the Senate was going to be a moderating force. With a two-thirds Republican super-majority eager to show its Tea Party bonafides, the House was always focused on a cuts-only approach to the state’s budget crisis. The House budget passed at the beginning of April cut around \$23 billion from state services, including drastic cuts to education and Medicaid. House Appropriations Chair Jim Pitts, R-Waxahachie, told his colleagues the bill would “be improved further”—presumably by their colleagues across the hall.

“The only thing I never thought I’d say is ‘Thank God for the Senate,’” Rep. Harold Dutton Jr., a Democrat from Houston, said wryly before voting against the House bill.

To its credit, the Senate *has* worked hard to protect the state’s infrastructure. There’s a special subcommittee to find “non-tax revenue” that would lessen the cuts. Republican leaders proposed tapping into the Rainy Day Fund to reduce cuts. When the commissioner of health and human services warned of dire consequences if the state maintained proposed cuts to Medicaid, the committee added more money. The commissioner of education told the Senate Finance Committee that Texas public schools would collapse if the state cut funding by more than \$4 billion. Sure enough, the Senate budget has almost exactly \$4 billion in cuts to education.

“This is an heroic effort,” proclaimed Sen. Kevin Eltife, R-Longview.

Earlier in the session, the Senate Republicans actually had a press conference just to make it clear that they care about education. Sen. Troy Fraser called it a “very brave and aggressive step.”

All due respect to the senators, but Braveheart they ain’t.

Their budget still cuts school funding for the first time in modern memory. Their budget cuts will still have dire implications for the elderly whose nursing home care gets paid for through Medicaid. College scholarships are all but gone. Money for mental health care is severely depleted. The Senate budget

still takes a knife to key programs in the state—should we applaud senators for not using a machete?

And let’s remember: This is as good as it will get. When the House and Senate go to conference committee—where representatives from both chambers hammer out differences between the two versions of the budget—it’s safe to assume there will be some give-and-take. Preparing for a fight, senators are already taking a hard line on education funding. “We have got to work diligently to avoid compromise,” said Sen. Florence Shapiro, a Plano Republican, on adopting any of the House cuts to education. But the House will not vote for the Senate’s budget, which spends almost \$11 billion more than the House version.

“You are so right how much better this is than the House,” Sen. John Whitmire told his colleagues toward the end of the Finance debates. But it wasn’t enough, he said, pointing out that nowhere does the budget provide for growth—in the fastest-growing state in the nation. “Act like senators,” he told his colleagues. “We are the leaders. We’re better than that.”

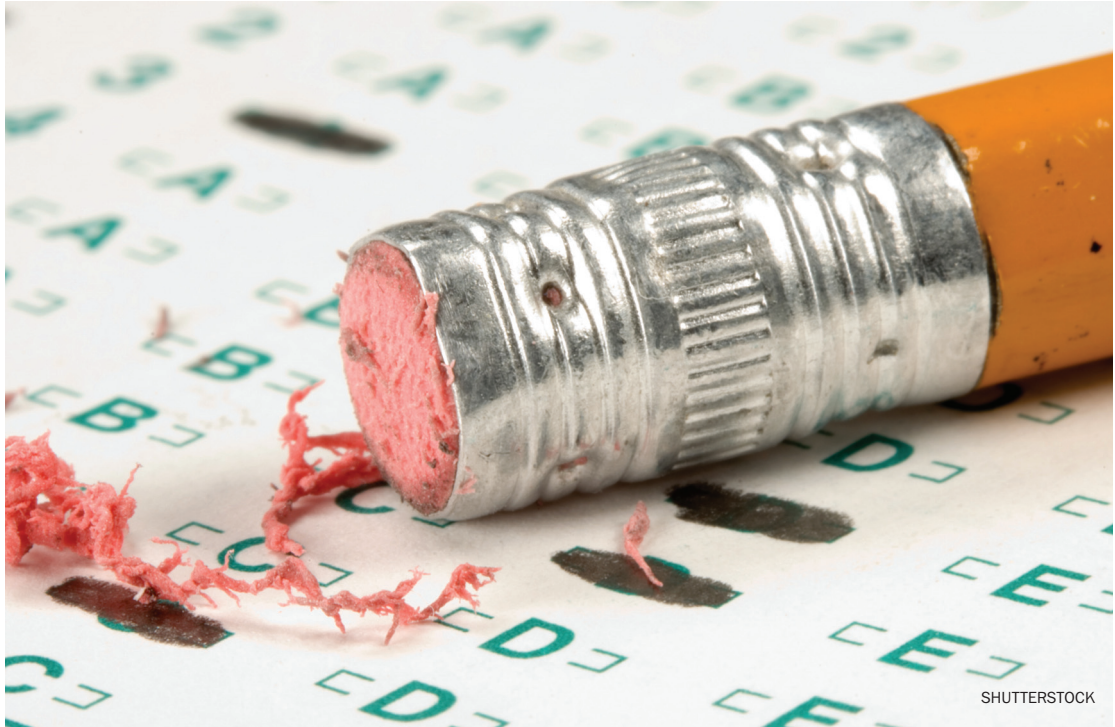
Of course the Senate will have more opportunities to be the grown-ups in the room. While the budget is probably headed for conference committee, Finance Chair Steve Ogden has eagerly sought to address the state’s biggest problem—our dysfunctional tax structure. Everyone in the Capitol knows the problem; since re-doing the tax system in 2006, Texas doesn’t raise enough revenue to pay for basic needs. It’s part of the reason we’re in this budget crisis this legislative session—and part of the reason we will likely face similarly dire circumstances next session. The House appears to have little interest in preserving the state’s core programs, so it’s not hugely surprising that the House refuses to address the systemic problems in our tax structure. But the Senate still prioritizes programs like health care and schools—and continues to raise the issue of the “structural deficit.”

If senators can stand up on that issue, I still wouldn’t call them heroes. But I would call them responsible lawmakers. ■

The Senate’s “heroic” budget takes a knife to key programs in the state. Should we applaud senators for not using a machete?



DATELINE



The Testing Machine

by **Bárbara Renaud González**

“**Y**OU FAAAAAIIIIILED!”
The principal with the belly ballooning from his crisp, blue shirt is a former coach and athlete. He’s circling dozens of middle school students in the cafeteria. I’m here to do research at this public school in San Antonio and have never seen, didn’t know, it could be like this. And I’ve observed schools all over Texas.

I can feel the sweaty rage across the cafeteria, where I’m drinking coffee. He hasn’t seen me—too busy yelling. His game face is on, and his team is losing. Coach’s battle voice pollutes the air. His words slap, bruise and punch in ways you can’t see, but will keep me up all night.

“You faaaaaiiiiled!” He keeps saying it.

The former coach is blaming the students for their poor grades. Some are stupefied with shame, smiling, pretending this is cool. They are too old to melt into nothingness and too young to give him the finger.

THE SCHOOL IS TESTING for the Texas Assessment of Knowledge and Skills (TAKS) benchmarks before the real TAKS test, which determines which students progress to the next grade. The tests, administered

by the Texas Education Agency, also determine how the school is rated academically. Benchmark testing is supposed to help schools project how students will perform on the actual TAKS. If too many students fail in the spring, the principal’s job, along with everyone else’s in the administration, is at stake. The school I’m visiting is considered at-risk for being labeled “low performing.”

The school district, out of desperation, has contracted with a prestigious university, my employer, to help the teachers in math, reading and science. I’m here to gather data about attendance, behavior and grades—key to researching how to reduce dropouts.

At my university, researchers have spent almost 15 years examining the complexities of student success in at-risk schools. We have found that standardized tests like the TAKS are not predictors for high school graduation. Students flunk the TAKS for reasons other than academic skills. Some have oh-my-God! panic attacks. Some, like the dyslexic Albert Einstein, can’t perform well on tests. Many progressive educators believe that standardized tests should enhance the curriculum, not punish students by failing them.

The students, as at most inner-city public schools, are

working-class. At this school without windows and with few trees, students are 99 percent brown. In Texas public schools, Latino children make up almost half of the student body: 4.85 million students this year.

The middle school parents seem to be in their 20s and 30s. Some have tattoos. Others look like they just got out of bed. Some have screaming babies. Others wear work uniforms of nurse's aides and mechanics.

The principal, his administrators and the majority of the teachers live in the suburbs. Some are in the next county, and it takes them an hour to get here. Most don't know this neighborhood. The vice-principal says she does, but she doesn't live here, either. There is one recreation center in the area and one library across the freeway. There are no theaters, bookstores or cultural centers.

HURRY UP! MOVE! Pull up your pants! Keep going!

The principal is consumed with discipline and yelling. The principal takes credit for making the school safer. It's true, the gangs aren't as visible as in past years. His theory seems to be to instill fear in everyone, and it seems to be working. He's afraid, they're afraid. Everyone is afraid of something. But, hey, this is a safe school.

Throughout the day, the vice principals stand in hallways as middle schoolers move from one class to the next in four minutes flat. There's a lot of yelling to move them. More yelling during their 30-minute lunch. An art teacher calls a student "Bozo" when he gets in the wrong line. There is yelling at the end of the day to get on the bus.

There is no natural light inside the school, which has no windows. There's a school cop who roams around with handcuffs and a gun. There's no art on the big walls, no student photography, nothing but Olympic posters and slogans. The blank walls are an icy yellow, and the lockers are brown. This school doesn't let the students outside during lunch. If they're not in sports, they don't go outside, period.

Excitement! Several male students pop firecrackers in the hallway. They are suspended for three days. A brilliant eighth-grader is sent to "alternative" for 45 days after circumventing the school's Internet censor to see porn. Alternative was designed for criminal behavior, but this school will end up sending almost 40 students there this school year, close to 5 percent of the population. Most students are there for things like fighting, loud-mouthing and smuggling marijuana into the school. The sixth-grader who brought brass knuckles into the boys' bathroom has been expelled.

The coach and his team are going to get these middle-schoolers ready for the TAKS or else. Between the benchmarks, the testing and the preps, the TAKS takes a month of classroom time every school year. The teachers arrive before 7 a.m. and teach seven classes, with a work period and a 49-minute lunch. Most eat cafeteria food, with its gummy burgers and enchilada Wednesdays. The teachers make their own copies and rush to the bathroom between classes if they're not patrolling the hallways. They get yelled at, too, if they don't yell like the principal. Their day ends at 3 p.m., but many stay for meetings, lesson planning or visits with parents. The principal has a new software program that monitors lesson plans, so he can evaluate whether the teacher is "teaching to the test."

At every weekly meeting that teachers must attend, the principal goes into his coaching zone and criticizes, admonishes and begs the teachers—everything except inspire them. Amidst all his incoherency and platitudes, one sentence is clear: "Hey, if you don't like it here, I will give you a helluva recommendation ... so you can find another job."

When I share a *New York Times* sports article with the principal about a former black coach who's having great success with former gang members in his own school, the assistant superintendent complains that the principal believes I'm promoting criminal behavior.

All the meetings are about one thing: How are the students going to pass the TAKS? The only other vital discussion in the whole school year is about the Christmas party at a downtown hotel. An academic coach shows a PowerPoint of singing reindeer to much applause. The Christmas bash is scheduled for Dec. 12, El día de la Virgen de Guadalupe, the holiest day for observant Catholics. Even though the brown principal and half of the teachers are probably Catholics, no one says anything about the conflict, except to me.

Because of my job, I get to observe the different seventh-grade classes. There are more than 30 students in most of the math and science classes, and the teachers try hard to ignore whispering, jostling and paper-shuffling. One-third of the class seems to be at risk of failing because of emotional and academic problems. Some are special education students who have been mainstreamed. Some are wannabe gang members. Some are just bored. The teachers must get through their lessons in 45 minutes and don't seem to breathe the whole time. They are absorbed in their LCD boards, their colorful markers, swooping through the fractions and formulas once and again. They give tips and shortcuts for solving the math problems likely to come up on the TAKS. Pay attention! The front of the class is quiet, but the back third is buzzing at the end of the day. My university's master teachers are helping teachers keep students engaged with the coursework. Play games, they tell the teachers. Give real-life problems. But the TAKS seems to be the dark cloud in their classroom.

The math teachers call the last period of the day "the class from hell."

At the end of the third six-week period, in early January, I tell my university that it doesn't seem right to me that the grade reports show only six

All the meetings are about one thing: How are the students going to pass the TAKS?

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The principal goes into his coaching zone, and criticizes, admonishes and begs the teachers—everything except inspire them.

seventh-graders out of 350—the target group we’re following—are failing math. I’ve been in those classrooms, observed how one-third aren’t paying attention. How can this be? I’m a product of working-class public schools and know how easy it is to fall behind in math.

“Grades are subjective,” the vice-principal tells me when I talk to her about it. She says that “we go by the TAKS scores.” My university tells me “it’s a good thing” that students aren’t failing and that the school likely wants to encourage borderline students. I can see the fear in the assistant’s eyes as she tells me about her devotion to these students, as if to compensate for choosing the TAKS over coursework. If the students don’t do well on the tests, she’s out of a job, and her career is over. Then what will she do?

IN THE TEACHERS’ LOUNGE, there is never any discussion of books, films or politics. The administrators never eat with the teachers. The principal’s assistant says she can’t fraternize with the teachers because she evaluates them. The teachers pretty much despise her, seeing her as a woman seeking glory and attention with little regard for them. She used to teach science, and she talks in a technical language that is meant to make others feel less smart.

The principal calls the students knuckleheads at every faculty meeting. Sometimes he calls them *cabezones*, which sounds better to my ears—pumpkin-heads, meaning stubborn or affectionately rebellious. Now it’s spring, and the faculty meetings are taken up with the assistant’s fiendish attention to TAKS: what students can’t do and what teachers must do. It takes an hour, and that’s just the beginning. There will be special training classes for the teachers on testing rules.

Because of the size of this school, there are students constantly flowing in and out of the vice principal’s office. When I look at the conduct files for the seventh-grade students in one six-week period, I count 30, almost a tenth, who’ve been charged with everything from fighting to tardiness to profanity,

like: “I don’t give a shit.” “I don’t fucking care.” “That fucking bitch isn’t gonna talk to me like that.”

When I look at the vice principal’s computerized report on these students, there are only 12 listed with conduct violations in two six-week periods. When I ask the vice principal about this, he jokes and says that the school “refines” the report.

Right before the TAKS week, a seventh-grader named Emily shows up with two lip rings—there are no dress codes here—and the older English teacher freaks out. The teacher tells the student she has to remove the rings. The student resists, telling him her mother said it was OK. There is a big argument between her and the school. Finally the school tells her she can’t take the TAKS unless she removes them. Her parents believe the school, sign, and agree to remove her rings. They don’t know that students have to take the TAKS no matter what, but the school writes down that Emily “will be considered an automatic fail in regards to TAKS test.” Emily is scared. She thinks that her lip piercings will prevent her from getting into the eighth grade.

At the end of the school year, seven of 357 seventh-graders have failed math, according to the official roster. Six have failed English and reading. The school meets the TAKS standards and receives a “recognized” rating. With the help of master teachers, after-school and Saturday morning tutorials, 70 percent of the students have met the standard in math. But do they know how to solve a problem that’s not on the TAKS?

The weeks after TAKS and before school lets out are easy. The principal complains that the students are watching movies in the classrooms. There have been no school trips for these students—no money. As a reward, the principal throws a dance before the buses leave as a kind of party. The DJ spins cumbias, and the girls dance as the boys watch.

The principal wants to take the school to an “exemplary” rating next year. His eyes gleam every time he talks about it. No one smiles. ❏

Barbara Renaud González lives in San Antonio and is the author of the novel Golondrina, why did you leave me?

THE HIGHTOWER REPORT

WORKERS DOWN, BOSSES UP: A MORALITY PLAY

IT’S GOOD TO KNOW THAT some corporate chieftains feel the pain of their underlings, who keep being forced to do more for less. Take the example of Gannett, the media giant that owns 23 television stations and 82 newspapers, including *USA Today*.

Early this year, Gannett notified employees that, for the third year in a row, they would get no raises and would have to take a

week off without pay. The note was written with a gentle hand, acknowledging the hardship such sacrifices cause for workers and thanking them for their “great work.” To soothe the pain a bit, the note added that Gannett’s two top executives would take a commensurate cut in their salaries.

OK, team spirit! But don’t grab the pom-poms and break out in cheers. Only two

months later, bonuses totaling \$3 million were quietly bestowed on the top two. To add a cherry to this sweet delight, the duo also were awarded stock options and deferred pay totaling as much as \$17 million.

So some 32,000 workers were forced into furloughs to save about \$17 million for Gannett, but the corporation’s No. 1 and No. 2 were allowed to slurp up all of that savings and then

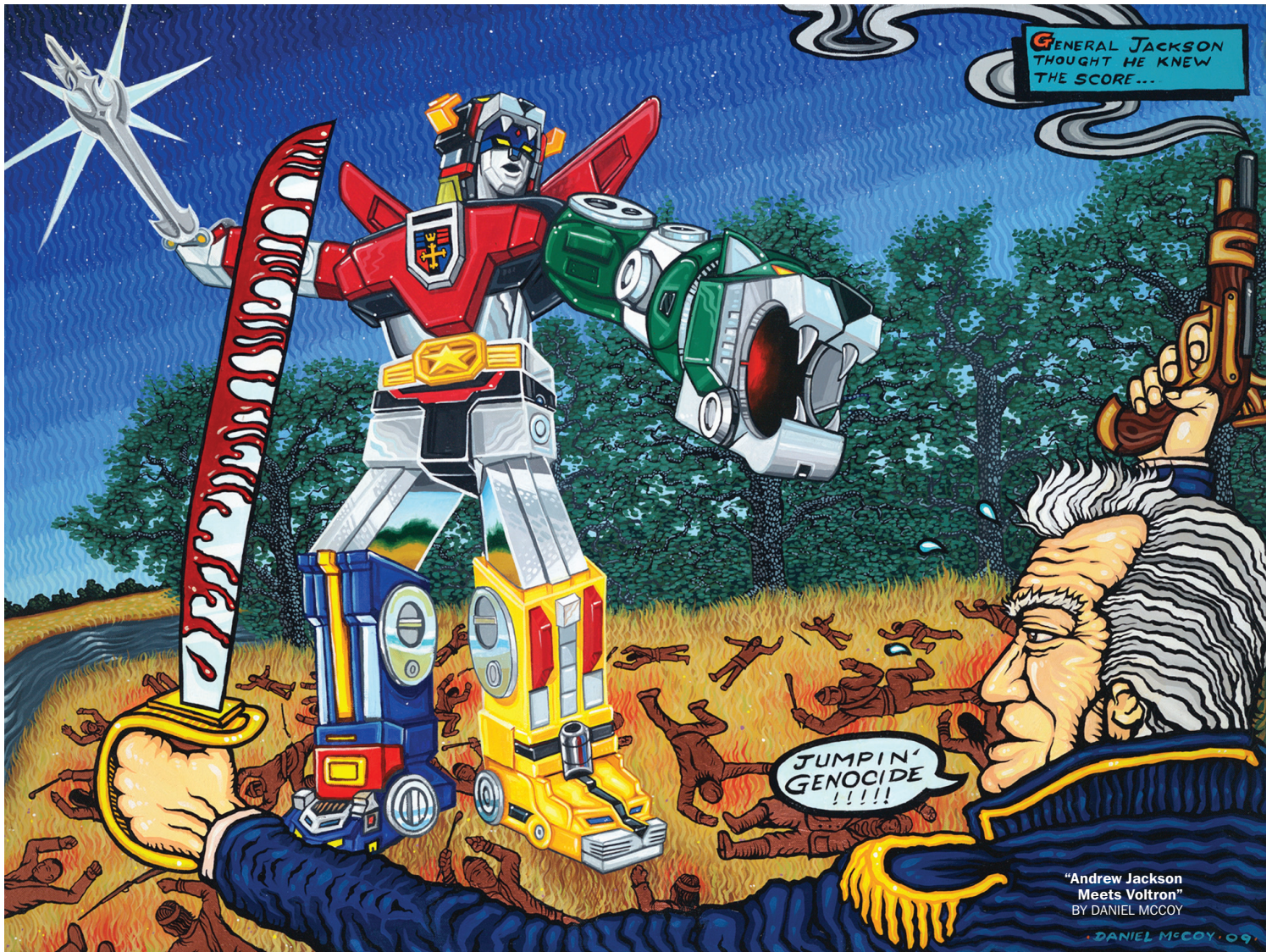
some. Who says there’s no “I” in team?

It’s not like the executives are doing a terrific job. Gannett’s newspaper readership, revenues and stock price have fallen substantially, and the corporate chieftains are widely viewed as lacking imagination. But they are credited with “aggressive cost management.” What’s that? It’s a cynical corporate euphemism for throwing employees in the ditch.

Working people are being sacrificed because of management’s failure, middle-class opportunities are shrinking, and top executives collect multimillion-dollar bonuses. Where’s the morality in that?

FIND MORE INFORMATION on Jim Hightower’s work—and subscribe to his award-winning monthly newsletter, *The Hightower Lowdown*—at www.jimhightower.com

CULTURE



CRITIC'S NOTEBOOK

War Paint by Josh Rosenblatt

AT THE CURRENT EXHIBIT AT DiverseWorks Art Space in Houston, "This Is Displacement," artists pull back the curtain on a part of American culture that's too often been defined by outsiders. The exhibit showcases 50 contemporary Native-American artists representing 19 tribal nations. All of them have something to say about how the centuries-long struggle with identity and geography is playing out in America.

"It is true that Native-American peoples do come from very ancient cultures, but we are not stagnant cultures of the ancient past," says co-curator Carolyn Lee Anderson. "We are present now, today, and we are influenced by the same images and contemporary culture as everyone else who is alive in America today."

"This Is Displacement" isn't a dusty collection of tomahawks in glass cases or solemn paintings of buffalo hunts. The sculptures, paintings, short films, musical pieces and mixed media in the collection are

LEARN more about the exhibit at txlo.com/displacement



"Cherokee History Lesson"
PHOTO BY TOM FIELDS

the work of modern artists looking at their experiences as Native Americans through the lens of forced exile—from land, culture and language.

The great thing about art is that it allows its creators to lash out at the burden of history in whatever way they want. While white America has been having its way with Native-American culture for as long as there has been a white America—laughing at it here, scorning it there, criminalizing it when it frightens us, using it when we want to sell margarine or cigarettes—cultural appropriation goes both ways. Some of the most engaging pieces in "This Is Displacement" are biting reinterpretations of iconic American pop-culture images.

Kennetha Greenwood's tongue-in-cheek twist on the classic American family, "A Very Braided

Bunch," arranges the portraits of nine modern Native Americans in a grid like the shot from the opening credits of *The Brady Bunch*. Greenwood appropriates the image to address the pervasiveness of native stereotypes. He puts one of his subjects in a native headdress and a business suit. Another, a young girl, holds a traditional wooden flute while the man in the box next to her holds up a laptop computer. A woman above them wields a stethoscope. Each juxtaposition is another stereotype deflated.

In his piece "Treaty of Displacement," Ojibway artist Gordon M. Coons comments on the long history of white American double-dealing. He presents a charcoal rubbing of the plaque commemorating the 1796 Treaty of Greenville—which pushed the Ojibway off their land in the Northwest Territory and handed Ohio to the U.S. government—and surrounds it with painted shoe prints of multicolored moccasins retreating west before an onslaught of monochromatic boots. This is displacement at its most literal—first by government decree, then by force.

In "Cherokee History Lesson," a photograph by Tom Fields, three native men gaze at a campground marker recounting in fewer than 50 words the history of the Trail of Tears. These men are caught between two worlds, reading their history in a language that isn't their own and that counts only their losses.

Maybe the most ironic and cutting piece is "Andrew Jackson Meets Voltron," a painting by Daniel McCoy Jr. It manages to be an acknowledgment of the United States' genocidal past, a nerd-boy comic-book sci-fi revenge fantasy and an example of the creativity that can grow out of pain, even pain that has lasted for hundreds of years and that keeps rolling on and on, with no end in sight. ■

BOOK REVIEW

Legal Lynching by Rachel Proctor May

AFTER 18 YEARS OF INCARCERATION, Anthony Graves was freed from Texas' death row last year after the Washington-Burleson County district attorney dropped all charges against him. His conviction was based on the testimony of another inmate. The inmate signed a sworn affidavit minutes before his own execution stating that his original testimony linking Graves to the crime had been a

lie. After spending months trying to build an independent case against Graves, the special prosecutor brought in for the job said that not "one piece of credible evidence" had been found linking Graves to the crime. Graves, a 45-year-old man who had spent most of his adult life behind bars, was released.

Graves is the twelfth death row inmate to be exonerated since 1973 in a state that is responsible for more than one-third of U.S. executions. His case personifies the legal case for abolition—that

the inconsistent application of the death penalty and the potential for irreversible mistakes makes it cruel and unusual punishment.

David Garland, a professor of law and sociology at New York University, believes such legal arguments will ring hollow for a majority of Americans. In *Peculiar Institution*, Garland argues that Americans accept the death penalty because execu-

The author makes a convincing case that lynching is a key thread that shapes the American death penalty.

tions play out as part of specific local narratives, and our political system encourages this by giving local authorities power to condemn prisoners. "In America, as we have seen, all politics are local and democracy can kill," Garland writes. "The annual execution tolls of places like Harris County, Texas, are proof enough of that."

Garland, a sociologist, spends several chapters positioning the death penalty within a context of state formation in Europe. Horrifying ways of publicly executing people, such as burning on the stake and breaking on the wheel, emerged in early modern Europe to demonstrate and solidify the state's

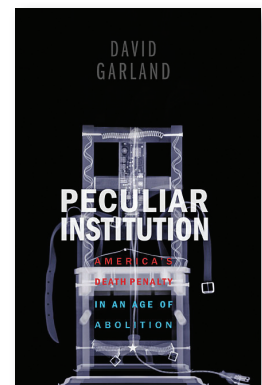
monopoly on power. Many of the executions were for political crimes. But as modern states matured, the death penalty became rare in most Western countries.

In the United States, the tradition was kept alive as lynching. Garland describes an 1893 lynching in Paris, Texas, during which a black man was burned by a mob of 10,000 in retaliation for the alleged rape and murder of a 4-year-old white girl. Texarkana and Paris squabbled over the "privilege" of hosting the murder. Schools and liquor stores were closed. People took home bits of the victim's clothing as souvenirs. Local law enforcement stood aside because they "recognized the futility of checking the passions of the mob."

Garland argues that this sort of spectacle was not about consolidating state power. It was about the defiance of state power in the form of local retaliation and local vengeance. The author makes a convincing case that lynching is a key thread that shapes the American death penalty. Execution-night rallies, news stories that emphasize victims' families and a legal system that lets county officials and local juries set the wheels of death in motion all contain echoes of the mob.

But it's not all mob: Garland points to the legal system's agonizingly drawn-out procedures, all the years of reviews and appeals and re-reviews and further appeals as a dramatic excess of due process. Executions in America may tap into the narratives and emotions of the lynching, but they are deliberately designed to be everything a mob execution is not.

Garland offers scant strategy for those who want to abolish criminal executions in the U.S. Because the discourse about and practice of



**PECULIAR INSTITUTION:
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capital punishment are so embedded in local politics, and localism so embedded in our political system, he sees a difficult path for top-down abolition. He writes that countries that have abolished the death penalty have done so through decrees from the top. The Supreme Court missed such an opportunity in 1976, when its *Gregg v. Georgia* ruling that Georgia's new capital statutes were no longer too arbitrary to be constitutional. In the end, Garland offers an ivory tower cop-out: He concludes that understanding the death penalty discourse will help us reframe the debate. Meanwhile, more than 3,000 people wait out their sentences on death row. ❏

Rachel Proctor May is a writer living in Austin.

COMMON DENOMINATOR By Nancy Walker Greenaway

Salaam.

You write ghazals under shade of an acacia,
speak Farsi or Pashto,
eat qurmas, sabzi, lamb kebabs,
wear burqas and hijabs.

I write free verse under shade of a maple,
speak English,
eat pizza, cod, corn on the cob,
wear jeans and t-shirts.

Your men greet each other with kisses.
Our women do.

We both read Rumi,
eat yogurt and rice.

We both love our children.

Let us then

strap on our sandals
pick up our walking sticks
and journey together through
this terrible beautiful world
that we entered
and will leave
in the shared shade
of the great unknown.

Nancy Walker Greenaway is a poet living on a small island off the coast of New England.

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RUTH PENNEBAKER

URBAN COWGIRL

Shut My Mouth

IN THE IMMORTAL WORDS OF THE GREAT TAMMY WYNETTE, SOMETIMES IT'S hard to be a woman. Anyway, that's the tune I've been humming — "Stand by Your Man," to be precise — while a torrent of anti-female legislation sweeps across national and state capitols like an Old Testament pestilence. De-fund Planned Parenthood! Forget family planning! Teach abstinence even though it doesn't work! Give extra lectures and bonus sonograms to women who seek abortions! ¶ Humming and singing, I try not to notice the raging inconsistency that some of the biggest libertarians turn all Big Brother when it comes to women, sex, procreation and pregnancy. In fact, if you listen to some Texas lawmakers, you learn that nothing empowers a woman like a state-mandated wand in her vagina.

Good Lord. Shut my mouth. I've said one of those impolite, overly clinical words. *Vagina*.

You see, it's fine to propose and pass legislation about women's bodies, but it's rude and uncouth to get too specific about the particular female body parts being affected. That's what landed Florida state Rep. Scott Randolph in hot water recently. Randolph joked that his wife should probably incorporate her uterus if she wanted the government to leave it alone.

Randolph is now famous for this remark, which pokes fun at conservatives' reverence for unfettered markets and laissez-faire businesses. "If lawmakers and other politicians see your uterus and your body as a business," the Florida ACLU's new website, *IncorporateMyUterus.com*, points out, "maybe they'll work to get government out of the uterus regulation business as they do for every other company." Similarly, *Mother Jones'* website brought up the great news that an incorporated uterus could also donate unlimited money to political action committees.

All of which was beside the point to Republicans in the Florida House. They rebuked Randolph for using language—*uterus!*—that could be offensive to the ears of the teenage pages in the legislature.

Pause here to consider a few troublesome matters. Such as: Since when did uterus become an offensive term — especially when you're talking about regulating abortion? Wouldn't you naturally think of uteruses and wombs and vaginas when you're thundering from the legislative floor about women and their bodies?

And the sensitivity of teenagers? As the mother of two former teenagers, I can attest that the only thing they routinely consider offensive is their parents.

All this reminds me of a very funny guy I worked with a few years ago. Let's call him Michael, since that's his name. Michael was the kind of guy who was casually outrageous and intimidating, capable of saying anything and embarrassed at nothing. He and I

were at an office baby shower one afternoon when I told the story of how early feminists sometimes gathered to eat the placenta after giving birth as a ritual and for medicinal benefits.

That was all I said. I've never eaten placenta myself and have no idea whether it's tasty or not. But I thought it was a marginally interesting story, until I noticed Michael's face had turned chartreuse. He looked nauseated, he looked sick, he looked terrible. "Stop saying that word," he hissed finally.

Well, wands in the vagina may be quite nice, but I personally find nothing more empowering than finding an occasionally overbearing person's weak point. Placenta, huh? Pay dirt! In the weeks that followed, I challenged myself to use the word placenta as frequently as possible around Michael. You'd be surprised how often you can squeeze in a word when you're really, really motivated and the other person really, really deserves it.

But there's something here that fascinates me. Something about men's squeamishness when it comes to women and their bodies. Some suspicion that we and our messy, unruly bodies scare many of them to death—with our blood, our bloating, our pregnancies, our miscarriages and our abortions, our menopauses. These are men who can't decide whether we're delicate blossoms to be protected or vengeful harpies with a tendency toward sexual voraciousness. Because, of course, we must be one or the other. And we must be protected from the world or from ourselves, but we will call this protectionism "empowerment."

Maybe we should just descend *en masse* on the national and state capitols—women young and old, menstruating and pregnant and menopausal, unattractively angry, in fact, royally pissed off. Chanting scary words like "uterus" and "placenta" and "vagina." Screaming to the fleeing legislators that hey, we're like Tammy Wynette. We just want to stand by our men. But it looks like we'll have to catch them first. ☑

If you listen to some Texas lawmakers, you learn that nothing empowers a woman like a state-mandated wand in her vagina.



BOB MOSER

PURPLE STATE

A Proclamation from the Governor of Texas

"Throughout our history, both as a state and as individuals, Texans have been strengthened, assured and lifted up through prayer. It is fitting that Texans should join together in prayer to humbly seek an end to this ongoing drought and these devastating wildfires." —Gov. Rick Perry, declaring April 22-24 as Days of Prayer for Rain in Texas

MEMORANDUM

FROM: Office of the Governor of the State of Texas

TO: All Non-Atheist Texans

DATE: May 1, 2011

RE: A Proclamation of a Month of Prayer for Revenue in the State of Texas

TO ALL WHOM THESE PRESENTS SHALL COME:

WHEREAS, the State of Texas was—with absolutely no prior warning, and through no fault whatsoever of the Governor, the Legislature or the inerrant principle of Trickle-Down Economics—stricken in January of this year with an unprecedented budget shortfall of \$23 billion; and

WHEREAS, \$23 billion in budget cuts could result in the losses of hundreds of schools, thousands of teachers, scores of nursing homes and more than 300,000 jobs, at least if you listen to the doom-and-gloom crowd; and

WHEREAS, the Godless socialistic policies of Washington, D.C., have created a devastating global recession resulting in job losses, lower tax revenues and a general loss of Freedom across this land, affecting even the Economic Miracle that is the State of Texas; and

WHEREAS, these dire conditions emanating from Nancy Pelosi, Harry Reid, Lloyd Doggett and Barack Hussein Obama are solely responsible for creating the most severe fiscal drought in the history of this devout and pennywise State; and

WHEREAS, our Faith informs us that tax cuts and tax breaks and tax incentives are the only reliable ways to raise revenue; and

WHEREAS, the Democrat notion that taxes create revenue is indisputably of the Devil; and

WHEREAS, we know that we are doing His will when we reject the calls of the weak and faithless to raise taxes on corporations and the wealthy; and

WHEREAS, our Legislators have proven themselves powerless to erase this storm of red ink without divine intervention; and

WHEREAS, as your humble servant Grover Norquist keeps reminding the Governor of Texas, we must save the \$6.1 billion in the Rainy Day Fund for a *real* emergency, and he just won't stop pestering the Governor about it; and

WHEREAS, the Governor has discovered, to his considerable surprise and dismay, that federal stimulus programs, which balanced the State of Texas' budget in

2009 and gave the Governor such a swell campaign issue to boot, have now been discontinued, wholly and purely out of spite and jealousy toward the State of Texas; and

WHEREAS, the proclamation thing worked so good with the wildfires, which were Acts of Providence having absolutely nothing to do with Al Gore's made-up theory of global warming; and

WHEREAS, we don't really need the whole \$23 billion, but if He could just bless us with \$10 or \$15 billion big ones, it would make everybody feel a so much better and maybe even get the Governor back in the presidential mix for 2012; and

WHEREAS, speaking of presidents, George W. used to pray all the time and look how that turned out!; and

WHEREAS, given the size of this thing we're dealing with here, it seemed like we needed a whole month of praying on it to make sure we got results;

NOW, THEREFORE, I, RICK PERRY, Governor of Texas, under the authority vested in me by the Constitution and Statutes of the State of Texas, do hereby proclaim the month of May as Days of Prayer for Revenue in the State of Texas. I urge Texans of all faiths and traditions to offer prayers for the healing of our budget, the eternal avoidance of taxes, the restoration of the Governor's political credibility, and the avoidance of any special budget-fixing sessions of the Texas Legislature this summer, when the teachers will surely drive everybody plumb crazy with protests at the Capitol, because those people don't even have to work year-round.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, on this the 1st day of May, 2011. ☐

Rick Perry
GOVERNOR OF TEXAS

"I urge Texans of all faiths and traditions to offer prayers for the healing of our budget, the eternal avoidance of taxes, and the restoration of the Governor's political credibility."

EYE ON TEXAS Sarah Sudhoff



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See more of Sarah Sudhoff’s work at www.texasobserver.org/eyeontexas. CALL FOR ENTRIES: Seeking Texas-based documentary photography that captures the strangest state. Please send inquiries to may@texasobserver.org.

“I dearly love the state of Texas, but I consider that a harmless perversion on my part, and discuss it only with consenting adults.”

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