

HOUSE JOURNAL

SEVENTY-SIXTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTIETH DAY (CONTINUED) — TUESDAY, MAY 11, 1999

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

The roll of the house was called and a quorum was announced present (Record 282).

Present — Mr. Speaker; Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent — Alvarado; Bailey; Capelo; Puente; Thompson.

The invocation was offered by Representative Edwards.

(Puente now present)

CAPITOL PHYSICIAN

The speaker recognized Representative Keffer who presented Dr. Robert Matthews of Eastland as the “Doctor for the Day.”

The house welcomed Dr. Matthews and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Capelo now present)

HR 234 - ADOPTED (by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 234**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 234, Honoring the women of West Texas Women on the Move for their visionary leadership in behalf of African-American women.

HR 234 was adopted without objection.

HR 768 - ADOPTED
(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 768**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 768, In memory of Frederich L. Gerlach of Abilene.

HR 768 was unanimously adopted by a rising vote.

HCR 272 - ADOPTED
(by Hinojosa)

Representative Hinojosa moved to suspend all necessary rules to take up and consider at this time **HCR 272**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 272, Directing the South Texas Independent School District to establish an Advanced Technology and Engineering Center.

HCR 272 was adopted without objection.

HCR 267 - ADOPTED
(by Coleman)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HCR 267**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 267, Honoring the 25th season of the Houston Shakespeare Festival.

HCR 267 was adopted without objection.

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR
SECOND READING

The following bills were laid before the house, read second time, and passed to third reading, and the following resolutions were laid before the house on committee report and adopted (members registering votes are shown following the caption):

CSHB 59 (by Cuellar), A bill to be entitled An Act relating to making a voter information guide for judicial elections available to the public on the Internet. (Corte recorded voting no)

HB 287 (by Wise, Chavez, Dunnam, and Green), A bill to be entitled An Act relating to the prosecution of and punishment for an offense in which a controlled substance is used to facilitate the commission of the offense.

CSHB 306 (by Madden), A bill to be entitled An Act relating to certain practices and procedures involving polling places used for an election; providing a criminal penalty.

HB 435 (by B. Turner, Walker, Cook, Swinford, Culberson, et al.), A bill to be entitled An Act relating to the punishment for certain theft committed against elderly individuals.

CSSB 135 (Olivo - House Sponsor), in lieu of **HB 572**, A bill to be entitled An Act relating to the creation of a county court at law in Fort Bend County.

Representative Howard moved to lay **HB 572** on the table subject to call.

The motion prevailed without objection.

CSHB 618 (by Dukes), A bill to be entitled An Act relating to written notice from superintendents to parents on whether teachers are appropriately certified by the state. (Corte recorded voting no)

CSHB 633 (by Maxey), A bill to be entitled An Act relating to the transfer of assistive technology devices for students with disabilities who leave certain school districts.

HB 658 (by Keel), A bill to be entitled An Act relating to the exclusion of certain criminal proceedings from the proceedings that may be referred to a criminal law magistrate in Travis County.

SB 843 (Hill - House Sponsor), in lieu of **HB 767**, A bill to be entitled An Act relating to the authority of certain municipalities to receive sales tax information.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative McCall, Representative Hill offered the following committee amendment to **SB 843**:

Amend **SB 843** in Section 321.3022(a), Tax Code, as amended by the bill (Engrossed Version, page 1, line 8), by striking "not more than 100,000" and substituting "not more than 275,000".

Amendment No. 1 was adopted without objection.

Representative Hill moved to lay **HB 767** on the table subject to call.

The motion prevailed without objection.

CSHB 847 (by Hilderbran), A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Blanco-Pedernales Groundwater Conservation District.

Amendment No. 1

On behalf of Representative T. King, Representative Hilderbran offered the following amendment to **CSHB 847**:

Amend **CSHB 847** on page 5, line 26, by striking “10” and substituting “one”.

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representative T. King, Representative Hilderbran offered the following amendment to **CSHB 847**:

Amend **CSHB 847** on page 5, after line 27, by adding a new SECTION 14 to the bill to read as follows and renumbering subsequent sections appropriately:

SECTION 14. WELL PERMITTING. Section 36.113, Water Code, applies only to wells in the district dug and put into production after the effective date of this Act.

Amendment No. 2 was adopted without objection.

Amendment No. 3

On behalf of Representative T. King, Representative Hilderbran offered the following amendment to **CSHB 847**:

Amend **CSHB 847** by adding a new SECTION to the bill, appropriately numbered, to read as follows:

SECTION _____. EXEMPTION OF CERTAIN LAND FROM REGULATION. Land within the district that is outside a subdivision is exempt from regulation by the district if the land is appraised under Subchapter C or D, Chapter 23, Tax Code.

Amendment No. 3 was adopted without objection.

HB 926 (by Garcia), A bill to be entitled An Act relating to the penalty for tampering with certain governmental records.

CSHB 937 (by Maxey), A bill to be entitled An Act relating to the operation of certain food programs administered by the Texas Department of Human Services. (Corte recorded voting no)

HB 947 (by Palmer), A bill to be entitled An Act relating to the criminal penalty for a violation of law relating to the regulation of fireworks.

(Thompson now present)

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Smith, Representative Palmer offered the following committee amendment to **HB 947**:

Amend **HB 947** by adding the following appropriately numbered sections:
SECTION _____. Section 19, Article 5.43-4, Insurance Code, is amended to read as follows:

Sec. 19. PENALTIES. (a) A person commits an offense if the person knowingly or intentionally violates Section 17 of this article.

(b) ~~[An offense under this section is a Class B misdemeanor.~~

~~[(c)]~~ Each day that a violation occurs or continues constitutes a separate offense.

(c) [~~(c)~~] Venue under this section is in the county in which the offense is committed or in Travis County.

(d) [~~(d)~~] If the commissioner determines that a violation of this article creates a threat to the public safety, the commissioner may bring suit in the district court of the county in which the person who committed the offense resides or has an office to enjoin the person from engaging in the prohibited activity. The commissioner is not required to give bond as a condition to the issuance of injunctive relief.

(e) [~~(e)~~] The state fire marshal, a fire chief, a fire marshal, their deputies, or a police or peace officer may seize illegal fireworks as defined by this article. Fireworks seized in the enforcement of this article shall be kept in the custody of the seizing agent or the sheriff of the county in which the fireworks were seized. The owner of the seized fireworks may file an action contesting the seizure in a district court in the county in which the fireworks were seized. The court may, not later than the 30th day after the hearing on the seizure, authorize the return of part or all of the confiscated fireworks. The court shall order any fireworks not returned to be destroyed. If an action contesting the seizure is not filed by the 30th day after the seizure, the seizing agent or the sheriff shall destroy the fireworks.

(f) Except as provided by Subsections (g) and (h) of this section, an offense under this section is a Class B misdemeanor.

(g) Except as provided by Subsection (h) of this section, a violation of Section 17(f)(1), (2), (3), (4), or (5) of this article is a Class C misdemeanor.

(h) If it is shown at the trial of an offense described by Subsection (g) of this section that the act constituting the offense resulted in property damage of at least \$200 or more or in bodily injury or death, the offense is a Class B misdemeanor.

SECTION _____. (a) The change in law made by this Act to Section 19, Article 5.43-4, Insurance Code, applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted without objection.

CSHB 955 (by Uher), A bill to be entitled An Act relating to providing parties with notice of the attorney of record representing the office of attorney general.

CSHB 969 (by Van de Putte), A bill to be entitled An Act relating to the definition under certain health benefit plans of treatment for craniofacial abnormalities of a child.

HB 1070 (by Merritt, Ellis, Berman, Noriega, Cook, et al.), A bill to be entitled An Act relating to parking privileges of a disabled veteran.

CSHB 1104 (by Dunnam and A. Reyna), A bill to be entitled An Act relating to parental involvement programs in public schools.

HB 1140 (by Thompson), A bill to be entitled An Act relating to notice to voter registrars concerning persons convicted of a felony.

CSHB 1271 (by Dutton), A bill to be entitled An Act relating to the enforcement of an order for the payment of attorney's fees in certain proceedings.

HB 1291 (by Brimer), A bill to be entitled An Act relating to the single certification of a water or sewer utility in an area incorporated or annexed by a municipality.

CSHB 1321 (by P. King, Green, and Morrison), A bill to be entitled An Act relating to the authority of a magistrate to impose certain reasonable conditions of bond and to revoke a bond for violation of one of those conditions.

HB 1428 (by Staples), A bill to be entitled An Act relating to the prosecution of and the punishment for the offense of unlawful restraint.

HB 1545 (by Danburg and Uresti), A bill to be entitled An Act relating to accessibility standards at polling places and precinct convention places for the elderly and persons with physical disabilities.

HB 1562 (by E. Reyna), A bill to be entitled An Act relating to matters that may be referred to a criminal law magistrate in Dallas County.

CSHB 1575 (by Maxey), A bill to be entitled An Act relating to double parking in a central business district.

CSHB 1628 (by Maxey), A bill to be entitled An Act relating to requiring a health insurer to provide certain information to governmental entities with which the insurer contracts.

CSHB 1666 (by Green), A bill to be entitled An Act relating to the operation of the Nixon Hospital District of Gonzales and Wilson Counties, Texas, and Gonzales Healthcare Systems.

HB 1743 (by Shields, et al.), A bill to be entitled An Act relating to the registration and the transfer of motor vehicles owned by certain persons on active duty in the armed forces of the United States.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Alexander, Representative Shields offered the following committee amendment to **HB 1743**:

HB 1743 line 6, page 2 is amended to read: "period of not more than 90 days after the date on which the ~~person~~ vehicle"

Amendment No. 1 was adopted without objection.

HB 1754 (by Hill), A bill to be entitled An Act relating to summoning prospective jurors to justice court.

HB 1769 (by C. Jones), A bill to be entitled An Act relating to a going out of business sale.

HB 1800 (by Eiland), A bill to be entitled An Act relating to the transfer by the General Land Office to the City of Texas City the state's interest in certain real property.

CSHB 1852 (by Thompson), A bill to be entitled An Act relating to the administration of decedents' estates.

Amendment No. 1

On behalf of Representative Gutierrez, Representative Hartnett offered the following amendment to **CSHB 1852**:

Amend **HB 1852** by adding an appropriately numbered section to the bill to read as follows and by renumbering the existing sections of the bill accordingly:

SECTION _____. Section 10B, Texas Probate Code, is amended to read as follows:

Sec. 10B. COMMUNICATIONS OR RECORDS RELATING TO DECEDENT'S CONDITION BEFORE DEATH. Notwithstanding the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), a person who is a party to a will contest or a proceeding in which a party relies on the mental or testamentary capacity of a decedent before the decedent's death as part of the party's claim or defense is entitled to production of all communications or records relevant to the decedent's condition before the decedent's death. On receipt of a subpoena of communications or records under this section and proof of filing of the will contest or proceeding, by file-stamped [~~certified~~] copy, the appropriate physician, hospital, medical facility, custodian of records, or other person in possession of the communications or records shall release the communications or records to the party requesting the records without further authorization.

Amendment No. 1 was adopted without objection.

HB 1906 (by West), A bill to be entitled An Act relating to special license plates benefiting parks, fisheries, and wildlife.

HB 1991 (by Dunnam), A bill to be entitled An Act relating to appeal of certain court orders and judgments relating to arbitration.

HB 2023 (by Carter), A bill to be entitled An Act relating to the authority of the Commission on Law Enforcement Officer Standards and Education to employ and commission peace officers.

Amendment No. 1

Representative Carter offered the following amendment to **HB 2023**:

Amend **HB 2023** in SECTION 1 of the bill by striking added Section 415.016, Government Code, and adding a new SECTION 415.016 to read as follows:

Sec. 415.016. AUTHORITY TO COMMISSION INVESTIGATORS AS PEACE OFFICERS. The commission may commission certified peace officers as investigators employed by the commission for the limited purpose of assisting the commission in administering this chapter.

Amendment No. 1 was adopted without objection.

CSHB 2050 (by Thompson), A bill to be entitled An Act relating to the regulation of the practice of acupuncture.

CSHB 2051 (by Thompson), A bill to be entitled An Act relating to classes of business for small employer health benefit plans.

Amendment No. 1

On behalf of Representative Gutierrez, Representative Thompson offered the following amendment to **CSHB 2051**:

Amend **CSHB 2051** on page 1, lines 11 and 12, by striking “the number of employees and dependents,” and inserting “[~~the number of employees and dependents~~]”.

Amendment No. 1 was adopted without objection.

CSHB 2057 (by Yarbrough), A bill to be entitled An Act relating to the form for an application for an early voting ballot to be voted by mail.

Amendment No. 1

On behalf of Representative Carter, Representative Yarbrough offered the following amendment to **CSHB 2057**:

Amend **CSHB 2057** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 84.001, Election Code, is amended to read as follows:

Sec. 84.001. APPLICATION REQUIRED. (a) To be entitled to vote an early voting ballot by mail, a person who is eligible for early voting must make an application for an early voting ballot to be voted by mail as provided by this title.

(b) An application must be in writing and signed by the applicant.

(c) An applicant is not required to use an official application form.

(d) An applicant may not use an application form that is furnished to the applicant unless the application form is printed or stamped with the name and official title of the early voting clerk as addressee and the clerk’s official mailing address.

(e) An applicant for a ballot to be voted by mail may apply for ballots for the main election and any resulting runoff election on the same application. The timeliness of the application for both elections is determined in relation to the main election. However, if the application is not timely for the main election, the timeliness of the application for the runoff election is determined in relation to that election.

(f) [~~e~~] A person who has not made an application as provided by this title is not entitled to receive an early voting ballot to be voted by mail.

SECTION 2. This Act takes effect September 1, 1999.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 1 was adopted without objection.

CSHB 2075 (by Hochberg), A bill to be entitled An Act relating to the public notice required to be provided by a school district before adopting a proposed budget and tax rate.

CSHB 2101 (by Pitts), A bill to be entitled An Act relating to compliance by financial institutions with requests relating to judgment debtors.

CSHB 2103 (by Pitts and West), A bill to be entitled An Act relating to state symbols and place designations adopted by the legislature.

HB 2125 (by E. Reyna), A bill to be entitled An Act relating to creating the offense of stealing or receiving a stolen check or sight order.

HB 2130 (by Carter), A bill to be entitled An Act relating to disposition of out of county crimes.

HB 2151 (by Bosse), A bill to be entitled An Act relating to immunity from liability of a member of the board of directors of a public facility corporation.

Amendment No. 1 (Committee Amendment No. 1)

Representative Bosse offered the following committee amendment to **HB 2151**:

Amend **HB 2151**, SECTION 1, by striking new Subsection (g) of Section 3.028, and replacing it with a new (g) to read as follows:

(g) A member of a corporation's board of directors is granted the same immunity from liability as is granted under the laws of this state to a member of the governing body of the sponsor of the corporation if the director was acting in good faith and in the course and scope of the duties or functions within the corporation.

Amendment No. 1 was adopted without objection.

CSHB 2152 (by P. King, et al.), A bill to be entitled An Act relating to a partial lump-sum distribution on retirement from the Texas County and District Retirement System.

HB 2163 (by Farabee), A bill to be entitled An Act relating to the name of certain political committees.

HB 2188 (by Hinojosa), A bill to be entitled An Act relating to the procedure for accepting a plea of guilty or nolo contendere from certain misdemeanants.

HB 2234 (by Denny and B. Brown), A bill to be entitled An Act relating to the distance between certain pits that are part of quarrying operations and adjacent property.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative B. Turner, Representative Denny offered the following committee amendment to **HB 2234**:

Amend **HB 2234** on page 1, Section 1, line 12, by striking the following language:

“1.5 times the vertical distance from the original ground surface to the top of the consolidated material, plus”

Amendment No. 1 was adopted without objection.

HB 2269 (by Hamric, Allen, Naishtat, Dukes, and B. Turner), A bill to be entitled An Act relating to the exemption from ad valorem taxation of property owned by certain charitable organizations performing certain functions.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Oliveira, Representative Hamric offered the following committee amendment to **HB 2269**:

Amend **HB 2269** by striking page 5, line 24, through page 6, line 2, and substituting the following:

(20) providing housing on a cooperative basis to students of an institution of higher education if:

(A) the organization is exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C) the organization is governed by its members; and

(D) the members of the organization share the responsibility for managing the housing.

Amendment No. 1 was adopted without objection.

SB 1196 (McCall - House Sponsor), in lieu of **HB 2288**, A bill to be entitled An Act relating to consent to the purchase or application for, and designation of owners or beneficiaries of, certain life insurance policies.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Olivo, Representative McCall offered the following committee amendment to **SB 1196**:

Amend **SB 1196** by inserting a new SECTION 2 of the bill to read as follows (page 3, between lines 17 and 18, senate engrossment printing) and renumbering the subsequent SECTIONS of the bill appropriately:

SECTION 2. The purpose of this Act is to clarify existing law and practice as it relates to consent to the ownership of, or status as a beneficiary under, a life insurance policy. This Act is not intended to alter or modify the meaning of, or law relating to, former Section 4, Chapter 113, Acts of the 53rd Legislature, Regular Session, 1953 (Article 3.49-1, Vernon's Texas Insurance Code), as that section existed immediately before the effective date of this Act.

Amendment No. 1 was adopted without objection.

Representative McCall moved to lay **HB 2288** on the table subject to call.

The motion prevailed without objection.

SB 940 (Green - House Sponsor), in lieu of **CSHB 2302**, A bill to be entitled An Act relating to student fees for bus services at Southwest Texas State University.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Rangel, Representative Green offered the following committee amendment to **SB 940**:

Amend **SB 940** (Senate engrossment) in Section 2 of the bill, as follows:
(1) Immediately following the last sentence of the section (page 1, line 12), add the following:

Beginning with that semester, an increase in the fee imposed under Section 54.511, Education Code, takes effect only if the fee increase is approved by a vote of the students as required by Section 54.511(b), as amended by this Act.

Amendment No. 1 was adopted without objection.

Representative Green moved to lay **CSHB 2302** on the table subject to call.

The motion prevailed without objection.

HB 2317 (by Hartnett), A bill to be entitled An Act relating to venue in an action concerning a trust.

HB 2344 (by Culberson), A bill to be entitled An Act relating to the transfer of funds to optional retirement programs for certain employees of public schools.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Greenberg, Representative Culberson offered the following committee amendment to **HB 2344**:

(Page 1, Line 10) Delete the word “third” and replace it with the word “fifth”.

(Page 2, Line 5) Delete the word “third” and replace it with the word “fifth”.

Amendment No. 1 was adopted without objection.

HB 2346 (by Culberson), A bill to be entitled An Act relating to periods of limitation for a felony involving leaving the scene of an accident.

CSHB 2380 (by Burnam), A bill to be entitled An Act relating to ad valorem tax revenues collected by the assessor-collector of certain counties and to interest on those revenues.

CSHB 2394 (by Maxey), A bill to be entitled An Act relating to the regulation of the practice of optometry.

CSHB 2491 (by Yarbrough and Gray), A bill to be entitled An Act relating to the inspection of the premises of sexually oriented businesses for a violation of law.

CSHB 2495 (by Farabee, Maxey, and Edwards), A bill to be entitled An Act relating to the use of a prescription drug formulary by a group health benefit plan.

HB 2534 (by Thompson), A bill to be entitled An Act relating to the appointment of retired or former judges as visiting judges of certain courts.

HB 2554 (by C. Jones), A bill to be entitled An Act relating to special registration and license plates for members of the Air Forces Escape & Evasion Society.

CSHB 2557 (by Glaze), A bill to be entitled An Act relating to the application of the open meetings law and the open records law to certain entities eligible to receive funds under the federal community services block grant program.

CSHB 2616 (by Counts), A bill to be entitled An Act relating to the Garza County Health Care District.

HB 2655 (by Elkins), A bill to be entitled An Act relating to repossession of a motor vehicle for repair charges.

HB 2659 was withdrawn.

HB 2688 (by A. Reyna), A bill to be entitled An Act relating to a temporary order in a suit affecting the parent-child relationship.

CSHB 2759 (by Deshotel), A bill to be entitled An Act relating to the prostate cancer education program.

CSHB 2768 (by Pickett), A bill to be entitled An Act relating to the issuance of special license plates for passenger cars and light trucks owned by or used for the transportation of veterans with disabilities.

HB 2795 (by Naishtat), A bill to be entitled An Act relating to notice and hearing for the appointment of a guardian for incapacitated persons.

CSHB 2822 (by Deshotel), A bill to be entitled An Act relating to the fees charged by a county clerk for probate filings.

CSHB 2825 (by Isett and C. Jones), A bill to be entitled An Act relating to the definitions of various types of weapons for the purposes of criminal prosecutions and to a defense to prosecution for certain weapon offenses.

SB 1719 (Uher - House Sponsor), in lieu of **HB 2863**, A bill to be entitled An Act relating to the salary of a retired or former judge or justice assigned to a district court.

Representative Y. Davis moved to lay **HB 2863** on the table subject to call.

The motion prevailed without objection.

CSHB 2868 (by Capelo), A bill to be entitled An Act relating to provision of certain information by a large employer health insurance carrier to an insured large employer.

HB 2870 (by Capelo and Goodman), A bill to be entitled An Act relating to the grounds for an appeal or a postconviction writ of habeas corpus brought by a child.

CSHB 2871 (by Capelo and Goodman), A bill to be entitled An Act relating to the funding and construction of post-adjudication facilities for certain children.

CSHB 2890 (by Bonnen), A bill to be entitled An Act relating to the report, delivery, and claims process for unclaimed property held by certain local governments.

CSHB 2892 (by Hartnett), A bill to be entitled An Act relating to the procedures for returning an absent patient to a facility for court-ordered treatment or care.

HB 2910 (by Naishtat), A bill to be entitled An Act relating to contracts for special features of the telecommunications relay access service.

CSHB 2915 (by Pitts), A bill to be entitled An Act relating to the powers and duties of the executive director of the workforce development division of the Texas Workforce Commission.

CSHB 2920 (by Pitts), A bill to be entitled An Act relating to the operation of a motorcycle on a public street or highway.

HB 2961 (by D. Jones), A bill to be entitled An Act relating to the board of hospital managers of the Lubbock County Hospital District.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Krusee, Representative D. Jones offered the following committee amendment to **HB 2961**:

1. Amend SECTION 1 of **HB 2961** as follows:

(a) In page 1, line 16, insert “ex-officio” between “one” and “member”.

(b) In page 1, line 17, insert the following after “members.”:

“The ex-officio member appointed by the Texas Tech University board of regents shall have all powers of a member of the board, except that the member may not vote. The ex-officio member shall attend executive sessions of the board, shall have access to all documents reviewed or considered by the board or its staff, and shall have any and all other powers of a member of the board with the exception of voting.”

Amendment No. 1 was adopted without objection.

HB 2971 (by Staples), A bill to be entitled An Act relating to the training required to be appointed as a county jailer.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Ramsay, Representative Staples offered the following committee amendment to **HB 2971**:

Amend **HB 2971** as follows:

(1) On page 1, line 24, strike “and is not required to be licensed by the commission under Section 415.051”.

(2) At the end of Subsection (d), add “Examinations under Section 415.056 and Psychological and Physical Examination under Section 415.057 shall apply.”

Amendment No. 1 was adopted without objection.

HB 2977 was previously passed.

CSHB 2996 (by Culberson), A bill to be entitled An Act relating to use of certain devices to prevent operation of improperly parked vehicles.

CSHB 2997 (by Culberson), A bill to be entitled An Act relating to the recognition of certain symbols of the State of Texas and to the designation of various recognition days.

CSHB 3114 (by Uresti), A bill to be entitled An Act relating to authorizing counties to permit certain veterans to park free of charge in county parking facilities.

CSHB 3173 (by Hartnett), A bill to be entitled An Act relating to the duty of an officer to deposit certain money in the county treasury.

CSHB 3204 (by Danburg), A bill to be entitled An Act relating to the election of members of the board of trustees of certain independent school districts.

HB 3230 (by Capelo), A bill to be entitled An Act relating to the selection of alternate jurors to serve during the term of a grand jury.

CSHB 3239 (by Denny), A bill to be entitled An Act relating to parental access to school board meetings.

HB 3257 (by Homer), A bill to be entitled An Act relating to allowing certain political subdivisions to change the date of the general election for officers.

CSHB 3281 (by Maxey and Chisum), A bill to be entitled An Act relating to the authority of a state agency to report to a regulated entity on violations of certain environmental or health and safety laws in order to help prevent future violations.

HB 3342 (by Naishtat), A bill to be entitled An Act relating to the eligibility of certain persons to hold a driver's license.

CSHB 3343 (by Naishtat), A bill to be entitled An Act relating to receiverships for certain missing persons.

CSHB 3355 (by Staples), A bill to be entitled An Act relating to the responsibility for transporting certain juvenile offenders.

SB 1446 (Maxey, Krusee, Dukes, Greenberg, and Naishtat - House Sponsors), in lieu of **HB 3419**, A bill to be entitled An Act relating to authorizing the General Services Commission to convey certain state-owned property to the City of Austin.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Krusee, Representative Maxey offered the following committee amendment to **SB 1446**:

Amend **SB 1446**, as engrossed, page 1, line 5 as follows:

Sec. 1. (a) The General Services Commission, subject to the approval of the Legislative Budget Board and Office of the Governor, may convey, on behalf of the state, the state's interest in the real property described by Subsection (e) of this section to the City of Austin.

Amendment No. 1 was adopted without objection.

Representative Maxey moved to lay **HB 3419** on the table subject to call.

The motion prevailed without objection.

CSHB 3431 (by Delisi, Junell, and Luna), A bill to be entitled An Act relating to the Council on Workforce and Economic Competitiveness.

CSHB 3450 (by Hilderbran and Naishtat), A bill to be entitled An Act relating to the collection of civil penalties assessed against a convalescent or nursing home or related institution.

CSHB 3451 (by Hilderbran and Naishtat), A bill to be entitled An Act relating to arbitration to resolve certain matters relating to nursing homes and related institutions.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Goodman, Representative Hilderbran offered the following committee amendment to **HB 3451**:

Amend **HB 3451**, as filed, as follows:

On page 2, line 4 strike SECTION 4 of the bill and substitute a new SECTION 4, to read as follows: "SECTION 4. Section 242.094, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) A court having jurisdiction of a judicial review of the matter may not order arbitration, whether on motion of any party or on the court's own motion, to resolve the legal issues of a dispute involving the:

(1) appointment of a trustee under this section; or

(2) conduct with respect to which the appointment of trustee is sought."

Amendment No. 1 was adopted without objection.

HB 3452 (by Hilderbran), A bill to be entitled An Act relating to binding arbitration to resolve certain disputes involving certain residential and custodial facilities licensed by the Texas Department of Human Services.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Nixon, Representative Hilderbran offered the following committee amendment to **HB 3452**:

Amend **HB 3452**, as filed, as follows:

On page 1, at the end of line 22, add: "If a civil penalty is requested after the initial filing of a Section 242.094 lawsuit through the filing of an amended or supplemental pleading, an affected institution must elect arbitration not later than the 10th day after the date on which the amended or supplemental pleading is served on the affected institution or its counsel."

Amendment No. 1

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Nixon, Representative Hilderbran offered the following committee amendment to **HB 3452**:

Amend **HB 3452**, as filed, as follows:

On page 2, line 4, strike subsection (d) and substitute a new subsection (d) to read as follows:

(d) Arbitration may not be used to resolve a dispute related to an affected institution that has had an award levied against it in the previous five years.

Amendment No. 2 was adopted without objection.

HB 3467 was previously passed.

CSHB 3480 (by Greenberg and Seaman), A bill to be entitled An Act relating to the membership of a local workforce development board.

HB 3584 (by Flores and Wise), A bill to be entitled An Act relating to dependent coverage under certain group health benefit plans. (Corte and Swinford recorded voting no)

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Wise, Representative Flores offered the following committee amendment to **HB 3584**:

Amend **HB 3584**:

On page 3, line 18 Sec. 3.(1) insert “a dependent of the enrollee and is [~~younger than 25 years of age;~~]”.

Representative Flores moved to table Amendment No. 1.

The motion to table prevailed.

HB 3590 (by Keel), A bill to be entitled An Act relating to an exception for peace officers from private security consultant registration requirements.

HB 3604 (by Uresti), A bill to be entitled An Act relating to the imposition of sanctions by a court on a person who signs a pleading or motion.

CSHB 3606 (by Salinas and Uresti), A bill to be entitled An Act relating to licensing requirements for alternative education programs that provide chemical dependency treatment services.

CSHB 3616 (by Hilbert), A bill to be entitled An Act relating to amending a petition for judicial review of certain ad valorem tax determinations.

HB 3630 (by Naishtat), A bill to be entitled An Act relating to guardianships for incapacitated persons.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hartnett, Representative Naishtat offered the following committee amendment to **HB 3630**:

Amend **HB 3630** on page 1, line 12, by striking “proposed wards” and substituting “proposed wards who are indigent”.

Amendment No. 1 was adopted without objection.

CSHB 3641 (by B. Turner), A bill to be entitled An Act relating to the suspension, revocation, cancellation, and certain other actions in connection with a license to operate a motor vehicle on a highway in this state.

CSHB 3642 (by B. Turner), A bill to be entitled An Act relating to certain administrative procedures of the Teacher Retirement System of Texas.

CSHB 3660 (by Maxey and Keel), A bill to be entitled An Act relating to service credit under the Teacher Retirement System of Texas for certain work experience of certified career and technology education teachers.

CSHB 3744 (by Greenberg), A bill to be entitled An Act relating to the issuance of special license plates in honor of the 100th football season of Stephen F. Austin High School in Austin.

CSHB 3773 (by Greenberg), A bill to be entitled An Act relating to credit in and benefits and administration of retirement systems for police officers in certain municipalities.

HB 3794 (by Zbranek), A bill to be entitled An Act relating to the authority of certain counties to impose a county hotel occupancy tax throughout the county.

HB 3803 (by Smithee), A bill to be entitled An Act relating to the appointment of a bailiff for the County Court at Law of Randall County.

CSHB 3804 (by Crownover), A bill to be entitled An Act relating to the Lake Cities Municipal Utility Authority; granting the power of eminent domain; authorizing an ad valorem tax; and granting the authority to issue bonds.

CSHB 3805 (by Gallego), A bill to be entitled An Act relating to the creation of the Middle Pecos Groundwater Conservation District.

CSHB 3808 (by Hilderbran), A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Bergesland Groundwater Conservation District.

CSHB 3813 (by Kuempel), A bill to be entitled An Act relating to the creation of the Southeast Trinity Groundwater Conservation District.

HB 3824 (by J. Solis), A bill to be entitled An Act relating to the Laguna Madre Water District.

HB 3825 (by Counts), A bill to be entitled An Act relating to the jurisdiction of the County Court of King County.

HB 3826 (by Counts), A bill to be entitled An Act relating to the jurisdiction of the County Court of Baylor County.

HB 3827 (by Counts), A bill to be entitled An Act relating to the jurisdiction of the County Court of Cottle County.

HB 3828 (by Counts), A bill to be entitled An Act relating to the jurisdiction of the County Court of Knox County.

CSHB 3844 (by Junell), A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Lone Wolf Groundwater Conservation District.

CSHB 3846 (by R. Lewis), A bill to be entitled An Act relating to the composition of the board of directors of the Sabine River Authority of Texas.

CSHB 3848 (by Flores), A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Red Sands Groundwater Conservation District in Hidalgo County.

HB 3850 (by Uher), A bill to be entitled An Act relating to the creation of the Coastal Plains Groundwater Conservation District and the authorization of the district to impose an ad valorem tax.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Walker, Representative Y. Davis offered the following committee amendment to **HB 3850**:

Amend **HB 3850** as follows:

- (1) On page 2, line 9, delete subsection (b) in its entirety.
- (2) On page 5, line 18, delete “fifth” and substitute “second”

Amendment No. 1 was adopted without objection.

HCR 12 (by Averitt), Designating the city of Marlin as the Official Hot Mineral Water City of Texas.

CSHCR 124 (by Seaman, Luna, and Capelo), Designating the Asian Cultures Museum & Educational Center the Official State Museum of Asian Cultures.

RULES SUSPENDED

On motion of Representative Y. Davis and by unanimous consent, the following bills were added to the Local, Consent, and Resolutions Calendar for today.

CSHB 628 (by Hope, et al.), A bill to be entitled An Act relating to the creation of the offense of failing to stop or report the aggravated sexual assault of a child.

CSHB 643 (by Flores), A bill to be entitled An Act relating to reporting of certain information by an insurer to a credit reporting bureau.

CSHB 1563 (by Bosse), A bill to be entitled An Act relating to prohibiting the recording of a plat or replat of a subdivision of real property if ad valorem taxes are delinquent.

HB 1798 (by P. King, Morrison, et al.), A bill to be entitled An Act relating to the prosecution of theft of services provided at certain service establishments.

CSHB 1925 (by Carter), A bill to be entitled An Act relating to the display of the Flag of the State of Texas at the capitol building.

HB 1934 (by G. Lewis), A bill to be entitled An Act relating to tax increment financing.

CSHB 2162 (by Naishtat), A bill to be entitled An Act relating to the process for preparing a development plan before certain state-owned real property is offered for sale or lease.

CSHB 2276 (by Madden and Pitts), A bill to be entitled An Act relating to the period for filing an application for a place on the general primary election ballot in 2000 and to related dates and deadlines.

SB 1154 (Williams, Coleman, Woolley, et al. - House Sponsors), in lieu of **CSHB 2761**, A bill to be entitled An Act relating to the establishment of regional development agreements between certain municipalities and special districts.

Representative Williams moved to lay **HB 2761** on the table subject to call.

The motion prevailed without objection.

CSHB 2937 (by B. Turner), A bill to be entitled An Act relating to the duties of the district attorney for the 35th Judicial District.

CSHB 3178 (by G. Lewis), A bill to be entitled An Act relating to coverage for certain health benefits under the Texas State College and University Employees Uniform Insurance Benefits Act.

CSHB 3284 (by Van de Putte), A bill to be entitled An Act relating to the establishment and use of a women's athletic development fund and a study of women's athletic development practices at institutions of higher education. (Swinford recorded voting no)

CSHB 3351 (by B. Turner), A bill to be entitled An Act relating to providing a county notice of the issuance of a permit to transport a manufactured house.

CSHB 3437 (by Isett), A bill to be entitled An Act relating to certain records and fees involving abandoned property.

HB 3650 (by Hartnett), A bill to be entitled An Act relating to reimbursement of expenses of jurors; increasing and reallocating reimbursement.

CSHB 3833 (by Corte), A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Trinity Glen Rose Groundwater Conservation District.

CSHB 3845 (by Zbranek), A bill to be entitled An Act relating to the creation of the Southeast Texas Agricultural Development District; granting the right to issue bonds.

HB 3849 (by Swinford), A bill to be entitled An Act relating to the name and powers of, and the validation of certain acts of, the North Plains Ground Water Conservation District No. Two.

HB 3854 (by Thompson), A bill to be entitled An Act relating to the assignment and docketing of cases filed in Harris County statutory probate courts.

HCR 111 (by Noriega), naming the state building at 5425 Polk Avenue in Houston the Elias Ramirez Building.

SB 1154 - STATEMENT OF LEGISLATIVE INTENT

SB 1154 provides specific legislative authorization for interlocal governmental agreements to defer annexation and it limits the authority of certain municipalities to annex property described in such an agreement.

Some limitations on the ability of a home-rule municipality to contract away or limit its fundamental powers for the benefit of private parties currently exist. However, the promotion of interlocal governmental efficiency and cooperation has been a longstanding goal of the legislature. The Interlocal Cooperation Act and the Strategic Partnership Agreement Act were enacted by the legislature in furtherance of this goal. Agreements between local governments which provide for the effective and cost-efficient delivery of local governmental services are and should be distinguishable from agreements limiting local government authority in order to confer special privileges of benefits on private parties. Proper interlocal governmental agreements have gained a growing acceptance in our courts, and this bill would further authorize, promote, and encourage such agreements.

If it is finally determined that a regional development agreement is invalid or unenforceable on the basis that it improperly limits the governmental authority of a party, **SB 1154** exercises the power of the legislature to limit the home rule power of annexation under certain limited circumstances so as to provide a safety net for parties entering into or relying upon regional development agreements.

Williams

Coleman

(Capelo in the chair)

INTRODUCTION OF GUEST

The chair recognized Representative Noriega, who introduced Ann Mulholland Collum.

HR 857, honoring Ann Mulholland Collum for her many years of service to Texas education, having been previously adopted, was read.

HR 890 - ADOPTED **(by J. Moreno)**

Representative J. Moreno moved to suspend all necessary rules to take up and consider at this time **HR 890**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 890, Celebrating the birth of Hanna Ray Homer.

HR 890 was read and was adopted without objection.

On motion of Representative Van de Putte, the names of all the members of the house were added to **HR 890** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative J. Moreno, who introduced Representative Homer, his wife Jennifer, and their daughter, Hanna Ray Homer.

(Speaker pro tempore in the chair)

ADJOURNMENT

Representative Alexander moved that the house adjourn until 12 noon.

The motion prevailed without objection.

The house accordingly, at 11:58 a.m., adjourned until 12 noon.

HOUSE JOURNAL

SEVENTY-SIXTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-FIRST DAY — TUESDAY, MAY 11, 1999

The house met at 12 noon and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 283).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

LEAVES OF ABSENCE GRANTED

On motion of Representative Y. Davis and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative Y. Davis moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed without objection.

MOTION FOR ONE RECORD VOTE

On motion of Representative Y. Davis and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR
THIRD READING**

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by a voice vote (members registering votes are shown following bill number):

HB 59 (Corte - no)

HB 287

HB 306

HB 435

SB 135

HB 658

HB 926

HB 937 (Corte - no)

HB 955

HB 969

HB 1070

HB 1140

HB 1271

HB 1321

HB 1428

HB 1545

HB 1562

HB 1628

HB 1743

HB 1769

HB 1852

HB 1906

HB 1991

HB 2050

HB 2051

HB 2057

HB 2075

HB 2101

HB 2103

HB 2125
HB 2130
HB 2151
HB 2152
HB 2163
HB 2188
HB 2234
HB 2269
SB 1196
HB 2317
HB 2344
HB 2346
HB 2394
HB 2495
HB 2534
HB 2554
HB 2557
HB 2616
HB 2655
HB 2688
HB 2759
HB 2768
HB 2795
HB 2822
HB 2825
SB 1719
HB 2868
HB 2870
HB 2871
HB 2890
HB 2910
HB 2915
HB 2920
HB 2961

HB 2971

HB 2996

HB 2997

HB 3114

HB 3173

HB 3204 (Corte and Swinford - no)

HB 3230

HB 3257

HB 3342

HB 3343

HB 3431

HB 3450

HB 3451

HB 3452

HB 3480

HB 3584 (Corte and Swinford - no)

HB 3590

HB 3604

HB 3630

HB 3641

HB 3642

HB 3660

HB 3744

HB 3773

HB 3803

HB 3813

HB 3824

HB 3825

HB 3826

HB 3827

HB 3828

HB 3848

HB 628

HB 643

HB 1563

HB 1798

HB 1925

HB 2276

HB 2937

HB 3178

HB 3284 (Swinford - no)

HB 3437

HB 3650

HB 3845

HB 3854

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by (Record 284): 148 Yeas, 0 Nays, 2 Present, not voting (members registering votes and the results of the vote are shown following bill number).

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

HB 618 (Corte - no) (147-1-2)

HB 633 (148-0-2)

SB 843 (148-0-2)

HB 847 (148-0-2)

HB 947 (148-0-2)

HB 1104 (148-0-2)

HB 1291 (148-0-2)

HB 1575 (148-0-2)

HB 1666 (148-0-2)

HB 1754 (148-0-2)

HB 1800 (148-0-2)

HB 2023 (148-0-2)

SB 940 (148-0-2)

HB 2380 (148-0-2)

HB 2491 (148-0-2)

HB 2892 (148-0-2)

HB 3239 (148-0-2)

HB 3281 (148-0-2)

HB 3355 (148-0-2)

SB 1446 (148-0-2)

HB 3606 (148-0-2)

HB 3616 (148-0-2)

HB 3794 (148-0-2)

HB 3804 (148-0-2)

HB 3805 (148-0-2)

HB 3808 (148-0-2)

HB 3844 (148-0-2)

HB 3846 (148-0-2)

HB 3850 (148-0-2)

HB 1934 (148-0-2)

HB 2162 (148-0-2)

SB 1154 (148-0-2)

HB 3351 (148-0-2)

HB 3833 (148-0-2)

HB 3849 (148-0-2)

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Rules and Resolutions, on noon recess today, Desk 133, for a formal meeting, to consider calendar.

Transportation, on noon recess today, Desk 25, for a formal meeting.

Public Safety, on noon recess Desk 141, for a formal meeting, to consider pending business.

Ways and Means, on noon recess today, Desk 61, for a formal meeting, to consider pending business.

RECESS

Speaker Laney moved that the house recess until 1:30 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:17 p.m., recessed until 1:30 p.m. today.

AFTERNOON SESSION

The house met at 1:30 p.m. and was called to order by the speaker.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 46).

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

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

SB 1129 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Kuempel, the house granted the request of the senate for the appointment of a conference committee on **SB 1129**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1129**: Kuempel, chair, Greenberg, Telford, Tillery, and Bonnen.

PROVIDING FOR A CONGRATULATORY AND MEMORIAL CALENDAR

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Friday, May 14.

The motion prevailed without objection.

PROVIDING FOR A LOCAL, CONSENT, AND RESOLUTIONS CALENDAR

Representative Edwards moved to set a local, consent, and resolutions calendar for 10 a.m. Friday, May 14.

The motion prevailed without objection.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

**CSHB 3505 ON SECOND READING
(by J. Solis)**

CSHB 3505, A bill to be entitled An Act relating to the creation and operation of health services districts; granting the power of eminent domain and the authority to issue bonds.

CSHB 3505 was read second time on April 27, postponed until May 3, and was again postponed until 10 a.m today.

Representative J. Solis moved to postpone consideration of **CSHB 3505** until 10 a.m. Thursday, May 13.

The motion prevailed without objection.

**SB 708 ON SECOND READING
(Gray - House Sponsor)**

SB 708, A bill to be entitled An Act relating to the implementation and financing of approved management plans for designated estuaries of national significance in the state.

SB 708 was considered in lieu of **HB 2561**.

SB 708 was read second time and was passed to third reading.

HB 2561 - LAID ON THE TABLE SUBJECT TO CALL

Representative Gray moved to lay **HB 2561** on the table subject to call.

The motion prevailed without objection.

**SB 502 ON SECOND READING
(Najera - House Sponsor)**

SB 502, A bill to be entitled An Act relating to the use of the term "college" by certain educational institutions.

SB 502 was considered in lieu of **HB 3236**.

SB 502 was read second time and was passed to third reading.

HB 3236 - LAID ON THE TABLE SUBJECT TO CALL

Representative Najera moved to lay **HB 3236** on the table subject to call.

The motion prevailed without objection.

**SB 748 ON SECOND READING
(Najera - House Sponsor)**

SB 748, A bill to be entitled An Act relating to home ownership counseling for displaced workers.

SB 748 was considered in lieu of **HB 3427**.

SB 748 was read second time and was passed to third reading.

HB 3427 - LAID ON THE TABLE SUBJECT TO CALL

Representative Najera moved to lay **HB 3427** on the table subject to call.
The motion prevailed without objection.

**SB 1690 ON SECOND READING
(Gray, Eiland, Seaman, Luna, et al. - House Sponsors)**

SB 1690, A bill to be entitled An Act relating to coastal erosion.

SB 1690 was considered in lieu of **CSHB 2560**.

SB 1690 was read second time.

Amendment No. 1

Representative Gray offered the following amendment to **SB 1690**:

Amend **SB 1690** as follows:

(1) In SECTION 4 of the bill, in proposed Section 33.607, Natural Resources Code, between Subsections (c) and (d) of the section (house committee report, page 11, between lines 23 and 24), insert the following:

(d) The Bureau of Economic Geology of The University of Texas at Austin shall make historical erosion data relating to a critical coastal erosion area available to each state agency, local government, or other person responsible for, or with jurisdiction over, the area.

(2) In SECTION 4 of the bill, in proposed Section 33.607(d), Natural Resources Code (house committee report, page 11, line 24), strike "(d)" and substitute "(e)".

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 1)

On behalf of Representative Bosse, Representative Gray offered the following committee amendment to **SB 1690**:

Amend **SB 1690** as follows:

On Page 2, Line 2 of the engrossed version, after the ".", add a new sentence that reads "A person is not required to obtain a lease or other instrument from the commissioner or board if the action is confined to land owned by a navigation district or municipality."

Amendment No. 2 was adopted without objection.

SB 1690, as amended, was passed to third reading.

CSHB 2560 - LAID ON THE TABLE SUBJECT TO CALL

Representative Gray moved to lay **CSHB 2560** on the table subject to call.

The motion prevailed without objection.

**SB 1237 ON SECOND READING
(Van de Putte - House Sponsor)**

SB 1237, A bill to be entitled An Act relating to the administration of pharmacy benefits under certain health benefit plans.

SB 1237 was considered in lieu of **CSHB 2529**.

SB 1237 was read second time.

Amendment No. 1

Representative Van de Putte offered the following amendment to **SB 1237**:

Amend **CSSB 1237** as follows:

(1) In SECTION 1, strike the recital (house committee printing, page 1, lines 5-6), and substitute the following:

SECTION 1. Section 1, Article 21.07-6, Insurance Code, is amended by amending Subdivision (1) and adding Subdivision (9) to read as follows:

(2) In SECTION 1, following amended Section 1(1), Article 21.07-6, Insurance Code (house committee printing, page 5, between lines 8 and 9), insert a new Subdivision (9) to read as follows:

(9) "Pharmacy benefit manager" means a person who acts as an administrator in connection with pharmacy benefits.

(3) Following SECTION 1, insert a new SECTION to be numbered appropriately to read as follows:

SECTION _____. Subsection (a), Section 3, Article 21.07-6, Insurance Code, is amended to read as follows:

(a) An individual, corporation, organization, trust, partnership, or other legal entity may not act as or hold itself out as an administrator, including a pharmacy benefit manager, unless it is covered by and is doing business under a certificate of authority issued under this article.

(4) Following SECTION 2, insert a new SECTION to be numbered appropriately to read as follows:

SECTION _____. Article 21.07-6, Insurance Code, is amended by adding Section 19B to read as follows:

Sec. 19B. DISCLOSURE OF CERTAIN PATIENT INFORMATION PROHIBITED. (a) A pharmacy benefit manager may not disclose to an employer contracting with the manager under an employer plan information in the possession of the manager or to which the manager has access that was compiled during the course of treatment of a patient who is an employee or dependent of an employee and that could reasonably be used to determine the identity of the patient, including:

- (1) a medical record;
- (2) genetic test information;
- (3) a clinical research record; or
- (4) a prescription record.

(b) A pharmacy benefit manager may not sell or share for purposes of establishing a financial interest a list of patients that contains information through which the identity of individual patients is disclosed.

(c) All patient, physician, and health care provider data maintained by the pharmacy benefit manager shall be maintained in a confidential manner that prevents unauthorized disclosure to third parties.

(d) This section does not prohibit:

(1) general advertising about a specific pharmaceutical product or service;

(2) a person from requesting and receiving information regarding a specific pharmaceutical product or service; or

(3) a person from requesting and receiving information regarding the person's own records or claims, or information regarding the person's dependent's records or claims.

(5) Renumber SECTIONS of the bill appropriately.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Maxey offered the following amendment to **SB 1237**:

On page ____, line ____. amend C.S.S.B.1237 by inserting a new SECTION ____ to read as follows:

SECTION ____. Title 71, Revised Statutes, is amended by adding Article 4590j.

Art. 4590j. LIMITATIONS ON DISCLOSURE OF CERTAIN PATIENT HEALTH INFORMATION

Sec. 1. DEFINITIONS. In this article:

(1) "Benefit manager" means a person who has access to and reviews patient health information, including information related to patient prescription dispensing records, for the purpose of administering a health care program operated by a health benefit plan, including utilization review and determination of coverage issues. The term includes a third-party administrator.

(2) "Health benefit plan" means a plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

(A) an insurance company;

(B) a group hospital service corporation operating under Chapter 20, Insurance Code;

(C) a fraternal benefit society operating under Chapter 10, Insurance Code;

(D) a stipulated premium insurance company operating under Chapter 22, Insurance Code;

(E) a reciprocal exchange operating under Chapter 19, Insurance Code;

(F) a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code);

(G) a multiple employer welfare arrangement that holds a certificate of authority under Article 3.95-2, Insurance Code; or

(H) an approved nonprofit health corporation that holds a certificate of authority issued by the commissioner under Article 21.52F, Insurance Code.

(3) "Health care provider" means a person who holds a license, certificate, or other authority issued by an agency of this state or another state

that regulates the provision of health care and who has access to patient health information in the ordinary scope of the person's practice or employment. The term includes a mental health professional.

(4) "Patient health information" means any information, whether communicated orally or recorded in writing or in an electronic medium, visual medium, or other format, that relates to a person's past, present, or future physical or mental health status, condition, treatment, receipt of health services or health care, or purchase of equipment or medications used in a person's health care and that reveals the identity of the person or tends to reveal the identity of the person if used alone or in conjunction with other information that it is reasonable to believe would be available to others. The term does not include a patient's name, address, telephone number, age, gender, or insurance status, if that information is compiled in a manner that is not based on, through sorting or other means, or does not otherwise make reference to, a patient's health status, health condition, or insurance claims data. The term does not include any information that would be found on a birth or death record.

(5) "Person" means an individual, corporation, partnership, association, and any other legal entity.

(6) "Third-party administrator" has the meaning assigned by Article 21.07-6, Insurance Code.

Sec. 2. APPLICATION; EFFECT ON OTHER LAWS. (a) This article applies to a health care provider, health benefit plan, benefit manager, and any other person who, in the course and scope of the person's employment, business, or professional practice, has access to patient health information.

(b) This article does not supersede or otherwise affect any requirement regarding confidentiality of personal information regarding a patient that is established under another law of this state or a federal law.

Sec.3. PROHIBITED ACTS; EXCEPTIONS. (a) A person subject to this article may not sell, share, or use, for marketing purposes, any individually identifying patient health information, including selling, sharing, or using patient health information describing patients who have certain diagnoses or use certain types of drugs in order to solicit an individual patient to use another type or brand of drugs.

(b) A person subject to this article may not request or require a patient to sign a consent form authorizing the disclosure or otherwise waive the confidentiality of information described by this section.

(c) This section does not prohibit the transmission of patient health information:

(1) from one health care provider to another in the course of providing treatment or referring the patient to another provider for treatment;

(2) from a health care provider to the operator of a health benefit plan or person authorized by the operator of a health benefit plan as necessary to process a claim relating to coverage under the health benefit plan;

(3) by a health care provider to a state agency authorized by law to collect the information, including the Texas Health Care Information Council or the Texas Department of Health; or

(4) by the issuer of a health benefit plan as necessary to obtain reinsurance.

(d) This section does not prohibit:

(1) general advertising about a specific health care product or service;

(2) a person from requesting and receiving information regarding a particular health-related product;

(3) a person from requesting and receiving information regarding the person's own treatment or claims, or those regarding the person's dependent; or

(4) a health care provider from recommending a specific treatment, product, or service to an individual patient of that health care provider.

(e) This section does not prohibit a person subject to this article from using the experience, likeness, voice, or physical presence of a patient or former patient in patient testimonials or as "poster children" or other analogous representatives in conjunction with telethons or other fund-raising or marketing activities to promote a health care treatment, product, or service if the person obtains specific written consent of the patient or former patient in conjunction with all other applicable laws and does not use the patient or former patient's health information to market directly to that patient or former patient.

Sec. 4. CAUSE OF ACTION. (a) A person subject to this article is liable for damages to a person whose individual patient health information is disclosed in violation of this article.

(b) A plaintiff who prevails in an action brought under this section is entitled to recover compensatory damages, exemplary damages if authorized under Chapter 41, Civil Practice and Remedies Code, court costs, and reasonable attorney's fees.

Sec. 5. GROUNDS FOR DISCIPLINARY ACTION. (a) In addition to any other penalty provided by law, a health care provider who violates Section 3 of this article commits an act that constitutes a ground for appropriate disciplinary action by the state agency that licenses, certifies, or otherwise regulates the practice of that health care provider.

(b) An insurer, health maintenance organization, or other person regulated by the Texas Department of Insurance who violates Section 3 of this article commits an unfair or deceptive act or practice in the business of insurance and is subject to the penalties imposed under Article 21.21, Insurance Code.

Sec. 6. CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly violates Section 3 of this article. Each violation constitutes a separate offense.

(b) An offense under this section is a Class C misdemeanor.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

SB 1237 - (consideration continued)

(Goolsby in the chair)

(Speaker in the chair)

Amendment No. 2 was adopted without objection.

SB 1237, as amended, was passed to third reading.

CSHB 2529 - LAID ON THE TABLE SUBJECT TO CALL

Representative Van de Putte moved to lay **CSHB 2529** on the table subject to call.

The motion prevailed without objection.

CSSB 890 ON SECOND READING
(Smithee - House Sponsor)

CSSB 890, A bill to be entitled An Act relating to the delegation of certain functions by health maintenance organizations.

CSSB 890 was considered in lieu of **CSHB 3019**.

CSSB 890 was read second time and was passed to third reading.

CSHB 3019 - LAID ON THE TABLE SUBJECT TO CALL

Representative Smithee moved to lay **CSHB 3019** on the table subject to call.

The motion prevailed without objection.

HB 745 ON SECOND READING
(by Eiland)

HB 745, A bill to be entitled An Act relating to license and renewal fees paid by certain licensed professional engineers.

HB 745 was read second time on May 7, postponed until May 10, and was again postponed until 10 a.m. today.

Representative Eiland moved to postpone consideration of **HB 745** until 6 p.m. today.

The motion prevailed without objection.

MAJOR STATE CALENDAR
HOUSE BILLS
THIRD READING

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

HB 3009 ON THIRD READING
(by Greenberg)

HB 3009, A bill to be entitled An Act relating to investments, accounting standards, and audits under the Public Funds Investment Act.

Amendment No. 1

Representative Chisum offered the following amendment to **HB 3009**:

HB 3009 is amended by striking the last three lines of Section 2 of the bill.

Amendment No. 1 was adopted without objection.

HB 3009, as amended, was passed.

HB 537 ON THIRD READING
(by Danburg, Woolley; et al.)

HB 537, A bill to be entitled An Act relating to telephone solicitation; providing penalties.

HB 537 was passed. (Corte recorded voting no)

HB 1777 ON THIRD READING
(by Wolens and Carter)

HB 1777, A bill to be entitled An Act relating to the provision of local exchange telephone service in a municipality and the management by the municipality of public rights-of-way used by providers of that service.

Amendment No. 1

Representatives Wolens and Carter offered the following amendment to **HB 1777**:

Amend **HB 1777** by striking all below the enacting clause and substituting the following:

SECTION 1. Subtitle A, Title 9, Local Government Code, is amended by adding Chapter 283 to read as follows:

CHAPTER 283. MANAGEMENT OF PUBLIC RIGHT-OF-WAY USED BY
TELECOMMUNICATIONS PROVIDER IN MUNICIPALITY
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 283.001. STATE POLICY; PURPOSE. (a) It is the policy of this state to:

(1) encourage competition in the provision of telecommunications services;

(2) reduce the barriers to entry for providers of services so that the number and types of services offered by providers continue to increase through competition;

(3) ensure that providers of telecommunications services do not obtain a competitive advantage or disadvantage in their ability to obtain use of a public right-of-way within a municipality; and

(4) fairly reduce the uncertainty and litigation concerning franchise fees.

(b) It is also the policy of this state that municipalities:

(1) retain the authority to manage a public right-of-way within the municipality to ensure the health, safety, and welfare of the public; and

(2) receive from certificated telecommunications providers fair and reasonable compensation for the use of a public right-of-way within the municipality.

(c) The purpose of this chapter is to establish a uniform method for compensating municipalities for the use of a public right-of-way by certificated telecommunications providers that:

(1) is administratively simple for municipalities and telecommunications providers;

(2) is consistent with state and federal law;
(3) is competitively neutral;
(4) is nondiscriminatory;
(5) is consistent with the burdens on municipalities created by the incursion of certificated telecommunications providers into a public right-of-way; and

(6) provides fair and reasonable compensation for the use of a public right-of-way.

Sec. 283.002. DEFINITIONS. In this chapter:

(1) "Access line":

(A) means, unless the commission adopts a different definition under Section 283.003, a unit of measurement representing:

(i) each switched transmission path of the transmission media that is physically within a public right-of-way extended to the end-use customer's premises within the municipality, that allows the delivery of local exchange telephone services within a municipality, and that is provided by means of owned facilities, unbundled network elements or leased facilities, or resale;

(ii) each termination point or points of a nonswitched telephone or other circuit consisting of transmission media located within a public right-of-way connecting specific locations identified by, and provided to, the end-use customer for delivery of nonswitched telecommunications services within the municipality; or

(iii) each switched transmission path within a public right-of-way used to provide central office-based PBX-type services for systems of any number of stations within the municipality, and in that instance, each path shall be counted for every 10 stations served; and

(B) may not be construed to include interoffice transport or other transmission media that do not terminate at an end-use customer's premises or to permit duplicate or multiple assessment of access line rates on the provision of a single service.

(2) "Certificated telecommunications provider" means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the commission to offer local exchange telephone service.

(3) "Commission" means the Public Utility Commission of Texas.

(4) "Consumer price index" means the annual revised consumer price index for all urban consumers for Texas, as published by the Federal Bureau of Labor Statistics.

(5) "Local exchange telephone service" has the meaning assigned by Section 51.002, Utilities Code.

(6) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications.

Sec. 283.003. COMMISSION REVIEW. (a) Not later than September 1, 2002, the commission shall determine whether changes in technology, facilities, or competitive or market conditions justify a modification in the

commission-established categories of access lines or, if necessary, the adoption of a definition of "access line" provided by this section. The commission may not begin a review authorized by this section before March 1, 2002.

(b) As part of the proceeding described by Subsection (a), and as necessary after that proceeding, the commission by rule may modify the definition of "access line" and the categories of access lines as necessary to ensure competitive neutrality and nondiscriminatory application and to maintain consistent levels of compensation, as annually increased by growth in access lines and consumer price index, as applicable, to the municipalities.

(c) After September 1, 2002, the commission, on its own motion, shall make the determination required by this section at least once every three years.

Sec. 283.004. APPLICATION. This chapter applies only to municipal regulations and fees imposed on and collected from certificated telecommunications providers.

Sec. 283.005. INFORMATION. (a) The commission may collect and compile any information from certificated telecommunications providers and municipalities as is necessary to implement this chapter.

(b) The commission shall maintain the confidentiality of the information described by Subsection (a) in accordance with Section 52.207, Utilities Code.

(c) Information provided to municipalities under this chapter shall be governed by confidentiality procedures established by the commission in compliance with Section 52.207, Utilities Code.

Sec. 283.006. FEE REQUIREMENT FOR USE OF RIGHT-OF-WAY. (a) Notwithstanding any other law, a certificated telecommunications provider that does not use a public right-of-way within the municipality may not be required to pay franchise fees, right-of-way fees or any other fee or other compensation, other than a fee or compensation excluded from the "base amount" under Section 283.053(a), directly to the municipality to provide local exchange telephone service in the municipality.

(b) This section does not affect the number of access lines counted and reported to the commission under Section 283.055.

(c) The commission shall adopt rules to determine the method of payment and to ensure that access line fees are paid on a competitively neutral and non-discriminatory basis by certificated telecommunications providers that provide more access lines than they purchase from an underlying provider of resold services or unbundled network elements.

[Sections 283.007-283.050 reserved for expansion]

SUBCHAPTER B. RIGHT-OF-WAY FEES

Sec. 283.051. RIGHT-OF-WAY FEE. (a) Notwithstanding any other law, a certificated telecommunications provider that provides telecommunications services within a municipality is required to pay as compensation to a municipality for use of the public rights-of-way in the municipality only the amount determined by the commission under Section 283.055.

(b) This section does not affect the right of a municipality to initiate legal action against a certificated telecommunications provider that uses a

public right-of-way to provide local exchange telephone service within a municipality and has not compensated the municipality in accordance with this chapter.

(c) Fees imposed under this chapter shall constitute "a municipal fee" or "municipal fees" within the meaning of the Utilities Code.

Sec. 283.052. EFFECT OF PAYMENT OF RIGHT-OF-WAY FEES TO MUNICIPALITY. (a) Subject to the requirements of Sections 283.056 and 283.057, a certificated telecommunications provider that complies with this chapter and commission orders issued under this chapter:

(1) may erect poles or construct conduit, cable, switches, and related appurtenances and facilities and excavate within a public right-of-way to provide telecommunications service; and

(2) is not subject to municipal franchise requirements.

(b) All use of a public right-of-way is nonexclusive and subject to Section 283.056.

Sec. 283.053. BASE AMOUNT. (a) In determining a municipality's "base amount" under this section, pole rental fees, special assessments, and taxes of any kind, including ad valorem or sales and use taxes, or other compensation not related to the use of a public right-of-way, are not included.

(b) For purposes of determining the amount of a municipality's right-of-way fee under Section 283.055, the "base amount" for a municipality not described by another subsection is the total amount of revenue received by the municipality in franchise, license, permit, and application fees and in-kind services or facilities from certificated telecommunications providers in 1998 within the boundaries of the municipality, including all newly annexed areas. The base amount prescribed under this subsection shall include the additional compensation and the value of in-kind services or facilities received in 1998 in accordance with Subsection (f) specifically prescribed in applicable agreements or ordinances effective or adopted by January 12, 1999, unless the governing body of the municipality elects otherwise. However, that additional compensation may not become part of the base amount before it becomes effective under the existing franchise agreement or ordinance.

(c) The base amount for a municipality located in a county with a population of less than 25,000 or a municipality that either did not have an effective franchise agreement or ordinance on January 12, 1999, or was not in existence on that date shall be, at the election of the governing body of the municipality, equal to:

(1) an amount not greater than the statewide average fee per line for each category of access line of the certificated telecommunications provider with the greatest number of access lines in that municipality, multiplied by the total number of access lines in each category located within the boundaries of the municipality on December 31, 1998, for a municipality in existence on that date, or on the date of incorporation for a municipality incorporated after that date;

(2) an amount not greater than the base amount determined for a similarly-sized municipality in the same or an adjacent county in which the certificated telecommunications provider with the greatest number of access lines in the municipality is the same for each municipality; or

(3) the total amount of revenue received by the municipality in franchise, license, permit, and application fees from all certificated telecommunications providers in 1998.

(d) The base amount for a municipality that was involved in litigation relating to franchise fees with one or more certificated telecommunications providers during any part of 1998 and that, not later than December 1, 1999, repeals any ordinance subject to dispute in the litigation, voluntarily dismisses with prejudice any claims in the litigation for compensation, and agrees to waive any potential claim for compensation under any franchise agreement or ordinance expired or in existence on September 1, 1999, is equal to, at the municipality's election:

(1) an amount not to exceed the state average access line rate on a per category basis for the certificated telecommunications provider with the greatest number of access lines in that municipality multiplied by the total number of access lines located within the boundaries of the municipality on December 31, 1998, including any newly annexed areas; or

(2) an amount not to exceed 21 percent of the total sales and use tax revenue, excluding any amount received under Section 4A or 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), received by the municipality in 1998.

(e) A litigating municipality electing to dismiss with prejudice its claims in the litigation and repealing any ordinance subject to dispute in the litigation does not, by making the election, waive any defenses it may have to claims by other parties to the litigation. A municipality in litigation relating to franchise fees with one or more certificated telecommunications providers during any part of 1998 that does not make an effective election under this section shall be governed by Subsection (b).

(f) For the purpose of determining the base amount, in-kind services or facilities provided to municipalities under existing franchise agreements or ordinances by certificated telecommunications providers shall be valued at one percent of the total 1998 revenue from franchise, permit, license, and application fees paid to the municipality under all applicable telecommunications franchise agreements or ordinances, unless a municipality can establish before the commission that those services or facilities received by the municipality had a greater value in 1998.

Sec. 283.054. EXISTING FRANCHISE AGREEMENTS AND ORDINANCES. (a) Except as otherwise provided by this chapter, this chapter does not affect the validity of a franchise agreement or ordinance with a certificated telecommunications provider executed before January 12, 1999. A municipality may continue to enforce a franchise agreement or ordinance and to collect franchise fees and other charges under that franchise agreement or ordinance until the date on which the agreement or ordinance expires by its own terms or is terminated in accordance with the terms of this section. A provider may elect to terminate a franchise agreement or obligations under an existing ordinance as of the effective date of the right-of-way fee rates adopted in accordance with the commission's rules adopted under this chapter. A provider terminating a franchise agreement or obligations under an existing ordinance under this section shall become governed by this

chapter on the date of termination. A termination under this subsection does not affect the calculation of the municipality's base amount under Section 283.053. A certificated telecommunications provider electing to terminate an existing franchise agreement or ordinance under this section shall provide notice to the commission and the affected municipality not later than December 1, 1999.

(b) If a franchise agreement or ordinance in a municipality expires or is terminated under Subsection (a) before the commission has determined the amounts to be paid to a municipality, the affected certificated telecommunications providers operating in the municipality shall continue paying at the rates required under the terms of the expired agreement or ordinance until the commission's determination and the certificated telecommunications provider's implementation of appropriate rates under this chapter.

(c) During the period in which a franchise agreement or ordinance described by Subsection (a) is in effect, a certificated telecommunications provider not subject to an existing franchise agreement or ordinance that wants to construct facilities to offer telecommunications services in the municipality shall pay right-of-way fees that are competitively neutral and non-discriminatory, consistent with the charges of the most recent agreement or ordinance between the municipality and the certificated telecommunications provider serving the largest number of access lines within the municipality. The provider shall pay those fees for the duration of that agreement or ordinance or until the right-of-way fees established by commission rule take effect. If the existing franchise agreement or ordinance contains a provision requiring in-kind services or facilities, the certificated telecommunications provider not subject to an existing franchise agreement or ordinance shall pay an amount equal to an additional one percent of its total fees under the applicable agreement or ordinance in lieu of any in-kind services or facilities, if any, that otherwise are required under the terms of the existing franchise agreement or ordinance. However, the municipality may not require a certificated telecommunications provider to provide any services or facilities without compensation or at below-market rates for the right to use a public right-of-way or to provide telecommunications services in the municipality. On request of the certificated telecommunications provider not subject to an existing franchise agreement or ordinance, the commission shall convert the compensation under the existing franchise agreement or ordinance to a fee per access line on a competitively neutral and non-discriminatory basis, and the certificated telecommunications provider may elect to pay the municipality on a fee per access line basis rather than the manner of compensation provided under the existing franchise agreement or ordinance.

Sec. 283.055. DETERMINATION OF FEES BY COMMISSION. (a) Not later than November 1, 1999, the commission shall establish not more than three categories of access lines for state-wide use.

(b) Not later than March 1, 2000, the commission shall establish:

(1) for each municipality, rates per access line by category for the use of the rights-of-way in that municipality; and

(2) the statewide average of those rates per access line by category for each certificated telecommunications provider, if necessary.

(c) The rates when applied to the total number of access lines by category in the municipality shall be equal to the base amount.

(d) Not later than December 1, 1999, a municipality that wants to effect an allocation of the base amount over specific access line categories to be assessed rates shall notify the commission of the desired allocation. The commission shall establish an allocation of the base amount over the categories of access lines if a municipality does not file its proposed allocation within 90 days. A municipality may request a modification of the commission's allocation not more than once every 24 months by notifying the commission and all affected certificated telecommunications providers in September of that year that the municipality wants to change the allocation for the next calendar year. A municipality's allocation shall be implemented unless, on complaint by an affected certificated telecommunications provider, the commission determines that the allocation is not just and reasonable, is not competitively neutral, or is discriminatory.

(e) Rates imposed under this section and the allocation among certificated telecommunications providers must be exercised in a competitively neutral manner, may not unduly impair competition, must be non-discriminatory, and must comply with state and federal law. The commission shall determine the applicable rates for each municipality for each category, taking into account the allocation under Subsection (d) and the type, use, and function of access lines.

(f) Certificated telecommunications providers shall pay to the municipality a quarterly amount calculated monthly based on the access line rates established by the commission under this section and the number of access lines as reflected in the reports filed under Subsection (j). The providers shall make the quarterly payment not later than 45 days after the end of the quarter.

(g) Beginning 24 months after the date the commission establishes rates per access line, the commission shall annually adjust the rates per access line for each municipality by an amount equal to one-half the consumer price index. At that time, the commission shall provide each certificated telecommunications provider and municipality with the adjusted monthly rates for each category of access line.

(h) On an annual basis, an affected municipality may provide notice to the commission to decline all or any portion of any increase in the per category access line rates.

(i) A certificated telecommunications provider may not be required to remit a right-of-way fee to a municipality on those access lines that have been resold, leased, or otherwise provided to another certificated telecommunications provider, if the underlying certificated telecommunications provider supplying those services or facilities has been furnished with adequate proof that the provider of services to the end-use customer will directly remit to the municipality a right-of-way fee based on those access lines.

(j) On a quarterly basis, each certificated telecommunications provider shall file a report with the commission that shows the number of access lines, including access lines by category, that the provider has within each

municipality at the end of each month of the quarter. The provider shall include with the report a certified statement from an authorized officer or duly authorized representative of the provider stating that the information contained in the report is true and correct to the best of the officer's or representative's knowledge and belief after inquiry. On request and subject to the confidentiality protections of Section 283.005, each certificated telecommunications provider shall provide each affected municipality with a copy of the report required by this subsection.

(k) On request of the commission and to the extent available, the report required by Subsection (j) shall specifically identify access lines that are provided by means of resold services or unbundled facilities to another certificated telecommunications provider who is not an end-use customer and the identity of the certificated telecommunications providers obtaining the resold services or unbundled facilities to provide services to end-use customers. A provider may not include in its monthly count of access lines and is not required to remit a right-of-way fee to the municipality on access lines that are resold, leased, or otherwise provided to another certificated telecommunications provider if the provider receives adequate proof that the provider leasing or purchasing the access lines will include the access lines in its monthly count and remit payment on those access lines to the municipality.

(l) The commission may use a report required under Subsection (j) only to verify the number of access lines that serve premises within the municipality.

(m) Notwithstanding any other provision of this chapter, payment by a certificated telecommunications provider that complies with the terms of an unexpired franchise agreement or right-of-way ordinance that applies to the provider satisfies the payment attributable to the provider required by this chapter.

(n) A municipality may not demand or require from a certificated telecommunications provider services, facilities, or goods without compensation or at below-market rates.

(o) A certificated telecommunications provider shall, to the extent required, implement commission established access line rates not later than the 90th day after the date the commission establishes the access line rates under this chapter.

Sec. 283.056. MUNICIPAL AUTHORIZATIONS; PROHIBITION ON OTHER FEES AND CHARGES. (a) A municipality may not require a certificated telecommunications provider to:

(1) pay any compensation other than the fee authorized by Section 283.055, including an application, permit, excavation, or inspection fee, for the right to use a public right-of-way to provide telecommunications services in the municipality; or

(2) provide any services or facilities for the right to use a public right-of-way or to provide telecommunications services in the municipality.

(b) Notwithstanding any other law or any other provision of this chapter, a municipality may require the issuance of a construction permit without cost to a certificated telecommunications provider locating facilities in or on

public rights-of-way within the municipality. The terms of the permit shall be consistent with construction permits issued to other persons excavating in a public right-of-way.

(c) A municipality may exercise those police power-based regulations in the management of a public right-of-way that apply to all persons within the municipality. A municipality may exercise police power-based regulations in the management of the activities of certificated telecommunications providers within a public right-of-way only to the extent that they are reasonably necessary to protect the health, safety, and welfare of the public. Police power-based regulation of certificated telecommunications providers may not include activities that are governed by this chapter or are within the sole business discretion of the certificated telecommunications provider. In addition, any police power-based regulation must be competitively neutral and may not be unreasonable or discriminatory. A municipality specifically may not impose regulations on certificated telecommunications providers that are not authorized by this chapter, including:

(1) requirements that particular business offices be located in the municipality;

(2) requirements for filing reports and documents with the municipality that are not required by state law to be filed with the municipality and that are not related to the use of a right-of-way;

(3) inspection of a provider's business records except to the extent necessary to conduct an authorized review of the provider to ensure compliance with the access line reporting requirements of this chapter if commenced within 90 days after the filing of a certificated telecommunications provider's annual report of access lines; and

(4) approval of transfers of ownership or control of a provider's business, except that a municipality may require that a provider maintain current point of contact information and provide notice of a transfer within a reasonable time.

(d) In the exercise of its lawful regulatory authority, a municipality shall promptly process each valid and administratively complete application of a certificated telecommunications provider for any permit, license, or consent to excavate, set poles, locate lines, construct facilities, make repairs, affect traffic flow, obtain zoning or subdivision regulation approvals, or for other similar approvals, and shall make every reasonable effort to not delay or unduly burden that provider in the timely conduct of its business.

(e) If there is an emergency necessitating response work or repair, a certificated telecommunications provider may begin that repair or emergency response work or take any action required under the circumstances, provided that the certificated telecommunications provider notifies the affected municipality as promptly as possible after beginning the work and later acquires any approval required by a municipal ordinance applicable to emergency response work.

(f) The compensation paid under this chapter is in lieu of any permit, license, approval, inspection, or other similar fee or charge, including all general business license fees customarily assessed by a municipality for the use of a public right-of-way against persons operating telecommunications-

related businesses. The compensation paid under this chapter constitutes full compensation to a municipality for all of a certificated telecommunications provider's facilities located within a public right-of-way, including interoffice transport and other transmission media that do not terminate at an end-use customer's premises, even though those types of lines are not used in the calculation of the compensation. This chapter may not be construed to affect the ad valorem taxation of a certificated telecommunications provider's facilities or to permit the ad valorem taxation of a certificated telecommunication provider's occupancy of a public right-of-way.

Sec. 283.057. INDEMNITY. (a) Certificated telecommunications providers shall indemnify and hold the municipality and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought that is found by a court of competent jurisdiction to be caused solely by the negligent act, error, or omission of the certificated telecommunications provider, any agent, officer, director, representative, employee, affiliate, or subcontractor of the certificated telecommunications provider, or their respective officers, agents, employees, directors, or representatives, while installing, repairing, or maintaining facilities in a public right-of-way. The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the municipality, its officers, employees, contractors, or subcontractors. If a certificated telecommunications provider and the municipality are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the municipality under state law and without waiving any defenses of the parties under state law. This section is solely for the benefit of the municipality and certificated telecommunications provider and does not create or grant any rights, contractual or otherwise, to any other person or entity.

(b) A certificated telecommunications provider or municipality shall promptly advise the other in writing of any known claim or demand against the certificated telecommunications provider or the municipality related to or arising out of the certificated telecommunications provider's activities in a public right-of way.

(c) Municipalities with franchise agreements or ordinances applicable to certificated telecommunications providers in effect under a general-use ordinance adopted before January 12, 1999, and after July 1, 1998, and having 1.3 million access lines or more within the municipality on September 1, 1999, may continue to enforce the indemnity provision contained in those franchise agreements or ordinances until the earlier of the date the franchise agreements or ordinances expire or December 31, 2003. A certificated telecommunications provider providing access lines in a municipality described by this subsection is also subject to the indemnity provided by this section.

Sec. 283.058. ADDITIONAL COMMISSION JURISDICTION. The commission shall have the jurisdiction over municipalities and certificated telecommunications providers necessary to enforce this chapter and to ensure that all other legal requirements are enforced in a competitively neutral, non-discriminatory, and reasonable manner.

SECTION 2. The Public Utility Commission of Texas shall determine the access line rates by category for a municipality described by Section 283.055, Local Government Code, as added by this Act, as soon as possible after the effective date of this Act but not later than 180 days after that date.

SECTION 3. (a) Notwithstanding any provision of Chapter 283, Local Government Code, as added by this Act, to the extent a municipal regulation, ordinance, resolution, or charter provision is applicable to certificated telecommunications providers, the municipal regulation, ordinance, resolution, or charter provision is preempted to the extent it:

(1) conflicts with Chapter 283, Local Government Code, as added by this Act; or

(2) is not specifically authorized by Section 283.056, Local Government Code, as added by this Act.

(b) A city charter provision in effect on January 12, 1999, that does not conflict with Chapter 283, Local Government Code, as added by this Act, may be specifically re-adopted in accordance with Chapter 9, Local Government Code.

SECTION 4. This Act takes effect September 1, 1999.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 2

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

Amend Floor Amendment No. 1 to **HB 1777** as follows:

(1) On page 3, delete lines 1 through 3 and insert:

"PBX-type services for systems of any number of stations within the municipality, and in that instance, one path shall be counted for every 10 stations served; and"

(2) On page 6, delete lines 22 through 29 and insert:

"this subsection shall include the municipal fee rate escalation provisions, and the value of in-kind services or facilities received in 1998 in accordance with Subsection (f), specifically prescribed in applicable agreements or ordinances effective or adopted by January 12, 1999, unless the governing body of the municipality elects otherwise. However, that additional compensation may not become part of the base amount before it becomes effective under the existing franchise agreement or ordinance."

(2) On page 8, delete lines 7 through 8 and insert:

"5190.6, Vernon's Texas Civil Statutes) or that imposed for a Municipal Transit Department under Chapter 453, Transpiration Code, received by the municipality in 1998."

(4) On page 8, delete line 16 and insert:

"election under subsection (d) shall be governed by Subsection (b)."

(5) On page 9, delete lines 14 through 18 and insert:

"electing to terminate an existing franchise agreement or obligations under an ordinance under this section shall provide notice to the commission and the affected municipality not later than December 1, 1999."

(b) If a franchise agreement or obligations under an ordinance in a municipality expires or is terminated under Subsection (a) before the"

(6) On page 11, delete line 15 and insert:

"allocation by December 1, 1999. A municipality may request a"

(7) On page 12, line 10, insert the words "annual change, if any" between the word "the" and the word "consumer"

(8) On page 15, line 13, insert the word "public" before the word "right-of-way."

(9) On page 15, line 18, delete the word "annual" after the word "provider's"

Representative Wolens moved to postpone consideration of **HB 1777** until 4:30 p.m. today.

The motion prevailed without objection.

HB 845 ON THIRD READING (by Wilson)

HB 845, A bill to be entitled An Act relating to conflicts of interest of a lobbyist.

Amendment No. 1

Representative Wilson offered the following amendment to **HB 845**:

Amend **HB 845** on Third Reading, on page 1, line 7, of the Second Reading Engrossment, by striking "a school district or" in added Section 305.028 (a)

Amendment No. 1 was adopted without objection.

HB 845, as amended, was passed.

MAJOR STATE CALENDAR HOUSE BILLS SECOND READING

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

HB 5 ON SECOND READING (by Gray, et al.)

HB 5, A bill to be entitled An Act relating to parental notification before an abortion may be performed on certain minors.

Representative Gray moved to postpone consideration of **HB 5** until 4 p.m. today.

The motion prevailed without objection.

CSHB 598 ON SECOND READING
(by Gallego, McClendon, Naishtat, and Telford)

CSHB 598, A bill to be entitled An Act relating to the application of the sales tax to certain material used to restore a damaged residence in a disaster area.

CSHB 598 was passed to engrossment.

HB 2954 ON SECOND READING
(by Gray)

HB 2954, A bill to be entitled An Act relating to the application of the sunset review process to certain state agencies.

Amendment No. 1

Representative Gray offered the following amendment to **HB 2954**:

Amend **HB 2954** by adding a new SECTION to the bill to be numbered appropriately to read as follows and by renumbering the remaining SECTIONS of the bill appropriately:

SECTION _____. GENERAL SERVICES COMMISSION. Section 2152.002, Government Code, is amended to read as follows:

Sec. 2152.002. SUNSET PROVISION. The General Services Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this subtitle expires September 1, 2001 [~~2003~~].

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 1)

On behalf of Representative Wolens, Representative Gray offered the following committee amendment to **HB 2954**:

Amend **HB 2954**, line 21 by adding a new Section 4 to read as follows:
SECTION 4. OFFICIAL COTTON GROWERS' BOLL WEEVIL ERADICATION FOUNDATION. Section 74.127 (a), Agriculture Code, is amended to read as follows:

"(a) The board of directors of the official cotton growers' boll weevil eradication foundation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 2007 [~~2003~~]."

Amend to renumber the following sections accordingly.

Amendment No. 2 was adopted without objection.

Amendment No. 3 (Committee Amendment No. 2)

On behalf of Representative Wolens, Representative Gray offered the following committee amendment to **HB 2954**:

Amend **HB 2954** by adding new SECTIONS ___ & ___, and renumbering the subsequent SECTIONS appropriately.

SECTION _____. STATE COMMITTEE OF EXAMINERS IN THE FITTING AND DISPENSING OF HEARING INSTRUMENTS. Section 4566-1.02(i) Vernon's Texas Civil Statutes, is amended to read as follows:

(i) The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this Act expires September 1, 2001 [~~2005~~].

SECTION _____. STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY. Section 4512j, Sec 22, Vernon's Texas Civil Statutes, is amended to read as follows:

Sec. 22. Sunset Provision. The State Board for Speech-Language Pathology and Audiology is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this Act expires September 1, 2001 [~~2005~~].

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Gallego offered the following amendment to **HB 2954**:

Amend **HB 2954** by adding the following appropriately numbered section and renumbering the sections of the bill as appropriate:

SECTION _____. Section 4, Article 9100, Revised Statutes, is amended to read as follows:

Sec. 4. SUNSET PROVISION. The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the department are abolished September 1, 2001 [~~2003~~].

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Pitts offered the following amendment to **HB 2954**:

Amend **HB 2954** by adding new sections to the bill to be numbered appropriately to read as follows and by renumbering the other sections of the bill accordingly:

SECTION _____. TEXAS FUNERAL SERVICE COMMISSION. Subsection N, Section 2, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

N. The Texas Funeral Service Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this Act expires September 1, 2001 [~~2003~~].

SECTION _____. STATE BOARD OF BARBER EXAMINERS. Section 26a, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 26a. SUNSET PROVISION. The State Board of Barber Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this Act expires September 1, 2001 [~~2003~~].

SECTION _____. TEXAS COSMETOLOGY COMMISSION. Section 2(k), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

(k) The Texas Cosmetology Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this Act expires September 1, 2001 [~~2003~~].

Amendment No. 5 was adopted without objection.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

HB 2954 - (consideration continued)

Representative Gray moved to reconsider the vote by which Amendment No. 3 was adopted.

The motion to reconsider prevailed.

Representative Gray moved to table Amendment No. 3.

The motion to table prevailed.

HB 2954, as amended, was passed to engrossment.

CSHB 3032 ON SECOND READING (by Oliveira, Dukes, et al.)

CSHB 3032, A bill to be entitled An Act relating to historically underutilized businesses; providing a penalty.

Representative Oliveira moved to postpone consideration of **CSHB 3032** until 3:30 today.

The motion prevailed without objection.

CONSTITUTIONAL AMENDMENTS CALENDAR HOUSE JOINT RESOLUTIONS SECOND READING

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

HJR 4 ON SECOND READING (by Kuempel)

HJR 4, A joint resolution proposing a constitutional amendment to authorize the exemption of property owned by institutions of public charity, as defined by general law, from ad valorem taxation.

A record vote was requested.

HJR 4 was adopted by (Record 285): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez;

Chisum; Clark; Coleman; Cook; Corte; Counts; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent — Christian; Crabb; Keffer; Moreno, P.; Najera.

STATEMENTS OF VOTE

When Record No. 285 was taken, I was in the house but away from my desk. I would have voted yes.

Christian

When Record No. 285 was taken, I was in the house but away from my desk. I would have voted yes.

Keffer

GENERAL STATE CALENDAR HOUSE BILLS THIRD READING

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

HB 2968 ON THIRD READING (by Corte)

HB 2968, A bill to be entitled An Act relating to the fee imposed on certain criminal convictions for records management and preservation services.

HB 2968 was passed. (Keel recorded voting no)

HB 3488 ON THIRD READING (by Dunnam)

HB 3488, A bill to be entitled An Act relating to requiring a court to admonish certain defendants entering a plea of guilty or nolo contendere of the sex offender registration requirements.

HB 3488 was passed.

HB 3765 ON THIRD READING
(by Gallego)

HB 3765, A bill to be entitled An Act relating to the rights of crime victims and to the rights of victims of delinquent conduct committed by a child.

HB 3765 was passed.

HB 3675 ON THIRD READING
(by Garcia)

HB 3675, A bill to be entitled An Act relating to certain assessment instruments administered to public school students.

A record vote was requested.

HB 3675 was passed by (Record 286): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent — Crownover; Delisi; Turner, B.

HB 3189 ON THIRD READING
(by Driver)

HB 3189, A bill to be entitled An Act relating to the regulation of persons who install fire alarms.

HB 3189 was passed.

HB 3272 ON THIRD READING
(by Goodman, Naishtat, et al.)

HB 3272, A bill to be entitled An Act relating to the enforcement and collection of child support.

Amendment No. 1

Representative Hilderbran offered the following amendment to **HB 3272**:

Amend **HB 3272** as follows:

Insert a new section as follows:

"Sec. 234.007 USE OF ELECTRONIC BENEFITS TRANSFER FOR CHILD SUPPORT PAYMENTS. The Title IV-D agency, in coordination with the Texas Department of Human Services and the Comptroller of Public Accounts, shall study the use of an existing electronic benefits transfer system to determine the advisability of and method for implementation of a debit card child support system. If it is determined that such a system is feasible and cost effective, these agencies shall begin implementation of such a system. These agencies must report their findings and progress to the Legislature by December 1, 2000.

Amendment No. 1 was adopted without objection.

HB 3272, as amended, was passed.

HB 3315 ON THIRD READING
(by Cuellar)

HB 3315, A bill to be entitled An Act relating to loan assistance for low-income individuals and families.

HB 3315 was passed.

HB 3470 ON THIRD READING
(by Olivo, Chavez, Rangel, and Naishtat)

HB 3470, A bill to be entitled An Act relating to the creation of a Parents as Scholars pilot program for certain persons eligible to receive TANF benefits.

HB 3470 was passed.

HB 3177 ON THIRD READING
(by G. Lewis)

HB 3177, A bill to be entitled An Act relating to payment of claims by the Texas Property and Casualty Insurance Guaranty Association.

HB 3177 was passed.

HB 3229 ON THIRD READING
(by Capelo)

HB 3229, A bill to be entitled An Act relating to the property, items, persons, or contraband subject to seizure under a search warrant.

HB 3229 was passed.

HB 3304 ON THIRD READING
(by Thompson)

HB 3304, A bill to be entitled An Act relating to the books and records of insurers.

HB 3304 was passed.

HB 3340 ON THIRD READING
(by Naishtat, et al.)

HB 3340, A bill to be entitled An Act relating to a rental housing pilot program to expand long-term care housing options for elderly residents of this state with low, very low, or extremely low income.

HB 3340 was passed.

HB 3457 ON THIRD READING
(by Hinojosa)

HB 3457, A bill to be entitled An Act relating to the renewal of certain bail bondsman licenses.

HB 3457 was passed.

HB 2579 ON THIRD READING
(by S. Turner)

HB 2579, A bill to be entitled An Act relating to the liability of certain persons providing facilities or other property for use for certain after-school activities.

HB 2579 was passed.

GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING

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

SB 1260 ON THIRD READING
(Coleman - House Sponsor)

SB 1260, A bill to be entitled An Act relating to certain advance directives for medical treatment; providing administrative penalties.

HB 1260 was passed.

SB 746 ON THIRD READING
(Haggerty - House Sponsor)

SB 746, A bill to be entitled An Act relating to student fees at The University of Texas at El Paso.

A record vote was requested.

SB 746 was passed by (Record 287): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty;

Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent — Noriega.

SB 1685 ON THIRD READING

(Zbranek, Gray, Eiland, Crabb, et al. - House Sponsors)

SB 1685, A bill to be entitled An Act relating to the regulation and promotion of the oyster industry in this state.

A record vote was requested.

SB 1685 was passed by (Record 288): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent — Alvarado; Crownover; Nixon; Smith.

SB 1112 ON THIRD READING

(Gallego - House Sponsor)

SB 1112, A bill to be entitled An Act relating to the allocation of funding for certain programs maintained by the Texas Department of Housing and Community Affairs to the uniform state service regions.

SB 1112 was passed.

SB 1735 ON THIRD READING
(Van de Putte - House Sponsor)

SB 1735, A bill to be entitled An Act relating to the appointment and duties of associate judges and child support masters.

SB 1735 was passed.

SB 114 ON THIRD READING
(Hochberg and Wise - House Sponsors)

SB 114, A bill to be entitled An Act relating to the standard of alcohol concentration used in defining the term "intoxicated" for the purposes of certain offenses involving intoxication.

A record vote was requested.

SB 114 was passed by (Record 289): 142 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Reyna, A.; Reyna, E.; Ritter; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — King, T.; Uher.

Present, not voting — Mr. Speaker(C).

Absent — Craddick; Madden; Rangel; Salinas; Solomons.

STATEMENT OF VOTE

When Record No. 289 was taken, my vote failed to register. I would have voted yes.

Salinas

SB 196 ON THIRD READING
(Coleman - House Sponsor)

SB 196, A bill to be entitled An Act relating to administrative penalties for intermediate care facilities for the mentally retarded.

SB 196 was passed.

SB 730 ON THIRD READING
(Van de Putte - House Sponsor)

SB 730, A bill to be entitled An Act relating to the licensing and regulation of pharmacists and pharmacies.

SB 730 was passed.

SB 1289 ON THIRD READING
(Cuellar - House Sponsor)

SB 1289, A bill to be entitled An Act relating to donations and other transfers of real or personal property to institutions of higher education.

A record vote was requested.

SB 1289 was passed by (Record 290): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent — Marchant.

SB 417 ON THIRD READING
(Hamric - House Sponsor)

SB 417, A bill to be entitled An Act relating to the reporting duties of emergency services districts and rural fire prevention districts.

SB 417 was passed.

SB 1574 ON THIRD READING
(Gray - House Sponsor)

SB 1574, A bill to be entitled An Act relating to the administration of certain programs for at-risk children and their families.

SB 1574 was passed.

SB 354 ON THIRD READING
(McCall, Gray, and Bosse - House Sponsors)

SB 354, A bill to be entitled An Act relating to the continuation and functions of the Center for Rural Health Initiatives.

SB 354 was passed.

GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING

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

CSHB 1151 ON SECOND READING
(by McCall, Gray, Bosse, and Carter)

CSHB 1151, A bill to be entitled An Act relating to the continuation and functions of the Office for the Prevention of Developmental Disabilities.

(Hope in the chair)

Amendment No. 1

On behalf of Representative Gray, Representative Bosse offered the following amendment to **CSHB 1151**:

Amend **CSHB 1151** by striking Page 5, Line 22 and substituting the following:

"subchapter expires September 1, 2001 [1999]."

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Carter offered the following amendment to **CSHB 1151**:

Amend **CSHB 1151** by adding the following sections to the bill, numbered appropriately:

SECTION _____. Subchapter C, Chapter 112, Human Resources Code, is amended to read as follows:

~~SUBCHAPTER C. [OFFICE FOR THE]~~
~~PREVENTION OF DEVELOPMENTAL DISABILITIES~~

~~Sec. 112.041. [PURPOSE AND POLICY. (a) The purpose of this Act is to minimize the economic and human losses in Texas caused by preventable disabilities through the establishment of a joint private-public initiative called the Office for the Prevention of Developmental Disabilities.~~

~~[(b) The legislature finds there is a strong need for a unified, comprehensive prevention effort in the State of Texas. Many state agencies, as well as private organizations and local public agencies, are involved in prevention activities that can reduce the incidence and severity of developmental disabilities. However, a coordinated statewide plan that identifies and consolidates research findings and prevention activities has yet to be developed.~~

~~[(c) The legislature further finds that by establishing a mechanism by which prevention activities can be better coordinated and needed prevention~~

~~programs can be initiated, the State of Texas will be making an important investment in Texas's future.~~

~~[Sec. 112.042.]~~ DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Board of Mental Health and Mental Retardation.

(2) "Developmental disability" means a severe, chronic disability that:

(A) is attributable to a mental or physical impairment or to a combination of a mental and physical impairment;

(B) is manifested before a person reaches the age of 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more major life activities, including:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic sufficiency; and

(E) reflects the person's needs for a combination and sequence of special interdisciplinary or generic care, treatment, or other lifelong or extended services that are individually planned and coordinated.

(3) "Advisory committee" [~~(2) "Executive committee"~~] means the developmental disabilities advisory committee [~~executive committee of the Office for the Prevention of Developmental Disabilities~~].

(4) "Department" [~~(3) "Office"~~] means the Texas Department of Mental Health and Mental Retardation [~~Office for the Prevention of Developmental Disabilities~~].

~~Sec. 112.042. [112.043. OFFICE FOR THE PREVENTION OF DEVELOPMENTAL DISABILITIES. The Office for the Prevention of Developmental Disabilities is established.~~

~~[Sec. 112.044.]~~ DUTIES. The department with the assistance of the advisory committee [~~office~~] shall:

(1) educate the public and attempt to promote sound public policy regarding the prevention of developmental disabilities;

(2) identify, collect, and disseminate information and data concerning the causes, frequency of occurrence, and preventability of developmental disabilities;

(3) work with state agencies and other entities to develop a coordinated long-range plan to effectively monitor and reduce the incidence or severity of developmental disabilities;

(4) promote and facilitate the identification, development, coordination, and delivery of needed prevention services;

(5) solicit, receive, and spend grants and donations from public, private, state, and federal sources;

(6) identify and encourage establishment of needed reporting systems to track the causes and frequencies of occurrence of developmental disabilities;

(7) develop, operate, and monitor task forces to address the prevention of specific targeted developmental disabilities;

(8) monitor and assess the effectiveness of state agencies to prevent developmental disabilities;

(9) recommend the role each state agency should have with regard to prevention of developmental disabilities;

(10) facilitate coordination of state agency prevention services and activities; and

(11) encourage cooperative, comprehensive, and complementary planning among public, private, and volunteer individuals and organizations engaged in prevention activities, providing prevention services, or conducting related research.

Sec. 112.043. DEVELOPMENTAL DISABILITIES ADVISORY [~~112.045. EXECUTIVE~~] COMMITTEE. (a) The advisory [~~executive~~] committee shall advise the department in its implementation of this subchapter [~~is the governing body of the office~~].

(b) The advisory [~~executive~~] committee is composed of nine members who have expertise in the field of developmental disabilities, of which three are appointed by the governor, three are appointed by the lieutenant governor, and three are appointed by the speaker of the house of representatives.

(c) The members serve for staggered six-year terms, with the terms of three members expiring February 1 of each odd-numbered year. Advisory [~~Executive~~] committee members receive no compensation but are entitled to reimbursement of actual and necessary expenses incurred in the performance of their duties.

(d) The members of the advisory [~~executive~~] committee annually shall elect one member to serve as presiding officer.

(e) The advisory [~~executive~~] committee shall meet at least quarterly and shall adopt bylaws for the conduct of the meetings.

(f) Any actions taken by the advisory [~~executive~~] committee must be approved by a majority vote of the members present.

(g) The advisory [~~executive~~] committee shall recommend to the board [~~establish~~] policies and procedures to implement this subchapter.

(h) The advisory committee is not subject to Chapter 2110, Government Code.

Sec. 112.044. [~~112.046.~~] BOARD OF ADVISORS. (a) The department with the assistance of the advisory [~~executive~~] committee may appoint a board of advisors composed of the following persons:

(1) representatives of government agencies that are responsible for prevention services for specified targeted disabilities and that contract with the department [~~office~~] to provide those services;

(2) representatives of consumer groups, foundations, or corporations that contract for or donate to the department [~~office~~] for prevention services for specific targeted disabilities;

(3) private citizens who volunteer services or donate to the department [~~office~~] for prevention services for specific targeted disabilities; and

(4) other persons whose assistance the department [~~executive committee~~] considers necessary to implement the purposes of this subchapter.

(b) The board of advisors may serve on task forces, solicit donations and grants, and perform any other duties assigned by the department [~~executive committee~~].

~~Sec. 112.045. [112.047. EXECUTIVE DIRECTOR. (a) The executive committee may hire an executive director to serve as the chief executive officer of the office and to perform the administrative duties of the office.~~

~~[(b) The executive director serves at the will of the executive committee.~~

~~[(c) The executive director may hire staff within guidelines established by the executive committee.~~

~~[Sec. 112.048.] TASK FORCES. (a) The advisory [executive] committee shall recommend to the board [establish] guidelines for:~~

- ~~(1) selecting targeted disabilities;~~
- ~~(2) assessing prevention services needs; and~~
- ~~(3) reviewing task force plans, budgets, and operations.~~

~~(b) The department with the assistance of the advisory committee may [~~executive committee shall~~] create task forces made up of members of the board of advisors to plan and implement prevention programs for specifically targeted developmental disabilities. A task force operates as an administrative division of the department [~~office~~] and can be abolished when the task force [~~it~~] is ineffective or is no longer needed.~~

~~Sec. 112.046. [112.049.] EVALUATION. (a) The department [~~office~~] shall identify or encourage the establishment of needed statistical bases for each targeted group against which the department [~~office~~] can measure how effectively a task force program is reducing the frequency or severity of a targeted developmental disability.~~

~~(b) The department and advisory [~~executive~~] committee shall regularly monitor and evaluate the results of task force prevention programs.~~

~~Sec. 112.047. [112.050.] GRANTS. (a) The department with the assistance of the advisory [~~executive~~] committee may apply for and distribute private, state, and federal funds to implement prevention policies adopted by the board [~~set by the executive committee~~].~~

~~(b) The board with the assistance of the advisory [~~executive~~] committee shall establish criteria for application and review of funding requests and accountability standards for recipients. The board [~~executive committee~~] may adjust its criteria as necessary to meet requirements for federal funding.~~

~~[(c) The executive committee may not submit a legislative appropriation request for general revenue funds.]~~

~~Sec. 112.048 [112.051]. REPORTS TO LEGISLATURE. The department [~~office~~] shall submit by February 1 of each odd-numbered year biennial reports to the legislature detailing findings of the department [~~office~~] and the results of task force prevention programs and recommending improvements in the delivery of developmental disability prevention services.~~

~~[Sec. 112.052. SUNSET PROVISION. The Office for the Prevention of Developmental Disabilities is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this subchapter expires September 1, 1999.]~~

SECTION _____. (a) On September 1, 1999:

(1) all of the powers, duties, functions, and activities of the Office for the Prevention of Developmental Disabilities are transferred to the Texas Department of Mental Health and Mental Retardation;

(2) all money, accounts, obligations, contracts, property, and records of the Office for the Prevention of Developmental Disabilities are transferred to the Texas Department of Mental Health and Mental Retardation; and

(3) all employees of the Office for the Prevention of Developmental Disabilities become employees of the Texas Department of Mental Health and Mental Retardation.

(b) A rule or form adopted by the Office for the Prevention of Developmental Disabilities is a rule or form of the Texas Department of Mental Health and Mental Retardation and remains in effect until the rule or form is changed by the Texas Board of Mental Health and Mental Retardation.

(c) A reference in law to the Office for the Prevention of Developmental Disabilities means the Texas Department of Mental Health and Mental Retardation and a reference in law to the executive committee of the Office for the Prevention of Developmental Disabilities means the developmental disabilities advisory committee and the Texas Department of Mental Health and Mental Retardation jointly.

(d) A person who is a member of the executive committee of the Office for the Prevention of Developmental Disabilities immediately before this Act takes effect, unless otherwise removed as provided by law, may continue to serve as a member of the developmental disabilities advisory committee established by this Act until the expiration of the term to which the person was originally appointed.

Amendment No. 2 was withdrawn.

CSHB 1151, as amended, was passed to engrossment.

(Speaker in the chair)

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 3032 ON SECOND READING (by Oliveira, Dukes, et al.)

CSHB 3032, A bill to be entitled An Act relating to historically underutilized businesses; providing a penalty.

CSHB 3032 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representatives Heflin and Oliveira offered the following amendment to **CSHB 3032**:

Amend **CSHB 3032** as follows:

Delete SECTION 3 and renumber subsequent sections accordingly.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Heflin offered the following amendment to **CSHB 3032**:

Amend **CSHB 3032** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill accordingly:

Section ____ TRANSFER OF FUNDS FOR PURCHASING. If the state auditor reports to the commission under Section 2151.123(d) that a state agency is not complying with Section 2161.123, the commission shall report that fact to the Legislative Budget Board. If the Legislative Budget Board determines that one year after the date of the state auditor's report to the commission, the agency is still not complying with Section 2161.123, the budget board may, under Section 69, Article XVI, Texas Constitution, direct the emergency transfer of the agency's appropriated funds for making purchases under purchasing authority delegated under Section 2155.131 or 2155.133 to the appropriate state agency. The amount transferred from the agency's funds to the appropriate agency shall be an amount determined by the Legislative Budget Board.

Amendment No. 2 was adopted without objection.

A record vote was requested.

CSHB 3032, as amended, was passed to engrossment by (Record 291): 128 Yeas, 13 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crownover; Cuellar; Danburg; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilbert; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hunter; Hupp; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keffer; King, P.; King, T.; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Van de Putte; Walker; West; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Berman; Crabb; Craddick; Culberson; Davis, J.; Green; Hartnett; Howard; Isett; Keel; Krusee; Shields; Talton.

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

Absent — Eiland; Grusendorf; Hilderbran; McCall; Seaman; Smithee; Williams.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 291. I intended to vote no.

Crownover

When Record No. 291 was taken, my vote failed to register. I would have voted no.

Hilderbran

I was shown voting yes on Record No. 291. I intended to vote no.

Hupp

When Record No. 291 was taken, I would have voted yes.

McCall

GENERAL STATE CALENDAR
(consideration continued)

CSHB 3555 ON SECOND READING
(by Wilson)

CSHB 3555, A bill to be entitled An Act relating to the regulation of the manufacture, distribution, sale, use, possession, and transportation of alcoholic beverages in the state; providing a penalty.

Amendment No. 1

Representative Wilson offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555**, by striking page 13, lines 13-21 and substituting the following:

(c) It is an affirmative defense to prosecution under Subsection (b) that the person consuming the alcoholic beverage is, or that the receptacle containing the alcoholic beverage is:

(1) in the possession of:

(A) a passenger in the living quarters of a house coach or house trailer; or

(B) a passenger in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(2) located:

(A) in a locked storage compartment of the vehicle, including a glove compartment; or

(B) in a vehicle that is not equipped with a trunk, behind the last upright seat of the vehicle or in another area of the vehicle not normally occupied by the driver or passengers.

Amendment No. 1 was adopted without objection.

(Goolsby in the chair)

Representative Wilson moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Amendment No. 1 was withdrawn.

Amendment No. 2

Representatives Wilson, Dutton, Eiland, and Hilderbran offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555**, by striking page 13, lines 13-21 and substituting the following:

- (c) It is an affirmative defense to prosecution under Subsection (b) that:
- (1) the person consuming the alcoholic beverage is a passenger in:
 - (A) the living quarters of a house coach or house trailer;
 - (B) a motor vehicle designed, maintained, or used primarily for the transportation of persons; or
 - (C) the vehicle being driven by a person who requested and was administered a breathalyzer test that showed an alcohol concentration of 0.00 percent; or
 - (2) the receptacle containing the alcoholic beverage is located in:
 - (A) a locked storage compartment of the vehicle, including a locked glove compartment; or
 - (B) a vehicle that is not equipped with a trunk, and behind the last upright seat of the vehicle or another area of the vehicle not normally occupied by the driver or a passenger.

Amendment No. 2 was adopted without objection.

(Speaker in the chair)

Amendment No. 3

Representative Mowery offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** as follows:

- (1) On page 3, line 26, strike "and" and substitute "or"
- (2) On page 8, line 15, strike "and" and substitute "or"

Amendment No. 3 failed of adoption.

Amendment No. 4

Representatives Mowery, Van de Putte, Hamric, Chavez, Woolley, McCall, and Hupp offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** as follows:

- (1) On page 6, insert the following new SECTION 12 between lines 13 and 14 and renumber the subsequent sections accordingly.

SECTION 12. Subtitle A, Title 3, Alcoholic Beverage Code, is amended by adding Chapter 54 to read as follows:

CHAPTER 54. DIRECT WINE SHIPPER'S PERMIT

Sec. 54.01. AUTHORIZED ACTIVITIES. (a) The holder of a direct wine shipper's permit may ship wine from the holder's state or country directly to a resident of this state for the resident's personal use.

- (b) The holder of a direct wine shipper's permit may not:
- (1) ship to a resident or an address in this state within any one-month period more than three gallons of wine;
 - (2) ship wine to a minor;
 - (3) ship wine in this state using a carrier that does not hold a carrier's permit under this code; or,
 - (4) ship, deliver, or cause to be delivered wine into a dry area.
- (c) The holder of a direct wine shipper's permit shall ensure that each

shipment of wine to this state is conspicuously labeled with the words "signature of person age 21 or older required for delivery."

(d) The holder of a direct wine shipper's permit shall pay annually:

(1) All taxes that would be due on the wine shipped if the sale were made in the location where the wine was delivered; and

(2) the administrative fee required to be paid under Section 107.07 or any other provision of this code relating to the importation of alcoholic beverages.

Sec. 54.02. QUALIFICATION FOR PERMIT. (a) The commission may issue a direct wine shipper's permit only to a person holding a license or permit that authorizes the holder to sell directly to a consumer in the state or country from which the wine is shipped.

(b) A direct wine shipper's permit may be denied, suspended, or revoked if the license or permit required in subsection (a) is determined to be not in good standing in the state or country of issue.

Sec. 54.03. FEE. The initial fee for a direct wine shipper's permit is \$100. The holder of a direct wine shipper's permit may renew the permit annually by paying a \$100 renewal fee and providing the commission with proof of compliance with Section 54.02.

Sec. 54.04. REPORTS AND PAYMENT OF TAXES. The holder of a direct wine shipper's permit shall, not later than January 15 of each year, file a report with the commission showing the amounts, by type, and the sale prices of the wine shipped into the state during the previous calendar year and any other information that the commission by rule requires.

Sec. 54.05. RULES. The commission shall adopt rules regarding:

(1) the manner in which taxes and fees required under Section 54.01(d) will be calculated and collected;

(2) records that the holder of a direct wine shipper's permit shall maintain; and

(3) the audit of records maintained by the holder of a direct wine shipper's permit.

Sec. 54.06. ALTERNATIVES TO SUSPENSION; CANCELLATION. Section 11.64 applies to a permit issued under this chapter.

(2) On page 10, insert between lines 14 and 15 subsection (a) to read as follows:

(a) A Texas resident may import not more than one quart of liquor for his own personal use without being required to hold a permit. A Texas resident may import for his own personal use not more than three gallons of wine without being required to hold a permit. A nonresident of Texas may import not more than a gallon of liquor for his own personal use without being required to hold a permit. A person importing liquor into the state under this subsection must pay the state tax on liquor and an administrative fee of 50 cents and must affix the required tax stamps. No minor and no intoxicated person may import any liquor into the state. Except as provided by Chapter 54 of this Code, a [A] person importing wine or liquor under this subsection must personally accompany the wine or liquor as it enters the state. A person may not avail himself of the exemptions set forth in this subsection more than once every thirty days.

(3) On page 10, line 17, insert after "beverage" the phrase "other than wine".

(4) On page 10, line 18, insert after the word "section" the phrase

CSHB 3555 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE WEST: Is this amendment modeled after the "Interstate Shipping Regulation Act" whose supporters are those wineries and out-of-state retail outlets who seek to sell alcoholic beverages direct by mail and the Internet into Texas?

REPRESENTATIVE MOWERY: I have never heard of the Interstate Chicken Act, or whatever you're talking about. I have no idea what you are talking about.

WEST: Is this amendment an attempt to legitimize a practice by those who are already breaking current law and does it allow out-of-state persons to circumvent the Texas Three-Tier System?

MOWERY: There has been an awful lot of rumors about this destroying the three-tier-system. I cannot see how it destroys the three-tier-system. We're talking about one thing, wine, and we're talking about a limited amount of personal use wine. It's not going to make the liquor stores or the wholesalers go broke, it's not going to destroy the three-tier-system. I don't see how that could even get started. I know that there's a lot of personal income involved in the three-tier-system on the part of many individuals. But there was no attempt to destroy the three-tier-system.

WEST: Does this amendment create two classes of those who sell and deliver alcohol to a minor?

MOWERY: There is no delivery of alcohol beverage to minors allowed under the law.

WEST: Does this amendment provide for a penalty for those who sell to a minor?

MOWERY: Yes.

A record vote was requested.

Amendment No. 4 failed of adoption by (Record 292): 53 Yeas, 93 Nays, 1 Present, not voting.

Yeas — Brimer; Burnam; Carter; Chavez; Chisum; Christian; Coleman; Craddick; Crownover; Culberson; Danburg; Delisi; Denny; Farabee; George; Giddings; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hilderbran; Hinojosa; Hupp; Jones, C.; Keel; Keffer; King, P.; Krusee; Madden; Marchant; Maxey; McCall; Morrison; Mowery; Naishtat; Nixon; Palmer; Puente; Rangel; Sadler; Shields; Smithee; Staples; Swinford; Talton; Thompson; Truitt; Turner, B.; Turner, S.; Williams; Woolley.

Nays — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brown, B.; Brown, F.; Capelo; Clark; Cook; Corte; Counts; Crabb; Cuellar; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farrar; Gallego; Garcia; Goolsby;

Green; Gutierrez; Hardcastle; Hawley; Heflin; Hilbert; Hill; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Isett; Janek; Jones, D.; Jones, J.; Junell; King, T.; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Najera; Noriega; Oliveira; Olivo; Pickett; Pitts; Ramsay; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Telford; Tillery; Uher; Uresti; Van de Putte; Walker; West; Wilson; Wise; Wohlgemuth; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent — Flores; Glaze; Goodman.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 292. I intended to vote no.

Culberson

I was shown voting yes on Record No. 292. I intended to vote no.

Puente

Amendment No. 5

Representatives Mowery and Hinojosa offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** as follows:

(1) Strike the sentence on page 10 in SECTION 17, starting on line 18 beginning with word "An" and ending on line 23 with the word "felony".

Representative Wilson moved to table Amendment No. 5.

The motion to table prevailed.

Amendment No. 6

Representative Alvarado offered the following amendment to **CSHB 3555**:

1. Amend **CSHB 3555** on Page 10, by inserting between Lines 12 and 13, a new "SECTION 17" to read as follows:

SECTION 17. Chapter 106, Alcoholic Beverage Code, is amended by adding Section 106.16 to read as follows:

"Sec. 106.16. PRESENCE OF MINOR ON LICENSED PREMISES. (a) Except as provided by Subsection (b):

(1) a minor may not be on premises covered by a permit or license issued under Chapter 25, 28, 29, 69, or 70; and

(2) the holder of a permit or license issued under this code may not allow a minor to be on the premises covered by the permit or license.

(b) This section does not apply if:

(1) the minor at all times while on the premises is in the presence of the minor's parent or adult spouse or an adult person into whose custody a court has committed the minor;

(2) the business operated on the premises derives:

(A) 65 percent or more of its gross revenues from the sale of food and other goods, not including alcoholic beverages; or

(B) 50 percent or more of its gross revenues from the sale of tickets to outdoor live performances; or

(3) the minor's presence is in the course of employment permitted under this code."

2. Amend **CSHB 3555** by renumbering existing "SECTION 17" through existing "SECTION 25" as, instead, "SECTION 18" through "SECTION 26".

3. Amend **CSHB 3555** on Page 14, by inserting between Lines 17 and 18, a new "SECTION 27" to read as follows:

"SECTION 27. The change in law made by adding a new Section 106.16, Alcoholic Beverage Code, by this Act, applies to the holder of a food and beverage certificate issued by the Texas Alcoholic Beverage Commission."

4. Amend **CSHB 3555** by renumbering existing "SECTION 26" through existing "SECTION 29" as, instead, "SECTION 28" through "SECTION 30".

Amendment No. 6 was adopted without objection.

(Speaker pro tempore in the chair)

Amendment No. 7

Representative Dutton offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555**, in SECTION 21 of the bill, on page 13, line 14, between "Subsection (b)" and "that the person" by inserting "that emergency conditions existed that prevented the defendant from ensuring that an open container of alcohol was not present in the vehicle or".

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative R. Lewis offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** on page 13, line 22, between "misdemeanor" and the period, insert "punishable by a fine not to exceed \$50, including all court costs".

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Junell offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by striking SECTION 22 of the bill and substituting the following:

SECTION 22. Each state agency or political subdivision of this state shall comply with the collection and reporting requirements of the federal Highway Safety Act of 1966 in collecting, compiling, or publishing data or statistical information relating to:

(1) motor vehicle accidents that result in death, injury, or property damage, including death, injury, or property damage resulting from alcohol or a controlled substance;

(2) violations of penal laws of this state; or

(3) highway and traffic offenses.

Amendment No. 9 was adopted without objection.

LEAVE OF ABSENCE GRANTED

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

Janek on motion of Staples.

CSHB 3555 - (consideration continued)**Amendment No. 10**

Representative Brimer offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by adding the following appropriately numbered sections to the bill and renumbering subsequent sections of the bill appropriately:

SECTION _____. Section 251.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 251.11. REQUIREMENTS TO ORDER ELECTION. (a) Except as provided by Subsection (b), the ~~The~~ commissioners court, at its next regular session after the petition is filed, shall order a local option election to be held on the issue set out in the petition if the petition is filed with the registrar of voters not later than 30 days after it is issued and bears in the actual handwriting of the signers the following:

(1) the actual signatures of a number of qualified voters of the political subdivision equal to 35 percent of the registered voters in the subdivision;

(2) a notation showing the residence address of each of the signers; and

(3) each signer's voter registration certificate number.

(b) A petition for a local option election related to the legalization of the sale of mixed beverages only in an establishment that holds a food and beverage certificate must have the actual signatures, residence addresses, and voter registration certificate numbers of a number of qualified voters of the political subdivision equal to 25 percent of the registered voters in the subdivision. The petition must be filed not later than the 60th day after the date the petition is issued.

SECTION _____. Sections 251.14(b) and (c), Alcoholic Beverage Code, are amended to read as follows:

(b) In areas where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more of the prohibited types or classifications, the ballot shall be prepared to permit voting for or against one of the following issues:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of all alcoholic beverages for off-premise consumption only."

(6) "The legal sale of all alcoholic beverages except mixed beverages."

(7) "The legal sale of all alcoholic beverages including mixed beverages."

(8) "The legal sale of mixed beverages."

(9) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."

(c) In areas where the sale of all alcoholic beverages including mixed beverages has been legalized, the ballot shall be prepared to permit voting for or against one of the following issues in any prohibitory election:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of all alcoholic beverages for off-premise consumption only."

(6) "The legal sale of all alcoholic beverages except mixed beverages."

(7) "The legal sale of all alcoholic beverages including mixed beverages."

(8) "The legal sale of mixed beverages."

(9) "The legal sale of mixed beverages in restaurants by food and beverage certificate holders only."

SECTION _____. Section 251.15(b), Alcoholic Beverage Code, is amended to read as follows:

(b) In any legalization or prohibitory local option election where any shade or aspect of the issue submitted involves the sale of mixed beverages, any other type or classification of alcoholic beverage that was legalized prior to the election remains legalized without regard to the outcome of that election on the question of mixed beverages. If the sale of mixed beverages by food and beverage certificate holders was legalized before a local option election on the general sale of mixed beverages, the sale of mixed beverages in an establishment that holds a food and beverage certificate remains legalized without regard to the outcome of the election on the general sale of mixed beverages.

SECTION _____. Subchapter A, Chapter 251, Alcoholic Beverage Code, is amended by adding Section 251.18 to read as follows:

Sec. 251.18. ELECTION IN CERTAIN CITIES AND TOWNS. (a) This section applies only to an election to permit or prohibit the legal sale of mixed beverages by a food and beverage certificate holder in an incorporated city or town that is located in more than one county.

(b) An election to which this section applies shall be conducted by the city or town instead of the county. For the purposes of this section, in this subchapter and Subchapters B and C:

(1) a reference to the county is considered to refer to the city or town;

(2) a reference to the commissioners court is considered to refer to the governing body of the city or town;

(3) a reference to the county clerk or registrar of voters is considered

to refer to the secretary of the city or town or, if the city or town does not have a secretary, to the person performing the functions of a secretary of the city or town; and

(4) a reference to the county judge is considered to refer to the mayor of the city or town or, if the city or town does not have a mayor, to the presiding officer of the governing body of the city or town.

(c) The city or town shall pay the expense of the election.

Amendment No. 10 was adopted without objection.

Amendment No. 11

Representative Truitt offered the following amendment to **CSHB 3555**:

Amend the proposed committee substitute for **CSHB 3555** by adding the following appropriately numbered section and renumbering the remaining sections accordingly:

SECTION _____. Subchapter A, Chapter 251, Alcoholic Beverage Code, is amended by adding Section 251.18 to read as follows:

Sec. 251.18. ELECTION IN CERTAIN CITIES AND TOWNS. (a) This section applies only to an incorporated city or town located in more than one county.

(b) Any election conducted under this chapter in a city or town to which this section applies shall be conducted by the city or town instead of the county. For the purposes of this section, in this subchapter and Subchapters B and C:

(1) a reference to the county is considered to refer to the city or town;

(2) a reference to the commissioners court is considered to refer to the governing body of the city or town;

(3) a reference to the county clerk or registrar of voters is considered to refer to the secretary of the city or town or, if the city or town does not have a secretary, to the person performing the functions of a secretary of the city or town; and

(4) a reference to the county judge is considered to refer to the mayor of the city or town or, if the city or town does not have a mayor, to the presiding officer of the governing body of the city or town.

(c) The city or town shall pay the expense of the election.

(d) An action to contest the election under Section 251.55 may be brought in the district court of any county in which the city or town is located.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Denny offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by adding the following appropriately numbered section to the bill and renumbering existing sections of the bill appropriately:

SECTION _____. Section 16.01(d), Alcoholic Beverage Code, is amended to read as follows:

(d) The holder of a winery permit may sell wine to ultimate consumers

for consumption on or off winery premises and dispense free wine for consumption on or off the winery premises if the winery is located:

(1) in a city that:

(A) ~~[(+)]~~ is located in three or more counties, at least one of which has a population of 500,000 or more; and

(B) ~~[(2)]~~ has within its boundaries all or part of an international airport; or

(2) in a county that:

(A) has a population of 270,000 or more; and

(B) is adjacent to two or more counties with a population of one million or more.

Amendment No. 12 was adopted without objection.

Amendment No. 13

Representative Merritt offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by adding the following appropriately numbered sections and renumbering the remaining sections of the bill accordingly:

SECTION _____. Chapter 12, Alcoholic Beverage code, is amended by adding Sections 12.06 to read as follows:

Sec. 12.06. OPERATION OF BREWING FACILITY IN ECONOMICALLY DISTRESSED AREA. (a) This section applies only to the holder of a brewer's permit that own or leases a manufacturing facility that:

(1) was formerly the premises of another holder of a brewer's permit or a manufacturer's license who has announced plans to discontinue operations at the premises, has declared bankruptcy, or has otherwise ceased operations at the premises; and

(2) is located in a county that anticipates the loss or has lost more than 200 jobs as a result of the previous permit or license holder's ceasing operations at the premises.

(b) A holder of a brewer's permit, in addition to any other authority granted by this code, may:

(1) lease a portion of the facility to another holder of a brewer's permit or a manufacturer's license; and

(2) manufacturer or brew malt liquor, on contract, for other persons.

(c) A holder of a brewer's permit may operate under this section until the end 120th month after the month in which the holder initially purchased or leased the manufacturing facility described by Subsection (a).

SECTION _____. Chapter 62, Alcoholic Beverage Code, is amended by adding Section 62.14 to read as follows:

Sec. 62.14. OPERATION OF MANUFACTURING FACILITY IN ECONOMICALLY DISTRESSED AREA. (a) This section applies only to the holder of a manufacturer's license that owns or leases a manufacturing establishment that:

(1) was formerly the premises of another holder of a brewer's permit or a manufacturer's license who has announced plans to discontinue operations at the facility, has declared bankruptcy, or has otherwise ceased operations at those premises; and

(2) is located in a county that anticipates the loss or has lost more than 200 jobs as a result of the previous permit or license holder's ceasing operations.

(b) A holder of a manufacturer's license, in addition to any other authority granted by this code, may:

(1) lease a portion of the facility to another holder of a brewer's permit or a manufacturer's license; and

(2) manufacturer or brew beer, on contract, for other persons.

(c) A holder of a manufacturer's license may operate under this section until the end of the 120th month after the month in which the holder initially purchased or leased the manufacturing establishment described by Subsection (a).

Amendment No. 13 was adopted without objection.

Amendment No. 14

Representative Goolsby offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by adding the following appropriately numbered sections to the bill and renumbering existing sections of the bill appropriately:

SECTION _____. Section 11.39(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Every applicant for a [~~pharmacist's medicinal,~~] brewer's, distiller's and rectifier's, mixed beverage, private club registration, winery, wholesaler's, class B wholesaler's, wine bottler's, or package store permit shall give notice of the application by publication at his own expense in two consecutive issues of a newspaper of general circulation published in the city or town in which his place of business is located. If no newspaper is published in the city or town, the notice shall be published in a newspaper of general circulation published in the county where the applicant's business is located. If no newspaper is published in the county, the notice shall be published in a qualified newspaper published in the closest neighboring county and circulated in the county of the applicant's residence.

SECTION _____. Section 109.53, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.53. CITIZENSHIP OF PERMITTEE; CONTROL OF PREMISES; SUBTERFUGE OWNERSHIP; ETC. No person who has not been a citizen of Texas for a period of one year immediately preceding the filing of his application therefor shall be eligible to receive a permit under this code. No permit except a brewer's permit, and such other licenses and permits as are necessary to the operation of a brewer's permit, shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least 51 percent of the stock of the corporation is owned at all times by citizens who have resided within the state for a period of one year and who possess the qualifications required of other applicants for permits; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits

shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this code which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the attorney general, when any such violation is called to his attention, to file a suit for such cancellation in a district court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, [~~medicinal~~] and carrier's permits. No person shall sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow his permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of this code shall be liberally construed to carry out this intent, and it shall be the duty of the commission or the administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. No applicant for a package store permit or a renewal thereof shall have authority to designate as "premise" and the commission or administrator shall not approve a lesser area than that specifically defined as "premise" in Section 11.49(a) of this code. Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased, stored or sold on the licensed premises. Any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No minor, unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a package store permit. The prohibition against the presence of a minor on the premises of the holder of a package store permit does not apply to the presence on the premises of the holder or a person lawfully employed by the holder. Any package store permittee who shall be injured in his business or property by another package store permittee by reason of anything prohibited in this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages by him sustained; plus costs of suit including a reasonable attorney's fee. The provisions prohibiting the licensing of only a portion of a building as premise for a package store permit shall not apply to hotels as already defined in this code.

SECTION _____. Chapters 39 and 40 and Subchapter D, Chapter 201, Alcoholic Beverage Code, are repealed.

Amendment No. 14 was adopted without objection.

Amendment No. 15

Representative Nixon offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by adding the following appropriately numbered SECTIONS and renumbering the remaining SECTIONS of the bill accordingly:

SECTION __. Chapter 243, Local Government Code, is amended by adding Section 243.012 to read as follows:

Sec. 243.012. BAN ON ALCOHOLIC BEVERAGES. (a) In this section, "alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

(b) A person commits an offense if the person sells, serves, delivers, distributes, or consumes an alcoholic beverage on the premises of a sexually oriented business or knowingly allows a person to sell, serve, deliver, distribute, or consume an alcoholic beverage on the premises of a sexually oriented business. An offense under this subsection is a Class A misdemeanor.

(c) A municipality or county may not adopt a regulation under this chapter that allows alcoholic beverages to be sold, served, delivered, distributed, or consumed on the premises of a sexually oriented business.

SECTION __. Section 243.005, Local Government Code, is amended to read as follows:

Sec. 243.005. [~~BUSINESS LICENSED UNDER ALCOHOLIC BEVERAGE CODE;~~] BUSINESS HAVING COIN-OPERATED MACHINES. (a) A business is not exempt from regulation under this chapter because it [~~holds a license or permit under the Alcoholic Beverage Code authorizing the sale or service of alcoholic beverages or because it~~] contains one or more coin-operated machines that are subject to regulation or taxation, or both, under Chapter 8, Title 132, Revised Statutes.

(b) A regulation adopted under this chapter may not discriminate against a business on the basis of whether the business [~~holds a license or permit under the Alcoholic Beverage Code or on the basis of whether it~~] contains one or more coin-operated machines that are subject to regulation or taxation, or both, under Chapter 8, Title 132, Revised Statutes.

~~[(c) This chapter does not affect the existing preemption by the state of the regulation of alcoholic beverages and the alcoholic beverage industry as provided by Section 1.06, Alcoholic Beverage Code.]~~

SECTION __. Section 11.43, Alcoholic Beverage Code, is amended to read as follows:

Sec. 11.43. DISCRETION TO GRANT OR REFUSE PERMIT. [~~(a)~~] The commission and administrator have discretionary authority to grant or refuse to issue an original or renewal permit under the provisions of this subchapter or any other applicable provision of this code.

~~[(b) Notwithstanding any other provision of this code that authorizes the commission or administrator to refuse to issue a permit without a hearing, the commission or administrator shall hold a hearing before granting or refusing to issue an original mixed beverage permit, private club registration permit, wine and beer retailer's permit, or retail dealer's on-premise license if a sexually oriented business is to be operated on the premises to be covered by the permit or license.]~~

~~[(c) A hearing shall be held on any renewal application of a mixed beverage permit, private club registration permit, wine and beer retailer's permit, or retail dealer's on-premise license if a sexually oriented business is to be operated on the premises to be covered by the permit or license and a petition is presented to the commission requesting a hearing which is signed by 50 percent of the residents who reside within 300 feet of any property line of the affected premises.~~

~~[(d) A request for a hearing made under Subsection (b) or (c) of this section must include an allegation of grounds on which the original or renewal application, as applicable, should be denied.]~~

SECTION __. (a) If a sexually oriented business that has a license or permit issued by the Texas Alcoholic Beverage Commission surrenders the license or permit to the commission before the effective date of this Act, the Texas Alcoholic Beverage Commission shall refund to the sexually oriented business an amount determined by dividing the number of days the business will not be able to use the license or permit as a result of the change in law made by this Act, by the number of days for which the license or permit, as originally issued, is valid, and by multiplying the quotient by the amount of the license or permit fee.

(b) The change in law made by Section 243.012, Local Government Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(c) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(d) The changes in law made by Section 11.43, Alcoholic Beverage Code, and Section 243.005, Local Government Code, as amended by this Act and Section 243.012, Local Government Code, as added by this Act apply to any holder of a license or permit under the Alcoholic Beverage Code, including a holder of a food and beverage certificate.

Representative Wilson moved to table Amendment No. 15.

A record vote was requested.

The motion to table was lost by (Record 293): 25 Yeas, 111 Nays, 5 Present, not voting.

Yeas — Alvarado; Brimer; Capelo; Carter; Davis, Y.; Deshotel; Ehrhardt; Farrar; George; Haggerty; Hodge; Hupp; Jones, J.; King, T.; Longoria; Moreno, J.; Moreno, P.; Najera; Noriega; Olivo; Pickett; Rangel; Reyna, A.; Solis, J. F.; Wilson.

Nays — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brown, B.; Brown, F.; Burnam; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Davis, J.; Denny; Driver; Dunnam; Dutton; Eiland; Elkins; Ellis; Farabee; Flores; Gallego; Giddings; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill;

Hinojosa; Hochberg; Homer; Hope; Howard; Hunter; Isett; Jones, C.; Jones, D.; Keel; Keffer; King, P.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Morrison; Mowery; Naishtat; Nixon; Oliveira; Palmer; Pitts; Puente; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Van de Putte; Walker; West; Williams; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Dukes; Edwards; Garcia; Uher(C).

Absent, Excused — Janek.

Absent — Coleman; Danburg; Delisi; Glaze; Goodman; Junell; Luna; Ramsay.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 293. I intended to vote no.

George

When Record No. 293 was taken, I was temporarily out of the house chamber working with Sen. Ratliff on **HB 1**. I would have voted no.

Junell

I was shown voting yes on Record No. 293. I intended to vote no.

T. King

When Record No. 293 was taken, I would have voted no.

Ramsay

Amendment No. 15 was adopted.

Amendment No. 16

Representative Smith offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by adding the following new sections, appropriately numbered:

SECTION _____. Section 49.09, Penal Code, is amended by adding Subsection (g) to read as follows:

(g) If it is shown on the trial of an offense under Section 49.04, 49.05, or 49.06 that an analysis of a specimen of the person's blood, breath, urine, or other bodily substance showed an alcohol concentration of 0.15 or more, the offense is a Class A misdemeanor.

SECTION _____ Sections 13(a), (b), and (i), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(a) A judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, shall require as a condition of community supervision that the defendant submit to:

(1) not less than three days of confinement in county jail if the defendant was punished under Section 49.09(a);

(2) not less than five days of confinement in county jail plus the

completion of a course of conduct for the rehabilitation of the defendant's drug or alcohol dependence condition, if the defendant was punished under Section 49.09(g):

(3) not less than 10 days of confinement in county jail if the defendant was punished under Section 49.09(b), except as provided by Subdivision (4) [or (e)]; [or]

(4) not less than 30 days of confinement in county jail if the defendant was:

(A) convicted under Section 49.07; or

(B) punished under Section 49.09(g), if it is shown on the trial of the offense that the defendant has previously been convicted of an offense for which the defendant was punished under Section 49.09(g); or

(5) not less than 120 days of confinement in county jail if the defendant was convicted under Section 49.08 [and

(2) an evaluation by a supervision officer or by a person, program, or facility approved by the Texas Commission on Alcohol and Drug Abuse for the purpose of having the facility prescribe and carry out a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition].

(b) A judge granting community supervision to a defendant convicted of an offense under Sections 49.04-49.08 [Section 49.08], Penal Code, shall require as a condition of community supervision that the defendant submit to an evaluation by a supervision officer or by a person, program, or facility approved by the Texas Commission on Alcohol and Drug Abuse for the purpose of having the facility prescribe and supervise a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition [a period of confinement of not less than 120 days].

(i) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the court may require as a condition of community supervision that the defendant have a device installed, on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator and that the defendant not operate any motor vehicle that is not equipped with that device. If the person is convicted of an offense under Sections 49.04-49.06, Penal Code, and punished under Section 49.09(a), [or] (b), or (g), Penal Code, or of a second or subsequent offense under Section 49.07 or 49.08, Penal Code, and the person after conviction of either offense is placed on community supervision, the court shall require as a condition of community supervision that the defendant have the device installed on the appropriate vehicle and that the defendant not operate any motor vehicle unless the vehicle is equipped with that device. Before placing on community supervision a person convicted of an offense under Sections 49.04-49.08, Penal Code, the court shall determine from criminal history record information maintained by the Department of Public Safety whether the person has one or more previous convictions under Sections 49.04-49.08, Penal Code, or has one previous conviction under Sections 49.04-49.07, Penal Code, or one previous

conviction under Section 49.08, Penal Code. If the court determines that the person has one or more such previous convictions, the court shall require as a condition of community supervision that the defendant have that device installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant and that the defendant not operate any motor vehicle unless the vehicle is equipped with the device described in this subsection. The court shall require the defendant to obtain the device at the defendant's own cost before the 30th day after the date of conviction unless the court finds that to do so would not be in the best interest of justice and enters its findings on record. The court shall require the defendant to provide evidence to the court within the 30-day period that the device has been installed on the appropriate vehicle and order the device to remain installed on that vehicle for a period not less than 50 percent of the supervision period. If the court determines the offender is unable to pay for the device, the court may impose a reasonable payment schedule not to exceed twice the period of the court's order. The Department of Public Safety shall approve devices for use under this subsection. Section 521.247, Transportation Code, applies [~~The provisions of Section 23A(f), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), apply~~] to the approval of a device under this subsection and the consequences of that approval. Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of the person's employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of that driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity that owns the vehicle is owned or controlled by the person whose driving privilege has been restricted.

SECTION _____. The change in law made by Sections _____ through _____ of this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION _____. This Act takes effect September 1, 1999.

SECTION _____. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 16 was adopted without objection.

Amendment No. 17

Representative Corte offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by adding the following appropriately numbered sections and renumbering the remaining sections of the bill accordingly:

SECTION _____. Section 106.03, Alcoholic Beverage Code, is amended by adding Subsection (d) to read as follows:

(d) If a person has been previously convicted of a violation of this section or Section 101.63, a violation is a state jail felony.

SECTION _____. (a) The change in law made by Section 106.03, Alcoholic Beverage Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and former law is continued in effect for that purpose.

Amendment No. 17 was adopted without objection.

Amendment No. 18

Representatives Keel, Hilderbran, and Gallego offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by adding the following appropriately numbered sections and renumbering the remaining sections of the bill accordingly:

SECTION _____. Chapter 16, Alcoholic Beverage Code, is amended by adding Section 16.08 to read as follows:

Sec. 16.08. WINE FESTIVALS. (a) At an event that is approved by the commission, organized to celebrate and promote the wine industry in this state, and held in whole or in part on the premises of the holder of a winery permit, the permit holder may:

(1) sell wine to consumers for consumption on or off the holder's premises; and

(2) dispense wine without charge for consumption on or off the holder's premises.

(b) The holder of a winery permit may sell wine to the holder of a temporary permit issued under Chapter 27, 30, or 33 for an event that is approved by the commission and organized to celebrate and promote the wine industry in this state.

(c) The holder of a winery permit may not hold more than four events described by Subsection (a) each year.

SECTION _____. Sections 251.14(b) and (e), Alcoholic Beverage Code, are amended to read as follows:

(b) In areas where any type or classification of alcoholic beverages is prohibited and the issue submitted pertains to legalization of the sale of one or more of the prohibited types or classifications, the ballot shall be prepared to permit voting for or against one of the following issues:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of all alcoholic beverages for off-premise consumption only."

(6) "The legal sale of all alcoholic beverages except mixed beverages."

(7) "The legal sale of all alcoholic beverages including mixed beverages."

(8) "The legal sale of mixed beverages."

(9) "The legal sale of wine on the premises of a holder of a winery permit."

(e) In areas where the sale of beverages containing alcohol not in excess of 14 percent by volume has been legalized, and those of higher alcoholic content are prohibited, the ballot shall be prepared to permit voting for or against one of the following issues in any prohibitory election:

(1) "The legal sale of beer for off-premise consumption only."

(2) "The legal sale of beer."

(3) "The legal sale of beer and wine for off-premise consumption only."

(4) "The legal sale of beer and wine."

(5) "The legal sale of wine on the premises of a holder of a winery permit."

Amendment No. 18 was adopted without objection.

Amendment No. 19

Representative Wise offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** by adding appropriately numbered SECTIONS to read as follows and by renumbering existing SECTIONS accordingly:

SECTION _____. Section 5(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) In all other cases the judge may grant deferred adjudication unless:

(1) the defendant is charged with an offense:

(A) under Section [~~49.04, 49.05, 49.06,~~] 49.07 [;] or 49.08, Penal Code; [or]

(B) during the commission of which the defendant was involved in an accident involving a motor vehicle and the accident caused bodily injury to any person or damage to any property;

(C) after arrest for which the defendant refused to submit to the taking of a breath or blood specimen under Section 724.012, Transportation Code; or

(D) for which punishment may be increased under Section 49.09, Penal Code, or Section 481.134 (c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under Section 49.09 or any one of those subsections under Section 481.134; or

(2) the defendant:

(A) is charged with an offense under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, an offense under Section 49.04, 49.05, or 49.06, Penal Code, or a felony described by Section 13(B)(b) of this article; and

(B) has previously been placed on community supervision for any offense under Paragraph (A) of this subdivision.

SECTION _____. The change in law made by this Act to Section 5(d), Article 42.12, Code of Criminal Procedure, applies only to a defendant charged with an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date. A defendant charged with an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

Amendment No. 19 was adopted without objection.

Amendment No. 20

Representative Dutton offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555**, in SECTION 21 of the bill, on page 13, at the end of proposed Section 49.03 (c), Penal Code, by adding the following:

(d) It is an affirmative defense to prosecution under Subsection (b) that emergency conditions existed that prevented the defendant from ensuring that an open container of alcoholic beverage was not present in the vehicle.

Amendment No. 20 was adopted without objection.

Amendment No. 21

Representative Dutton offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555**, in SECTION 21 of the bill, on page 13, at the end of proposed Section 49.03 (c), Penal Code, by adding the following:

(d) It is an affirmative defense to prosecution under Subsection (b) that the defendant did not know that the open container of alcoholic beverage was in the vehicle.

Amendment No. 21 was adopted without objection.

Amendment No. 22

Representative Dunnam offered the following amendment to **CSHB 3555**:

Amend **CSHB 3555** By Wilson by adding the following and renumbering accordingly:

SECTION 1. Section 49.09, Penal Code, is amended to read as follows:

Sec. 49.09. ENHANCED OFFENSES AND PENALTIES. (a) If it is shown at [on] the punishment phase of the trial of an offense under Section 49.04, 49.05, or 49.06 that the person has previously been convicted one time of an offense relating to the operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, or an offense of operating a watercraft while intoxicated, the offense is a Class A misdemeanor, with a minimum term of confinement of 30 days.

SECTION 2. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.39 to read as follows:

Art. 38.39. DWI VIDEOTAPES. (a) A person arrested for an offense under Section 49.04, 49.07, or 49.08, Penal Code, must be videotaped if the county in which the person is arrested is required to maintain videotaping equipment.

(b) Each county with a population of 25,000 or more shall purchase and

maintain electronic devices capable of visually recording a person arrested in the county for an offense under Section 49.04, 49.07, or 49.08, Penal Code.

(c) A videotape made under this article must be maintained until the final disposition of any proceeding against the defendant relating to the arrest and must be made available to any attorney representing the defendant during the period it is maintained.

(d) If a videotape of a defendant is not made as required by this article:

(1) the results of an analysis of a specimen are inadmissible in a subsequent proceeding if the person consented to the taking of the specimen of the person's blood or breath; or

(2) the person's refusal is inadmissible in a subsequent proceeding if the person refused to consent to the taking of a specimen of the person's blood or breath.

SECTION 3. Section 724.048, Transportation Code, is amended to read as follows:

Sec. 724.048. RELATIONSHIP OF ADMINISTRATIVE PROCEEDING TO CRIMINAL PROCEEDING. ~~[(a) The determination of the department or administrative law judge:~~

~~[(1) is a civil matter;~~

~~[(2) is independent of and is not an estoppel as to any matter in issue in an adjudication of a criminal charge arising from the occurrence that is the basis for the suspension or denial; and~~

~~[(3) does not preclude litigation of the same or similar facts in a criminal prosecution.~~

~~[(b) Except as provided by Subsection (c), the disposition of a criminal charge does not affect a license suspension or denial under this chapter and is not an estoppel as to any matter in issue in a suspension or denial proceeding under this chapter.~~

~~[(e)] If a criminal charge arising from the same arrest as a suspension under this chapter results in an acquittal, the suspension under this chapter may not be imposed. If a suspension under this chapter has already been imposed, the department shall rescind the suspension and remove references to the suspension from the computerized driving record of the individual.~~

Amendment No. 22 was adopted without objection. (Howard recorded voting no)

CSHB 3555 - REASON FOR VOTE

The Dunnam amendment needs to be removed before final passage. The amendment, if it remains, would seriously deter the prosecution of the offense of DWI in this state.

Keel
Culberson

Representative Wilson moved to reconsider the vote by which Amendment No. 2 was adopted.

The motion to reconsider prevailed.

Amendment No. 23

On behalf of Representative Kuempel, Representative Eiland offered the following amendment to Amendment No. 2:

Amend Floor Amendment No. 2 by Wilson as follows:

(1) On page 1, line 12, strike "breathalyzer test" and substitute "breath test".

(2) On page 1, line 13, strike "0.00 percent" and substitute "0.02 percent".

Amendment No. 23 was adopted without objection.

Amendment No. 2, as amended, was adopted without objection.

CSHB 3555, as amended, was passed to engrossment. (Berman, Goolsby, Howard, Ramsay, and Seaman recorded voting yes; Cook, Flores, Gutierrez, Hinojosa, R. Lewis, Ritter, Shields, Talton, and Zbranek, no)

CSHB 3555 - REASON FOR VOTE

I voted no on **CSHB 3555** because the provision on deferred adjudication waters down substantially enforcement of DWI laws.

Hochberg

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

**HB 5 ON SECOND READING
(by Gray, et al.)**

HB 5, A bill to be entitled An Act relating to parental notification before an abortion may be performed on certain minors.

HB 5 was read second time earlier today and was postponed until this time.

Representative Gray moved to postpone consideration of **HB 5** until 7 p.m. today.

The motion prevailed without objection.

**HB 1777 ON THIRD READING
(by Wolens and Carter)**

HB 1777, A bill to be entitled An Act relating to the provision of local exchange telephone service in a municipality and the management by the municipality of public rights-of-way used by providers of that service.

HB 1777 was read third time earlier today, an amendment (Amendment No. 1) and an amendment to the amendment (Amendment No. 2) were before the house at the time of postponement.

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

A record vote was requested.

HB 1777, as amended, was passed by (Record 294): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Janek.

HB 745 ON SECOND READING
(by Eiland)

HB 745, A bill to be entitled An Act relating to license and renewal fees paid by certain licensed professional engineers.

HB 745 was read second time earlier today and was postponed until this time.

Representative Eiland moved to postpone consideration of **HB 745** until 10 a.m. Wednesday, May 12.

The motion prevailed without objection.

GENERAL STATE CALENDAR
(consideration continued)

CSHB 2609 ON SECOND READING
(by Greenberg, Coleman, Keffer, Naishtat, and Thompson)

CSHB 2609, A bill to be entitled An Act relating to the provision of scholarships, bonuses, and wage supplementation for professional child-care workers.

CSHB 2609 was passed to engrossment. (Berman and Chisum recorded voting no)

CSHB 907 ON SECOND READING
(by Siebert)

CSHB 907, A bill to be entitled An Act relating to attendance in public schools of persons over 18 years of age.

CSHB 907 was passed to engrossment.

CSHB 1186 ON SECOND READING
(by Hilbert)

CSHB 1186, A bill to be entitled An Act relating to the commencement of a special commissioners' hearing in an eminent domain proceeding.

Amendment No. 1

Representative Hilbert offered the following amendment to **CSHB 1186**:

Amend **CSHB 1186** as follows:

(1) Add the following appropriately numbered section to the bill and renumber subsequent sections of the bill appropriately:

SECTION _____. Section 21.017, Property Code, is amended by adding Subsections (c)-(e) to read as follows:

(c) A party who pleads in the alternative may not enter or use the property that is the subject of the proceeding without written permission of the adverse party until the court determines that the party who pleads in the alternative has acquired the rights necessary to enter and use the property for a public purpose.

(d) If the court determines that a party described by Subsection (a) does not own the property, the court shall award the property owner:

(1) any damages caused by the party's wrongful possession and use of the property; and

(2) all reasonable expenses, including reasonable and necessary attorney's fees.

(e) This section does not apply to a party described by Subsection (a) that has acquired an interest in property, but has in good faith constructed an improvement on property outside the boundaries of the property the party has acquired.

(2) On page 2, line 7, between the period and "The", insert "(a)".

(3) On page 2, line 7, between "by" and "this", insert "Section 21.015, Property Code, as amended by".

(4) On page 2, line 7, between "Act" and "applies", insert a comma.

(5) On page 2, between lines 12 and 13, insert the following:

(b) The change in law made by Section 21.017, Property Code, as amended by this Act, applies only to a party who enters and uses property as described by that section on or after the effective date of this Act.

Amendment No. 1 was adopted without objection.

CSHB 1186, as amended, was passed to engrossment.

CSHB 990 ON SECOND READING
(by Dutton)

CSHB 990, A bill to be entitled An Act relating to administrative procedures and criminal convictions for welfare fraud.

Amendment No. 1

Representative Dutton offered the following amendment to **CSHB 990**:

Amend **CSHB 990** as follows:

(1) On page 3, strike lines 20 and 21.

(2) On page 3, line 22, strike "(g)" and substitute "(f)".

(3) On page 3, line 26, strike "(h)" and substitute "(g)".

(4) On page 3, line 26, strike "(i)" and substitute "(h)".

(5) On page 4, line 10, strike "(i)" and substitute "(h)".

(6) On page 4, line 10, strike "(h)" and substitute "(g)".

(7) On page 4, between lines 14 and 15, insert the following:

(i) This section applies only to an individual who is a recipient of or applicant for benefits described by Subsection (a). This section does not restrict the authority of the commission or a health and human services agency to seek criminal prosecution of other individuals.

Amendment No. 1 was adopted without objection.

A record vote was requested.

CSHB 990, as amended, failed to pass to engrossment by (Record 295): 62 Yeas, 80 Nays, 2 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Bosse; Burnam; Capelo; Chavez; Coleman; Cuellar; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Ehrhardt; Eiland; Ellis; Farrar; Flores; Garcia; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hinojosa; Hochberg; Hodge; Homer; Jones, J.; Junell; King, T.; Lengefeld; Lewis, G.; Longoria; Luna; Maxey; McClendon; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Puente; Rangel; Reyna, A.; Salinas; Solis, J.; Solis, J. F.; Telford; Thompson; Tillery; Turner, S.; Uresti; Van de Putte; Wilson; Wise; Yarbrough.

Nays — Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Carter; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Crownover; Culberson; Davis, J.; Delisi; Denny; Driver; Elkins; Farabee; Gallego; George; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Jones, C.; Jones, D.; Keel; Keffer; King, P.; Krusee; Kuempel; Madden; Marchant; McCall; McReynolds; Merritt; Morrison; Mowery; Nixon; Palmer; Pitts; Ramsay; Reyna, E.; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Truitt; Walker; West; Williams; Wohlgenuth; Wolens; Woolley; Zbranek.

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

Absent, Excused — Janek.

Absent — Edwards; Green; Lewis, R.; Ritter; Turner, B.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 295. I intended to vote no.

Cuellar

I was shown voting yes on Record No. 295. I intended to vote no.

Gutierrez

I was shown voting yes on Record No. 295. I intended to vote no.

T. King

HB 1893 ON SECOND READING
(by Averitt and Greenberg)

HB 1893, A bill to be entitled An Act relating to limiting the period for making or accepting certain contributions before a regular legislative session.

(Speaker in the chair)

Amendment No. 1

Representative Averitt offered the following amendment to **HB 1893**:

Amend **HB 1893** as follows:

- (1) On page 1, strike lines 17-24.
- (2) On page 2, line 1, strike "SECTION 3" and substitute "SECTION 2".
- (3) On page 2, line 2, strike "SECTION 4" and substitute "SECTION 3".

Amendment No. 1 was adopted without objection.

HB 1893, as amended, failed to pass to engrossment. (Bosse, Eiland, Hochberg, Lengefeld, Siebert, and Smith, recorded voting yes)

HB 1893 - STATEMENT BY REPRESENTATIVE KEEL

This bill is touted as campaign finance reform, but in reality it is an incumbent protection measure.

Keel

HB 1678 ON SECOND READING
(by Rangel, Oliveira, et al.)

HB 1678, A bill to be entitled An Act relating to the creation of a uniform strategy to attract a student population that reflects the population of the state at institutions of higher education.

A record vote was requested.

HB 1678 was passed to engrossment by (Record 296): 85 Yeas, 58 Nays, 1 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Bosse; Brown, F.; Burnam; Capelo; Chavez; Chisum; Clark; Coleman; Cook; Counts; Cuellar; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goolsby; Gray; Greenberg; Gutierrez; Hawley; Hinojosa; Hochberg; Hodge; Hunter; Jones, J.; Junell; King, P.; King, T.; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; McReynolds; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Rangel; Reyna, A.; Reyna, E.; Sadler; Salinas; Solis, J.; Solis, J. F.; Telford; Thompson; Tillery; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Wilson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Carter; Christian; Corte; Crabb; Craddick; Crownover; Culberson; Davis, J.; Delisi; Denny; Driver; Elkins; George; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hilbert; Hill; Homer; Hope; Howard; Hupp; Isett;

Jones, C.; Jones, D.; Keel; Keffer; Krusee; Kuempel; Madden; Marchant; Merritt; Palmer; Ramsay; Ritter; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Truitt; Turner, B.; Williams; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Janek.

Absent — Goodman; Hilderbran; McCall; Nixon; Seaman.

STATEMENT OF VOTE

When Record No. 296 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

CSHB 351 ON SECOND READING

(by Denny, et al.)

CSHB 351, A bill to be entitled An Act relating to the civil liability of a county tax assessor-collector.

CSHB 351 was passed to engrossment.

SB 1058 ON SECOND READING

(Solomons - House Sponsor)

SB 1058, A bill to be entitled An Act relating to the revision of the uniform law on secured transactions.

SB 1058 was considered in lieu of **CSHB 2606**.

Amendment No. 1

Representative Solomons offered the following amendment to **SB 1058**:

Amend **SB 1058** as follows:

(1) Strike the heading to Article 3 of the bill and all of Section 3.01 of the bill and substitute:

SECTION 2.46. Subchapter A, Chapter 2A, Business & Commerce Code, is amended by adding Section 2A.110 to read as follows:

Sec. 2A.110. DIGITAL SIGNATURE. (a) A written electronic communication sent from within or received in this state in connection with a transaction governed by this chapter is considered signed if a digital signature is transmitted with the communication.

(b) This section does not preclude any symbol from being valid as a signature under other applicable law, including Section 1.201(39).

(c) The use of a digital signature under this section is subject to criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code.

(d) In this section "digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

SECTION 2.47. Section 9.203, Business & Commerce Code, is amended by adding Subsection (f) to read as follows:

(f) A written electronic security agreement sent from within or received in this state in connection with a transaction governed by this chapter is considered signed if a digital signature is transmitted with the communication. This subsection does not preclude any symbol from being valid as a signature

under other applicable law, including Section 1.201(39). The use of a digital signature under this subsection is subject to criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code. In this subsection "digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

ARTICLE 3. EFFECTIVE DATE; TRANSITION; EMERGENCY

SECTION 3.01. EFFECTIVE DATES. (a) Except as provided by Subsection (b) of this section, this Act takes effect July 1, 2001.

(b) Section 2A.110 and Subsection (f), Section 9.203, Business & Commerce Code, as added by this Act, take effect immediately.

(2) Strike SECTION 3.10 of the bill and substitute:

SECTION 3.10. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Amendment No. 1 was adopted without objection.

SB 1058, as amended, was passed to third reading.

CSHB 2606 - LAID ON THE TABLE SUBJECT TO CALL

Representative Solomons moved to lay **CSHB 2606** on the table subject to call.

The motion prevailed without objection.

**SB 1229 ON SECOND READING
(Oliveira - House Sponsor)**

SB 1229, A bill to be entitled An Act relating to the compensation of presiding judges of administrative judicial regions.

SB 1229 was considered in lieu of **CSHB 3031**.

SB 1229 was passed to third reading.

CSHB 3031 - LAID ON THE TABLE SUBJECT TO CALL

Representative Hinojosa moved to lay **CSHB 3031** on the table subject to call.

The motion prevailed without objection.

**CSHB 2447 ON SECOND READING
(by Counts)**

CSHB 2447, A bill to be entitled An Act relating to the authority of the Colorado River Municipal Water District to generate, purchase, and sell water power and electric energy and to acquire and dispose of facilities for those purposes.

CSHB 2447 was passed to engrossment.

CSHB 3049 ON SECOND READING
(by Counts)

CSHB 3049, A bill to be entitled An Act relating to prohibiting certain agreements between economic development corporations and persons engaged in certain political activities; providing civil and criminal penalties.

CSHB 3049 was passed to engrossment. (Berman, Christian, Craddick, Culberson, Elkins, Grusendorf, Heflin, Keffer, Kuempel, Marchant, Shields, and Woolley recorded voting no)

HB 2858 ON SECOND READING
(by Siebert)

HB 2858, A bill to be entitled An Act relating to the authority of certain taxing entities to repeal the local sales and use tax exemption for telecommunications services.

HB 2858 was passed to engrossment.

HB 2729 ON SECOND READING
(by Longoria)

HB 2729, A bill to be entitled An Act relating to regional business certification programs for purchasing by political subdivisions.

HB 2729 was passed to engrossment.

CSHB 3654 ON SECOND READING
(by Oliveira and Ehrhardt)

CSHB 3654, A bill to be entitled An Act relating to funding the housing trust fund.

CSHB 3654 failed to pass to engrossment. (Berman and Crownover recorded voting no)

CSHB 1763 ON SECOND READING
(by Garcia)

CSHB 1763, A bill to be entitled An Act relating to the prosecution and punishment of certain domestic violence offenses.

Amendment No. 1

Representative Allen offered the following amendment to **CSHB 1763**:

Amend **CSHB 1763** as follows:

(1) On page 1, line 6, strike "adding Subsection (f)" and substitute "adding Subsections (f) and (g)".

(2) On page 1, strike lines 16-21 and substitute the following:

~~(B) [(2) a state jail felony if it is shown on the trial of the offense that the offense was committed against]~~ a [family] member of the defendant's family or household, if it is shown on the trial of the offense [and] that the defendant;

(i) has been previously convicted of an offense against a [family] member of the defendant's family or household under this section; or

(ii) in committing the offense caused the death of an unborn child of the member of the family or household; or.

(3) On page 2, between lines 7 and 8, insert the following:

(3) "Death," with respect to an unborn child, means a failure to be born alive.

(4) "Unborn child" means a fetus at every stage of gestation in the uterus of the mother from fertilization until birth.

(4) On page 2, between lines 16 and 17, insert the following:

(g) The enhancement provided by Subsection (b)(1)(B)(ii) does not apply to any act consisting of conduct:

(1) committed by the mother of the unborn child;

(2) that is:

(A) a medical procedure performed in accordance with law by a physician or other licensed health care provider; or

(B) the dispensation of a drug in accordance with law or administration of a drug prescribed in accordance with law.

Amendment No. 1 was adopted without objection.

CSHB 1763, as amended, was passed to engrossment.

HB 2781 ON SECOND READING
(by Pitts)

HB 2781, A bill to be entitled An Act relating to the definition of a qualified commercial loan.

HB 2781 was passed to engrossment.

HB 1811 ON SECOND READING
(by Counts)

HB 1811, A bill to be entitled An Act relating to certain requirements for directors of insurance guaranty associations.

HB 1811 was passed to engrossment.

CSHB 3623 ON SECOND READING
(by Hilbert)

CSHB 3623, A bill to be entitled An Act relating to the application of the sales tax to land surveying services.

CSHB 3623 was passed to engrossment.

SB 569 ON SECOND READING
(Van de Putte - House Sponsor)

SB 569, A bill to be entitled An Act relating to standards for utilization review.

SB 569 was considered in lieu of **CSHB 1750**.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Seaman, Representative Van de Putte offered the following committee amendment to **SB 569**:

Amend **SB 569** to read as follows:

In the second sentence of Subsection (o), delete the phrase "of such records as are necessary to demonstrate policy coverage" and insert the phrase "of a patient's medical record summary."

Amendment No. 1 was adopted without objection.

SB 569, as amended, was passed to third reading.

HB 1750 LAID ON THE TABLE SUBJECT TO CALL

Representative Van de Putte moved to lay **HB 1750** on the table subject to call.

The motion prevailed without objection.

CSHB 3836 ON SECOND READING
(by **Truitt**)

CSHB 3836, A bill to be entitled An Act relating to the removal of a member of the governing body of a general-law municipality.

CSHB 3836 was passed to engrossment.

CSSB 601 ON SECOND READING
(**Goodman - House Sponsor**)

CSSB 601, A bill to be entitled An Act relating to the authority of the governing body of a municipality to create a municipal court technology fund and to require certain defendants to pay court costs for deposit in the fund.

CSSB 601 was considered in lieu of **CSHB 1623**.

CSSB 601 was passed to third reading. (Denny and Solomons recorded voting no)

CSHB 1623 - LAID ON THE TABLE SUBJECT TO CALL

Representative Goodman moved to lay **HB 1623** on the table subject to call.

The motion prevailed without objection.

HB 1480 ON SECOND READING
(by **Hinojosa**)

HB 1480, A bill to be entitled An Act relating to the certification of bail bondsmen by the Texas Department of Licensing and Regulation; providing a penalty.

HB 1480 was passed to engrossment. (Denny, E. Reyna, and Shields recorded voting no)

CSHB 3324 ON SECOND READING
(by **Gallego and Danburg**)

CSHB 3324, A bill to be entitled An Act relating to the provision of certain services to claimants under the compensation to victims of crime fund.

CSHB 3324 was passed to engrossment.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

**HB 5 ON SECOND READING
(by Gray, et al.)**

HB 5, A bill to be entitled An Act relating to parental notification before an abortion may be performed on certain minors.

Representative Gray moved to postpone consideration of **HB 5** until 10 a.m. Friday, May 14.

The motion prevailed without objection.

**GENERAL STATE CALENDAR
(consideration continued)****SB 1797 ON SECOND READING
(Hawley - House Sponsor)**

SB 1797, A bill to be entitled An Act relating to services of a gas utility provided to a school district.

SB 1797 was considered in lieu of **CSHB 2308**.

CSHB 2308 - LAID ON THE TABLE SUBJECT TO CALL

Representative Hawley moved to lay **CSHB 2308** on the table subject to call.

The motion prevailed without objection.

**HB 2388 ON SECOND READING
(by J. Solis)**

HB 2388, A bill to be entitled An Act relating to the sale or lease by a county of real property in connection with certain economic development programs.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Luna, Representative J. Solis offered the following committee amendment to **HB 2388**:

Amend **HB 2388** on page 1, line 18, between "section" and the period, by inserting "if the county acquired the property on or before September 1, 1999".

Amendment No. 1 was adopted without objection.

HB 2388, as amended, was passed to engrossment.

**CSHB 2259 ON SECOND READING
(by Goodman, Danburg, and Greenberg)**

CSHB 2259, A bill to be entitled An Act relating to the regulation of dangerous wild animals; imposing civil and criminal penalties.

Amendment No. 1

Representative Goodman offered the following amendment to **CSHB 2259**:

Amend **CSHB 2259** as follows:

(1) On page 2, between lines 8 and 9, insert the following:

(M) an orangutan:

(2) On page 2, line 9, strike "(M)" and substitute "(N)".

(3) On page 2, line 10, strike "(N)" and substitute "(O)".

(4) On page 11, between lines 20 and 21, insert the following:

Sec. 822.115. MINIMUM SPACE REQUIREMENTS: ORANGUTANS. (a)

For one or two orangutans or for a pair of orangutans and their progeny under the age of two years, the primary enclosure must have a floor area of at least 400 square feet and a ceiling height of at least 10 feet.

(b) For each additional orangutan confined in the enclosure, the floor area of the enclosure must be increased by 30 percent of the minimum floor area required by Subsection (a).

(5) On page 11, line 21, strike "Sec. 822.115" and substitute "Sec. 822.116".

(6) On page 12, line 2, strike "Sec. 822.116" and substitute "Sec. 822.117".

(7) On page 12, line 10, strike "Sec. 822.117" and substitute "Sec. 822.118".

(8) On page 12, line 16, strike "Sec. 822.118" and substitute "Sec. 822.119".

(9) On page 12, line 22, strike "Sec. 822.119" and substitute "Sec. 822.120".

(10) On page 13, line 4, strike "Sec. 822.120" and substitute "Sec. 822.121".

(11) On page 13, line 13, strike "Sec. 822.121" and substitute "Sec. 822.122".

(12) On page 13, line 20, strike "Sec. 822.122" and substitute "Sec. 822.123".

(13) On page 14, line 4, between "chimpanzee" and "or" insert ", orangutan,".

(14) On page 14, line 20, strike "Sec. 822.123" and substitute "Sec. 822.124".

(15) On page 15, line 22, strike "Sec. 822.124" and substitute "Sec. 822.125".

(16) On page 15, line 27, strike "Sec. 822.125" and substitute "Sec. 822.126".

(17) On page 16, line 14, strike "Sec. 822.126" and substitute "Sec. 822.127".

(18) On page 16, line 19, strike "Sec. 822.127" and substitute "Sec. 822.128".

(19) On page 17, line 26, strike "Section 822.124" and substitute "Section 822.125".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Goodman offered the following amendment to **CSHB 2259**:

Amend **CSHB 2259** as follows:

(1) On page 5, line 6, strike "and".

(2) On page 5, line 10, strike the period and substitute ";and".

(3) On page 5, between lines 10 and 11, insert new Subdivision (15) to read as follows:

(15) a dangerous wild animal owned by and in the possession, custody, and control of a college or university solely as a mascot for the college or university.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative B. Turner offered the following amendment to **CSHB 2259**:

Amend Sec. 822.103, SECTION 1 of **CSHB 2259** by striking the section and inserting a new section to read as follows:

"Sec. 822.103. CERTIFICATE OF REGISTRATION. (a) A municipality or county by ordinance or order may prohibit a person from owning, harboring, or having custody or control of a dangerous wild animal for any purpose unless the person holds a current certificate of registration for that animal issued by an animal registration agency under this subchapter.

(b) The animal registration agency may require a separate certificate of registration for each animal.

(c) A certificate of registration issued under this subchapter is not transferrable and is valid for the duration the person owns, harbors or has custody or control of a dangerous wild animal unless revoked.

(d) Each municipality and county by ordinance or order may establish and charge reasonable fees for application and renewal to recover the costs associated with administration and enforcement of this subchapter. The fee may not exceed \$50 for each animal and the total fees may not exceed \$500 for a person, regardless of the number of animals owned by that person. The fees collected under this section may be used only to administer and enforce this subchapter."

Representative Goodman moved to table Amendment No. 3.

The motion to table was lost.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Clark offered the following amendment to **CSHB 2259**:

Amend **CSHB 2259** as follows:

(1) On page 8, strike line 23 and substitute "registration to the justice court for the precinct in which the animal is located or the municipal court in the municipality in which the animal is located not later than the".

(2) On page 8, line 27, between "court" and the period, insert "to a county court at law in the county in which the justice or municipal court is located. The decision of the county court at law may not be appealed".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Puente offered the following amendment to **CSHB 2259**:

Amend **CSHB 2259** as follows:

(1) On page 2, line 9, strike "or".

(2) On page 2, between lines 9 and 10, insert the following:

(N) a wolf;

(O) a panther;

(P) a bobcat;

(Q) a lynx;

(R) a serval;

(S) a caracal;

(T) a coyote;

(U) a jackal;

(V) a wolverine;

(W) a binturong;

(X) an elephant;

(Y) an orangutan; or

(3) On page 2, line 10, strike "(N)" and substitute "(Z)".

(4) On page 13, line 5, between "LEOPARDS," and "AND" insert "PANTHERS,".

(5) On page 13, lines 5 and 6, between "leopards," and "jaguars," insert "panthers,".

(6) On page 13, line 9, between "leopard," and "jaguar," insert "panther,".

(7) On page 13, strike lines 13 through 19 and substitute the following:

Sec. 822.121. MINIMUM SPACE REQUIREMENTS: BOBCATS, OCELOTS, SERVALS, CARACALS, AND LYNX. (a) For one or two bobcats, ocelots, servals, caracals, lynx, or hybrids of these animals, the primary enclosure must have a floor area of at least 80 square feet and a ceiling height of at least eight feet.

(b) For each additional bobcat, ocelot, serval, caracal, lynx, or hybrid animal confined in the enclosure, the floor area of the enclosure must be increased by 30 percent of the minimum floor area required by Subsection (a).

(8) On page 13, between lines 19 and 20, insert the following:

Sec. 822.122. MINIMUM SPACE REQUIREMENTS: WOLVES. (a) For one or two wolves or hybrids of wolves, the primary enclosure must have a floor area of at least 300 square feet and a ceiling height of at least six feet.

(b) For each additional wolf or hybrid animal confined in the enclosure, the floor area of the enclosure must be increased by 30 percent of the minimum floor area required by Subsection (a).

Sec. 822.123. MINIMUM SPACE REQUIREMENTS: ORANGUTANS.

(a) For one or two orangutans or for a pair of orangutans and their progeny under the age of two years, the primary enclosure must have a floor area of at least 400 square feet and a ceiling height of at least 10 feet.

(b) For each additional orangutan confined in the enclosure, the floor area of the enclosure must be increased by 30 percent of the minimum floor area required by Subsection (a).

Sec. 822.124. MINIMUM SPACE REQUIREMENTS: JACKALS, COYOTES, AND WOLVERINES. (a) For one or two jackals, coyotes, wolverines, or hybrids of these animals, the primary enclosure must have a

floor area of at least 200 square feet and a ceiling height of at least six feet.

(b) For each additional jackal, coyote, wolverine, or hybrid animal confined in the enclosure, the floor area of the enclosure must be increased by 30 percent of the minimum floor area required by Subsection (a).

Sec. 822.125. MINIMUM SPACE REQUIREMENTS: BINTURONGS.

(a) For one or two binturongs, the primary enclosure must have a floor area of at least 150 square feet and a ceiling height of at least eight feet.

(b) For each additional binturong confined in the enclosure, the floor area of the enclosure must be increased by 30 percent of the minimum floor area required by Subsection (a).

Sec. 822.122. MINIMUM SPACE REQUIREMENTS: ELEPHANTS.

(a) For one or two elephants, the primary enclosure must have a floor area of at least 1,500 square feet and a ceiling height of at least 12 feet.

(b) For each additional elephant confined in the enclosure, the floor area of the enclosure must be increased by 30 percent of the minimum floor area required by Subsection (a).

(9) On page 13, line 20 strike "822.122" and substitute "822.127".

(10) On page 14, line 1, between "hyena," and "or", insert "wolf, panther, bobcat, serval, caracal, lynx, wolverine, coyote, jackal, binturong,".

(11) On page 14, line 3, strike "and" and substitute ";

(12) On page 14, strike lines 4 through 6 and substitute the following:

(3) the primary enclosure for a chimpanze, orangutan, or gorilla must be constructed of steel bars, two-inch galvanized pipe, masonry block, or their strength equivalent; and

(4) the primary enclosures for cages or other confinement facilities confining an elephant must be constructed of steel bars, masonry block, or their strength equivalent.

(13) On page 14, line 20, strike "822.123" and substitute "822.128".

(14) On page 15, line 22, strike "822.124" and substitute "822.129".

(15) On page 15, line 27, strike "822.125" and substitute "822.130".

(16) On page 16, line 14, strike "822.126" and substitute "822.131".

(17) On page 16, line 19, strike "822.127" and substitute "822.132".

(18) On page 17, line 26, strike "822.124" and substitute "822.129".

Representative Hilderbran moved to table Amendment No. 5.

The motion to table prevailed.

Amendment No. 6

Representative Staples offered the following amendment to **CSHB 2259**:

Amend **CSHB 2259** on page 13, line 16, by striking "eight" and substituting "six".

Amendment No. 6 was adopted without objection.

CSHB 2259, as amended, was passed to engrossment.

CSHB 517 ON SECOND READING (by Gray)

CSHB 517, A bill to be entitled An Act relating to Medicaid reimbursement for certain medical consultations.

Representative Gray moved to table **CSHB 517**.

The motion to table prevailed.

HB 1357 ON SECOND READING
(by Crownover and Denny)

HB 1357, A bill to be entitled An Act relating to the punishment for theft under certain circumstances involving the use of a check or similar sight order.

HB 1357 was passed to engrossment.

CSHB 487 ON SECOND READING
(by Hill, Gray, Junell, Hinojosa, Berman, et al.)

CSHB 487, A bill to be entitled An Act relating to the civil and criminal consequences of possessing or consuming an alcoholic beverage in a motor vehicle or operating a motor vehicle while intoxicated.

Amendment No. 1

Representative Dutton offered the following amendment to **CSHB 487**:

Amend **CSHB 487**, in SECTION 1 of the bill, as follows:

- (1) On page 1, line 12, strike "An occupant" and substitute "The driver"
- (2) On page 1, line 23 - page 2, line 7, strike proposed Section 49.03(c), Penal Code.
- (3) On page 2, line 8, strike "(d)" and substitute "(c)"

Representative Hill moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 297): 95 Yeas, 42 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chisum; Christian; Clark; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Davis, J.; Delisi; Denny; Driver; Edwards; Elkins; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Homer; Hope; Howard; Hunter; Isett; Jones, D.; Junell; Keel; Keffer; King, P.; Krusee; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; Maxey; McCall; Merritt; Morrison; Mowery; Naishtat; Noriega; Oliveira; Olivo; Palmer; Pickett; Puente; Ramsay; Reyna, A.; Reyna, E.; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Telford; Truitt; Van de Putte; Walker; West; Williams; Wohlgemuth; Wolens; Woolley; Zbranek.

Nays — Bailey; Chavez; Coleman; Cook; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Ellis; Farabee; Farrar; Garcia; George; Glaze; Gutierrez; Hodge; Hupp; Jones, J.; King, T.; Lengefeld; Luna; McClendon; McReynolds; Moreno, J.; Najera; Rangel; Ritter; Sadler; Salinas; Solis, J.; Solis, J. F.; Thompson; Tillery; Turner, B.; Turner, S.; Uher; Uresti; Wilson; Wise; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Janek.

Absent — Alvarado; Danburg; Ehrhardt; Flores; Gallego; Giddings; Jones, C.; Longoria; Moreno, P.; Nixon; Pitts.

STATEMENT OF VOTE

I was shown voting no on Record No. 297. I intended to vote yes.

Farabee

Amendment No. 2

Representatives Dutton, Eiland, and Hilderbran offered the following amendment to **CSHB 487**:

Amend **CSHB 487** by striking page 1, line 23 through page 2, line 7, and substituting the following:

(c) It is an affirmative defense to prosecution under Subsection (b) that:

(1) the person consuming the alcoholic beverage is a passenger in:

(A) the living quarters of a house coach or house trailer;

(B) a motor vehicle designed, maintained, or used primarily

for the transportation of persons; or

(C) the vehicle being driven by a person who requested and was administered a breath test that showed an alcohol concentration of 0.02 percent; or

(2) the receptacle containing the alcoholic beverage is located in:

(A) a locked storage compartment of the vehicle, including a locked glove compartment; or

(B) a vehicle that is not equipped with a trunk, and behind the last upright seat of the vehicle or another area of the vehicle not normally occupied by the driver or a passenger.

A record vote was requested.

The vote of the house was taken on the motion to table Amendment No. 2 and the vote was announced yeas 73, nays 69.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 298): 68 Yeas, 65 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Brown, B.; Brown, F.; Burnam; Carter; Christian; Clark; Corte; Counts; Crabb; Craddick; Crownover; Culberson; Davis, J.; Delisi; Denny; Driver; Elkins; Gallego; Glaze; Goolsby; Gray; Green; Greenberg; Gutierrez; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hill; Hope; Howard; Hunter; Isett; Junell; Keel; Keffer; King, P.; Krusee; Madden; Marchant; Maxey; McCall; Morrison; Mowery; Naishtat; Nixon; Palmer; Reyna, E.; Shields; Siebert; Smith; Smithee; Solomons; Staples; Swinford; Talton; Truitt; Walker; West; Williams; Wohlgemuth; Wolens; Woolley.

Nays — Alvarado; Bailey; Bonnen; Bosse; Capelo; Chavez; Cook; Cuellar; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farabee; Farrar; Flores; Garcia; George; Giddings; Grusendorf; Haggerty; Hilbert; Hilderbran; Hinojosa; Hochberg; Hodge; Homer; Hupp; Jones, J.; King, T.; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; McClendon; McReynolds; Merritt; Moreno, J.; Najera; Noriega; Olivo; Pickett; Puente; Ramsay; Rangel; Reyna, A.; Ritter; Salinas; Solis, J.; Solis, J. F.; Thompson; Tillery; Turner, B.; Turner, S.; Uher; Uresti; Wise; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Janek.

Absent — Brimer; Chisum; Coleman; Ehrhardt; Goodman; Jones, C.; Jones, D.; Moreno, P.; Oliveira; Pitts; Sadler; Seaman; Telford; Van de Putte; Wilson.

The speaker stated that the motion to table Amendment No. 2 prevailed by the above vote.

STATEMENT OF VOTE

I was shown voting no on Record No. 298. I intended to vote yes.

Hochberg

LEAVES OF ABSENCE GRANTED

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

Ehrhardt on motion of Maxey.

Oliveira on motion of Hamric.

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

Brimer on motion of Allen.

The following members were granted leaves of absence for the remainder of today because of illness:

D. Jones on motion of Uher.

Pitts on motion of Uher.

CSHB 487 - (consideration continued)

Amendment No. 3

Representative Dutton offered the following amendment to **CSHB 487**:

Amend **CSHB 487**, in SECTION 1 of the bill, on page 1, line 24, between "Subsection (b)" and "that the person" by inserting "that emergency conditions existed that prevented the defendant from ensuring that an open container of alcohol was not present in the vehicle or".

Representative Hill moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 299): 82 Yeas, 57 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bosse; Brown, B.; Brown, F.; Burnam; Carter; Christian; Clark; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Danburg; Davis, J.; Delisi; Denny; Driver; Elkins; Ellis; Gallego; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Hamric; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Homer; Hope; Howard; Hunter; Isett; Jones, C.; Junell; Keel; Keffer; King, P.; Krusee; Kuempel; Madden; Marchant; McCall; McReynolds; Morrison; Mowery; Nixon; Palmer; Ramsay; Reyna, E.; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Swinford; Talton; Telford; Truitt; Van de Putte; Walker; West; Williams; Wohlgemuth; Wolens; Woolley.

Nays — Alvarado; Bailey; Bonnen; Capelo; Chavez; Coleman; Cook; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farabee; Flores; Garcia; George; Giddings; Haggerty; Hardcastle; Hochberg; Hodge; Hupp; Jones, J.; King, T.; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; Merritt; Moreno, J.; Naishtat; Najera; Noriega; Olivo; Pickett; Puente; Rangel; Reyna, A.; Ritter; Salinas; Solis, J.; Solis, J. F.; Staples; Thompson; Tillery; Turner, B.; Turner, S.; Uher; Uresti; Wise; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Brimer; Ehrhardt; Janek; Jones, D.; Oliveira; Pitts.

Absent — Chisum; Farrar; Moreno, P.; Wilson.

Amendment No. 4

Representative Dutton offered the following amendment to **CSHB 487**:

Amend **CSHB 487**, in SECTION 1 of the bill, on page 1, line 24, between "Subsection (b)" and "that the person" by inserting "that the vehicle was not owned or being leased by the defendant and the defendant did not know that the open container of alcoholic beverage was in the vehicle or".

Representative Hill moved to table Amendment No. 4.

A record vote was requested.

The motion to table was lost by (Record 300): 59 Yeas, 79 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Brown, B.; Brown, F.; Carter; Christian; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Delisi; Denny; Driver; Glaze; Goodman; Goolsby; Gray; Green; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hope; Howard; Hunter; Jones, C.; Junell; Keel; Keffer; King, P.; Krusee; Marchant; Morrison; Mowery; Nixon; Palmer; Reyna, E.; Shields; Siebert; Smith; Smithee; Staples; Swinford; Talton; Truitt; Walker; West; Williams; Wohlgemuth; Wolens; Woolley.

Nays — Alvarado; Bailey; Bonnen; Bosse; Burnam; Capelo; Chavez;

Clark; Coleman; Cook; Danburg; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Grusendorf; Gutierrez; Haggerty; Hardcastle; Hilbert; Hochberg; Hodge; Homer; Hupp; Isett; Jones, J.; King, T.; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Naishtat; Najera; Noriega; Olivo; Pickett; Puente; Ramsay; Rangel; Reyna, A.; Ritter; Sadler; Salinas; Solis, J.; Solis, J. F.; Solomons; Telford; Thompson; Tillery; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Wise; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Brimer; Ehrhardt; Janek; Jones, D.; Oliveira; Pitts.

Absent — Chisum; Greenberg; Moreno, P.; Seaman; Wilson.

A record vote was requested.

Amendment No. 4 was adopted by (Record 301): 80 Yeas, 59 Nays, 1 Present, not voting.

Yeas — Alvarado; Bailey; Bonnen; Bosse; Burnam; Capelo; Carter; Chavez; Coleman; Cook; Cuellar; Danburg; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Grusendorf; Gutierrez; Haggerty; Hardcastle; Hilbert; Hinojosa; Hochberg; Hodge; Homer; Hupp; Isett; Jones, J.; King, T.; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Naishtat; Najera; Noriega; Olivo; Pickett; Puente; Ramsay; Rangel; Reyna, A.; Ritter; Sadler; Salinas; Solis, J.; Solis, J. F.; Solomons; Telford; Thompson; Tillery; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Wise; Yarbrough; Zbranek.

Nays — Alexander; Allen; Averitt; Berman; Brown, B.; Brown, F.; Christian; Clark; Corte; Counts; Crabb; Craddick; Crownover; Culberson; Delisi; Denny; Driver; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hope; Howard; Hunter; Jones, C.; Junell; Keel; Keffer; King, P.; Krusee; Madden; Marchant; Morrison; Mowery; Nixon; Palmer; Reyna, E.; Seaman; Shields; Siebert; Smith; Staples; Swinford; Talton; Truitt; Walker; West; Williams; Wohlgemuth; Wolens; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Brimer; Ehrhardt; Janek; Jones, D.; Oliveira; Pitts.

Absent — Chisum; Moreno, P.; Smithee; Wilson.

Amendment No. 5

Representative Dutton offered the following amendment to **CSHB 487**:

Amend **CSHB 487** by adding the following appropriately numbered section and renumbering the remaining sections of the bill accordingly:

SECTION _____. This Act is repealed if, at any time, the federal government fails to provide to the state the maximum level or amount of federal funds to which the state is entitled to as a result of the state's

adoption of the "open container" provisions of this Act, including the amendments to Section 49.03, Penal Code.

Representative Junell moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 302): 82 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Brown, B.; Brown, F.; Carter; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Davis, J.; Delisi; Denny; Driver; Eiland; Elkins; Ellis; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hope; Howard; Hunter; Isett; Jones, C.; Junell; Keel; Keffer; King, P.; Krusee; Kuempel; Lengefeld; Lewis, R.; Madden; Marchant; McCall; Morrison; Mowery; Naishtat; Nixon; Palmer; Ramsay; Reyna, E.; Seaman; Shields; Siebert; Smith; Solomons; Staples; Swinford; Talton; Tillery; Truitt; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Wohlgemuth; Wolens; Woolley.

Nays — Alvarado; Bailey; Bosse; Capelo; Chavez; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Farabee; Farrar; Gallego; Garcia; George; Giddings; Glaze; Gutierrez; Hardcastle; Hilbert; Hodge; Hupp; Jones, J.; King, T.; Lewis, G.; Longoria; Luna; Maxey; McClendon; McReynolds; Merritt; Moreno, J.; Najera; Noriega; Olivo; Pickett; Puente; Rangel; Reyna, A.; Ritter; Sadler; Salinas; Solis, J.; Solis, J. F.; Thompson; Turner, S.; Uresti; Wise; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Brimer; Ehrhardt; Janek; Jones, D.; Oliveira; Pitts.

Absent — Burnam; Chisum; Danburg; Flores; Hochberg; Homer; Moreno, P.; Smithee; Telford; Wilson.

Amendment No. 6

Representative Dunnam offered the following amendment to **CSHB 487**:

Amend **CSHB 487** by striking SECTION 2 of the bill and renumbering accordingly.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Dunnam offered the following amendment to **CSHB 487**:

Amend **CSHB 487** by striking SECTION 3 of the bill and renumbering accordingly.

(Brimer now present)

Amendment No. 7 was adopted without objection.

Amendment No. 8

Representatives Allen, Hupp, and Isett offered the following amendment to **CSHB 487**:

Amend **CSHB 487** as follows:

(1) Add appropriately numbered SECTIONS to the bill to read as follows and renumber the existing SECTIONS of the bill accordingly:

SECTION _____. Section 49.07, Penal Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) In this section:

(1) "Miscarriage" means the interruption of the normal development of a fetus, other than by a live birth, resulting in the complete expulsion or extraction from a pregnant woman of a product of human conception.

(2) "Serious[, "~~serious~~"] bodily injury" means injury that creates a substantial risk of death or that causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. The term includes any injury that causes a pregnant woman to suffer a miscarriage or stillbirth.

(3) "Stillbirth" means the death of a fetus before the complete expulsion or extraction from its mother, regardless of the duration of the pregnancy, as manifested by the fact that after expulsion or extraction the fetus does not breathe spontaneously or show any other evidence of life such as heartbeat, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(c) Except as provided by Subsection (d), an [Aa] offense under this section is a felony of the third degree.

(d) If it is shown on the trial of an offense under this section that the conduct charged caused a pregnant woman to suffer a miscarriage or stillbirth, an offense under this section is a felony of the second degree.

SECTION _____. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 99 to read as follows:

CHAPTER 99. INTOXICATION ASSAULT RESULTING IN
MISCARRIAGE OR STILLBIRTH

Sec. 99.001. DEFINITIONS. In this chapter:

(1) "Miscarriage" means the interruption of the normal development of a fetus, other than by a live birth, resulting in the complete expulsion or extraction from a pregnant woman of a product of human conception.

(2) "Stillbirth" means the death of a fetus before the complete expulsion or extraction from its mother, regardless of the duration of the pregnancy, as manifested by the fact that after expulsion or extraction the fetus does not breathe spontaneously or show any other evidence of life such as heartbeat, pulsation of the umbilical cord, or definite movement of voluntary muscles.

Sec. 99.002. CAUSE OF ACTION. A person is liable for damages under this chapter if, as a result of violating Section 49.07, Penal Code, a pregnant woman suffers a bodily injury that results in a miscarriage or stillbirth.

Sec. 99.003. PERSONS WHO MAY BRING ACTION. (a) An action under this chapter may be brought by:

(1) the mother or father of the fetus;

(2) the estate of the mother of the fetus, if the mother is deceased;

and

(3) the estate of the father of the fetus, if both the mother and the father are deceased.

(b) The father of the fetus may not bring an action under this chapter if the pregnancy was the result of an act of the father that constitutes a crime under Section 22.011 or 22.021, Penal Code.

Sec. 99.004. DAMAGES. (a) In an action under this chapter, a court may award:

(1) compensatory damages, including damages for mental anguish and loss of companionship and society; and

(2) exemplary damages under Chapter 41.

(b) Damages under this chapter are in addition to other damages that may be awarded under law for the injury to the pregnant woman.

(2) In SECTION 8(b) of the bill (House committee report, page 11, line 25), strike "change in law made by Section 1 of this Act applies" and substitute "changes in law made by Sections 1 and ___ of this Act in amending Sections 49.03 and 49.07, Penal Code, apply".

(3) In SECTION 8 of the bill, at the end of Subsection (h) (House committee report, page 13, between lines 7 and 8), add the following:

(i) The change in law made by this Act in adding Chapter 99, Civil Practice and Remedies Code, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative R. Lewis offered the following amendment to **CSHB 487**:

Amend **CSHB 487** on page 2, line 8, between "misdemeanor" and the period, insert "punishable by a fine not to exceed \$50, including all court cost".

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative Smith offered the following amendment to **CSHB 487**:

Amend **CSHB 487** by adding the following new sections, appropriately numbered to read as follows:

SECTION _____. Section 49.09, Penal Code, is amended by adding Subsection (g) to read as follows:

(g) If it is shown on the trial of an offense under Section 49.04, 49.05, or 49.06 that an analysis of a specimen of the person's blood, breath, urine, or other bodily substance showed an alcohol concentration of 0.15 or more, the offense is a Class A misdemeanor.

SECTION _____. Sections 13(a), (b), and (i), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(a) A judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, shall require as a condition of community supervision that the defendant submit to:

(1) not less than three days of confinement in county jail if the defendant was punished under Section 49.09(a);

(2) not less than five days of confinement in county jail plus the completion of a course of conduct for the rehabilitation of the defendant's drug or alcohol dependence condition, if the defendant was punished under Section 49.09(g);

(3) not less than 10 days of confinement in county jail if the defendant was punished under Section 49.09(b), except as provided by Subdivision (4) [or (e)]; [or]

(4) not less than 30 days of confinement in county jail if the defendant was:

(A) convicted under Section 49.07; or

(B) punished under Section 49.09(g), if it is shown on the trial of the offense that the defendant has previously been convicted of an offense for which the defendant was punished under Section 49.09(g); or

(5) not less than 120 days of confinement in county jail if the defendant was convicted under Section 49.08 [and

[(2) an evaluation by a supervision officer or by a person, program, or facility approved by the Texas Commission on Alcohol and Drug Abuse for the purpose of having the facility prescribe and carry out a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition].

(b) A judge granting community supervision to a defendant convicted of an offense under Sections 49.04-49.08 [Section 49.08], Penal Code, shall require as a condition of community supervision that the defendant submit to an evaluation by a supervision officer or by a person, program, or facility approved by the Texas Commission on Alcohol and Drug Abuse for the purpose of having the facility prescribe and supervise a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition [a period of confinement of not less than 120 days].

(i) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the court may require as a condition of community supervision that the defendant have a device installed, on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator and that the defendant not operate any motor vehicle that is not equipped with that device. If the person is convicted of an offense under Sections 49.04-49.06, Penal Code, and punished under Section 49.09(a), [or] (b), or (g), Penal Code, or of a second or subsequent offense under Section 49.07 or 49.08, Penal Code, and the person after conviction of either offense is placed on community supervision, the court shall require as a condition of community supervision that the defendant have the device installed on the appropriate vehicle and that the defendant not operate any motor vehicle unless the vehicle is equipped with that device. Before placing on community supervision a person convicted of an offense under Sections 49.04-49.08, Penal Code, the court shall determine from criminal history record information maintained by the Department of Public Safety whether the person has one or more previous convictions under Sections 49.04-49.08, Penal Code, or has one previous

conviction under Sections 49.04-49.07, Penal Code, or one previous conviction under Section 49.08, Penal Code. If the court determines that the person has one or more such previous convictions, the court shall require as a condition of community supervision that the defendant have that device installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant and that the defendant not operate any motor vehicle unless the vehicle is equipped with the device described in this subsection. The court shall require the defendant to obtain the device at the defendant's own cost before the 30th day after the date of conviction unless the court finds that to do so would not be in the best interest of justice and enters its findings on record. The court shall require the defendant to provide evidence to the court within the 30-day period that the device has been installed on the appropriate vehicle and order the device to remain installed on that vehicle for a period not less than 50 percent of the supervision period. If the court determines the offender is unable to pay for the device, the court may impose a reasonable payment schedule not to exceed twice the period of the court's order. The Department of Public Safety shall approve devices for use under this subsection. Section 521.247, Transportation Code, applies [~~The provisions of Section 23A(f), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), apply~~] to the approval of a device under this subsection and the consequences of that approval. Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of the person's employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of that driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity that owns the vehicle is owned or controlled by the person whose driving privilege has been restricted.

SECTION _____. The change in law made by Sections ____ through ____ of this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 10 was adopted without objection.

Amendment No. 11

Representative Dutton offered the following amendment to **CSHB 487**:

Amend **SB 487** by adding an appropriately numbered SECTION to the bill to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.048 to read as follows:

Sec. 411.048. REPORT RELATED TO CERTAIN INTOXICATION OFFENSES. (a) The department shall compile and maintain statistical

information on the prosecution of offenses under Chapter 49, Penal Code, relating to the operation of a motor vehicle while intoxicated, including a breakdown by race of the number of persons arrested, the number of persons released with no charges following arrest, the number of persons convicted, and the number of persons with respect to whom the charges are dismissed. The department shall submit a report of the statistical information covering the two preceding years to the legislature before March 31 of each even-numbered year.

(b) Each law enforcement agency that enforces Chapter 49, Penal Code, and each appropriate prosecuting attorney's office and court in this state shall report in the manner and on a form prescribed by the department the information necessary for the department to compile the information required by Subsection (a).

Amendment No. 11 was adopted without objection.

A record vote was requested.

CSHB 487, as amended, was passed to engrossment by (Record 303): 90 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bosse; Brown, B.; Brown, F.; Burnam; Carter; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Crownover; Cuellar; Culberson; Davis, J.; Delisi; Denny; Driver; Elkins; Farabee; Garcia; George; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hope; Howard; Hunter; Isett; Jones, C.; Junell; Keel; Keffer; King, P.; Krusee; Kuempel; Madden; Marchant; McCall; McReynolds; Merritt; Morrison; Mowery; Naishtat; Nixon; Palmer; Pickett; Puente; Ramsay; Reyna, A.; Reyna, E.; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solomons; Staples; Swinford; Talton; Tillery; Truitt; Uresti; Van de Putte; Walker; West; Williams; Wohlgemuth; Wolens; Woolley; Zbranek.

Nays — Alvarado; Bailey; Bonnen; Brimer; Capelo; Chavez; Coleman; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farrar; Gallego; Giddings; Glaze; Gutierrez; Haggerty; Hodge; Hupp; Jones, J.; King, T.; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; Moreno, J.; Najera; Noriega; Olivo; Rangel; Ritter; Sadler; Salinas; Solis, J. F.; Telford; Thompson; Turner, B.; Turner, S.; Uher; Wise; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Ehrhardt; Janek; Jones, D.; Oliveira; Pitts.

Absent — Chisum; Flores; Homer; Moreno, P.; Wilson.

STATEMENT OF VOTE

I was shown voting no on Record No. 303. I intended to vote yes.

Bonnen

REASONS FOR VOTE

I voted against this bill in support of **HB 3555** because it is a much better open container bill.

Brimer

On **HB 487** despite some amendments that made the bill better I was still concerned about not allowing a designated driver and felt that **HB 3555** was in total a better and more enforceable law.

Eiland

**HR 886 - ADOPTED
(by Danburg)**

Representative Danburg moved to suspend all necessary rules to take up and consider at this time **HR 886**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 886, Honoring Houston students on their perfect SAT scores.

HR 886 was adopted without objection.

RULES SUSPENDED

Representative Averitt moved to suspend the 5-day posting rule to allow the Committee on Financial Institutions to consider **SB 1520** and **SJR 34**.

The motion prevailed without objection.

Representative Carter moved to suspend the 5-day posting rule to allow the Committee on Urban Affairs to consider **SB 1259**, **SB 1539**, and **SB 1783**.

The motion prevailed without objection.

Representative Smithee moved to suspend the 5-day posting rule to allow the Committee on Insurance to consider **SB 1884**.

The motion prevailed without objection.

Representative Haggerty moved to suspend the 5-day posting rule to allow the Committee on Corrections to consider **SB 29** and **SB 1650**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Financial Institutions, 9 a.m. tomorrow, E2.026, for a public hearing, to consider **SB 1520** and **SJR 34**.

Calendars, on adjournment today, speakers committee room, for a formal meeting, to consider the calendar.

Energy Resources, on adjournment today, Desk 4, for a formal meeting, to consider **SB 792** and **SB 1883**.

Insurance, on adjournment today, Desk 24, for a formal meeting, to consider pending business and **SB 1884**.

Human Services, 8:45 a.m. tomorrow, Desk 63, for a formal meeting.

Higher Education, on adjournment today, speakers committee room.

Corrections, on adjournment tomorrow, E2.010, for a public hearing, to consider **SB 29** and **SB 1650**.

ADJOURNMENT

Representative Eiland moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 9:49 p.m. adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

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

List No. 1

HCR 265 (by Gallego), Honoring former State Representative Susan Gurley McBee of Del Rio.

To Rules & Resolutions.

HCR 266 (by Gallego), Memorializing Congress to take action on designating an international peace park in the Big Bend area.

To State Recreational Resources.

HCR 269 (by Staples, Ellis, Uresti, Hunter, and P. Moreno), Honoring the release of U.S. Army Specialist Steven M. Gonzales.

To Rules & Resolutions.

HCR 271 (by Wise), Requesting the lieutenant governor and the speaker of the house to create a interagency advisory task force to develop and implement a state plan for serving children based upon recommendation ED 8 of the Texas Performance Review.

To State Affairs.

HCR 273 (by Isett), Honoring the retirement of Lubbock Monterey High School baseball coach Bobby Moegle.

To Rules & Resolutions.

HR 859 (by B. Turner), In memory of Beverly Grant Harden.

To Rules & Resolutions.

HR 863 (by Gray), Honoring Mrs. Nellie M. Roy-Ball on her 80th birthday.

To Rules & Resolutions.

HR 864 (by Gray), In memory of Henry Thomas Sedgwick.
To Rules & Resolutions.

HR 865 (by Gray), Congratulating Jeanne Mixon and John Schwartz on the birth of their son, Joseph Milton Schwartz.
To Rules & Resolutions.

HR 866 (by Truitt), Congratulating the citizens of Westlake and Northeast Tarrant county on the new site for Fidelity Investment's Southwest Division Headquarters.
To Rules & Resolutions.

HR 867 (by Krusee), Recognizing May 18, 1999, as N.G. "Bunky" Whitlow Day.
To Rules & Resolutions.

HR 868 (by Krusee), In memory of Jimmy Dale Stried of Round Rock.
To Rules & Resolutions.

HR 869 (by Bosse), Congratulating John R. Painter, Jr., on his selection as district governor the Rotary Club of North Shore for 1999-2000.
To Rules & Resolutions.

HR 874 (by Chavez), Honoring the graduating seniors of Cesar Chavez Academy.
To Rules & Resolutions.

HR 875 (by Chavez), Honoring the graduating seniors of Jefferson High School.
To Rules & Resolutions.

HR 876 (by Chavez), Honoring the graduating seniors of Riverside High School.
To Rules & Resolutions.

HR 877 (by Chavez), Honoring the graduating seniors of Eastwood High School.
To Rules & Resolutions.

HR 878 (by Chavez), Honoring the graduating seniors of Bel Air High School.
To Rules & Resolutions.

HR 879 (by Chavez), Honoring the graduating seniors of Burges High School.
To Rules & Resolutions.

HR 880 (by Pitts), In memory of Elizabeth Galley Wilson.
To Rules & Resolutions.

HR 882 (by Cook), In memory of Albert E. Crawford.
To Rules & Resolutions.

HR 883 (by Gallego), In memory of O. D. "Buck" Luttrell.
To Rules & Resolutions.

HR 884 (by Gallego), In memory of Dr. John W. Pate.
To Rules & Resolutions.

HR 885 (by Counts), In memory of James Warren Roberts.
To Rules & Resolutions.

HR 886 (by Danburg), Honoring Houston students on their perfect SAT scores.

To Rules & Resolutions.

HR 888 (by J. Davis), Congratulating David L. Gatling on his retirement from Ticona LLC.

To Rules & Resolutions.

HR 892 (by Junell), In memory of Opal Joyce Westbrook of San Angelo.
To Rules & Resolutions.

HR 893 (by Gray, et al.), Honoring Texas City mayor Charles T. "Chuck" Doyle.

To Rules & Resolutions.

HR 894 (by Gray, et al.), Congratulating First Evangelical Lutheran Church of Galveston on its 150th anniversary.

To Rules & Resolutions.

HR 895 (by Gray, et al.), Honoring firefighter Corey Aiken for earning the Medal of Valor.

To Rules & Resolutions.

HR 896 (by Gray, et al.), In memory of John Woods Harris of Galveston.
To Rules & Resolutions.

HR 897 (by Gray, et al.), In memory of Pedro "Pete" Enriquez, Jr. of Galveston.

To Rules & Resolutions.

HR 901 (by Deshotel), Welcoming Port Arthur basketball coach James Gamble to the State Capitol.

To Rules & Resolutions.

HR 902 (by J. F. Solis), Congratulating Carri and Tullos Wells on the birth of their daughter, McKen Lynd Wells.

To Rules & Resolutions.

HR 903 (by J. F. Solis), Honoring the National Association for Bilingual Education.

To Rules & Resolutions.

HR 904 (by R. Lewis), Congratulating J. Neal Miller, Jr., on his retirement from Chevron.

To Rules & Resolutions.

HR 905 (by R. Lewis), Posthumously acknowledging Wade Granger as an Official Crawfish Race Commissioner of Texas and paying tribute to his memory.

To Rules & Resolutions.

HR 906 (by R. Lewis), Designating A. J. Judice, Jr., as an Official Crawfish Race Commissioner of Texas.

To Rules & Resolutions.

SB 168 to State Affairs.

SB 229 to Judicial Affairs.

SB 1353 to Licensing & Administrative Procedures.

SB 1464 to Ways & Means.

SB 1615 to Public Health.

SJR 4 to County Affairs.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 46

HB 3157

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, May 11, 1999

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 32 Goolsby SPONSOR: Cain

Relating to the standard possession order for possession of or access to a child.

(AMENDED)

HB 341 McCall SPONSOR: Nelson

Relating to the use of certain information regarding a current or former employee.

(COMMITTEE SUBSTITUTE)

HB 504 Tillery SPONSOR: Carona
Relating to the definition of a physician qualified to be an expert witness in certain professional malpractice suits.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1063 Pickett SPONSOR: Shapleigh
Relating to the imposition of a graffiti eradication fee on certain persons in juvenile court.

HB 1676 Junel SPONSOR: Ratliff
Relating to permanent funds for certain public health purposes.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1722 Counts SPONSOR: Shapleigh
Relating to investment of money in the veterans' land fund.
(AMENDED)

HB 1748 Van de Putte SPONSOR: Madla
Relating to the long-range plan for the Texas Center for Infectious Disease and the provision of tuberculosis and communicable infectious disease health care and laboratory services.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1945 Junell SPONSOR: Ratliff
Relating to the creation of permanent funds for certain public health purposes conducted by institutions of higher education.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1982 Hill SPONSOR: Truan
Relating to the effect of a municipal annexation on a colonia's continued eligibility for certain assistance.

HB 2107 Cook SPONSOR: Armbrister
Relating to assistance to certain volunteer fire departments and to the imposition of a tax to finance that assistance.
(AMENDED)

HB 2108 Cook SPONSOR: West, Royce
Relating to state assistance for local parks and recreational, cultural resource, and open space areas.
(AMENDED)

HB 2555 Cuellar SPONSOR: Zaffirini
Relating to prepaid tuition for graduate and professional degree programs at public institutions of higher education.
(AMENDED)

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 93 (30 Yeas, 0 Nays)

SB 94 (30 Yeas, 0 Nays)

SB 95 (30 Yeas, 0 Nays)

SB 130 (30 Yeas, 0 Nays)
SB 174 (viva-voce vote)
SB 175 (viva-voce vote)
SB 176 (viva-voce vote)
SB 501 (viva-voce vote)
SB 643 (30 Yeas, 0 Nays)
SB 787 (30 Yeas, 0 Nays)
SB 821 (30 Yeas, 0 Nays)
SB 1276 (30 Yeas, 0 Nays)
SB 1857 (30 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 177

Senate Conferees: Ratliff - Chair/Duncan/Fraser/Moncrief/Truan

SB 839

Senate Conferees: West, Royce - Chair/Cain/Lucio/Shapiro/Shapleigh

SB 1272

Senate Conferees: Wentworth - Chair/Armbrister/Bivins/Brown, J. E. "Buster"/Lucio

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 713

Senate Conferees: Ellis, Rodney - Chair/Bivins/Wentworth/West, Royce/Zaffirini

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Tuesday, May 11, 1999 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 876 Shapiro

Relating to restaffing certain low-performing public schools.

SB 1091 Duncan

Relating to the issuance and sale of bonds and time warrants by school districts and the issuance of obligations and execution of credit agreements by certain school districts and junior college districts.

SB 1617 Cain

Relating to educational technology.

SB 1855 Bernsen

Relating to the creation, administration, powers, duties, functions, operations, and financing of the Tarkington Special Utility District; granting the power of eminent domain and the authority to issue bonds; authorizing a tax.

SB 1902 Lucio

Relating to the provision of tuition and fee exemptions, stipends, and scholarships for certain former prisoners of war from Texas attending a public college or university.

Respectfully,

Betty King

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 10

Agriculture & Livestock - **SB 1304**

Appropriations - **HB 195, SB 178**

Corrections - **SB 1217, SB 1514, SB 1576, SB 1577**

County Affairs - **SB 1595, SB 1794, SB 1807, SB 1840**

Criminal Jurisprudence - **HB 786, HB 3168, HB 3648, HB 3789, SB 23, SB 33, SB 217, SB 306, SB 430, SB 799, SB 1116, SB 1124, SB 1125, SB 1230, SB 1734**

Economic Development - **HB 255, SB 1107**

Higher Education - **HB 2528, HB 2803**

Insurance - **SB 781, SB 881, SB 890, SB 1196, SB 1237**

Judicial Affairs - **HB 3829, SB 601, SB 1187, SB 1229**

Juvenile Justice & Family Issues - **HB 2289**

Land & Resource Management - **HB 2823, HB 3165, SB 709, SB 938**

Public Education - **HB 578, HB 1129, HB 1195, HB 1226, HB 2132, HB 2358, SB 1352**

Public Health - **HB 2805, SB 99, SB 567, SB 602, SB 830, SB 862, SB 871, SB 932, SB 1232, SB 1249, SB 1361, SB 1477, SB 1588, SB 1833, SCR 7**

Public Safety - **HB 394, SB 194**

State Affairs - **HB 1926, HB 2090, HB 2692, HJR 12, HJR 74, HJR 95, SB 456, SB 974, SB 1020, SJR 26**

Transportation - **HB 2311, HB 2423, SB 913, SB 1019, SB 1019**

Urban Affairs - **SB 1622, SJR 35**

Ways & Means - **HB 2697, SB 446, SB 674, SB 779, SB 843, SB 977, SB 1319, SB 1321, SB 1419, SB 1603**

ENROLLED

May 10 - HB 1174, HB 1254, HB 1373, HB 2719

SIGNED BY THE GOVERNOR

May 10 - HB 115, HB 778, HB 986, HB 1136, HB 1142, HB 1345, HB 1348, HB 1356, HB 1605, HB 1848, HCR 59, HCR 88, HCR 175, HCR 176, HCR 177, HCR 205