

# HOUSE JOURNAL

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SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

THIRTY-EIGHTH DAY — WEDNESDAY, MARCH 23, 2005

The house met at 1:15 p.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 143).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

## LEAVES OF ABSENCE GRANTED

On motion of Representative Reyna 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 Reyna 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.

### **MOTION FOR ONE RECORD VOTE**

On motion of Representative Reyna 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 the following record vote (members registering votes and the results of the vote are shown following bill number).

(Record 144): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent — Castro; Olivo; Quintanilla.

#### **STATEMENTS OF VOTE**

When Record No. 144 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

When Record No. 144 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

**HB 18**

**HB 67**

**HB 74**

**HB 102**

**HB 263**

**HB 479**

**HB 595**

**HB 596**

**HB 723**

**HB 747**

**HB 932**

**HB 957**

**HB 1139**

**HB 1394**

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 204**

**HB 230**

**HB 297**

**HB 350**

**HB 532**

**HB 564**

**HB 593**

**HB 597**

**HB 638**

**HB 705**

**HB 735**

**HB 736**

**HB 737**

**HB 738**

**HB 739**

**HB 740**

**HB 741**

**HB 742****HB 743****HB 744****HB 760****HB 794****HB 885****HB 901****HB 1163****HB 1310**

**GENERAL STATE CALENDAR  
HOUSE BILLS  
THIRD READING**

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

**HB 81 ON THIRD READING  
(by Riddle)**

**HB 81**, A bill to be entitled An Act relating to release by the comptroller of unclaimed property subject to a child support lien.

A record vote was requested.

**HB 81** was passed by (Record 145): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miller; Moreno, J.; Moreno, P.; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; Wong; Woolley; Zedler.

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

Absent — Crownover; Flores; Harper-Brown; Hughes; Merritt; Morrison; Taylor; West.

**STATEMENT OF VOTE**

When Record No. 145 was taken, my vote failed to register. I would have voted yes.

Merritt

**HB 256 ON THIRD READING  
(by Hopson)**

**HB 256**, A bill to be entitled An Act relating to investments in certificates of deposit by certain governmental entities.

**HB 256** was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 265 ON THIRD READING  
(by W. Smith)**

**HB 265**, A bill to be entitled An Act relating to the time for processing a municipal building permit.

**HB 265** was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Castro, Crownover, Denny, Solomons, Thompson, and Truitt recorded voting no.)

**HB 322 ON THIRD READING  
(by Hupp, Gonzalez Toureilles, Isett, Bonnen, Anderson, et al.)**

**HB 322**, A bill to be entitled An Act relating to concealed handgun licenses for members and veterans of the United States armed forces.

**HB 322** was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 472 ON THIRD READING  
(by West)**

**HB 472**, A bill to be entitled An Act relating to annual fees imposed by the Railroad Commission of Texas in connection with surface coal mining and reclamation operations.

**HB 472** was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 729 ON THIRD READING****(by Nixon)**

**HB 729**, A bill to be entitled An Act relating to an order by a court that a judgment debtor turn over certain property for the satisfaction of the judgment.

A record vote was requested.

**HB 729** was passed by (Record 146): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent — Crownover; Flores; King, P.; McClendon; Morrison; Taylor.

**HB 755 ON THIRD READING****(by Gattis)**

**HB 755**, A bill to be entitled An Act relating to procedures relating to the doctrine of forum non conveniens in a civil cause of action.

**HB 755** was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 914 ON THIRD READING****(by Woolley)**

**HB 914**, A bill to be entitled An Act relating to disclosure of certain business or financial relationships with certain local government officers; providing criminal penalties.

A record vote was requested.

**HB 914** was passed by (Record 147): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent — Coleman; Gonzales; Jones, J.

**HB 946 ON THIRD READING**  
**(by Miller, et al.)**

**HB 946**, A bill to be entitled An Act relating to the removal, relocation, or alteration of certain monuments or memorials on state property.

A record vote was requested.

**HB 946** was passed by (Record 148): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose;

Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent — Branch; Eissler; Kuempel.

### STATEMENTS OF VOTE

When Record No. 148 was taken, my vote failed to register. I would have voted yes.

Branch

When Record No. 148 was taken, I was in the house but away from my desk. I would have voted yes.

Eissler

### HB 1285 ON THIRD READING

(by Swinford)

**HB 1285**, A bill to be entitled An Act relating to the exception from required disclosure under the public information law of certain audit working papers.

A record vote was requested.

**HB 1285** was passed by (Record 149): 148 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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



**HB 1478 ON THIRD READING**  
**(by Wong)**

**HB 1478**, A bill to be entitled An Act relating to the eminent domain power of certain municipal management districts.

**HB 1478** was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: D. Jones recorded voting no.)

**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).

(Speaker in the chair)

**MAJOR STATE CALENDAR**  
**HOUSE BILLS**  
**SECOND READING**

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

**CSHB 789 ON SECOND READING**  
**(by P. King and Edwards)**

**CSHB 789**, A bill to be entitled An Act relating to communications; providing penalties.

(Isett in the chair)

**Amendment No. 1**

Representative P. King offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 21, lines 10 and 11, strike "was subject to this chapter on August 31, 2005" and substitute "is not regulated under Chapter 58 or 59".

(2) On page 31, strike lines 14-25 and substitute the following:

(c) A municipality or municipally owned [Notwithstanding Subsection (b)(1), a municipal] utility may not charge any entity, regardless of the nature of the services provided by that entity, a pole attachment rate or underground conduit rate that exceeds the fee the municipality or municipally owned utility would be permitted to charge under rules adopted by the Federal Communications Commission under 47 U.S.C. Section 224(e) if the municipality's or municipally owned utility's rates were regulated under federal law and the rules of the Federal Communications Commission. In addition, not later than September 1, 2006, a municipality or municipally owned utility shall charge a single, uniform pole attachment or underground conduit rate to all entities that are not affiliated with the municipality or municipally owned utility regardless of the services carried over the networks attached to the poles or underground conduit.

(3) On page 31, line 26, through page 32, line 27, strike SECTION 35 of the bill and renumber subsequent SECTIONS accordingly.

(4) On page 45, line 5, strike "provider of local exchange service" and substitute "provider of local exchange telephone service".

(5) On page 46, line 7, strike "[~~(a)~~]" and substitute "(a)".

(6) On page 46, strike lines 24-26 and substitute the following:

(b) [~~(e)~~] The company may impose a monthly fee against each of the company's local exchange service customers in this state. This fee is in addition to the company's local exchange rates.

(7) On page 54, lines 1-8, strike SECTION 66 of the bill and renumber subsequent SECTIONS accordingly.

(8) On page 55, line 6, strike "charges." and substitute "charges made after August 31, 2005.".

(9) On page 64, line 26 through page 66, line 7, strike SECTION 84 of the bill and renumber subsequent SECTIONS accordingly.

(10) Add the following appropriately numbered SECTION to read as follows and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 58.002, Utilities Code, is amended to read as follows:

Sec. 58.002. ELECTION [~~DEFINITION~~]. (a) In this section, "good cause" includes only matters beyond the control of the company.

(b) An incumbent local exchange company may elect to be subject to this chapter by notifying the commission in writing of its election.

(c) The commission may allow an electing company to withdraw the company's election under this chapter:

(1) on application by the company; and

(2) only for good cause [In this chapter, "electing company" means an incumbent local exchange company that elects to be subject to incentive regulation and to make the corresponding infrastructure commitment under this chapter].

(11) On page 70, between lines 19 and 20, insert the following:

(21) Subchapter G of this chapter;

(12) On page 70, lines 20 and 21, renumber the subdivisions appropriately.

(13) On page 70, lines 26 and 27, strike "was subject to this chapter on August 31, 2005" and substitute "is subject to this chapter".

(14) Insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 58.253(a), Utilities Code, as amended by Chapters 959, 1220, 1255, and 1350, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(a) On customer request, an electing company shall provide private network services to:

(1) an educational institution;

(2) a library as defined in Section 57.042(6)(A) and (B);

(3) a nonprofit telemedicine center;

(4) a public or not-for-profit hospital; or

(5) ~~a project funded by the telecommunications infrastructure fund under Subchapter C, Chapter 57, except for a telepharmacy system; or~~

~~[(6)]~~ a legally constituted consortium or group of entities listed in this subsection.

(15) On page 82, line 19, strike "minute of use" and substitute "minute of use, except that a company may not, in any event, be required to reduce its intrastate switched access rates on a combined originating and terminating basis by more than two cents for each minute of use".

(16) On page 82, line 24, strike "minute of use" and substitute "minute of use, except that a company may not, in any event, be required to reduce its intrastate switched access rates on a combined originating and terminating basis by more than four cents for each minute of use below the rate in effect on December 31, 2005".

(17) Insert the following appropriately numbered SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_. Section 59.002(1), Utilities Code, is amended to read as follows:

(1) "Electing company" means an incumbent local exchange company that elects to be subject to ~~[for an infrastructure commitment and corresponding regulation under]~~ this chapter.

SECTION \_\_\_\_. Section 59.021(a), Utilities Code, is amended to read as follows:

(a) An incumbent local exchange company may elect to ~~[make an infrastructure commitment and to]~~ be subject to ~~[corresponding regulation under]~~ this chapter if the company:

- (1) serves less than five percent of the access lines in this state; and
- (2) has not elected incentive regulation under Chapter 58.

(18) On page 84, lines 3 and 4, strike "was subject to this chapter on August 31, 2005" and substitute "is subject to this chapter".

(19) On page 88, line 11, after "practices.", insert the following:  
The code of conduct must apply to all providers on an equal and nondiscriminatory basis and may not address any matter that is contained in or relates to an agreement for interconnection.

(20) On page 96, line 20, strike "customer information." and substitute "customer information, except that the rules may not provide for the payment of compensation for the preparation and transfer of files from a service order system to be used in the creation of 911 call routing data and 911 automatic location identification data.".

(21) Insert the following appropriately numbered SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_. Section 60.164, Utilities Code, is amended to read as follows:

Sec. 60.164. PERMISSIBLE JOINT MARKETING. ~~The [Except as prescribed in Chapters 61, 62, and 63, the]~~ commission may not adopt any rule or order that would prohibit a local exchange company from jointly marketing or selling its products and services with the products and services of any of its affiliates in any manner permitted by federal law or applicable rules or orders of the Federal Communications Commission.

SECTION \_\_\_\_\_. Section 60.165, Utilities Code, is amended to read as follows:

Sec. 60.165. AFFILIATE RULE. The [~~Except as prescribed in Chapters 61, 62, and 63, the~~] commission may not adopt any rule or order that would prescribe for any local exchange company any affiliate rule, including any accounting rule, any cost allocation rule, or any structural separation rule, that is more burdensome than federal law or applicable rules or orders of the Federal Communications Commission. Notwithstanding any other provision in this title, the commission may not attribute or impute to a local exchange company a price discount offered by an affiliate of the local exchange company to the affiliate's customers. This section does not limit the authority of the commission to consider a complaint brought under Subchapter A, Chapter 52, Section 53.003, or this chapter.

(22) On page 103, line 12 through page 107, line 5, strike SECTION 135 of the bill and renumber subsequent SECTIONS accordingly.

(23) On page 110, line 17, strike Subdivision (43) and renumber subsequent subdivisions accordingly.

(24) On page 110, line 23, strike "Sections 58.002-58.022" and substitute "Sections 58.003-58.022".

(25) On page 110, line 27, strike "Subchapters F and G" and substitute "Subchapter F".

(26) On page 110, after line 27, insert the following appropriately numbered subdivision:

( ) Section 59.023(b);

(27) On page 111, line 12, strike "Sections 60.162-60.165" and substitute "Sections 60.162 and 60.163".

(28) On page 111, line 21, strike "June 1" and substitute "September 1".

(Speaker in the chair)

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative Turner offered the following amendment to **CSHB 789**:

Amend **CSHB 789** on page 12, line 5 after "including an increase in a municipal fee." by adding the following sentence: "A municipality must provide 30-day public notice of the fee and/or increase and the notice should include that the network provider or service provider may pass through the fee to the customer."

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative Turner offered the following amendment to **CSHB 789**:

Amend **CSHB 789** on page 14, line 21 after "with a specific focus on rural markets" by adding the following: "and underserved areas in urban markets."

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Puente offered the following amendment to **CSHB 789**:

Amend **CSHB 789** by striking SECTION 32 of the bill (page 29, lines 1-13) and substituting the following:

SECTION 32. Section 54.202, Utilities Code, is amended to read as follows:

Sec. 54.202. PROHIBITED MUNICIPAL SERVICES. (a) A municipality or municipally owned utility may not, directly or indirectly, on its own or with another entity, [municipal electric system may not] offer [for sale] to the public:

(1) a service for which a new certificate [of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority] is required; ~~[or]~~

(2) a service as a network provider;

(3) a telecommunications service or information service, without regard to the technology platform used to provide the service; or

(4) a video or broadband service, including a service described by Section 51.003 (a)(4), provided that this section does not affect the authority of a municipality or municipally owned utility to continue to offer a video or broadband service it was providing on January 1, 2005.

(b) Subsection (a) does not prevent a municipality or municipally owned utility from:

(1) offering a broadband network that provides Internet access in a municipally owned building, library, or public park;

(2) operating a broadband network that is not available to the public to provide telecommunications services and advanced services between municipal and other governmental facilities for governmental purposes;

(3) providing a governmental function or service that is enabled, enhanced, delivered to, or available to the public using the Internet, including:

(A) a bill paying service;

(B) an emergency service;

(C) a constituent service;

(D) utility meter reading; and

(E) permitting; and

(4) providing access to its transmission and distribution facilities under a contract with another entity that allows the entity to offer the municipality's customers high speed data services using broadband over power line technology if:

(A) the municipality has a population of not more than 30,000; and

(B) the contract is entered into on or before January 1, 2006.

(c) This section may not be construed to limit:

(1) a municipality's or municipally owned utility's ability to engage in economic development activities as expressly authorized by statute;

(2) a municipality's or municipally owned utility's ability to enter into nonexclusive, nondiscriminatory agreements with private entities for the use of rights-of-way, pole attachments, or other municipal or utility property for the placement of an antenna or receiving equipment by those entities to provide services in the municipality, to the extent expressly provided by statute; or

(3) the authority of a municipality or municipally with:

~~[(A) another customer's premises within the exchange, or~~

~~[(B) a long distance provider that serves the exchange.~~

~~[(b) Subsection (a) applies to a service offered either directly or indirectly through a telecommunications provider].~~

### **Amendment No. 5**

Representative Coleman offered the following amendment to Amendment No. 4:

Amend Amendment No. 4 to **CSHB 789** by inserting the following appropriately numbered section and renumber the subsequent sections accordingly:

Section 54.202(b), Utility Code, is amended by adding subsection (5) to read as follows:

(5) offering a video or broadband service in low-income census tracks.

### **AMENDMENT NO. 5 - DEBATE**

REPRESENTATIVE PUENTE: Mr. Speaker, members, as much as I would love to accept this amendment, I cannot. For a couple of reasons why—first of all, you can already do it. Most cities have community centers throughout the cities in low income areas, high income areas, so the community centers can offer this service. Cities have libraries throughout the city, low income areas and rich income areas. They can offer this service through the libraries. Schools throughout the cities again can offer this service. So, this amendment is not necessary. I move to table.

REPRESENTATIVE TURNER: Thank you. Representative Puente, you are opposed to the amendment to the amendment?

PUENTE: As difficult as it is for me, and I am sure it is difficult for others to understand, yes sir.

TURNER: You don't think the companies that are in question in **HB 789** would be in favor of assisting low income census tract?

PUENTE: We can take this to the furthest extreme, Sylvester. Why don't we require cities to give everyone a full tank of gas? Gas is so expensive now. We all want to help our fellow citizens; however, this is already done. This is already available.

TURNER: Then why not accept the amendment to the amendment?

PUENTE: We can already do it through schools, city-owned community centers, and city-owned libraries. It can already be done.

TURNER: Are you saying that—are the companies involved unwilling to accept the amendment to the amendment?

PUENTE: Well, you would have to speak to the companies involved. But, what I do know is the private enterprise will go anywhere where there's a dollar to be made.

TURNER: Well, the private enterprise has not put in certain broadband services in my neighborhood or in portions of my district. So I can't quite agree with you on that one now.

PUENTE: Well, then you need to talk to them. You need to show—

TURNER: I just speak to them through articulating my views on this amendment and several to come. And, if I get the impression that there is resistance to assisting people in rural and low income areas, I may be inclined to change my vote on this bill. So my question to you: Do you believe that the companies involved for which your amendment is trying to safeguard are opposed to this amendment to the amendment that deals with low income areas? And, if so, that is fine. I have no problems with that.

PUENTE: What I know is that most of these companies have programs, have foundations, have all kinds of abilities, and put them—

TURNER: And, in the past couple of years, many of those programs have not been funded like that in the past.

PUENTE: No, I am talking about private programs. Private foundations where they contribute money back to the community. And part of what we have to recognize and put their feet to the fire is that we are deregulating you. We are allowing you to make more at the bottom line, build out all the way to far reach of the rural Texas and within our inner city, and it will happen, Sylvester.

TURNER: I think not at—

PUENTE: It's already happened in your district—

TURNER: I believe not—

PUENTE: It's totally built out—

TURNER: I believe not accepting the amendment to the amendment is not good business.

PUENTE: I am sure they hear you.

Representative Puente moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 150): 79 Yeas, 68 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Haggerty; Hamric; Hardcastle;

Harper-Brown; Hartnett; Hegar; Hilderbran; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Kolkhorst; Kuempel; Laubenberg; McCall; McClendon; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Puente; Quintanilla; Riddle; Rose; Seaman; Smith, W.; Solis; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Uresti; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Baxter; Blake; Burnam; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Delisi; Deshotel; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Grusendorf; Guillen; Hamilton; Herrero; Hill; Hochberg; Hodge; Homer; Hughes; Jones, J.; Keffer, J.; King, T.; Krusee; Laney; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Raymond; Reyna; Ritter; Rodriguez; Smith, T.; Smithee; Strama; Thompson; Turner; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent — Dukes; King, P.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 150. I intended to vote no.

Bonnen

### REMARKS ORDERED PRINTED

Representative Thompson moved to print remarks between Representative Puente and Representative Turner.

The motion prevailed.

#### Amendment No. 6

Representative Truitt offered the following amendment to Amendment No. 4:

Amend Amendment No. 4 by Puente by striking the text of the amendment and substituting the following:

Amend **CSHB 789** as follows:

(1) Add a new section to the bill, numbered appropriately, to read as follows:

SECTION \_\_\_\_\_. Subchapter E, Chapter 54, Utilities Code, is amended by adding Section 54.2022 to read as follows:

Sec. 54.2022. PROHIBITION ON MUNICIPAL CHARGES FOR WIRELESS BROADBAND SERVICES. Notwithstanding any other law, a municipality may not charge for wireless broadband services, including wireless fidelity, or Wi-Fi, services that the municipality may provide under this title.

(2) Add a new section to the bill, numbered appropriately, to read as follows:



SECTION \_\_\_\_. (a) The Public Utility Commission of Texas shall conduct a study for presentation to the 80th Legislature on issues regarding the provision of wireless broadband communications services by municipalities, including wireless fidelity, or Wi-Fi, services.

(b) The commission shall present the report not later than January 15, 2007, to the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the house of representatives and senate that has jurisdiction over matters related to communications services and municipal government.

(c) The report may include discussion on any issue related to the provision of wireless broadband communications services by municipalities, including Wi-Fi services, that the commission considers important for consideration by the legislature. The report must include the commission's recommendations for legislation and commentary on issues the commission considers important for the legislature's consideration.

(Keel in the chair)

Amendment No. 6 was withdrawn.

Amendment No. 4 was withdrawn.

#### **Amendment No. 7**

Representative Turner offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 2, line 16, strike "basic".

(2) On page 44, between lines 23 and 24, insert the following:

(b-1) The commission shall adopt rules requiring certificated providers to implement procedures to ensure that all consumers are clearly informed both orally and in writing of the existence of the telephone lifeline service program when they request or initiate service or change service locations or providers. By June 1, 2006, the commission shall enter into a memorandum of understanding with the Texas Health and Human Services Commission and, to the maximum extent feasible, housing authorities in the principal cities of each metropolitan statistical area, to improve enrollment rates in the telephone lifeline service program.

(3) On page 45, strike lines 12-22 and substitute the following:

(d-1) A certificated provider of local exchange telephone service shall provide access to lifeline service to a customer whose income is not more than 150 percent of the applicable income level established by the federal poverty guidelines or in whose household resides a person who receives or has a child that receives:

(1) Medicaid;

(2) food stamps;

(3) Supplemental Security Income;

(4) federal public housing assistance;

(5) Low Income Home Energy Assistance Program (LIHEAP) assistance;

(6) health insurance benefits through the Children's Health Insurance Program (CHIP); or

(7) free or reduced-price lunches through the national school lunch program.

(4) On page 45, line 22, between lines 22 and 23, insert the following:

(d-2) A certificated local exchange telephone service shall provide consumers who apply for or receive lifeline service access to available vertical services or custom calling features, including caller ID, call waiting, and call blocking, at the same price as other consumers. Lifeline discounts shall only apply to that portion of the bill that is for basic network service.

Amendment No. 7 was withdrawn.

### **Amendment No. 8**

Representative Dutton offered the following amendment to **CSHB 789**:

Amend **CSHB 789** by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Subchapter B, Chapter 56, Utilities Code, is amended by adding Section 56.0211 to read as follows:

Sec. 56.0211. UNRECOVERED COSTS. The commission may make distributions from the universal service fund for a purpose described by Section 56.021 (1) only as necessary to compensate telecommunications providers for actual costs related to the provision of basic local telecommunications service that are unrecovered through revenues.

Amendment No. 8 was withdrawn.

### **Amendment No. 9**

Representative Naishtat offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 52, line 6, strike "and" and substitute "[~~and~~]".

(2) On page 52, line 8, strike the period and substitute:

; and

(9) finance the program established under Subchapter H.

(3) Add the following appropriately numbered SECTION to the bill and renumber the subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Chapter 56, Utilities Code, is amended by adding Subchapter H to read as follows:

#### SUBCHAPTER H. AUDIO NEWSPAPER PROGRAM

Sec. 56.301. AUDIO NEWSPAPER ASSISTANCE PROGRAM. The commission by rule shall establish a program to provide from the universal service fund financial assistance for a free telephone service for blind and visually impaired persons that offers the text of newspapers using synthetic speech. The commission may adopt rules to implement the program.

Amendment No. 9 was adopted.

**Amendment No. 10**

Representative Turner offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 2, line 16, strike "basic".

(2) On page 44, between lines 23 and 24, insert the following:

(b-1) The commission shall adopt rules requiring certificated providers to implement procedures to ensure that all consumers are clearly informed both orally and in writing of the existence of the telephone lifeline service program when they request or initiate service or change service locations or providers. By June 1, 2006, the commission shall enter into a memorandum of understanding with the Texas Health and Human Services Commission and, to the maximum extent feasible, housing authorities in the principal cities of each metropolitan statistical area, to improve enrollment rates in the telephone lifeline service program.

(3) On page 45, strike line 12–22 and substitute the following:

(d-1) A certificated provider of local exchange telephone service shall provide access to lifeline service to a customer whose income is not more than 150 percent of the applicable income level established by the federal poverty guidelines or in whose household resides a person who receives or has a child that receives:

(1) Medicaid;

(2) food stamps;

(3) Supplemental Security Income;

(4) federal public housing assistance;

(5) Low Income Home Energy Assistance Program (LIHEAP)

assistance;

(6) health insurance benefits through the Children's Health Insurance Program (CHIP); or

(7) free or reduced-price lunches through the national school lunch program.

(4) On page 45, line 22, between lines 22 and 23, insert the following:

(d-2) A certificated local exchange telephone service shall provide consumers who apply for or receive lifeline service access to available vertical services or custom calling features, including caller ID, call waiting, and call blocking, at the same price as other consumers. Lifeline discounts shall only apply to that portion of the bill that is for basic network service.

**Amendment No. 11**

Representative P. King offered the following amendment to Amendment No. 10:

Amend Amendment No. 10 by Turner as follows:

(1) On page 1, strike line 2.

(2) On page 1, line 20, after the semicolon, insert "or".

(3) On page 1, line 22, strike "; or" and substitute ".".

(4) On page 2, strike line 1.

Amendment No. 11 was adopted.

Amendment No. 10, as amended, was adopted.

**Amendment No. 12**

Representative Turner offered the following amendment to **CSHB 789**:

Amend **CSHB 789** on page 56, line 6 after "and docket No. 18516." By adding the following: "The evaluation shall determine whether the fund's purposes have been sufficiently achieved, whether the fund should be abolished or phased out, whether the fund should be brought within the state's treasury, and whether those receiving said funds are expending the dollars for their intended purposes."

Amendment No. 12 was adopted.

**Amendment No. 13**

Representative Turner offered the following amendment to **CSHB 789**:

Amend **CSHB 789** on page 57, line 3 after "for the universal service fund" by adding the following: "and expended."

Amendment No. 13 was adopted.

**Amendment No. 14**

Representative Gallego offered the following amendment to **CSHB 789**:

Amend **CSHB 789** on page 57 line 17 by inserting "for the Legislature's revision and approval" after the word "report" and before the word "on".

Amendment No. 14 was adopted.

**Amendment No. 15**

Representative Turner offered the following amendment to **CSHB 789**:

Amend **CSHB 789** on page 58, line 8 after subsection 3 "and docket No. 18516." By adding: "(4) The evaluation shall determine whether the fund's purposes have been sufficiently achieved, whether the fund should be abolished or phased out, whether the fund should be brought within the state's treasury, and whether those receiving said funds are expending the dollars for their intended purposes."

Amendment No. 15 was adopted.

**Amendment No. 16**

Representative R. Cook offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 64, strike line 13 and substitute "throughout this state, including rural areas of this state.".

(2) On page 64, lines 20 and 21, strike "communities in this state is through innovation" and substitute "communities in this state, including rural communities, is through innovation".

Amendment No. 16 was adopted.

**Amendment No. 17**

Representative Turner offered the following amendment to **CSHB 789**:

On page 69 of the Committee Substitute, beginning at line 12 and running through line 26, revise as follows:

Sec. 58.005. RATES FOR BASIC NETWORK SERVICES; APPLICABILITY OF PROVISIONS OF SUBTITLE. (a) Notwithstanding any other provision of this title, an incumbent local exchange company may not raise the company's retail price for basic network service in an exchange to a price that is above the price the company charged on January 1, 2005, for basic network service that included the same components, before the date ~~the company~~:

(1) the company reduces ~~the company's~~ its intrastate switched access rates on a combined originating and terminating basis to parity with interstate switched access rates, as required by Section 58.301(3); and

(2) the company certifies to the commission that ~~the company~~ it has made that reduction; and

(3) the commission determines that the exchange or exchanges should be deregulated.

(b) On the date described by Subsection (a), the company may raise retail rates for basic network service in an exchange the commission has determined should be deregulated, and the company is subject only to the following provisions of this subtitle:

Amendment No. 17 was withdrawn.

**Amendment No. 18**

Representative Turner offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 69, strike lines 18–24 and substitute "before January 1, 2008.".

(2) On page 69, line 25, strike "On the date described by Subsection (a), the" and substitute "Except as provided by Subsection (a), on the date the incumbent local exchange company reduces the company's intrastate switched access rates on a combined originating and terminating basis to parity with interstate switched access rates, as required by Section 58.301(3), and certifies to the commission that the company has made that reduction, the".

A record vote was requested.

Amendment No. 18 was adopted by (Record 151): 72 Yeas, 67 Nays, 2 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Bailey; Baxter; Bohac; Bonnen; Burnam; Callegari; Campbell; Castro; Chavez; Coleman; Corte; Davis, Y.; Dawson; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Hamilton; Hegar; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Jones, J.; Keffer, B.; Keffer, J.; Kolkhorst; Laney; Leibowitz; Luna; Martinez;

Martinez Fischer; McReynolds; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Orr; Paxton; Peña; Phillips; Pickett; Raymond; Reyna; Rodriguez; Rose; Solis; Solomons; Strama; Thompson; Van Arsdale; Veasey; Vo.

Nays — Allen, R.; Anderson; Berman; Blake; Branch; Brown, B.; Brown, F.; Casteel; Chisum; Cook, B.; Cook, R.; Crownover; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Goodman; Goolsby; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; King, P.; King, T.; Krusee; Kuempel; Laubenberg; Madden; McCall; McClendon; Menendez; Merritt; Miller; Morrison; Mowery; Nixon; Otto; Pitts; Quintanilla; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Straus; Swinford; Talton; Taylor; Truitt; Villarreal; West; Wong; Woolley; Zedler.

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

Absent — Crabb; Davis, J.; Flores; Guillen; Haggerty; Puente; Smithee; Turner; Uresti.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 151. I intended to vote yes.

Anderson

I was shown voting no on Record No. 151. I intended to vote yes.

R. Cook

When Record No. 151 was taken, I was temporarily out of the house chamber. I would have voted no.

Crabb

When Record No. 151 was taken, my vote failed to register. I would have voted yes.

Guillen

I was shown voting no on Record No. 151. I intended to vote yes.

T. King

I was shown voting no on Record No. 151. I intended to vote yes.

McClendon

I was shown voting no on Record No. 151. I intended to vote yes.

Menendez

When Record No. 151 was taken, my vote failed to register. I would have voted yes.

Turner

### Amendment No. 19

Representatives Y. Davis and Herrero offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 66, lines 8-25, strike SECTIONS 85 and 86 of the bill and renumber subsequent SECTIONS accordingly.

(2) Add the following appropriately numbered SECTIONS to read as follows and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 57.045, Utilities Code, is amended to read as follows:

Sec. 57.045. POWERS AND DUTIES OF COMMISSION [~~BOARD~~]. (a) The commission [~~board~~] shall administer the fund and the two accounts in the fund.

(b) The commission [~~board~~] shall prepare an annual report that:

(1) details the revenues deposited to the credit of the fund, including each account; and

(2) summarizes the grants and loans made from each account.

(c) Not later than January 15 of each year, the commission [~~board~~] shall submit the report for the preceding year to the governor and to each standing committee in the senate and house of representatives that has jurisdiction over public or higher education.

(d) The commission [~~board~~] may:

(1) enter into contracts with state agencies or private entities necessary to perform the commission's [~~board's~~] duties;

(2) adopt rules as necessary to administer this subchapter;

(3) [~~employ personnel reasonably necessary to perform duties delegated by the board;~~

[(4)] appoint one or more committees to assist the commission [~~board~~] in performing the commission's [~~board's~~] duties; and

(4) [(5)] accept a gift or grant and use it for the purposes of this subchapter.

(e) The commission [~~board~~] shall establish an assistance program to provide education concerning the telecommunications infrastructure fund and to facilitate access to funds and programs under this subchapter by health care facilities and by physicians licensed to practice medicine in this state. The assistance program must include a toll-free telephone number and provide access to information through the Internet.

(f) A reference in this subchapter or other law to the Telecommunications Infrastructure Fund Board means the commission.

SECTION \_\_\_\_\_. Section 57.051, Utilities Code, is amended to read as follows:

Sec. 57.051. SUNSET PROVISION. The Telecommunications Infrastructure Fund [~~Board~~] 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, 2013 [~~2005~~].

(3) On page 110, lines 18-21, strike Subdivisions (44)-(46) and substitute the following:

(44) Section 57.042 (2);

(45) Section 57.044;

(46) Sections 57.048 (c) and (d);

(4) On page 111, line 23 through page 112, line 3, strike SECTION 138 (a) of the bill and substitute the following:

(a) If, on the day before the effective date of this Act, the assessment prescribed by Section 57.048, Utilities Code, is imposed at a rate of less than 1.25 percent, the comptroller of public accounts shall, effective September 1, 2005, reset the rate of the assessment to 1.25 percent.

#### AMENDMENT NO. 19 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HERRERO: Thank you, Mr. Speaker. This is a simple amendment that essentially requires us, as legislators, to do what we said we were going to do in previous legislation. There is, in this fund, a Telecommunications Infrastructure Fund that essentially created a fee that was going to be used to provide for public schools and qualifying entities accounts, and subsequent legislature. Since then, that money is no longer being used for those purposes but is now being directed towards a general revenue fund. This amendment merely reallocates the funds on the telecommunications funds to be used for what it was intended for when it initially started, which is for public schools and qualifying entities accounts. I think that it is important that we, as legislators, do what it is that we say we are going to do, and not change the purpose. On this amendment, the telecommunications fund will continue through 2011. The money generated by this fund will be used for the intended purpose, which is for public schools and qualifying entities accounts. The account telecommunications fund will be administered by the commission, and for that—

REPRESENTATIVE P. KING: I'm not sure I completely understand the bill. Are you trying to go back to the way TIF originally was, where instead of going to the general revenue, it goes to a designated fund for education or however it used to be set up?

HERRERO: That's exactly what it is.

P. KING: Have you had the opportunity to run this by anyone in Appropriations to make sure that it didn't affect any of the revenue tax bill that we've passed, **HB 3** or anything else that we've done?

HERRERO: I have not asked Appropriations on that. My understanding is that there is an appropriations bill that will come before the house. But on previous legislation it's already been established that the intent and purpose for this account, any changes would essentially be doing something other than what the original telecommunications fund was intended for.

P. KING: Does it change the pass through? This bill, **HB 789**, we stayed away from the TIF revenue issues because Appropriations had kind of taken charge of that. But, I understand in **HB 3** that we allowed TIF to be passed through by all the ILEX. It could only previously be passed through for the CLEX. Does this affect pass through in any way?

HERRERO: This allows the pass through and it's based on ensuring that the telecommunications fund is used for its original intended purpose.



P. KING: Do you know if it will take out of balance any of the revenue or expenditure projections that **HB 3** brought together? Is it going to affect that? Is it going to change the numbers for **HB 3** by taking this out?

HERRERO: What it will do is essentially require the legislature, the body, the house to do what it was required to do when this telecommunications fund was started. My understanding was that as of yesterday **HB 3** was determined to be underfunded by at least \$4 billion. And so the amount, if any, that is going to be allocated or distributed would only ensure that the money that is brought in account would actually go for what the house had originally intended this telecommunication fund to go to.

P. KING: So how much money would we be taking out of general revenue and shifting over to the TIF fund? Second, since we don't really have a TIF board anymore, who would kind of manage that?

HERRERO: The TIF board, this does not reinstate the TIF board. What it would do is allow the commission, the PUC, to essentially administer the fund and any amount that would be removed from the general revenue fund would only be putting it back in the line item where it should have been in the first place. So in respect of what that amount is, it would be putting it in the appropriate line item as it was intended to be.

P. KING: Thank you.

REPRESENTATIVE GALLEGOS: Mr. Herrero, when TIF was created and that tax was placed on everybody's phone bills, everyone was told that that tax would be used for a specific purpose. Is that correct?

HERRERO: That is correct.

GALLEGOS: And that specific purpose is essentially to help schools, help libraries, help everybody access the internet. Help to build out the infrastructure in places that weren't going to have access to that infrastructure.

HERRERO: That is exactly correct.

GALLEGOS: And some time ago, the legislature sunsetted the TIF so we got rid of the TIF, but we kept the tax. Is that correct?

HERRERO: That's exactly right.

GALLEGOS: And so what you're asking is, as long as we're keeping the tax we need to do what we said we were going to do. Which is use that telephone money to build out the rest of the infrastructure in places that may not have the opportunity otherwise.

HERRERO: That is correct. If it were not for this amendment, what you would have is essentially an additional tax to all those created under **HB 3** that would require the consumer to pay for this fund that goes directly to the general revenue fund instead of its intended purpose, which is educational purposes.

GALLEGOS: So right now when I get my phone bill every month and there's a TIF assessment, a tax on that bill, that money is not going where we told everyone it was going to go?

HERRERO: That's exactly right, and in fact now not only are we not sending the money where we said it was going to go, but we are actually requiring the consumer to pay for it.

GALLEGO: So if you want to help those libraries and those schools and everybody that was essentially benefitting, then your amendment is a good thing.

HERRERO: That's right and this will go to ensure that the money goes to schools, libraries, and clinics. Which was the original intended purpose before the money was redirected to the general revenue fund.

GALLEGO: When these communities are able to access the internet, this is a major opportunity for libraries, which the public access, and for all sorts of other people who derive benefit to essentially put the money back where it was intended and to put the money back to help the people who really need the assistance in building out the infrastructure that we've got to have as we head into the 21st century.

HERRERO: That's exactly right. In fact, the schools, libraries, and clinics have depended upon this money. I had several constituents come to me urging me to ensure that this money would go to the areas where it was intended to go, and that's the purpose of this amendment.

GALLEGO: Thank you.

REPRESENTATIVE HAGGERTY: The original \$250 million that went into the TIF that was required to be paid by both the ILEX and the CLEX, the CLEX were allowed to pass their costs through, the ILEX were not. Isn't that correct?

HERRERO: That's correct.

HAGGERTY: The idea of that money was to go to wire the hospitals, the libraries and the classrooms. Is that not correct?

HERRERO: That is correct.

HAGGERTY: Has that been done?

HERRERO: Has that been done?

HAGGERTY: Yes.

HERRERO: No, it has not.

HAGGERTY: How much remains to be done until all of those are completed?

HERRERO: Well more needs to be done, because as it stands even as of the last legislative session, that money was going to the general revenue fund, as opposed to—

HAGGERTY: That's my next point. But how much of the original job, the \$250 million in the TIF fund, how much of that work has actually been completed?

HERRERO: I think that the whole purpose of this bill is to keep up with—

HAGGERTY: Could you just answer my question? How much of the work has been done?

HERRERO: That I do not know the answer to. But the point is that this bill is trying to keep up with technology and the fact that it's growing technology, as is our population, as is the demand in libraries, clinics, schools and so this is not an item that you can essentially cap or allocate a certain amount of budget. If that were the case, then this bill would essentially allocate a certain amount of money to go only to the general revenue fund, and then cease going to the general revenue fund, and that's not the case. What we have instead is an item that is being paid now, on to consumers, that is being passed through by all the companies and it's being generated directly towards the general revenue fund.

HAGGERTY: Both the CLEX and the ILEX are now allowed to pass this through, are they not?

HERRERO: No, under this bill they would be.

HAGGERTY: Under the King bill they would be?

HERRERO: They would be.

HAGGERTY: And also in this year's appropriations bill, you're going to see the same thing—that they're going to be allowed to pass that through. It is nothing more and was nothing more than a tax increase. The money is going to general revenue.

HERRERO: That's exactly right.

HAGGERTY: Because they have already general revenue—

HERRERO: That's exactly right.

HAGGERTY: —because they have already accomplished what they were supposed to accomplish with the first amount of money from the TIF—the original \$250 million.

HERRERO: Again, I cannot say whether or not that has been accomplished other than the fact that there is a growing demand—

HAGGERTY: If your amendment—if your amendment goes on, then what are we going to do? Rewire them again?

HERRERO: Rewire who again?

HAGGERTY: The hospitals, the libraries, and the classrooms.

HERRERO: No, but you will be able to provide services that have not yet been provided this service. And it's an ongoing process as is the—in updating the technology as—in response to the growth in population, and that's the whole purpose. If there was no need to update or create new ideas or new technology or to provide services in new areas then the whole intent and purpose of this bill would not exist.

HERRERO: Mr. Speaker, I move for the adoption.

CHAIR (Representative Keel in the chair): Does anyone wish to speak for or against? The chair recognizes Mr. King to speak against. The chair recognizes Mr. King to speak on the amendment.

P. KING: Members—

REPRESENTATIVE THOMPSON: Mr. Speaker?

CHAIR: For what purpose?

THOMPSON: Would the gentleman yield?

CHAIR: Do you yield, Representative King?

P. KING: I haven't started yet, but sure.

THOMPSON: Thank you, Representative King, for yielding even though you had not commenced your comments. Is it your understanding that the purpose in which this fund was created has been accomplished?

P. KING: Yes.

THOMPSON: And is it also your understanding that when this fund was created—do you remember for what purpose this fund was created for?

P. KING: Well, it was to help get—provide—to help move internet services, advanced services to schools and healthcare facilities, hospitals—

THOMPSON: And—

P. KING: —educational facilities.

THOMPSON: —and from the dialogue I heard a few moments ago and I'm sure you were listening as attentively as well. Did you also understand that 95 percent or more of that had been accomplished?

P. KING: That is my understanding.

THOMPSON: Then, we tax people for that purpose, we have accomplished that purpose, why not give the people back their money? Why don't we eliminate this tax now in this bill? I'd like to draw up an amendment to do that.

P. KING: Members, I'll be the first to say, and I said this two years ago that TIF should have gone away. We made a deal with the citizens in effect and we said we're going to tax for a certain period of time or until we reach a certain amount of money and it's going to, for a certain process, and then because we were having revenue issues we extended the cap, raised the cap so that TIF would continue. So I'll be the first to say TIF should go away. Also, I've advocated that TIF needs to be passed through, you either need to let everybody pass through or nobody pass through. Well, in **HB 3** now it becomes pass through and this bill continues that. I don't necessarily disagree with the intent behind the amendment, I just don't think that this is the right place to deal with it. The right place to deal with revenue and expenditure issues, with regard to TIF, was in **HB 3**, which we've already voted on and passed and in the appropriations bill. Now, again this amendment really has nothing to do with this bill, so I'm not going to really speak for or against it, but I am going to say that this is not the appropriate place to deal with this type of issue and I'll yield now.

REPRESENTATIVE Y. DAVIS: When did you determine that this amendment was not appropriate for this bill?

P. KING: Well, it began with when I couldn't get the numbers on how much money it was going to move out of GR into TIF and how those monies were applied so it's really just nothing but a revenue shift at this point and that's an appropriations deal.

Y. DAVIS: Mr. King, if you don't know how much you're shifting, why are you saying that the money shifting is going to do something when you don't know what it does?

P. KING: Well, that's just it, if it had something to do with **HB 789** and it said "Hey, we're going to take X amount of money out of GR and we're going to move it over to this fund that has something to do with **HB 789**, I'd probably consider it, but instead, it's just doing a line item exchange from GR to TIF.

Y. DAVIS: Mr. King, aren't you asking, aren't you allowing the companies on **HB 789** to pass a tax to citizens on this bill?

P. KING: No this bill—

Y. DAVIS: Aren't you allowing them to do a pass through?

P. KING: No, **HB 789**...

Y. DAVIS: Do the companies have the ability to pass this, to do a pass through?

P. KING: This bill does not allow pass through.

Y. DAVIS: And if it does that, it means that they're collecting taxes on citizens out here. Is that correct?

P. KING: That is correct.

Y. DAVIS: Don't we tell them that the pass through is going into an infrastructure fund that is to provide connections, technologies to schools and libraries, is that what the TIF fund does?

P. KING: That's what it did do.

Y. DAVIS: But, in the bill it is not changing what it's going to do, is that correct?

P. KING: That is correct.

Y. DAVIS: And so in fact, it is appropriate for us to say that this bill ought to talk about what you do with that money, because you're collecting it on this bill on the backs of consumers. Isn't that correct?

P. KING: This bill permits ILEX and CLEX to pass through

Y. DAVIS: It's a yes or no, all you're doing are pass through on customers so that this money will be collected in a fund that says it's going to be used for technology, connections, and libraries, and community. Is that true?

P. KING: With regard to TIF, this bill levels the playing field and treats all companies equally, but it doesn't have anything to do with how the money is spent.

Y. DAVIS: Does it tell you the scope of the TIF fund, suggest how it would be spent. Is that correct?

P. KING: That is correct.

Y. DAVIS: And did you change the scope of what TIF was going to be spent for?

P. KING: I did not.

Y. DAVIS: So is it dishonest to say that we're collecting money as a pass through on customers for one thing and spending it on another? Or the ability to spend it on another? Is that an honorable thing to do to the citizens in this state?

P. KING: I will be the first to say that TIF should go away, but as long as it's here, I just want all companies treated equally, where we don't favor one over another.

Y. DAVIS: I understand that, my question is not whether companies are being treated equally, my question is about citizens being treated honorably. The question is, are we collecting money saying we are going to do one thing and leaving a loophole to do another? Does that bill allow that to happen?

P. KING: This bill allows both companies to pass it through to taxpayers.

Y. DAVIS: The amendment that we have up there, that Representative Herrero is discussing, the only intent of this amendment is to say to the citizens and to members—that we say to our constituents, that if we're going to collect money for one we ought to use it for that thing. Is that the way I understand this amendment?

P. KING: No. This bill takes away from the Appropriations Committee the authority to manage the general revenue fund.

Y. DAVIS: Mr. King, you're smarter than what you're saying. Come on now, be honest about this stuff. You know, come on, come on, we're not just going to let you talk crazy to me.

P. KING: One of the other problems with TIF is, is that it's set up to fund networking, but it's really the hardware and software companies that make money off of TIF, that's where the expenditures go. So if you were going to keep TIF and going to keep it correctly, then you would be taxing the hardware and software companies as well, not just making it available to broad networking. But, this bill is just not the right place to deal with an appropriations issue and that's all I'm saying.

Y. DAVIS: Mr. King, we're not appropriating money, we're just suggesting you don't lie to the citizens. Is that correct?

P. KING: You're taking money out of one part of the state budget and putting it in another.

Y. DAVIS: Our amendment says that you have a fund—that you collect money for a specific purpose—is that the way you understand that amendment? And, that purpose says its going to do connections and technology for libraries and community centers you understand that, right?

P. KING: That is what your amendment does, I just don't think this is the right bill to do it in. I don't disagree with it, I actually think its kind of a good idea, its just not the right place to do it.

Y. DAVIS: It never is the right place when we're trying to do good government. My question is, why would we lie to the citizens of the State of Texas. Why are we afraid to be honorable with them and tell them we're just going to tax them and we're going to do it through the telephone companies. That's what you're saying to do, that you're going to put a tax on the citizens, let the companies collect the tax for us. We're not even going to tell them we're taxing them, we're going to allow the companies to tax. I mean come on, isn't that what we're doing?

P. KING: If you want to come up with an amendment to the appropriations bill to do this, I will support you on that and joint author it with you, this just isn't the right place.

Y. DAVIS: I don't want to do that, I'm dealing with this bill. Mr. King, you can't defer this to appropriations, this is on this bill.

P. KING: But this is not a revenue—

CHAIR: Point of order, time has expired. The chair recognizes Mr. Herrero—the chair recognizes Mr. Haggerty.

HAGGERTY: Mr. Speaker, members let's be sure we know what we are talking about here. In the 19—in the 2001 session—in the 2001 session—we passed a TIF bill that was going to make sure that every hospital, library, and classroom—and we just found out earlier we don't want to go there learn about, to do our computer work—we were going to wire all of them. And it was not a tax, it was just laid on the ILEX of the State of Texas. All of the phone companies just had to pony up and pay it. We have wired 95 percent of them and there is sufficient money coming in to still make sure that all of those things can be done. Last session, we had a \$10 billion deficit. The only way for us to pay for that deficit was to come up with some unique funding formulas so we carried the TIF forward and said we are going to collect another \$250 million. Well, where was that money gonna go? It was gonna go straight to GR. I commend Ms. Davis for saying that if we're going to call it something, we ought to tell the people exactly what it is. If she will come forward with an amendment that says "do away with the TIF" because we lied to the people two years ago by saying it's going to go toward this great fund that is going to create computer possibilities for people all over the State of Texas when in fact it was just a tax, then I will support her 100 percent. But if this amendment passes, all we're doing is continuing the TIF with the same lie.

Y. DAVIS: Mr. Speaker?

HAGGERTY: I yield, go ahead.

CHAIR: For what purpose?

Y. DAVIS: Will the gentleman yield for a question?

CHAIR: He yields.

HAGGERTY: Of course.

Y. DAVIS: Representative Haggerty, you indicated that you would support an amendment that would eliminate the TIF altogether?

HAGGERTY: I have absolutely no problem with that at all, Ms. Davis—

Y. DAVIS: Okay.

HAGGERTY: —because what the TIF is—is nothing more than a tax that was passed across to the people of Texas, and we lied when passed it.

Y. DAVIS: Okay. And Mr. Haggerty, based on that, then this bill does not—I mean this amendment as you understand it then does not impact the appropriations process if in fact—

HAGGERTY: Yes, it does.

Y. DAVIS: —if in fact you will support an amendment to eliminate the TIF fund would it then be—have the same effect?

HAGGERTY: In both cases—in both cases, you are going to affect the appropriations bill. Whether it be this amendment or an amendment doing away with the TIF, they would both reduce that bill by \$250 million but your bill it's just—

Y. DAVIS: Do you believe that it's important for us to tell the people of the State of Texas that we are going to put a tax on you to do X, Y, Z then we ought to do X, Y, Z? Do you believe that's important—

HAGGERTY: That's usually the way it works, yes. Well, let's not say that's usually the way—hey, we can screw 'em ten ways to Sunday, babe.

Y. DAVIS: Based on what we have in this bill do you think we're being dishonorable with the people of the State of Texas?

HAGGERTY: It would be honorable to either tell them that the TIF is nothing more than a revenue generator for GR—

Y. DAVIS: Right.

HAGGERTY: —and I will support you on that.

Y. DAVIS: Okay.

HAGGERTY: So, let's do away with it because it shouldn't have been there in the first place. The purpose for which it was created has been completed.

Y. DAVIS: And, you know, I will argue that there are people who still say there are projects and activities that they still need to fund for, but I will bring an amendment that says, and I hope you will join me in supporting it, that says if we're not going to be honest with the State of Texas—with the constituents of the State of Texas—we ought not tell them we're doing one thing with money when we are in fact doing something else. And you are saying that you support that?



HAGGERTY: If you are asking me, "do I support telling the truth to the people of Texas?" How could I possibly object?

Y. DAVIS: So then, let me ask you something because I'm going to bring that amendment next. And my question is—

HAGGERTY: Then I hope you'll pull this one down because you're making the same problem exist again.

Y. DAVIS: Which is?

HAGGERTY: That we're still charging them \$250 million that shouldn't be charged.

Y. DAVIS: Oh, I'm agreeing that if we're not going to use it for what we say we're going to use it for then we ought to tell them—

HAGGERTY: Then pull this amendment down and bring an amendment doing away with the TIF.

Y. DAVIS: I'm sorry?

HAGGERTY: Then pull this amendment down and bring us an amendment saying do away with the TIF.

Y. DAVIS: Okay, and I want to get a little bit ahead of you 'cause I want to make sure that Represent—Chairman King and those don't get up and tell me now that we're doing something that impacts the budget.

HAGGERTY: All I can tell you is my green light will be on if you bring that amendment—I can't speak for them. And with that I move to table this amendment, Mr. Speaker.

CHAIR: Representative Davis sends up an amendment, Mr. Haggerty moves to table the amendment. The question is on the motion to table. Okay, members we are on the Herrero amendment, and the chair recognizes Representative Herrero.

HERRERO: Thank you, Mr. Speaker. Members, we are approaching this in the procedural manner in which it should be approached. This is a bill that deals with telecommunications. Within this bill, there is a section entitled "Telecommunications Infrastructure Fund and Accounts." As it currently exists, the section deals with—on Subsection C, it reads, "Money in the fund may be appropriated only for a use consistent with the purposes of this subchapter." And when this Telecommunications Infrastructure Fund was created, it was intended for providing infrastructure to schools, clinics, and libraries. Since then, the money has been allocated to the general revenue fund. Under the current house bill that is going to be before you for a vote, the infrastructure fund is still in existence. The money is still going—

REPRESENTATIVE RAYMOND: Mr. Speaker?

CHAIR: For what purpose?

RAYMOND: Will the gentleman yield when he is ready for a question?

CHAIR: Do you yield, Mr. Herrero?

HERRERO: Yes.

CHAIR: The gentleman yields.

RAYMOND: Representative, what I wanted to ask, and what I wanted to ask Chairman King—I am sorry his time ran out—but I know it's your first term here, it's my sixth term here. I wanted to ask you if you are aware that in the past many times when there has been legislation passed creating a new stream of revenue, a new tax, it typically does say—that bill will say, "And this money shall be used for a certain specific purpose." Are you aware of that?

HERRERO: Yes.

RAYMOND: So, I wanted to make that point because I told Chairman King privately a minute ago, historically that's what I've seen. When you pass a bill creating a new tax, you tell the people of Texas this is how we're going to use the money. I've been on the Appropriations Committee as well, and what we do on the Appropriations Committee is you deal with all the different funds that are out there, and if one is specifically dedicated to a certain purpose, it should be spent on that. One of the problems that I have seen in the appropriations process is that oftentimes funds that were supposed to be dedicated to a certain purpose are used for something else. And it's one of the things I think is wrong with the budget process, and I know other colleagues feel the same way. Do you think if we're going to have a TIF tax, which is what this is going to be, that it should be established in this legislation so that members know that they're voting specifically for a tax that will be used for a very specific purpose?

HERRERO: That is correct. All it's doing with this fund that it was originally started for its intended purpose. And I think what we have here with this amendment is a matter of integrity. When this Telecommunications Infrastructure Fund was created, and as you indicated, whenever you generate a revenue amount, you specify what it's for and its intended purpose. All of that was done with the telecommunications fund, except it was changed. No one outside was told that this money is no longer going for telecommunications, its intended purpose, but it's going to the general revenue fund. Now with this bill, not only is it going outside its intended purpose, but it's going to cost the individuals, the people, more money to pay for a fund that is going to the general revenue fund. And all this bill does—it's an integrity issue. If we're going to pass legislation and say that it's for something, then let's do it.

RAYMOND: And I want to say, I agree with you. Again, it's one of the things that—I think most members that give it some thought—that folks back home don't like for us to pass some new tax, say we're going to use it for something, and use it for something else. That's the kind of thing that makes people lose faith in government. That's the kind of thing that makes people lose faith in the legislative process. We say, for example, something that was passed before either you or I got here—the lottery—was passed. And to this day people believed, because they were sold a bill of goods, that if you passed the lottery, we'll never have to worry about getting more money for education because it'll be dedicated

to education, it'll take care of it. And to this day, 12-13 years later—whatever it is—people are still mad about that. Because they were told it was going to do one thing, and it did something else.

HERRERO: That is correct. Mr. Speaker, I move—

REPRESENTATIVE BONNEN: Mr. Speaker?

CHAIR: For what purpose, Mr. Bonnen?

BONNEN: Does the gentleman yield for a question?

CHAIR: Do you yield at this time?

HERRERO: I'd rather move on the motion to table—

CHAIR: The gentleman does not yield at this time.

BONNEN: I didn't know I was that intimidating.

HERRERO: You're not, but for the purposes of moving along and trying to find out whether the house is going to do what we said we were going to do and pass legislation, I think that we should determine that, as opposed to running this along any further.

Representative Haggerty moved to table Amendment No. 19.

A record vote was requested.

The motion to table prevailed by (Record 152): 86 Yeas, 57 Nays, 3 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Edwards; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Quintanilla; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Campbell; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Hamilton; Herrero; Hochberg; Hodge; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Raymond; Reyna; Ritter; Rodriguez; Rose; Solis; Strama; Thompson; Uresti; Veasey; Vo.

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

Absent — Castro; Puente; Turner; Villarreal.

### STATEMENTS OF VOTE

When Record No. 152 was taken, I was in the house but away from my desk. I would have voted no.

Castro

I was shown voting yes on Record No. 152. I intended to vote no.

Geren

I was shown voting present, not voting on Record No. 152. I intended to vote yes.

Howard

I was shown voting yes on Record No. 152. I intended to vote no.

McReynolds

When Record No. 152 was taken, I was in the house but away from my desk. I would have voted yes.

Puente

(Speaker in the chair)

#### Amendment No. 20

Representatives Solis, Uresti, and Escobar offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 55, line 19, strike "or".

(2) On page 55, line 20, immediately following "hospital", insert:

; or

(5) a federally qualified health care center

(3) Add the following section to the bill, numbered appropriately:

SECTION \_\_\_\_ . Subchapter G, Chapter 58, Utilities Code, is amended by adding Section 58.2535 to read as follows:

Sec. 58.2535. FEDERALLY-QUALIFIED HEALTH CENTERS. (a) In addition to the entities to which an incumbent local exchange company is required to provide private network services under this subchapter, the company shall provide those services to a federally-qualified health center, as defined by 42 U.S.C. Section 1396d(1) (2) (B) and to an organization that receives a grant under 42 U.S.C. Section 254b.

(b) For purposes of this subchapter, a reference to an entity described by Section 58.253(a) includes an entity described by Subsection (a).

Amendment No. 20 was adopted.

#### Amendment No. 21

Representative R. Cook offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 70, line 8, strike "55.013, and" and substitute "55.013, 55.014, and".

(2) On page 109, line 24, strike Subdivision (23) and renumber subsequent subdivisions accordingly.

(3) Insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_ . Section 55.014(b), Utilities Code, is amended to read as follows:

(b) This section applies to a company electing under Chapter 58 or a certificated provider of local exchange telephone service that is not an incumbent local exchange company [~~company that holds a certificate of operating authority or service provider certificate of operating authority~~].

Amendment No. 21 was adopted.

### REMARKS ORDERED PRINTED

Representative Herrero moved to print debate on Amendment No. 19.

The motion prevailed.

#### Amendment No. 22

Representative Turner offered the following amendment to **CSHB 789**:

On page 72, lines 20-22, remove added language and remove ~~strikeout~~, reinstating original language

On page 111, line 16, reinstate Sections 64.001(a) and (c)

On page 111, line 18, reinstate Section 64.004(e)

On page 111, line 20, reinstate Subchapter D, Chapter 64

Amendment No. 22 was adopted.

#### Amendment No. 23

Representative Turner offered the following amendment to **CSHB 789**:

Page 73, Line 2, strike "delivered by landline"

Page 73, Line 4, revise as follows: (1) ~~a~~ two or more nonbasic network services;

Page 73, Lines 9-11, remove ~~strikeout~~, reinstating original language.

Page 73, Lines 23-24, remove added language.

Page 74, Lines 5-9, remove ~~strikeout~~, reinstating original language.

Page 76, Line 22, revise as follows: (1) basic network service when ordered and received with another basic network service or with ~~a~~ two or more nonbasic network services.

Page 77, Lines 18-19, remove ~~strikeout~~, reinstating original language.

Page 78, Lines 16-19, remove ~~strikeout~~, reinstating original language.

Amendment No. 23 was withdrawn.

#### Amendment No. 24

Representative Burnam offered the following amendment to **CSHB 789**:

Amend **CSHB 789** on page 78 by striking lines 16-19 and substituting the following:

(14) [~~(13)~~] directory assistance services, except that an electing company shall provide to a residential customer the first three directory assistance inquiries in a monthly billing cycle at no charge;

Amendment No. 24 was adopted.

### **Amendment No. 25**

Representative Thompson offered the following amendment to **CSHB 789**:

Amend **CSHB 789** by adding the following appropriately numbered section and renumbering subsequent sections accordingly:

SECTION\_\_\_. Subchapter C, Chapter 57, Utilities Code, is repealed.

Representative P. King moved to table Amendment No. 25.

A record vote was requested.

The motion to table was lost by (Record 153): 36 Yeas, 99 Nays, 2 Present, not voting.

Yeas — Allen, R.; Berman; Brown, B.; Cook, R.; Corte; Crabb; Davis, J.; Driver; Eissler; Flynn; Griggs; Grusendorf; Hilderbran; Howard; Hunter; Hupp; Isett; Jackson; Jones, D.; Keffer, J.; King, P.; Kolkhorst; Morrison; Mowery; Nixon; Orr; Otto; Pitts; Riddle; Ritter; Seaman; Smith, W.; Straus; Swinford; Uresti; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Bohac; Bonnen; Branch; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Coleman; Cook, B.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farabee; Farrar; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Herrero; Hochberg; Hodge; Homer; Hopson; Hughes; Jones, J.; Keel; Keffer, B.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Puente; Raymond; Reyna; Rodriguez; Rose; Smith, T.; Smithee; Solis; Solomons; Strama; Talton; Taylor; Thompson; Truitt; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley.

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

Absent — Anderson; Baxter; Blake; Chisum; Crownover; Flores; Giddings; Goolsby; Hardcastle; Hill; Hope; Madden; Turner.

### **STATEMENTS OF VOTE**

When Record No. 153 was taken, I was temporarily out of the house chamber. I would have voted no.

Anderson

When Record No. 153 was taken, I was in the house but away from my desk. I would have voted no.

Baxter

I was shown voting yes on Record No. 153. I intended to vote no.

Berman

When Record No. 153 was taken, I was in the house but away from my desk. I would have voted no.

Blake

I was shown voting yes on Record No. 153. I intended to vote no.

B. Brown

I was shown voting yes on Record No. 153. I intended to vote no.

Crabb

When Record No. 153 was taken, I was in the house but away from my desk. I would have voted no.

Crownover

I was shown voting yes on Record No. 153. I intended to vote no.

J. Davis

I was shown voting yes on Record No. 153. I intended to vote no.

Driver

I was shown voting yes on Record No. 153. I intended to vote no.

Eissler

I was shown voting yes on Record No. 153. I intended to vote no.

Flynn

When Record No. 153 was taken, I was in the house but away from my desk. I would have voted no.

Giddings

When Record No. 153 was taken, I was in the house but away from my desk. I would have voted no.

Goolsby

I was shown voting yes on Record No. 153. I intended to vote no.

Griggs

I was shown voting yes on Record No. 153. I intended to vote no.

Hilderbran

When Record No. 153 was taken, I was in the house but away from my desk. I would have voted no.

Hope

I was shown voting yes on Record No. 153. I intended to vote no.

Howard

I was shown voting yes on Record No. 153. I intended to vote no.

Hupp

I was shown voting yes on Record No. 153. I intended to vote no.

J. Keffer

I was shown voting yes on Record No. 153. I intended to vote no.

Kolkhorst

I was shown voting yes on Record No. 153. I intended to vote no.

Morrison

I was shown voting yes on Record No. 153. I intended to vote no.

Nixon

I was shown voting yes on Record No. 153. I intended to vote no.

Orr

I was shown voting yes on Record No. 153. I intended to vote no.

Otto

I was shown voting present, not voting on Record No. 153. I intended to vote no.

Quintanilla

I was shown voting yes on Record No. 153. I intended to vote no.

W. Smith

When Record No. 153 was taken, I was in the house but away from my desk. I would have voted no.

Turner

I was shown voting yes on Record No. 153. I intended to vote no.

Uresti

I was shown voting yes on Record No. 153. I intended to vote no.

Zedler

Amendment No. 25 was adopted.

### **Amendment No. 26**

Representative Truitt offered the following amendment to **CSHB 789**:

Amend **CSHB 789** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_. Chapter 240, Local Government Code, is amended by adding Subchapter E to read as follows:



SUBCHAPTER E. COMMUNICATION FACILITIESSec. 240.081. DEFINITIONS. In this subchapter:(1) "Communication facility structure" means:

(A) an antenna support structure for a mobile or land-based telecommunication facility, or a whip antenna, panel antenna, microwave dish, or receive-only satellite dish;

(B) a cell enhancer and related equipment for wireless transmission from a sender to one or more receivers for a mobile telephone, or a mobile radio system facility, commercial radio service, or other service or receiver; or

(C) a monopole tower, a steel lattice tower, or any other communication tower.

(2) "Residential subdivision" means a subdivision:

(A) for which a plat is recorded in the county real property records;

(B) in which the majority of the lots are subject to deed restrictions limiting the lots to residential use; and

(C) that includes at least five lots that are designated as homestead property.

Sec. 240.082. APPLICABILITY. (a) This subchapter applies only to real property that is located in the unincorporated area of a county with a population of 1.4 million or more and located within one-quarter mile of a residential subdivision.

(b) This subchapter does not apply to:

(1) a communication facility structure built to replace an existing communication facility structure if:

(A) the replacement communication facility structure is constructed within 300 feet of the existing communication facility structure;

(B) the replacement communication facility structure is the same size and constructed for the same purpose as the existing communication facility structure; and

(C) the existing communication facility structure is removed not later than the 14th day after the date the replacement communication facility structure begins operation; or

(2) a communication antenna, antenna facility, or antenna tower or support structure located in a residential area that is used by an amateur radio operator:

(A) exclusively for amateur radio communication or public safety services; and

(B) who is licensed by the Federal Communications Commission.

Sec. 240.083. AUTHORITY OF COUNTY TO REGULATE. (a) The commissioners court of a county subject to this subchapter may by order regulate the location of a communication facility structure.

(b) The regulations may include a requirement for a permit for the construction or expansion of the communication facility structure and may impose fees on regulated persons to recover the cost of administering the regulations.

Sec. 240.084. COUNTY PERMIT. (a) This section applies only to the issuance of a permit to construct or improve a communication facility structure under a regulation adopted under this subchapter.

(b) The commissioners court must, not later than the 45th day after the date the application for the permit is filed:

(1) grant or deny the permit application;

(2) provide written notice to the applicant stating the reason the commissioners court has not acted on the permit application; or

(3) enter into an agreement with the applicant establishing a date by which the commissioners court will grant or deny the permit application.

(c) If the commissioners court provides notice to the applicant under Subsection (b) (2), the commissioners court must grant or deny the permit application not later than the 30th day after the date the applicant received the notice.

(d) If the commissioners court fails to act on a permit application within the 30-day period prescribed by Subsection (c) or under the terms of an agreement under Subsection (b)(3), the commissioners court:

(1) may not collect any permit fees associated with the permit application; and

(2) shall refund to the applicant any permit fees associated with the application that have been previously collected.

Sec. 240.085. NOTICE BY SIGN. (a) Not later than the 60th day before the date a permit application is filed under Section 240.084, the applicant for a permit for a location not previously licensed or permitted shall prominently post an outdoor sign at the proposed location:

(1) stating that a communication facility structure is proposed for the location; and

(2) providing the name and business address of the applicant.

(b) The sign must be at least 24 by 36 inches in size and must be published in lettering at least two inches in size. The county in which the proposed communication facility structure is to be located may require the sign to be published in English and in a language other than English if it is likely that a substantial number of residents in the area speak a language other than English as their familiar language.

Sec. 240.086. VARIANCES. (a) A person who proposes to construct or increase the height of a communication facility structure in violation of a regulation adopted by order by a county subject to this subchapter may apply to the commissioners court for a variance from the regulation.

(b) The commissioners court shall hold a public hearing on the proposed variance. The commissioners court may authorize a variance from a regulation if the commissioners court finds that:

(1) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and

(2) granting the relief sought would:

(A) result in substantial justice;

(B) not be contrary to the public interest; and

(C) be in accordance with the spirit of the regulation and this subchapter.

(c) The commissioners court may impose any reasonable conditions on the variance that the commissioners court considers necessary to accomplish the purposes of this subchapter.

(d) Before the 10th day before the date the commissioners court hold a public hearing on the variance request, written notice of the public hearing shall be provided to each owner of property located within one-quarter mile of the proposed location of the communication facility structure. The notice must include:

(1) the date, time, and place of the public hearing;

(2) the proposed location, height, and use of the proposed communication facility structure; and

(3) the name and telephone number of a person interested persons may contact to receive information regarding the construction of the proposed communication facility structure.

Sec. 240.087. ADDITIONAL FILING REQUIREMENTS REGARDING CONSTRUCTION. Before the 90th day before the date construction begins, a person proposing to construct a communication facility structure in the unincorporated area of a county subject to this subchapter that is taller than 60 feet shall file with the county official designated by the commissioners court:

(1) a statement informing the county that the construction is proposed and providing the date on or after which the construction will begin;

(2) copies of any necessary permits from the Federal Communications Commission;

(3) any necessary engineered drawings that have been approved by the Federal Aviation Administration;

(4) the correct phone number and address of each entity involved in the construction; and

(5) a plat or map of the specific proposed location of the communication facility structure.

Sec. 240.088. OFFENSE. (a) A person commits an offense if the person violates an order adopted under this subchapter and the order defines the violation as an offense.

(b) An offense under this section is prosecuted in the same manner as an offense defined under state law.

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

Sec. 240.089. INJUNCTION. The county attorney or an attorney representing the county may file an action in a district court to enjoin a violation or threatened violation of an order adopted under this subchapter. The court may grant appropriate relief.

Amendment No. 26 was adopted.

### **Amendment No. 27**

Representative Hunter offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

On page 11, between lines 25 and 26, insert the following:

(c) A state agency, a state institution of higher education, or a service provided by a state agency or state institution of higher education is not a network provider, service provider, or telecommunications provider for purposes of this title.

Amendment No. 27 was adopted.

### **Amendment No. 28**

Representative Vo offered the following amendment to **CSHB 789**:

Amend **CSHB 789** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_. (a) Subchapter A, Chapter 64, Utilities Code, is amended by adding Section 64.005 to read as follows:

Sec. 64.005. NOTICE REGARDING ACCESS TO EMERGENCY SERVICES. (a) As used in this section:

(1) The term "VoIP service" means voice communications to residential or business customers over a broadband network using Internet Protocol;

(2) The term "VoIP provider" means an entity that offers VoIP service for a fee;

(3) The term "E911" refers to the system for processing emergency calls as defined in Texas Health & Safety Code 772.001, as may be subsequently amended.

(b) A VoIP provider may not enter into a contract to provide VoIP service unless the entity provides clear and conspicuous notice to customers disclosing whether or not the service provides access to E911.

(c) A VoIP provider which does not provide access to E911 or which requires a customer to take steps to activate access to E911 may not enter into a contract to provide VoIP service unless the VoIP provider provides clear and conspicuous notice of the following:

(1) the specific steps the customer must take to activate that service;  
and

(2) an explanation of all material differences between E911 service and the provider's system for accessing emergency services.

(d) The notice required by subsection (c) must:

(1) be a separate document;

(2) be signed and dated by the customer; and

(3) conspicuously state that, by signing and dating the document, the customer acknowledges that the customer will not be able to use the service to access E911, or that the customer must separately activate access to that service in order to receive it.

(e) At least annually, a VoIP provider shall send to each customer to whom it provides VoIP service a notice that includes the information required by Subsection (c). The entity shall provide the notice as a separate document.

(f) Except as specifically preempted by federal law, the commission has all jurisdiction necessary to enforce this section. In addition, a violation of this chapter is a false, misleading, or deceptive act or practice and is actionable by the Attorney General under Subchapter E, Chapter 17, Business and Commerce Code.

(b) This section applies to a contract entered into or renewed on or after the effective date of this section. A contract entered into or renewed before that date is governed by the law in effect on the date the contract was entered into or renewed, and that law is continued in effect for that purpose.

(c) This section does not affect litigation pending on the effective date of this section.

Amendment No. 28 was withdrawn.

### **Amendment No. 29**

Representative Gallego offered the following amendment to **CSHB 789**:

Amend **CSHB 789** on page 111 by deleting lines 21 and 22 and renumbering accordingly.

Amendment No. 29 was withdrawn.

### **Amendment No. 30**

Representative R. Cook offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) on page 29, strike line 1 and substitute:

SECTION 32. Section 54.202, Utilities Code, is amended by amending Subsection (a) and adding Subsection (c)

(2) on page 29, between lines 13 and 14, insert:

(c) Subsection (a) does not prevent a municipally owned utility from:

(1) providing a governmental function or a service to its customers that is enabled, enhanced, delivered to, or available to the public using the Internet, including:

(A) bill paying services;

(B) emergency services;

(C) constituent services;

(D) utility meter reading; and

(E) permitting; and

(2) providing access to its transmission and distribution facilities under a contract with another entity that allows the entity to offer to the entity's customers high speed data services using broadband over power line technology.

### **Amendment No. 31**

Representative R. Cook offered the following amendment to Amendment No. 30:

Amend Amendment No. 30 on page 1, line 19, by adding the following language after the colon:

provided, however, that the compensation owed to the municipally owned utility for such access shall, at a minimum, recover all costs including debt service incurred by the municipally owned utility in the provision of such access.

Amendment No. 31 was adopted.

Amendment No. 30, as amended, was adopted.

### **Amendment No. 32**

Representative Puente offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 29, line 1, strike "Section 54.202(a), Utilities Code, is amended" and substitute "Section 54.202, Utilities Code, is amended by amending Subsection (a) and adding Subsection (c)".

(2) On page 29, between lines 13 and 14, insert the following:

(c) This section may not be construed to prevent a municipally owned utility from providing to its energy customers, either directly or indirectly, any energy related service involving the transfer or receipt of information or data concerning the use, measurement, monitoring, or management of energy utility services provided by the municipally owned utility, including services such as load management or automated meter reading.

Amendment No. 32 was adopted.

### **Amendment No. 33**

Representative Vo offered the following amendment to **CSHB 789**:

Amend **CSHB 789** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_. (a) Subchapter A, Chapter 64, Utilities Code, is amended by adding Section 64.005 to read as follows:

Sec. 64.005. NOTICE REGARDING ACCESS TO EMERGENCY SERVICES. (a) As used in this section:

(1) The term "VoIP service" means voice communications to residential or business customers over a broadband network using Internet Protocol;

(2) The term "VoIP provider" means an entity that offers VoIP service for a fee;

(3) The term "E911" refers to the system for processing emergency calls as defined in Texas Health & Safety Code 772.001, as may be subsequently amended.

(b) A VoIP provider may not enter into a contract to provide VoIP service unless the entity provides clear and conspicuous notice to customers disclosing whether or not the service provides access to E911,

(c) A VoIP provider which does not provide access to E911 or which requires a customer to take steps to activate access to E911 may not enter into a contract to provide VoIP service unless the VoIP provider provides clear and conspicuous notice of the following:

(1) the specific steps the customer must take to activate that service;  
and

(2) an explanation of all material differences between E911 service and the provider's system for accessing emergency services.

(d) The notice required by subsection (c) must:

(1) be a separate document, and

(2) conspicuously state that, the customer acknowledges that the customer will not be able to use the service to access E911, or that the customer must separately activate access to that service in order to receive it.

(e) At least annually, a VoIP provider shall send to each customer to whom it provides VoIP service a notice that includes the information required by Subsection (c). The entity shall provide the notice as a separate document.

(f) Except as specifically preempted by federal law, the commission has all jurisdiction necessary to enforce this section. In addition, a violation of this chapter is a false, misleading, or deceptive act or practice and is actionable by the Attorney General under Subchapter E, Chapter 17, Business and Commerce Code.

(b) This section applies to a contract entered into or renewed on or after the effective date of this section. A contract entered into or renewed before that date is governed by the law in effect on the date the contract was entered into or renewed, and that law is continued in effect for that purpose.

(c) This section does not affect litigation pending on the effective date of this section.

Amendment No. 33 was adopted.

### **Amendment No. 34**

Representative Turner offered the following amendment to **CSHB 789**:

Amend **CSHB 789** as follows:

(1) On page 73, strike lines 3-8 and substitute "and received independent of one or more nonbasic network services or a package of services that includes one or more nonbasic network services or other services."

(2) On page 76, strike lines 22-24 and substitute:

(1) basic network service when ordered and received with one or more basic network services or with one or more nonbasic network services;

### **REMARKS BY REPRESENTATIVE TURNER**

Mr. Chairman, if you accept this amendment—if you accept this amendment, I will take my glasses off, put them in my suit pocket, and I will go to my chair 122. I will sit down and I will listen more and speak even less. And I will vote a hard vote for **CSHB 789** and the future of the State of Texas.

Amendment No. 34 was adopted.

### **REMARKS ORDERED PRINTED**

Representative Hill moved to print remarks by Representative Turner.

The motion prevailed.

### LEAVE OF ABSENCE GRANTED

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

Smithee on motion of Hope.

### CSHB 789 - (consideration continued)

(Hamilton in the chair)

#### Amendment No. 35

Representative Puente offered the following amendment to **CSHB 789**:

Amend **CSHB 789** by striking SECTION 32 of the bill (page 29, lines 1-13) and substituting the following:

SECTION 32. Section 54.202, Utilities Code, is amended to read as follows:

Sec. 54.202 PROHIBITED MUNICIPAL SERVICES. (a) A municipality or municipally owned utility may not, directly or indirectly, on its own or with another entity, ~~[municipal electric system may not]~~ offer ~~[for sale]~~ to the public:

(1) a service for which a new certificate [of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority] is required; ~~[or]~~

(2) a service as a network provider;

(3) a telecommunications service or information service, without regard to the technology platform used to provide the service; or

(4) a video or broadband service, including a service described by Section 51.003 (a) (4), provided that this section does not affect the authority of a municipality or municipally owned utility to continue to offer a video or broadband service it was providing on January 1, 2005.

(b) Subsection (a) does not prevent a municipality or municipally owned utility from:

(1) offering a broadband network that provides Internet access in a municipally owned building, library, or public park;

(2) operating a broadband network that is not available to the public to provide telecommunications services and advanced services between municipal and other governmental facilities for governmental purposes;

(3) providing a governmental function or service that is enabled, enhanced, delivered to, or available to the public using the Internet, including:

(A) a bill paying service;

(B) an emergency service;

(C) a constituent service;

(D) utility meter reading; and

(E) permitting; and

(4) providing access to its transmission and distribution facilities under a contract with another entity that allows the entity to offer to the municipality's customers high speed data services using broadband over power line technology if:

(A) the municipality has a population of not more than 30,000; and

(B) the contract is entered into on or before January 1, 2006.



(c) This section may not be construed to limit:

(1) a municipality's or municipally owned utility's ability to engage in economic development activities as expressly authorized by statute;

(2) a municipality's or municipally owned utility's ability to enter into nonexclusive, nondiscriminatory agreements with private entities for the use of rights-of-way, pole attachments, or other municipal or utility property for the placement of an antenna or receiving equipment by those entities to provide services in the municipality, to the extent expressly provided by statute; or

(3) the authority of a municipality or municipally ~~with-~~

~~[(A) another customer's premises within the exchange; or~~

~~[(B) a long distance provider that serves the exchange.~~

~~[(b) Subsection (a) applies to a service offered either directly or indirectly through a telecommunications provider].~~

### **Amendment No. 36**

Representatives Luna and Baxter offered the following amendment to Amendment No. 35:

Amend Amendment No. 35 by Puente by striking the text of the amendment and substituting the following:

Amend **CSHB 789** as follows:

(1) Add a new section to the bill, numbered appropriately, to read as follows:

SECTION \_\_\_\_\_. Subchapter E, Chapter 54, Utilities Code, is amended by adding Section 54.2022 to read as follows:

Sec. 54.2022. PROHIBITION ON MUNICIPAL CHARGES FOR WIRELESS BROADBAND SERVICES. (a) Notwithstanding any other law, a municipality may not charge for wireless broadband services, including wireless fidelity, or Wi-Fi, services, that the municipality may provide under this title, except as provided by Subsection (b).

(b) A municipality that charged for services described by Subsection (a) on January 1, 2005, may continue to charge for those services.

(2) Add a new section to the bill, numbered appropriately, to read as follows:

SECTION \_\_\_\_\_. (a) The Public Utility Commission of Texas shall conduct a study for presentation to the 80th Legislature on issues regarding the provision of wireless broadband communications services by municipalities, including wireless fidelity, or Wi-Fi, services.

(b) A municipality may not offer to the public, directly or indirectly, wireless broadband communications services, including wireless fidelity, or Wi-Fi, services, unless the municipality was providing the service on or before September 1, 2006, or unless the municipality has filed with the commission before June 15, 2006, a statement of intent to provide the services that meets the requirements of Subsection (c) of this section.

(c) A statement of intent described by Subsection (b) of this section must be presented to the commission for approval as a part of the study conducted under this section and must include information sufficient for the commission to determine that the municipality has a plan for providing the services and has the fiscal and managerial capacity to provide the intended services.

(d) The commission shall present the report and approved statements of intent to the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the house of representatives and senate that has jurisdiction over matters related to communications services and municipal government. The report must be presented not later than September 1, 2006.

(e) The report may include discussion on any issue related to the provision of wireless broadband communications services by municipalities, including wireless fidelity, or Wi-Fi, services, that the commission considers important for consideration by the legislature. The report must include the commission's recommendations for legislation and commentary on issues the commission considers important for the legislature's consideration.

#### **AMENDMENT NO. 36 – STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE HOCHBERG: For the purposes of intent, Ms. Luna, if a municipality is leasing capacity or providing capacity to a private ISP or operator, this amendment in no way restricts that private operator's ability to charge a fee for the services that they are providing over that municipal leased facility, and it doesn't prohibit the municipality from charging for that capacity?

REPRESENTATIVE LUNA: That is correct, Representative Hochberg. The prohibition on any kind of charges applies only to municipalities, it does not apply to ISPs or any private partnership.

#### **REMARKS ORDERED PRINTED**

Representative Hochberg moved to print remarks between Representative Luna and Representative Hochberg.

The motion prevailed.

Amendment No. 36 was adopted.

Amendment No. 35, as amended, was adopted.

#### **Amendment No. 37**

Representatives Crownover and Solomons offered the following amendment to **CSHB 789**:

Amend **CSHB 789** by replacing the language in SECTION 138(b) to read as follows:

The repeal of Section 54.2025, Utilities Code, by this Act, shall not take effect until September 30, 2006.

Amendment No. 37 was adopted.

**Amendment No. 38**

Representative Merritt offered the following amendment to **CSHB 789**:

Amend **CSHB 789** by adding the following appropriately number SECTION to the bill and renumbering the subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Subchapter A, Chapter 57, Utilities Code, is amended by adding Section 57.004 to read as follows:

Sec. 57.004. RESALE BY CERTAIN ENTITIES. (a) This section applies only to the Texas-Louisiana border region.

(b) Notwithstanding any other provision of law, a public junior college or other institution of higher education, as defined by Section 61.003, Education Code, may resell at a discounted rate high-speed access to the Internet to an industrial development corporation created under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) or another local governmental entity if there is no provider of private high-speed Internet services that provides those services in the boundaries of the corporation or governmental entity, not including a provider of cable services. The corporation or other local governmental entity may use the high-speed Internet access only for economic development purposes.

Amendment No. 38 was withdrawn.

(Speaker in the chair)

**Amendment No. 34 - Vote Reconsidered**

Representative Turner moved to reconsider the vote by which Amendment No. 34 was adopted.

The motion to reconsider prevailed.

Amendment No. 34 was withdrawn.

A record vote was requested.

**CSHB 789**, as amended, was passed to engrossment by (Record 154): 145 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Nixon;

Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Dutton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Smithee.

Absent — Escobar; Moreno, P.

### STATEMENT OF VOTE

When Record No. 154 was taken, I was in the house but away from my desk. I would have voted yes.

Escobar

### CONSTITUTIONAL AMENDMENTS CALENDAR HOUSE JOINT RESOLUTIONS SECOND READING

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

#### HJR 35 ON SECOND READING (by Bohac, Crabb, and Talton)

**HJR 35**, A joint resolution proposing a constitutional amendment authorizing the legislature to limit the maximum average annual increase in the appraised value of real property for ad valorem tax purposes to five percent or more.

#### HJR 35 - RECOMMITTED

Representative Bohac moved to recommit **HJR 35** to the Committee on Ways and Means.

The motion prevailed.

### GENERAL STATE CALENDAR HOUSE BILLS SECOND READING

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

#### HB 93 ON SECOND READING (by Riddle)

**HB 93**, A bill to be entitled An Act relating to showing the cause of death on the death certificate of an inmate of the Texas Department of Criminal Justice who is lawfully executed.

(Krusee in the chair)

**Amendment No. 1**

Representative Dutton offered the following amendment to **HB 93**:

Amend **HB 93** on page 1, line 11, between "judicial" and "execution" by inserting ", executive, or legislative"

Amendment No. 1 was adopted.

**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. 3).

**HB 93 - (consideration continued)**

A record vote was requested.

**HB 93**, as amended, was passed to engrossment by (Record 155): 119 Yeas, 23 Nays, 3 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Dutton; Edwards; Eissler; Elkins; Escobar; Farabee; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McReynolds; Menendez; Merritt; Miller; Mowery; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Villarreal; Vo; West; Woolley; Zedler.

Nays — Allen, A.; Casteel; Castro; Davis, Y.; Deshotel; Dukes; Dunnam; Farrar; Guillen; Hodge; Jones, J.; Luna; McCall; McClendon; Moreno, J.; Moreno, P.; Naishtat; Olivo; Quintanilla; Rodriguez; Thompson; Veasey; Wong.

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

Absent, Excused — Smithee.

Absent — Eiland; Flores; Giddings; Morrison.

**STATEMENTS OF VOTE**

I was shown voting no on Record No. 155. I intended to vote yes.

Guillen

When Record No. 155 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

I was shown voting no on Record No. 155. I intended to vote yes.

Quintanilla

**CSHB 352 ON SECOND READING**  
**(by Goodman)**

**CSHB 352**, A bill to be entitled An Act relating to the collection of municipal hotel occupancy taxes.

**CSHB 352** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 366 ON SECOND READING**  
**(by Hegar)**

**HB 366**, A bill to be entitled An Act relating to use of safety belts and child passenger safety seat systems.

**Amendment No. 1**

Representative Hegar offered the following amendment to **HB 366**:

Amend **HB 366** by adding the following section to the bill and renumbering existing sections accordingly:

SECTION 2. Section 545.412(e), Transportation Code, is amended to read as follows:

(e) This section does not apply to ~~[a person]~~:

(1) a person, including a third party transport service provider, operating a vehicle transporting passengers for hire; or

(2) a person transporting a child in a vehicle in which all seating positions equipped with child passenger safety seat systems or safety belts are occupied.

Amendment No. 1 was adopted.

**HB 366**, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 372 ON SECOND READING**  
**(by Jackson, et al.)**

**HB 372**, A bill to be entitled An Act relating to the required use of towing safety chains on certain vehicles.

**Amendment No. 1**

Representative Hegar offered the following amendment to **HB 372**:

Amend **HB 372** on page 1 by striking lines 7-13 and substituting the following:

(a) An operator of a passenger car or light truck may not draw a trailer, semitrailer, house trailer, or another motor vehicle unless safety chains of a type approved by the department are attached in a manner approved by the department from the trailer, semitrailer, house trailer, or drawn motor vehicle to the drawing vehicle. This subsection does not apply to the drawing of equipment [a trailer or semitrailer] used for agricultural purposes and for which registration is not required.

Amendment No. 1 was adopted.

A record vote was requested.

**HB 372**, as amended, was passed to engrossment by (Record 156): 132 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Casteel; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Hunter; Hupp; Isett; Jones, D.; Jones, J.; Keel; Keffer, B.; King, T.; Kolkhorst; Kuempel; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler.

Nays — Campbell; Howard; Hughes; Laney; Miller.

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

Absent, Excused — Smithee.

Absent — Chisum; Eiland; Giddings; Hardcastle; Jackson; Keffer, J.; King, P.; Morrison; Puente; Wong.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 156. I intended to vote no.

Blake

When Record No. 156 was taken, my vote failed to register. I would have voted no.

Chisum

When Record No. 156 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

When Record No. 156 was taken, I was in the house but away from my desk. I would have voted yes.

Jackson

I was shown voting yes on Record No. 156. I intended to vote no.

T. King

When Record No. 156 was taken, my vote failed to register. I would have voted yes.

Morrison

I was shown voting yes on Record No. 156. I intended to vote no.

Swinford

When Record No. 156 was taken, I was in the house but away from my desk. I would have voted yes.

Wong

### **CSHB 373 ON SECOND READING (by Swinford)**

**CSHB 373**, A bill to be entitled An Act relating to the food and fibers research grant program.

**CSHB 373** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

### **CSHB 538 ON SECOND READING (by Bohac, Bailey, A. Allen, Talton, and Edwards)**

**CSHB 538**, A bill to be entitled An Act relating to the construction or operation of chemical dependency treatment facilities near certain residential and community properties in certain municipalities.

#### **Amendment No. 1**

Representative Bohac offered the following amendment to **CSHB 538**:

Amend **CSHB 538** as follows:

- (1) On page 1, line 8, strike "CHEMICAL DEPENDENCY".
- (2) On page 2, line 15, strike "chemical dependency".

Amendment No. 1 was adopted.

#### **Amendment No. 2**

Representative Coleman offered the following amendment to **CSHB 538**:

Amend **CSHB 538** on page 2 as follows:

- (1) Strike lines 11 through 22 and substitute the following:
  - (2) mail notice to the owner of each affected property located within 1,000 feet of the location of the proposed treatment facility.



(b) The property owners to whom notice is required to be given under Subsection (a)(2) are determined by the most recent certified tax appraisal roll of the county in which the property is located. If the property is owned by a public entity, the notice must be provided to the governing body of the public entity that owns the property.

(c) The notice under Subsection (a) must:

(1) state that the person is intending to construct or operate a chemical dependency treatment facility;

(2) provide the location of the proposed facility;

(3) provide the name and business address of the person sending the notice; and

(4) include educational materials related to the services to be provided by the proposed facility.

(d) If required by the municipality in which the affected property described by Subsection (a)(2) is located, the notice and the educational materials provided to the owners of that property must be printed in both English and a language other than English if it is likely that a substantial number of the residents in the area speak as their primary language a language other than English.

(2) On line 23, strike "(c)" and substitute "(e)".

Representative Bohac moved to table Amendment No. 2.

The motion to table was lost.

Amendment No. 2 was adopted.

**CSHB 538**, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

(Speaker in the chair)

### **CSHB 540 ON SECOND READING**

**(by Bohac, Van Arsdale, Elkins, Callegari, Hegar, et al.)**

**CSHB 540**, A bill to be entitled An Act relating to the designation of the portion of U.S. Highway 290 inside Harris County as the Ronald Reagan Memorial Highway.

#### **Amendment No. 1**

Representative Bohac offered the following amendment to **CSHB 540**:

Amend **CSHB 540** by inserting on page 1, between lines 19-20, the following:

"(e) Funds collected under Section 225.021 for the purpose of implementing this Section, shall be deposited to the credit of the state highway fund."

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Farrar offered the following amendment to **CSHB 540**:

Amend **CSHB 540** as follows:

(1) On line 7 of the bill, strike "RONALD REAGAN" and substitute "DWIGHT D. EISENHOWER".

(2) On line 9 of the bill, strike "Ronald Reagan" and substitute "Dwight D. Eisenhower".

(3) On line 12 of the bill, strike "Ronald Reagan" and substitute "Dwight D. Eisenhower".

Representative Bohac moved to table Amendment No. 2.

A record vote was requested.

The motion to table prevailed by (Record 157): 81 Yeas, 48 Nays, 6 Present, not voting.

Yeas — Allen, R.; Anderson; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Geren; Goodman; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Peña; Pitts; Reyna; Riddle; Rose; Seaman; Smith, T.; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Casteel; Castro; Chavez; Coleman; Deshotel; Dukes; Dunnam; Dutton; Edwards; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Herrero; Hodge; Homer; Jones, J.; Leibowitz; Martinez; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Olivo; Pickett; Quintanilla; Raymond; Rodriguez; Smith, W.; Solis; Thompson; Uresti; Veasey; Villarreal; Vo; West.

Present, not voting — Mr. Speaker(C); Bailey; Cook, R.; Phillips; Puente; Ritter.

Absent, Excused — Smithee.

Absent — Baxter; Blake; Davis, J.; Davis, Y.; Eiland; Gattis; Giddings; Goolsby; Hochberg; King, T.; Laney; Luna; Noriega, M.; Turner.

**STATEMENTS OF VOTE**

When Record No. 157 was taken, I was in the house but away from my desk. I would have voted yes.

Baxter

I was shown voting no on Record No. 157. I intended to vote present, not voting.

Homer

### Amendment No. 3

Representative J. Moreno offered the following amendment to **CSHB 540**:

Amend **CSHB 540** as follows:

(1) On line 7 of the bill, strike "RONALD REAGAN" and substitute "LYNDON BAINES JOHNSON".

(2) On line 9 of the bill, strike "Ronald Reagan" and substitute "Lyndon Baines Johnson".

(3) On line 12 of the bill, strike "Ronald Reagan" and substitute "Lyndon Baines Johnson".

Representative Bohac moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 158): 80 Yeas, 51 Nays, 10 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bonnen; Burnam; Castro; Chavez; Chisum; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farrar; Flores; Frost; Gallego; Gonzales; Gonzalez Toureilles; Guillen; Herrero; Hochberg; Hodge; Jones, J.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Olivo; Pickett; Quintanilla; Raymond; Rodriguez; Rose; Solis; Strama; Thompson; Uresti; Veasey; Vo.

Present, not voting — Mr. Speaker(C); Bailey; Cook, R.; Farabee; Gattis; Homer; Peña; Phillips; Puente; Ritter.

Absent, Excused — Smithee.

Absent — Blake; Giddings; Keffer, J.; King, T.; McReynolds; Solomons; Turner; Villarreal.

### LEAVE OF ABSENCE GRANTED

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

Solomons on motion of Homer.

### CSHB 540 - (consideration continued)

#### Amendment No. 4

Representative Farrar offered the following amendment to **CSHB 540**:

Amend **CSHB 540** as follows:

(1) On line 7 of the bill, strike "RONALD REAGAN MEMORIAL" and substitute "CLAUDIA TAYLOR (LADY BIRD) JOHNSON".

(2) On line 9 of the bill, strike "Ronald Reagan Memorial" and substitute "Claudia Taylor (Lady Bird) Johnson".

(3) On line 12 of the bill, strike "Ronald Reagan Memorial" and substitute "Claudia Taylor (Lady Bird) Johnson".

Representative Bohac moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 159): 76 Yeas, 54 Nays, 12 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Straus; Swinford; Talton; Taylor; Truitt; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Castro; Chavez; Chisum; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gonzales; Gonzalez Toureilles; Guillen; Herrero; Hochberg; Hodge; Homer; Jones, J.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Pickett; Quintanilla; Raymond; Rodriguez; Rose; Solis; Strama; Thompson; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C); Bailey; Cook, R.; Gattis; Hardcastle; Hopson; Hunter; McReynolds; Peña; Phillips; Puente; Ritter.

Absent, Excused — Smithee; Solomons.

Absent — Blake; Eiland; Giddings; King, T.; Turner; Van Arsdale.

#### Amendment No. 5

Representative Farrar offered the following amendment to **CSHB 540**:

Amend **CSHB 540** as follows:

(1) On line 7 of the bill, strike "RONALD REAGAN" and substitute "STEPHEN F. AUSTIN".

(2) On line 9 of the bill, strike "Ronald Reagan" and substitute "Stephen F. Austin".

(3) On line 12 of the bill, strike "Ronald Reagan" and substitute "Stephen F. Austin".

Representative Bohac moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 160): 75 Yeas, 56 Nays, 10 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Eissler; Elkins; Flynn; Goodman; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; King, P.; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Strama; Straus; Swinford; Talton; Taylor; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Herrero; Hodge; Homer; Hopson; Jones, J.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Pickett; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Thompson; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C); Bailey; Gattis; Geren; Kolkhorst; McReynolds; Peña; Phillips; Puente; Truitt.

Absent, Excused — Smithee; Solomons.

Absent — Blake; Giddings; Haggerty; Hochberg; Keffer, J.; King, T.; Turner.

### **Amendment No. 6**

Representative Coleman offered the following amendment to **CSHB 540**:

Amend **CSHB 540** as follows:

(1) On line 7 of the bill, strike "RONALD REAGAN MEMORIAL" and substitute "GEORGE HERBERT WALKER BUSH".

(2) On line 9 of the bill, strike "Ronald Reagan Memorial" and substitute "George Herbert Walker Bush".

(3) On line 12 of the bill, strike "Ronald Reagan Memorial" and substitute "George Herbert Walker Bush".

Representative Bohac moved to table Amendment No. 6.

A record vote was requested.

The motion to table was lost by (Record 161): 62 Yeas, 67 Nays, 11 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Bohac; Bonnen; Brown, B.; Callegari; Campbell; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Farabee; Flynn; Goodman; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hill; Hope; Howard; Hughes; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Krusee; Kuempel; Laubenberg; Madden; McCall; Morrison; Mowery; Nixon; Paxton; Pitts; Reyna; Riddle; Seaman; Straus; Talton; Taylor; Van Arsdale; West; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Branch; Brown, F.; Burnam; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farrar; Flores; Frost; Gallego; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Herrero; Hochberg; Hodge; Homer; Hopson; Jones, J.; Kolkhorst; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solis; Strama; Swinford; Thompson; Uresti; Veasey; Villarreal; Vo; Wong.

Present, not voting — Mr. Speaker(C); Bailey; Gattis; Geren; Hegar; Hunter; Orr; Otto; Phillips; Puente; Truitt.

Absent, Excused — Smithee; Solomons.

Absent — Anchia; Blake; Giddings; Haggerty; Hamilton; King, T.; Miller; Turner.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 161. I intended to vote no.

Straus

A record vote was requested.

Amendment No. 6 failed of adoption by (Record 162): 49 Yeas, 79 Nays, 13 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Burnam; Casteel; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gonzales; Gonzalez Toureilles; Hochberg; Hodge; Homer; Hopson; Jones, J.; Laney; Leibowitz; Martinez; Martinez Fischer; McClendon; McReynolds; Merritt; Moreno, P.; Noriega, M.; Oliveira; Olivo; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Strama; Thompson; Veasey; Villarreal; Vo.

Nays — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Campbell; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Edwards; Eissler; Elkins; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hope; Howard; Hughes; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Miller; Moreno, J.; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Reyna; Riddle; Smith, T.; Smith, W.; Straus; Swinford; Talton; Taylor; Van Arsdale; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C); Bailey; Branch; Guillen; Haggerty; Hunter; Luna; Naishtat; Peña; Puente; Solis; Truitt; Uresti.

Absent, Excused — Smithee; Solomons.

Absent — Chisum; Geren; Giddings; King, T.; Menendez; Seaman; Turner.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 162. I intended to vote yes.

Herrero

I was shown voting no on Record No. 162. I intended to vote yes.

J. Moreno

A record vote was requested.

**CSHB 540**, as amended, was passed to engrossment by (Record 163): 104 Yeas, 22 Nays, 13 Present, not voting.

Yeas — Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dutton; Edwards; Eissler; Elkins; Escobar; Farabee; Flynn; Gallego; Gattis; Giddings; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Luna; Madden; Martinez; McCall; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Reyna; Riddle; Smith, T.; Smith, W.; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vo; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Coleman; Davis, Y.; Dukes; Dunnam; Farrar; Gonzales; Herrero; Leibowitz; Moreno, J.; Noriega, M.; Olivo; Quintanilla; Ritter; Rodriguez; Rose; Solis; Thompson; Veasey.

Present, not voting — Mr. Speaker(C); Castro; Chavez; Cook, R.; Frost; Hodge; Laney; Martinez Fischer; McClendon; Menendez; Merritt; Turner; Uresti.

Absent, Excused — Smithee; Solomons.

Absent — Eiland; Flores; Geren; Hegar; Jones, J.; McReynolds; Raymond; Seaman; Villarreal.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 163. I intended to vote present, not voting.

Guillen

I was shown voting yes on Record No. 163. I intended to vote no.

Martinez

When Record No. 163 was taken, I was in the house but away from my desk. I would have voted yes.

McReynolds

### CSHB 544 ON SECOND READING (by Naishtat and McClendon)

**CSHB 544**, A bill to be entitled An Act relating to the right of certain sexual assault victims to a forensic medical examination.

#### Amendment No. 1

Representative Thompson offered the following amendment to **CSHB 544**:

Amend Section 2 of **CSHB 544** by adding a new Article 56.06(c), Code of Criminal Procedure, on page 5, following line 4, to read as follows and renumbering subsequent subsections:

(c) A health care facility conducting a forensic medical examination shall provide the sexual assault survivor with:

(1) a private area to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer, if available, until a physician, nurse, or physician assistant is able to conduct the forensic medical examination;

(2) access to a sexual assault program advocate as provided by Article 56.045, Code of Criminal Procedure;

(3) a private treatment room, if available, for the forensic medical examination;

(4) appropriate forensic medical examinations and laboratory tests, including the collection of biological specimens and photographs of injuries, necessary to ensure the health, safety, and welfare of the sexual assault survivor, in accordance with evidence collection protocol under Subchapter B, Chapter 420, Government Code;

(5) if indicated by the history of contact, access to appropriate prophylaxis and medication for exposure to sexually transmitted infections and potential pregnancy; and

(6) the name and telephone number of the nearest sexual assault crisis center.



**Amendment No. 1 - Point of Order**

Representative Keel raised a point of order against further consideration of Amendment No. 1 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The speaker sustained the point of order and submitted the following statement:

The subject matter of the amendment, requiring a health care facility providing a forensic medical examination to provide six enumerated services, was on a subject different from the bill under consideration; a bill giving the victim of a sexual assault the right to have a forensic medical examination if the sexual assault is reported to a law enforcement agency within 96 hours of the assault.

The ruling precluded further consideration of Amendment No. 1.

**CSHB 544** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**CSHB 685 ON SECOND READING**

**(by Rose, Berman, Guillen, et al.)**

**CSHB 685**, A bill to be entitled An Act relating to the requirements that apply to certain armed forces personnel who apply to obtain or renew a concealed handgun license.

**CSHB 685** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Burnam recorded voting no.)

**CSHB 937 ON SECOND READING**

**(by Homer)**

**CSHB 937**, A bill to be entitled An Act relating to authorizing a nonresident seller to conduct wine samplings.

**CSHB 937** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 958 ON SECOND READING**

**(by Goolsby, et al.)**

**HB 958**, A bill to be entitled An Act relating to the enforcement of an order prohibiting operation of a motor vehicle on certain toll roads.

Representative Goolsby moved to postpone consideration of **HB 958** until 10 a.m. April 28.

The motion prevailed.

**HB 964 ON SECOND READING****(by Gattis)**

**HB 964**, A bill to be entitled An Act relating to the filing fee for candidates for justice of certain courts of appeals.

**HB 964** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 1066 ON SECOND READING****(by Hegar, Driver, Peña, Homer, Flynn, et al.)**

**HB 1066**, A bill to be entitled An Act relating to the issuance of concealed handgun licenses to residents of other states and to reciprocity agreements with other states concerning concealed handgun licenses.

**HB 1066** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Burnam recorded voting no.)

**CSHB 1326 ON SECOND READING****(by Hope, Solis, et al.)**

**CSHB 1326**, A bill to be entitled An Act relating to community supervision and corrections departments and to the immunity of certain judges for administrative acts in connection with those departments.

**CSHB 1326** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**CSHB 1361 ON SECOND READING****(by Hardcastle, Seaman, and Guillen)**

**CSHB 1361**, A bill to be entitled An Act relating to the development of an animal identification program; providing a criminal penalty.

**CSHB 1361** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 1362 ON SECOND READING****(by Hardcastle, Guillen, et al.)**

**HB 1362**, A bill to be entitled An Act relating to the inspection of livestock at livestock markets.

**HB 1362** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 1363 ON SECOND READING**  
**(by Hardcastle, et al.)**

**HB 1363**, A bill to be entitled An Act relating to certificates of veterinary inspection.

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Anderson, Representative Hardcastle offered the following committee amendment to **HB 1363**:

Amend **HB 1363** as follows:

On page 1, line 9, add a period after the word "fowl" and delete the remainder of the sentence on line 9 and 10.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Hardcastle offered the following amendment to **HB 1363**:

Amend **HB 1363** as follows:

(1) On page 1, line 5, strike "161.061" and substitute "161.0601".

(2) On page 1, line 6, strike "161.061" and substitute "161.0601".

Amendment No. 2 was adopted.

**HB 1363**, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**CSHB 1573 ON SECOND READING**  
**(by Geren)**

**CSHB 1573**, A bill to be entitled An Act relating to the definition of the practice of architecture.

**Amendment No. 1**

Representative Geren offered the following amendment to **CSHB 1573**:

Amend **CSHB 1573** by striking all below the enacting clause and substitute the following:

SECTION 1: Section 1051.001 (7), Occupations Code, is amended to read as follows:

(7) "Practice of architecture" means a service or creative work [~~that involves the application of~~] applying the art and science of developing design concepts, planning for functional relationships and intended uses, and establishing the form, appearance, aesthetics, and construction details for the construction,

enlargement, or alteration of a building or environs intended for human use or occupancy, the proper application of which requires education, training, and experience in those matters. The term includes:

(A) establishing and documenting the form, aesthetics, materials, and construction technology for a building, group of buildings or environs intended to be constructed or altered;

(B) preparing, or supervising and controlling the preparation of, the architectural plans and specifications that include all integrated building systems and construction details, unless otherwise permitted under 1051.606 (a) (4);

(C) observing the construction, modification, or alteration of work to evaluate conformance with architectural plans and specifications described in (B) for any building, group of buildings or environs requiring an architect;

(D) programming for construction projects, including identification of economic, legal, and natural constraints and determination of the scope and spatial relationship of functional elements;

(E) recommending and overseeing appropriate construction project delivery systems;

(F) consulting, investigating, and analyzing the design, form, aesthetics, materials and construction technology used for the construction, enlargement or alteration of a building or environs, and providing expert opinion and testimony as necessary;

(G) research to expand the knowledge base of the profession of architecture, including publishing or presenting findings in professional forums; and

(H) teaching, administering, and developing pedagogical theory in academic settings offering architectural education.

SECTION 2. Section 150.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 150.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Design [~~design~~] professional" means a licensed [~~registered~~] architect or licensed professional engineer.

(2) "Practice of architecture" has the meaning assigned by Section 1051.001, Occupations Code.

SECTION 3. Section 1051.701, Occupations Code is amended to read as follows:

Sec. 1051.701. REGISTRATION REQUIRED. (a) A person may not engage in the practice of architecture, or offer or attempt to engage in the practice of architecture, as defined in 1051.001 (7) (A) (B) or (C) unless the person is registered as an architect under this chapter.

SECTION 4. Section 2 of this Act applies only to a cause of action that accrues on or after the effective date of this Act. An action that accrued before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2005.

**Amendment No. 2**

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

Amend Amendment No. 1 as follows:

(1) Strike SECTION 2 of the bill and substitute the following:

SECTION 2. Chapter 150, Civil Practice and Remedies Code, is amended to read as follows:

CHAPTER 150. DESIGN PROFESSIONALS

Sec. 150.001. DEFINITION. In this chapter:

(1) "Design [~~—~~design] professional" means a [registered] licensed architect, ~~[or] licensed professional engineer, or any firm in which such licensed professional practices including but not limited to a corporation, professional corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, joint venture, or an other business entity.~~

(2) "Practice of architecture" has the meaning assigned by Section 1051.001, Occupations Code.

Sec. 150.002. CERTIFICATE OF MERIT. (a) In any action or arbitration proceeding for damages [alleging professional negligence] arising out of the provision of professional services by a design professional, the plaintiff shall be required to file with the complaint an affidavit of a third-party [registered] licensed architect or licensed professional engineer competent to testify, holding the same professional license as, and practicing in the same area of practice as the defendant, which affidavit shall set forth specifically at least one negligent act, error, or omission claimed to exist and the factual basis for each such claim. The third-party professional engineer or [registered] licensed architect shall be licensed in this state and actively engaged in the practice of architecture or engineering.

(b) The contemporaneous filing requirement of Subsection (a) shall not apply to any case in which the period of limitation will expire within 10 days of the date of filing and, because of such time constraints, the plaintiff has alleged that an affidavit of a third-party [registered] licensed architect or professional engineer could not be prepared. In such cases, the plaintiff shall have 30 days after the filing of the complaint to supplement the pleadings with the affidavit. The trial court may, on motion, after hearing and for good cause, extend such time as it shall determine justice requires.

(c) The defendant shall not be required to file an answer to the complaint and affidavit until 30 days after the filing of such affidavit.

(d) The plaintiff's failure to file the affidavit in accordance with Subsection (a) or (b) [may] shall result in dismissal [with prejudice] of the complaint against the defendant. This dismissal may be with prejudice.

(e) An order granting or denying a motion for dismissal is immediately appealable as an interlocutory order.

(f) [↔] This statute shall not be construed to extend any applicable period of limitation or repose.

(g) This statute does not apply to any suit or action for the payment of fees arising out of the provision of professional services.

Amendment No. 2 was adopted.

### **Amendment No. 3**

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

Amend the Geren amendment to **CSHB 1573** on page 2, line 1, by striking "recommending and overseeing" and substituting "the discretionary recommendation and oversight of".

Amendment No. 3 was adopted.

Amendment No. 1, as amended, was adopted.

**CSHB 1573**, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

### **HB 3486 - PERMISSION TO INTRODUCE**

Representative Hardcastle requested permission to introduce and have placed on first reading **HB 3486**.

Permission to introduce was granted.

### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative J. Keffer requested permission for the Committee on Ways and Means to meet while the house is in session, during bill referral today, in 3W.9, for a formal meeting, to consider **HJR 35**.

Permission to meet was granted.

### **COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Ways and Means, during bill referral today, 3W.9, for a formal meeting, to consider **HJR 35**.

Defense Affairs and State-Federal Relations is cancelled.

Regulated Industries, Subcommittee on Renewable Energy, is cancelled.

Juvenile Justice and Family Issues is cancelled.

Civil Practices will meet as posted.

### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative Hodge requested permission for the Committee on Criminal Jurisprudence, Subcommittee on Enhancements, to meet while the house is in session, during bill referral today, in E2.028, for a public hearing.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Criminal Jurisprudence, Subcommittee on Enhancements, during bill referral today, E2.028, for a public hearing.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Hartnett requested permission for the Committee on Judiciary to meet while the house is in session, during bill referral today, in 3W.9, for a formal meeting, to consider pending bills.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Judiciary, during bill referral today, 3W.9, for a formal meeting, to consider pending bills.

**PROVIDING FOR ADJOURNMENT**

Representative Eiland moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. Tuesday, March 29 in memory of those killed and injured in the BP oil refinery plant explosion today in Texas City.

The motion prevailed.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING  
AND REFERRAL TO COMMITTEES  
RESOLUTIONS REFERRED TO COMMITTEES  
CORRECTIONS IN REFERRAL**

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. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List Nos. 1 and 2.)

(Isett in the chair)

**ADJOURNMENT**

In accordance with a previous motion, the house, at 8:20 p.m., adjourned until 10 a.m. Tuesday, March 29.

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**ADDENDUM**

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**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**

**HB 3359** (By Hunter), Relating to the provision of free prekindergarten for the children of public school educators.

To Public Education.

**HB 3360** (By Hunter), Relating to the registration of certain trailers and semitrailers.

To Transportation.

**HB 3361** (By Hunter), Relating to an exemption from the sales and use tax for certain job creation activities.

To Ways and Means.

**HB 3362** (By Geren), Relating to performance and efficiency reviews of certain governmental entities and programs.

To Government Reform.

**HB 3363** (By Coleman, R. Cook, and et al.), Relating to the financing of state highways and the Trans-Texas Corridor.

To Transportation.

**HB 3364** (By Coleman), Relating to the creation of a Civilian Oversight Commission and local district complaint offices; providing penalties.

To Government Reform.

**HB 3365** (By Solis), Relating to the use of excess proceeds of certificates of obligation.

To Local Government Ways and Means.

**HB 3366** (By Solis), Relating to security fees in certain civil and criminal cases in Cameron County.

To Judiciary.

**HB 3367** (By Solis), Relating to the creation and operation of health services districts.

To County Affairs.

**HB 3368** (By Solis), Relating to establishing a State Emergency Medical Services Commission.

To Public Health.

**HB 3369** (By Solis), Relating to the imposition of a fee for a currency transmission sent to a destination outside the United States.

To Financial Institutions.

**HB 3370** (By Solis), Relating to higher education tuition exemptions for members of certain groups that are underrepresented among the faculty or administration of public junior colleges.

To Higher Education.

**HB 3371** (By Taylor), Relating to investigation of fraudulent claims by certain insurers and by health maintenance organizations.

To Insurance.



**HB 3372** (By Taylor), Relating to the solicitation of personal injury and other tort claims and the reporting of charges and convictions; providing criminal penalties.

To Civil Practices.

**HB 3373** (By Taylor), Relating to insurance fraud reporting requirements.

To Insurance.

**HB 3374** (By Taylor), Relating to the dissolution, suspension, and reactivation of the Texas Health Reinsurance System.

To Insurance.

**HB 3375** (By Taylor), Relating to the prosecution of certain acts that constitute the unauthorized business of insurance.

To Insurance.

**HB 3376** (By Taylor), Relating to criminal offenses involving theft and fraud, to the statutes of limitation for those offenses, and to the effect of the commission of those offenses on certain license holders and applicants.

To Insurance.

**HB 3377** (By Peña), Relating to a kindergarten-plus program for certain children.

To Public Education.

**HB 3378** (By Peña), Relating to damages that may be awarded against an employer who terminates or refuses to reemploy certain employees who are members of the state military forces.

To Defense Affairs and State-Federal Relations.

**HB 3379** (By Peña), Relating to automobile liability insurance coverage for certain persons.

To Insurance.

**HB 3380** (By Bohac), Relating to the laws administered by the Texas Ethics Commission for the fair conduct of elections and election campaigns; providing penalties.

To Elections.

**HB 3381** (By J. Jones), Relating to the creation of a state occupational health and safety plan; establishing a maintenance tax.

To Ways and Means.

**HB 3382** (By Goodman), Relating to an annual adjustment of franchise fees paid to a municipality by certain providers of electricity.

To Regulated Industries.

**HB 3383** (By Rodriguez), Relating to the process for the approval of voting systems.

To Elections.

**HB 3384** (By Chavez), Relating to interlocal cooperation contracts.

To Border and International Affairs.

**HB 3385** (By Pickett), Relating to training requirements for a technician who installs fire alarm systems in homes and businesses in Texas.

To Insurance.

**HB 3386** (By Talton), Relating to the possession or shooting of a handgun on the land of the Lower Colorado River Authority by a person licensed to carry a concealed handgun.

To Culture, Recreation, and Tourism.

**HB 3387** (By Talton), Relating to offenses committed within a school zone.

To Criminal Jurisprudence.

**HB 3388** (By Talton), Relating to court-ordered possession of or access to a child by the child's grandparent, aunt, or uncle.

To Juvenile Justice and Family Issues.

**HB 3389** (By Talton), Relating to the dismissal of the charge in certain misdemeanor traffic cases in which the defendant takes appropriate and timely corrective measures.

To Transportation.

**HB 3390** (By Hamric), Relating to the eligibility of certain community supervision and corrections department employees, retired employees, and dependents of employees and retired employees to participate in the group benefits program for state employees.

To Pensions and Investments.

**HB 3391** (By Miller), Relating to prescription drugs under the Medicaid vendor drug program and other state health and human services programs.

To Public Health.

**HB 3392** (By Villarreal), Relating to parental consent before an abortion may be performed on certain minors; providing penalties.

To State Affairs.

**HB 3393** (By B. Keffer), Relating to contracts and evaluations of and continuing education for public school educators.

To Public Education.

**HB 3394** (By F. Brown), Relating to use of certain video equipment and television receivers.

To Transportation.

**HB 3395** (By Howard), Relating to the planning, construction, and operation of toll road projects by certain counties.

To Transportation.

**HB 3396** (By Gallego), Relating to the use of the substance pancuronium bromide to execute an inmate sentenced to death.

To Criminal Jurisprudence.

**HB 3397** (By Gallego), Relating to the authority of a county to develop a parks and recreation system under the law governing sports and community venue projects.

To County Affairs.

**HB 3398** (By Burnam), Relating to regulation of certain personal lines of insurance.

To Insurance.

**HB 3399** (By R. Allen), Relating to the creation of a sheriff's department civil service system in certain counties.

To County Affairs.

**HB 3400** (By Farrar), Relating to the use of bail bond costs.

To County Affairs.

**HB 3401** (By Farrar), Relating to the bond of a county treasurer.

To County Affairs.

**HB 3402** (By Farrar), Relating to continuing education courses for a county treasurer.

To County Affairs.

**HB 3403** (By Farrar), Relating to requirements for removal of a county treasurer.

To County Affairs.

**HB 3404** (By Farrar), Relating to the regulation of and claims against residential home builders.

To State Affairs.

**HB 3405** (By Rose), Relating to health benefit plan coverage for a hospital stay following mastectomy and certain related procedures.

To Insurance.

**HB 3406** (By Rose), Relating to the collection of sales or use taxes by certain businesses.

To Ways and Means.

**HB 3407** (By Rose), Relating to the prohibition of signs on Farm-to-Market Road 3238.

To Transportation.

**HB 3408** (By Rose), Relating to notice to employees and prospective employees that an employer-sponsored health benefit plan does not provide certain benefits.

To Insurance.

**HB 3409** (By Rose), Relating to the application of the municipal civil service law for firefighters and police officers to certain municipalities.

To Urban Affairs.

**HB 3410** (By Rose), Relating to immunity from liability for certain civil actions and civil actions against sales agents.

To Civil Practices.

**HB 3411** (By Coleman), Relating to mental health services for women with postpartum depression.

To Insurance.

**HB 3412** (By Alonzo), Relating to public use of computers in certain local public libraries.

To Urban Affairs.

**HB 3413** (By Alonzo), Relating to Mexican American studies programs and course work at certain public junior colleges.

To Higher Education.

**HB 3414** (By Keel), Relating to the jurisdiction and operation of the county courts at law in Travis County.

To Judiciary.

**HB 3416** (By Hughes), Relating to the discharge of an alternate juror in a criminal case.

To Criminal Jurisprudence.

**HB 3417** (By Hughes), Relating to financial records and audits of certain charitable nonprofit corporations; providing a penalty.

To Business and Industry.

**HB 3418** (By Gonzalez Toureilles), Relating to audits of providers in the program.

To Public Health.

**HB 3419** (By Hardcastle, Hegar, and Gonzalez Toureilles), Relating to the Trans-Texas Corridor and other transportation projects.

To Transportation.

**HB 3420** (By Gallego), Relating to the powers of a municipal hospital authority.

To Urban Affairs.

**HB 3421** (By Raymond), Relating to the regulation of retail rebates.

To Business and Industry.

**HB 3422** (By Morrison), Relating to container sizes for certain alcoholic beverages.

To Licensing and Administrative Procedures.

**HB 3423** (By Morrison), Relating to the creation, administration, powers, duties, operation, and financing of the Victoria County Groundwater Conservation District.

To Natural Resources.

**HB 3424** (By Morrison), Relating to the regulation of certain promotional activities conducted by alcoholic beverage permit and license holders.

To Licensing and Administrative Procedures.

**HB 3425** (By Geren), Relating to the use of certain exhibition vehicles.

To Transportation.

**HB 3426** (By Chavez), Relating to the establishment of border alcohol abuse task force.

To Border and International Affairs.

**HB 3427** (By Guillen), Relating to importing prescription drugs for use in state-funded programs that provide health care services or benefits.

To Public Health.

**HB 3428** (By Elkins), Relating to financial institution accounts, pledges of accounts, and garnishments.

To Financial Institutions.

**HB 3429** (By Elkins), Relating to protection of lienholders with respect to wage liens.

To Business and Industry.

**HB 3430** (By Thompson), Relating to law enforcement policies on racial profiling in certain counties.

To Criminal Jurisprudence.

**HB 3431** (By Thompson, Menendez, and McClendon), Relating to the exemption from the sales tax for clothing and footwear.

To Ways and Means.

**HB 3432** (By Thompson, Menendez, and McClendon), Relating to exemptions from the sales tax for certain school supplies and instructional materials.

To Ways and Means.

**HB 3433** (By Thompson), Relating to the minimum wage.

To Economic Development.

**HB 3434** (By Hartnett), Relating to decedent's estates.

To Judiciary.

**HB 3435** (By Hartnett), Relating to guardianships.

To Judiciary.

**HB 3436** (By Coleman), Relating to the restoration and expansion of the medical assistance, children's health insurance, and other health and human services programs; making an appropriation.

To Appropriations.

**HB 3437** (By Martinez Fischer), Relating to the oversight of nonprofit corporations.

To Business and Industry.

**HB 3438** (By Homer), Relating to participation in the Dry Cleaning Facility Release Fund.

To Business and Industry.

**HB 3439** (By Herrero), Relating to the enforcement of laws governing emissions and upsets that are administered by the Texas Commission on Environmental Quality, including the imposition and assessment of fees and penalties.

To Environmental Regulation.

**HB 3440** (By Herrero), Relating to the Medicaid Estate Recovery Program (MERP) Claim.

To Human Services.

**HB 3441** (By Herrero), Relating to the assignment of visiting justices of the peace.

To Judiciary.

**HB 3442** (By Herrero), Relating to the prosecution of certain environmental crimes.

To Environmental Regulation.

**HB 3443** (By Herrero), Relating to relief for residential property owners; providing penalties.

To Ways and Means.

**HB 3444** (By Herrero), Relating to overtime compensation earned by certain state employees.

To State Affairs.

**HB 3445** (By Herrero), Relating to a franchise tax credit for wages paid to graduates of certain institutions of higher education.

To Ways and Means.

**HB 3446** (By Herrero), Relating to limits on class size at certain grade levels in public schools.

To Public Education.

**HB 3447** (By Herrero), Relating to a fixed tuition rate provided by general academic teaching institutions to certain undergraduate students.

To Higher Education.

**HB 3448** (By Solis), Relating to the collection of street lighting service fees by a county or by certain public or private entities contracting with a county.

To County Affairs.

**HB 3449** (By Coleman), Relating to the sale of mixed beverages by certain food and beverage establishments.

To Licensing and Administrative Procedures.

**HB 3450** (By Coleman), Relating to the deposit of municipal sales and use taxes into a tax increment fund.

To Local Government Ways and Means.

**HB 3451** (By Coleman), Relating to adoption of rules by the Texas Commission on Environmental Quality relating to effects screening levels.

To Environmental Regulation.

**HB 3452** (By Hochberg), Relating to public education and public school finance matters.

To Public Education.

**HB 3453** (By Martinez Fischer), Relating to the permit applications for municipal housing and other structures.

To Urban Affairs.

**HB 3454** (By Naishtat), Relating to requiring hospitals to report the percentage of emergency room patients who are uninsured to the Department of State Health Services.

To Public Health.

**HB 3455** (By Castro), Relating to swimming pool safety.

To State Affairs.

**HB 3456** (By Deshotel), Relating to creating an office of civil rights at certain state agencies.

To Government Reform.

**HB 3457** (By Baxter), Relating to the appointment of an alternate presiding judge at the central counting station for processing electronic voting system results.

To Elections.

**HB 3458** (By Baxter), Relating to a student victim of assault.

To Public Education.

**HB 3459** (By Baxter), Relating to the repurchase of real property acquired by a governmental entity through eminent domain.

To Land and Resource Management.

**HB 3460** (By Baxter), Relating to the interest rate to be paid on customers' deposits.

To Regulated Industries.

**HB 3461** (By Baxter), Relating to the manner in which a municipality may impose a moratorium on commercial property development.

To Land and Resource Management.

**HB 3462** (By Baxter), Relating to the lease of real property by a candidate for public office from a corporation, association, or labor organization; providing a criminal penalty.

To Elections.

**HB 3463** (By Baxter), Relating to a restriction on the authority of an appraisal review board to retain legal counsel.

To Ways and Means.

**HB 3464** (By Baxter), Relating to federal approval of land for habitat conservation.

To Culture, Recreation, and Tourism.

**HB 3465** (By Baxter), Relating to the liability of certain operators that contract with a metropolitan rapid transit authority.

To Transportation.

**HB 3466** (By Guillen), Relating to home health care and hospice services under the state child health plan.

To Appropriations.

**HB 3467** (By Puente), Relating to certain practices to improve energy conservation in state buildings.

To Government Reform.

**HB 3468** (By Isett), Relating to an intensive English language instruction pilot program.

To Public Education.

**HB 3469** (By Hochberg), Relating to the creation of the Texas Clean School Bus program.

To Environmental Regulation.

**HB 3470** (By Coleman), Relating to the regulation of state subsidies granted for economic development purposes.

To Economic Development.

**HB 3471** (By Gallego), Relating to restrictions on the leasing of and export of groundwater from public school land; imposing a fee.

To Natural Resources.

**HB 3472** (By J. Moreno), Relating to the punishment for the offense of theft committed during a natural disaster.

To Criminal Jurisprudence.

**HB 3473** (By Chavez), Relating to an exemption from the platting requirement in certain counties near an international border.

To Border and International Affairs.

**HB 3474** (By Chavez), Relating to disclosure of home mortgage purchases by certain enterprises; providing an administrative penalty.

To Financial Institutions.

**HB 3475** (By Haggerty), Relating to the statutory probate courts of El Paso County.

To Judiciary.

**HB 3476** (By Olivo), Relating to the creation of the Fort Bend County Municipal Utility District No. 177; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

To Natural Resources.

**HB 3477** (By Hupp), Relating to the creation of the Central Texas Groundwater Conservation District; providing authority to issue bonds; granting the power of eminent domain.

To Natural Resources.



**HB 3478** (By Corte), Relating to the exemption of certain municipalities, utilities, and consumers from fees or taxes imposed by the Trinity Glen Rose Groundwater Conservation District.

To Natural Resources.

**HB 3479** (By Rose), Relating to the South Buda Water Control and Improvement District No. 1.

To Natural Resources.

**HB 3480** (By Hegar, Howard, and Olivo), Relating to the creation of the West Fort Bend Management District; providing authority to impose a tax and issue a bond or similar obligation.

To Urban Affairs.

**HB 3481** (By Hope), Relating to the appointment of magistrates in the district courts and statutory county courts in Montgomery County.

To Judiciary.

**HB 3482** (By Hegar), Relating to the creation of the North Fort Bend Water Authority; providing authority to impose a tax and issue bonds; granting the power of eminent domain; providing an administrative penalty.

To Natural Resources.

**HB 3483** (By Isett), Relating to the designation of a portion of Interstate Highway 27 between Lubbock and Amarillo as the Marshall Formby Memorial Highway.

To Transportation.

**HB 3484** (By Gallego), Relating to the creation, administration, powers, duties, operation, and financing of the Val Verde County Groundwater Conservation District.

To Natural Resources.

**HB 3485** (By Oliveira), Relating to the establishment of criminal law hearing officers in Cameron County.

To Judiciary.

**HCR 90** (By Dutton), In memory of University of Texas law professor Robert O. Dawson.

To Juvenile Justice and Family Issues.

**HCR 91** (By Raymond), Memorializing Congress to maintain its support for the U.S. Department of Education's Upward Bound programs.

To Public Education.

**HCR 93** (By R. Cook), Designating Schulenburg the Official Home of the Painted Churches of Texas.

To Culture, Recreation, and Tourism.

**HCR 94** (By Flores), Approving the use of public funding from general appropriations to complete the construction of a statue, monument, or exhibit on the Capitol grounds honoring contributions of Tejanos.

To House Administration.

**HCR 95** (By Raymond), Requesting the Texas Department of Transportation to revise procedures for local government projects to specify that local governments are not responsible for cost overruns on projects over which they have no supervisory control.

To Transportation.

**HCR 96** (By West), Declaring legislative support for the continued expansion of Texas' energy generation capacity and its leading role in energy generation through the development of liquefied natural gas receiving terminals in the state.

To Energy Resources.

**HCR 97** (By J. Keffer), Granting Eagle Construction & Environmental Services, L.P., permission to sue Harris County, Texas.

To Civil Practices.

**HCR 98** (By Guillen), Designating pan de campo the Official State Bread of Texas.

To Culture, Recreation, and Tourism.

**HCR 99** (By Hughes), Granting certain persons permission to sue the State of Texas, The University of Texas Medical Branch at Galveston, and the Anatomical Board of the State of Texas.

To Civil Practices.

**HCR 100** (By Guillen), Requesting the U.S. secretary of state and the International Boundary and Water Commission to require Mexico to fully repay its Rio Grande/Rio Bravo water debt to the United States.

To Natural Resources.

**HCR 101** (By Veasey), Memorializing the 109th Congress to pass HR 40 establishing a commission to study reparations proposals for African Americans.

To State Affairs.

**HCR 102** (By Menendez), In memory of G. W. Worth, Jr., of San Antonio.

To Rules and Resolutions.

**HCR 103** (By Villarreal), Directing the Texas Health and Human Services Commission to conduct a study to determine the feasibility of adopting match agreements between the commission and local mental health authorities to maximize the state's contributions for federal matching funds to provide mental health community services under the Children's Health Insurance Program.

To Public Health.

**HR 733** (By Denny), In memory of Curtis Lynn Raburn of Denton.

To Rules and Resolutions.

**HR 737** (By Berman), Remembering Captain Jack Golden on the 60th anniversary of his death.

To Rules and Resolutions.

**HR 738** (By Hughes), Honoring State Representative Dan Flynn on being named the Van Zandt County Citizen of the Year and commending him for his exemplary service to his community and state.

To Rules and Resolutions.

**HR 739** (By P. King), Honoring Edgbert Hudson of Bridgeport for his courage as a prisoner of war during World War II.

To Rules and Resolutions.

**HR 740** (By Berman), In memory of Mark Alan Wilson of Tyler.

To Rules and Resolutions.

**HR 742** (By Veasey, et al.), In memory of Dr. Donald Arthur Brooks of Fort Worth.

To Rules and Resolutions.

**HR 743** (By McClendon), Honoring Ester Mae Bennett of San Antonio on her 90th birthday.

To Rules and Resolutions.

**HR 744** (By McClendon), Commending University of Texas student Candice Johnson on her many outstanding academic and extracurricular achievements.

To Rules and Resolutions.

**HR 747** (By Kolkhorst), Honoring Hester Smith Lockett of Brenham on her 100th birthday.

To Rules and Resolutions.

**HR 748** (By Dutton), Recognizing April 14, 2005, as James Avery Day at the State Capitol.

To Rules and Resolutions.

**HR 750** (By Baxter), Honoring Dr. Gerald Mann on his retirement as senior pastor of Riverbend Church in Austin.

To Rules and Resolutions.

**HR 751** (By Baxter), Honoring Westlake High School's AP Physics program.

To Rules and Resolutions.

**HR 752** (By B. Cook), Recognizing April as Parkinson's Disease Awareness Month in Texas.

To Rules and Resolutions.

**HR 756** (By Farabee), Congratulating Hirschi Math Science IB Magnet High School in Wichita Falls for receiving the national Magnet School of Excellence Award.

To Rules and Resolutions.

**HR 757** (By Farabee), Honoring the Wichita Falls Rotary Club for its contributions to the Children of the Dump project.

To Rules and Resolutions.

**HR 758** (By Hopson), In memory of Marion Jackson "Jack" Maxwell of Tyler.

To Rules and Resolutions.

**HR 763** (By Geren), In memory of Dwaine A. Johnson of Fort Worth.

To Rules and Resolutions.

**HR 764** (By Orr), Honoring Gene Harris on his company's receipt of the Burleson Area Chamber of Commerce Business Dynamic Award and on his contributions to his community.

To Rules and Resolutions.

**HR 767** (By Solis), Congratulating the Lopez High School Band in Brownsville on being invited to perform for the 2005 Administrators' Midwinter Conference on Education.

To Rules and Resolutions.

**HR 768** (By Solis), Honoring Benito Ochoa, Jr., and Maria de Rosario Ochoa of Port Isabel on their 55th anniversary.

To Rules and Resolutions.

**HR 769** (By Dukes), Honoring Suellen Mills of Austin for her 30 years of service with Meals on Wheels and More.

To Rules and Resolutions.

**HR 771** (By Gallego), Honoring Pastor Edward Goodman Eskew on his 79th birthday and for his contributions to his community.

To Rules and Resolutions.

**HR 773** (By Anchia), Honoring Thabiti Olatunji for his service to the North Park community.

To Rules and Resolutions.

**HR 774** (By Anchia), Honoring Mary Lou Montes Zijderveld for her exemplary contributions to the Dallas community.

To Rules and Resolutions.

**HR 775** (By Anchia), Honoring Gary Turner of Dallas on his contributions to his community.

To Rules and Resolutions.

**HR 776** (By Otto), Congratulating the Winnsboro High School Lady Indians basketball team on winning the 3A Texas Championship Silver Medal.

To Rules and Resolutions.

**HR 777** (By Otto), Congratulating Richard and Alice Dziubaneck of Livingston on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 778** (By Anchia), In memory of the Honorable Horacio Sabas Ramirez of Hebronville.

To Rules and Resolutions.

**HR 779** (By Zedler), Honoring John Washington on his retirement as a Mansfield school trustee.

To Rules and Resolutions.

**HR 780** (By Dawson), Congratulating the Palacios Community Medical Center on its receipt of the Business of the Year Award for 2004 from the Palacios Chamber of Commerce.

To Rules and Resolutions.

**HR 781** (By Dawson), Honoring Matagorda County Judge Greg Westmoreland on being elected chair of the Houston-Galveston Area Council for 2005-2006.

To Rules and Resolutions.

**HR 782** (By Dawson), Congratulating Kathy Nichols of Palacios on being named the 2004 Woman of the Year by the Palacios Chamber of Commerce.

To Rules and Resolutions.

**HR 783** (By Dawson), Honoring Craig A. Wallis on being named the 2004 Man of the Year by the Palacios Chamber of Commerce.

To Rules and Resolutions.

**HR 784** (By Wong), In memory of Whitt Franklin Johnson of West University Place.

To Rules and Resolutions.

**HR 785** (By Wong), Congratulating St. Thomas' Episcopal School in Houston on its 50th anniversary.

To Rules and Resolutions.

**HR 786** (By Wong), Honoring Dr. Bill S. Chen of Houston for his success in business on the 15th anniversary of New Era Life Insurance Companies and commending him for his myriad efforts in behalf of his fellow Texans.

To Rules and Resolutions.

**HR 787** (By Wong), Congratulating Harry Gee, Jr., of Houston on his receipt of the Houston Bar Association Auxiliary 18th Annual Leon Jaworski Award.

To Rules and Resolutions.

**HR 788** (By Hardcastle), Honoring the Graham Rotary Club on the occasion of the 100th anniversary of Rotary International.

To Rules and Resolutions.

**HR 789** (By Hardcastle), In memory of former National Rifle Association vice president and Firearms Coalition founder Neal Knox of Manassas, Virginia.

To Rules and Resolutions.

**HR 792** (By Martinez Fischer), Congratulating J. Rolando Bono of San Antonio on becoming interim city manager.

To Rules and Resolutions.

**HR 795** (By Rose and Gonzales), In memory of Luciano Flores of San Marcos.

To Rules and Resolutions.

**HR 800** (By Gonzales), In memory of James Cole Abbott of McAllen.

To Rules and Resolutions.

**HR 801** (By Gonzales), Honoring Jacqueline Padron on being named the Youth of the Year by the Boys & Girls Clubs of Edinburg.

To Rules and Resolutions.

**HR 802** (By Gonzales), Honoring Glen Edward Roney of McAllen for his contributions to the Boys & Girls Club.

To Rules and Resolutions.

**HR 803** (By Gonzales), Honoring Rita Kathryn Roney of McAllen for her contributions to the Boys & Girls Club.

To Rules and Resolutions.

**HR 804** (By Phillips), Honoring the 50th anniversary of the Sam Rayburn Library and Museum in Bonham on December 9, 2005.

To Rules and Resolutions.

**HR 805** (By Phillips), In memory of Richard Monroe Pruett of Sherman.

To Rules and Resolutions.

**HR 807** (By W. Smith), In memory of Thurman F. Watson of Baytown.

To Rules and Resolutions.

**HR 809** (By Chavez), Honoring the life of Cesar Chavez and recognizing March 31 to April 23, 2005, as Cesar Chavez Farmworker Appreciation Month.

To Rules and Resolutions.

**HR 810** (By Chavez), Honoring the El Paso Sun Bowl Association for its contributions to the sport of football and to El Paso and the surrounding region.

To Rules and Resolutions.

**HR 811** (By Chavez), Commending the Ysleta Independent School District in El Paso for its outstanding educational achievements.

To Rules and Resolutions.

**HR 812** (By Chavez), Honoring Lupe Casillas-Lowenberg of El Paso for her artistic accomplishments and contributions to the city.

To Rules and Resolutions.

**HR 813** (By Wong), Honoring David Gockley for his tenure with the Houston Grand Opera.

To Rules and Resolutions.

**HR 814** (By Crownover), Congratulating the members of Brave Combo on receipt of their second Grammy Award.

To Rules and Resolutions.

**HR 817** (By Hill), Honoring the McDermott Scholars on the occasion of their visit to the State Capitol.

To Rules and Resolutions.

**HR 818** (By Madden), Congratulating Brian and Jennifer Green of Richardson on the birth of their son, Tyson Vaughan Green.

To Rules and Resolutions.

**HR 819** (By Taylor), Honoring the Friendswood High School girls basketball team and its source of inspiration, Neal McClaugherty, on another successful season.

To Rules and Resolutions.

**HR 820** (By Hill), Congratulating Dr. Stephen K. Mittelstet of Dallas on 25 years as president of Richland College.

To Rules and Resolutions.

**HR 821** (By Rose), In memory of Lenora Dorsett.

To Rules and Resolutions.

**HR 822** (By Bailey), In memory of Sam Polk, Jr., of San Antonio.

To Rules and Resolutions.

**HR 824** (By Leibowitz), Congratulating the William H. Taft High School Lady Raiders basketball team of San Antonio for reaching the semifinals of the 2005 UIL state championships.

To Rules and Resolutions.

**HR 825** (By Chavez), Congratulating Suzie Azar on her induction into the El Paso Commission for Women Hall of Fame.

To Rules and Resolutions.

**HR 826** (By Chavez), Congratulating Patricia D. Quinn on her induction into the El Paso Commission for Women Hall of Fame.

To Rules and Resolutions.

**HR 827** (By Chavez), Congratulating Lillian Williams Crouch on her induction into the El Paso Commission for Women Hall of Fame.

To Rules and Resolutions.

**HR 828** (By Chavez), Congratulating the Reverend Felicia P. Hopkins on her induction into the El Paso Commission for Women Hall of Fame.

To Rules and Resolutions.

**HR 829** (By Chavez), Congratulating Becky Duval Reese on her induction into the El Paso Commission for Women Hall of Fame.

To Rules and Resolutions.

**HR 830** (By Hodge), In memory of John Anthony Allegro of Dallas.

To Rules and Resolutions.

**HR 831** (By McClendon), Welcoming the alumni reunion of Central High School in Parkin, Arkansas, to San Antonio.

To Rules and Resolutions.

**HR 832** (By Swinford), Honoring the North Plains Groundwater Conservation District on the occasion of its 50th anniversary.

To Rules and Resolutions.

**HR 833** (By Zedler), Congratulating Timothy Daniel Jackson on becoming an Eagle Scout.

To Rules and Resolutions.

**HR 835** (By Eiland), Recognizing March 31, 2005, as Jack A. Johnson Day.

To Rules and Resolutions.

**HR 838** (By Craddick), Congratulating Clevy and Leona Hancock of Midland on their 67th wedding anniversary.

To Rules and Resolutions.

**HR 839** (By Craddick), Congratulating Jack and Yvonne Scarbrough of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 840** (By Craddick), Honoring Merejildo and Felipa Heredia of Midland on their 70th wedding anniversary.

To Rules and Resolutions.

**HR 841** (By Craddick), Honoring Cecil and Dorothy Sain on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 842** (By Craddick), Honoring Dakota Newman of Stanton on earning Junior Market Grand Champion honors at the Houston Livestock Show and Rodeo.

To Rules and Resolutions.

**HR 843** (By Craddick), Congratulating Myra Brown Robinson of Big Spring on her induction into the Petroleum Hall of Fame.

To Rules and Resolutions.

**HR 844** (By Craddick), Honoring C. Fred Chambers and William Duncan Kennedy on their posthumous induction into the Petroleum Hall of Fame.

To Rules and Resolutions.

**HR 845** (By Craddick), Congratulating Clayton W. Williams, Jr., of Midland on his induction into the Petroleum Hall of Fame.

To Rules and Resolutions.

**HR 846** (By Craddick), Honoring the team of Harvey Yates, Martin Yates III, Saint Clair Peyton Yates, and John Yates on its induction into the Petroleum Hall of Fame.

To Rules and Resolutions.

**HR 848** (By B. Cook), Honoring Teague Municipal Airport for receiving the 2005 Most Improved Airport award from the Texas Department of Transportation.

To Rules and Resolutions.



**HR 849** (By B. Cook), Congratulating native Texan Billy Yates of the New England Patriots on his notable athletic achievements.

To Rules and Resolutions.

**HR 850** (By Chavez), In memory of Gary Del Palacio of El Paso.

To Rules and Resolutions.

**HR 852** (By Raymond), Honoring Brizuela Leather Goods & Shoe Repair and Brizuela's Shoe & Boot Repair for their longstanding service to the people of Laredo and commending Eduardo Brizuela and his family for their achievements in business.

To Rules and Resolutions.

**HR 853** (By Raymond), Honoring Daniel Lopez for his contributions to the Laredo business community.

To Rules and Resolutions.

**HR 854** (By Raymond), In memory of U.S. Marine Lance Corporal Adolfo Lopez of Laredo.

To Rules and Resolutions.

**HR 856** (By Naishtat), Honoring Faye C. Smith of Austin on her centennial.

To Rules and Resolutions.

**HR 857** (By Naishtat), In memory of Maurice Miller of Austin.

To Rules and Resolutions.

**HR 858** (By Otto), Congratulating the Cleveland High School Lady Indians basketball team for winning second place in the 2005 UIL state championship.

To Rules and Resolutions.

**HR 859** (By Otto), Honoring Meta Garvey Thomas of Cleveland, Texas, for her decades of service to the Cleveland Independent School District.

To Rules and Resolutions.

## **List No. 2**

**SB 1** to Appropriations.

**SB 44** to Public Health.

**SB 48** to Human Services.

**SB 75** to Defense Affairs and State-Federal Relations.

**SB 88** to Insurance.

**SB 89** to Transportation.

**SB 111** to Higher Education.

**SB 124** to Public Education.

**SB 143** to Defense Affairs and State-Federal Relations.

**SB 144** to Defense Affairs and State-Federal Relations.

**SB 174** to Local Government Ways and Means.

**SB 177** to Land and Resource Management.

- SB 182** to Transportation.
- SB 196** to Public Health.
- SB 200** to Land and Resource Management.
- SB 212** to Defense Affairs and State-Federal Relations.
- SB 213** to State Affairs.
- SB 217** to Transportation.
- SB 224** to Land and Resource Management.
- SB 234** to Judiciary.
- SB 235** to Judiciary.
- SB 239** to Public Health.
- SB 252** to Defense Affairs and State-Federal Relations.
- SB 256** to Public Education.
- SB 262** to Pensions and Investments.
- SB 264** to County Affairs.
- SB 267** to County Affairs.
- SB 269** to Licensing and Administrative Procedures.
- SB 270** to County Affairs.
- SB 280** to Transportation.
- SB 296** to Higher Education.
- SB 299** to State Affairs.
- SB 316** to Public Health.
- SB 321** to Judiciary.
- SB 334** to Civil Practices.
- SB 335** to Business and Industry.
- SB 342** to County Affairs.
- SB 350** to Public Health.
- SB 376** to Public Health.
- SB 450** to State Affairs.
- SB 466** to Urban Affairs.
- SB 571** to Licensing and Administrative Procedures.
- SB 610** to Public Health.
- SB 692** to Ways and Means.
- SCR 6** to Energy Resources.
- SCR 12** to Culture, Recreation, and Tourism.

**SCR 22** to Culture, Recreation, and Tourism.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

**HB 661** (By Branch, Flynn, Bonnen, Kolkhorst, Rodriguez, et al.), Relating to allowing designated public school libraries to participate in group purchasing agreements with the TexShare Library Consortium.

To Public Education.

**HB 1222** (By Puente), Relating to the fee a county tax assessor-collector may charge for assessing and collecting ad valorem taxes for certain river authorities.

To Natural Resources.

**HB 1590** (By Driver), Relating to prohibiting over-the-counter sales of certain forms of pseudoephedrine; providing administrative penalties.

To Law Enforcement.

**HB 2316** (By Miller), Relating to member restrictions for commissioners of the Texas Workforce Commission.

To Economic Development.

**HB 2328** (By Villarreal), Relating to a limitation on the amount of ad valorem taxes that may be imposed on the residence homesteads of certain elderly individuals by a county.

To Ways and Means.

**HB 2854** (By Uresti, Solis, Miller, and Callegari), Relating to the creation of an office of inspector general at certain state agencies.

To Government Reform.

**HB 2928** (By Kolkhorst), Relating to projects that may be undertaken by or supported by the tax proceeds of certain development corporations.

To Economic Development.

**HB 3224** (By Riddle, M. Noriega, Escobar, Berman, Uresti, et al.), Relating to the creation of the Texas service members memorial fund and the use of other sources of money to provide benefits to survivors of certain members of the United States armed forces.

To Defense Affairs and State-Federal Relations.

### MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

#### Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, March 23, 2005

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:

**HCR 119** Hughes SPONSOR: Eltife  
Recognizing March 23, 2005, as Marshall Day at the State Capitol.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Wednesday, March 23, 2005 - 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 1** Ogden  
General Appropriations Bill.

**SB 241** Wentworth  
Relating to the creation of an appellate judicial system for the Third Court of Appeals District.

**SB 541** Seliger  
Relating to the confidentiality of information regarding certain residential property held by an appraisal district.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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## APPENDIX

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### STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

**March 22**

Business and Industry - **HB 1130**

Economic Development - **HB 900, HB 918**

Judiciary - **HB 1470, HB 1501**

Licensing and Administrative Procedures - **HB 207**

Public Health - **HB 1025**

Ways and Means - **HJR 50**

**ENGROSSED**

**March 22 - HB 68, HB 225, HB 268, HB 282, HB 404, HB 423, HB 840, HB 1077, HB 1286**

**SENT TO THE GOVERNOR**

**March 22 - HCR 86, HCR 109**

