

HOUSE JOURNAL

EIGHTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTIETH DAY — MONDAY, MAY 7, 2007

The house met at 10 a.m. and, at the request of the speaker, was called to order by Representative Anderson.

The roll of the house was called and a quorum was announced present (Record 993).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent, Excused — Moreno; Mowery.

Absent — Chavez; Corte; Olivo; Puente.

The invocation was offered by Cliff Stewart, senior pastor, First Central Presbyterian Church, Abilene.

The chair recognized Representative S. King who led the house in the pledges of allegiance to the United States and Texas flags.

CAPITOL PHYSICIAN

The chair recognized Representative Hartnett who presented Dr. Dale Ragle of Dallas as the "Doctor for the Day."

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

MESSAGE FROM THE SENATE

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

LEAVES OF ABSENCE GRANTED

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

Mowery on motion of J. Davis.

The following member was granted leave of absence for today and the remainder of the week because of illness:

Moreno on motion of Escobar.

(Aycock in the chair)

**HR 1516 - ADOPTED
(by Strama)**

Representative Strama moved to suspend all necessary rules to take up and consider at this time **HR 1516**.

The motion prevailed.

The following resolution was laid before the house:

HR 1516, Honoring Larry D. Bradley of Pflugerville ISD on his election as president of the National Association of Secondary School Principals.

HR 1516 was read and was adopted.

On motion of Representative Noriega, the names of all the members of the house were added to **HR 1516** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Strama who introduced Larry D. Bradley and members of his family.

**HCR 226 - READ
(by Merritt, Berman, and Flynn)**

The chair laid out and had read the following previously adopted resolution:

HCR 226, In memory of Constable Dale David Geddie of Winona.

HCR 226 - MOTION TO ADD NAMES

On motion of Representative Berman, the names of all the members of the house were added to **HCR 226** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Merritt who introduced family members of Dale David Geddie.

(Corte now present)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of illness:

Chavez on motion of Corte.

HR 1481 - ADOPTED
(by Van Arsdale)

Representative Van Arsdale moved to suspend all necessary rules to take up and consider at this time **HR 1481**.

The motion prevailed.

The following resolution was laid before the house:

HR 1481, Honoring Northwest EMS of Harris County Emergency Services District 8 for 26 years of exemplary service.

(Hamilton in the chair)

HR 1481 was read and was adopted.

(Puente now present)

HB 2299 - RECOMMITTED

Representative Puente moved to recommit **HB 2299** to the Committee on Natural Resources.

The motion prevailed.

(Speaker in the chair)

HCR 213 - ADOPTED
(by J. Davis and Hilderbran)

Representative J. Davis moved to suspend all necessary rules to take up and consider at this time **HCR 213**.

The motion prevailed.

The following resolution was laid before the house:

HCR 213, Honoring 104-year-old Myrtle Perry McDaniel of Menard.

HCR 213 was read and was adopted.

On motion of Representative Hilderbran, the names of all the members of the house were added to **HCR 213** as signers thereof.

(Olivo now present)

INTRODUCTION OF GUEST

The speaker recognized Representative J. Davis who introduced Myrtle Perry McDaniel and members of her family. Ms. McDaniel briefly addressed the house.

(Taylor in the chair)

HR 1533 - READ
(by Phillips)

The chair laid out and had read the following previously adopted resolution:

HR 1533, In memory of Fannin County Sheriff's Office Deputy Rahamy Mitchell of Bonham.

HR 1533 - MOTION TO ADD NAMES

On motion of Representative Woolley, the names of all the members of the house were added to **HR 1533** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Phillips who introduced family members of Deputy Rahamy Mitchell and officers from Fannin County.

BILLS RECOMMITTED

Representative Keffer moved to recommit **SB 242** to the Committee on Ways and Means.

The motion prevailed.

Representative Delisi moved to recommit **SB 143**, **SB 156**, **SB 811**, and **SB 943** to the Committee on Public Health.

The motion prevailed.

Representative Hilderbran moved to recommit **SB 1659** to the Committee on Culture, Recreation, and Tourism.

The motion prevailed.

HB 1344 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

Representative Villarreal called up with senate amendments for consideration at this time,

HB 1344, A bill to be entitled An Act relating to the regulation of refund anticipation loans; providing an administrative penalty.

Representative Villarreal moved to concur in the senate amendments to **HB 1344**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 994): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock;

Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Creighton; Howard, C.; Pierson.

Senate Committee Substitute

CSHB 1344, A bill to be entitled An Act relating to the regulation of refund anticipation loans; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 4, Finance Code, is amended by adding Chapter 351 to read as follows:

CHAPTER 351. TAX REFUND ANTICIPATION LOANS

Sec. 351.001. DEFINITIONS. In this chapter:

(1) "Borrower" means an individual who receives the proceeds of a refund anticipation loan.

(2) "Facilitator" means a person who processes, receives, or accepts for delivery an application for a refund anticipation loan, delivers a check in payment of refund anticipation loan proceeds, or in any other manner acts to allow the making of a refund anticipation loan.

(3) "Lender" means a person who extends credit to a borrower in the form of a refund anticipation loan.

(4) "Refund anticipation loan" means a loan borrowed by a taxpayer based on the taxpayer's anticipated federal income tax refund.

(5) "Refund anticipation loan fee" means a fee imposed or other consideration required by the facilitator or the lender for a refund anticipation loan. The term does not include a fee usually imposed or other consideration usually required by the facilitator in the ordinary course of business for services not related to the making of loans, including a fee imposed for tax return preparation or for the electronic filing of a tax return.

Sec. 351.002. RESTRICTION ON ACTING AS FACILITATOR. (a) A person may not, individually or in conjunction or cooperation with another person, act as a facilitator unless the person is:

(1) engaged in the business of preparing tax returns, or employed by a person engaged in the business of preparing tax returns;

(2) primarily involved in financial services or tax preparations;

(3) authorized by the Internal Revenue Service as an e-file provider;
and
(4) registered with the commissioner as a facilitator under Section 351.003.

(b) This section does not apply to:

(1) a bank, thrift, savings association, industrial bank, or credit union operating under the laws of the United States or this state;

(2) an affiliate that is a servicer of a person described by Subdivision (1) operating under the name of that person; or

(3) any person who acts solely as an intermediary and does not interact directly with a taxpayer in the making of the refund anticipation loan.

Sec. 351.003. REGISTRATION OF FACILITATORS. (a) To register as a facilitator, a person must provide to the commissioner, on or before December 31 preceding each calendar year in which the person seeks to act as a facilitator:

(1) a list of each location in this state at which e-file providers authorized by the Internal Revenue Service file tax returns on behalf of borrowers for whom the facilitator acts to allow the making of a refund anticipation loan; and

(2) a processing fee for each location included on the list furnished under Subdivision (1).

(b) The commissioner shall prescribe the processing fee in an amount necessary to cover the costs of administering this section.

(c) After the December 31 deadline, a facilitator may amend the registration required under Subsection (a) to reflect any change in the information provided by the registration.

(d) The commissioner shall make available to the public a list of facilitators registered under this section.

(e) The commissioner may prescribe the registration form.

Sec. 351.004. DISCLOSURE REQUIREMENTS. (a) A facilitator to which Section 351.002 applies shall discuss with and clearly disclose to a borrower, after the borrower's tax return has been prepared and before the loan is closed:

(1) the refund anticipation loan fee schedule;

(2) a written statement disclosing:

(A) that a refund anticipation loan is a loan and is not the borrower's actual income tax refund;

(B) that the taxpayer may file an income tax return electronically without applying for a refund anticipation loan;

(C) that the borrower is responsible for repayment of the loan and related fees if the tax refund is not paid or is insufficient to repay the loan;

(D) any fee that will be charged if the loan is not approved;

(E) the average time, as published by the Internal Revenue Service, within which a taxpayer can expect to receive a refund for an income tax return filed:

(i) electronically, and the refund is:

(a) deposited directly into the taxpayer's bank account; or

(b) mailed to the taxpayer; and

(ii) by mail, and the refund is:
(a) deposited directly into the taxpayer's financial institution account; or
(b) mailed to the taxpayer;
(F) that the Internal Revenue Service does not guarantee:
(i) payment of the full amount of the anticipated refund; or
(ii) a specific date on which it will mail a refund or deposit the refund into a taxpayer's financial institution account; and
(G) the estimated time within which the proceeds of the refund anticipation loan will be paid to the borrower if the loan is approved; and
(3) the following information, specific to the borrower:
(A) the estimated total fees for the loan; and
(B) the estimated annual percentage rate for the loan, calculated using the guidelines established under the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

(b) A refund anticipation loan fee schedule required by Subsection (a)(1) must be a listing or table of refund anticipation loan fees charged by the lender for refund anticipation loan amounts. The schedule shall:

(1) list separately each fee imposed related to the making of a refund anticipation loan;

(2) list the total amount of fees imposed related to the making of a refund anticipation loan; and

(3) include, for each stated loan amount, the estimated annual percentage rate for the loan, calculated using the guidelines established under the Truth in Lending Act (15 U.S.C. Section 1601 et seq.).

(c) A facilitator who advertises or markets refund anticipation loans in Spanish shall offer any borrower the option of receiving a Spanish-language printed disclosure and loan contract. A facilitator who negotiates a loan with a borrower in Spanish shall offer that borrower the option of receiving a Spanish-language printed disclosure and loan contract.

Sec. 351.005. INVESTIGATION BY COMMISSIONER. The commissioner shall:

(1) monitor the operations of a facilitator to ensure compliance with this chapter; and

(2) receive and investigate complaints against a facilitator or a person acting as a facilitator.

Sec. 351.006. REVOCATION OF REGISTRATION. (a) The commissioner may revoke the registration of a facilitator if the commissioner concludes that the facilitator has violated this chapter. The commissioner shall recite the basis of the decision in an order revoking the registration.

(b) If the commissioner proposes to revoke a registration, the facilitator is entitled to a hearing before the commissioner or a hearings officer, who shall propose a decision to the commissioner. The commissioner or hearings officer shall prescribe the time and place of the hearing. The hearing is governed by Chapter 2001, Government Code.

(c) A facilitator aggrieved by a ruling, order, or decision of the commissioner is entitled to appeal to a district court in the county in which the hearing was held. An appeal under this subsection is governed by Chapter 2001, Government Code.

Sec. 351.007. ADMINISTRATIVE PENALTY. The commissioner may assess an administrative penalty of \$500 against a person for each knowing and wilful violation of this chapter.

Sec. 351.008. PREEMPTION OF LOCAL ORDINANCE. This chapter preempts a local ordinance or rule regulating refund anticipation loans.

SECTION 2. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) The requirement under Section 351.002(a), Finance Code, as added by this Act, that a person who facilitates refund anticipation loans be registered under Section 351.003, Finance Code, as added by this Act, takes effect January 1, 2008.

HB 823 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Ritter called up with senate amendments for consideration at this time,

HB 823, A bill to be entitled An Act relating to the liability of certain licensed or registered professionals for damages arising from certain services provided during an emergency.

Representative Ritter moved to concur in the senate amendments to **HB 823**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 995): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Castro; Hernandez.

STATEMENT OF VOTE

When Record No. 995 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

Senate Committee Substitute

CSHB 823, A bill to be entitled An Act relating to the liability of certain licensed or registered professionals for damages arising from certain services provided during an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 150, Civil Practice and Remedies Code, is amended by adding Section 150.003 to read as follows:

Sec. 150.003. LIABILITY FOR SERVICES RENDERED DURING DISASTER. (a) This section applies only to a licensed or registered professional who provides architectural or engineering services if the services:

(1) are authorized, as appropriate for the professional, in:

(A) Chapter 1001, Occupations Code;

(B) Chapter 1051, Occupations Code;

(C) 22 T.A.C., Part 6 (Texas Board of Professional Engineers), Chapter 137 (Compliance and Professionalism); and

(D) 22 T.A.C., Part 1 (Texas Board of Architectural Examiners), Chapter 1 (Architects), Subchapter H (Professional Conduct);

(2) subject to Subsection (d), are provided voluntarily and without compensation or the expectation of compensation;

(3) are in response to and provided during the duration of a proclaimed state of emergency under Section 433.001, Government Code, or a declared state of disaster under Section 418.014, Government Code;

(4) are provided at the request or with the approval of a federal, state, or local public official acting in an official capacity in response to the proclaimed state of emergency or declared disaster, including a law enforcement official, public safety official, or building inspection official; and

(5) are related to a structure, building, roadway, piping, or other system, either publicly or privately owned.

(b) A licensed or registered professional who provides the services to which this section applies is not liable for civil damages, including personal injury, wrongful death, property damage, or other loss related to the professional's act, error, or omission in the performance of the services, unless the act, error, or omission constitutes:

(1) gross negligence; or

(2) wanton, wilful, or intentional misconduct.

(c) This section does not apply to a licensed or registered professional who is at the scene of the emergency to solicit business or perform a service for compensation on behalf of the professional or a person for whom the professional is an agent.

(d) The entitlement of a licensed or registered professional to receive compensation for services to which this section applies does not determine whether the services provided by the professional were provided voluntarily and without compensation or the expectation of compensation.

SECTION 2. This Act applies only to a cause of action that occurred on or after the effective date of this Act. An action that occurred 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 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

HB 85 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Branch called up with senate amendments for consideration at this time,

HB 85, A bill to be entitled An Act relating to credit card marketing activities at postsecondary educational institutions; providing a civil penalty.

Representative Branch moved to concur in the senate amendments to **HB 85**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 996): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett;

Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Castro.

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

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Eiland; Madden; Pierson; Smith, T.

STATEMENT OF VOTE

I was shown voting yes on Record No. 996. I intended to vote no.

Rodriguez

Senate Committee Substitute

CSHB 85, A bill to be entitled An Act relating to credit card marketing activities at postsecondary educational institutions; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 35, Business & Commerce Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. CREDIT CARD MARKETING AT POSTSECONDARY EDUCATIONAL INSTITUTIONS

Sec. 35.131. DEFINITIONS. In this subchapter:

(1) "Campus credit card marketing activity":

(A) means any activity:

(i) conducted by an agent or employee of a credit card issuer on the campus of a postsecondary educational institution; and

(ii) designed to encourage and enable students to apply for a credit card; and

(B) includes the act of placing on the campus a display or poster together with a form that can be returned to the credit card issuer as a credit card application, even if an employee or agent of the credit card issuer is not present at the display.

(2) "Credit card" means a card or device issued under an agreement by which the issuer gives to a cardholder the right to obtain credit from the issuer or another person.

(3) "Credit card issuer" means a lender, including a financial institution, or a merchant that receives applications and issues credit cards to individuals.

(4) "Governing board" means the body charged with policy direction of any postsecondary educational institution, including a board of directors, a board of regents, a board of trustees, and an independent school district board that is charged with policy direction of a public junior college.

(5) "Postsecondary educational institution" means:

(A) an institution of higher education as defined by Section 61.003, Education Code;

(B) a private or independent institution of higher education as defined by Section 61.003, Education Code; or

(C) a private postsecondary educational institution as defined by Section 61.302, Education Code.

Sec. 35.132. CAMPUS CREDIT CARD MARKETING ACTIVITY OUTSIDE DESIGNATED LOCATION OR TIME PROHIBITED. (a) A credit card issuer may not engage in campus credit card marketing activities:

(1) outside of a campus location designated by the governing board of the postsecondary educational institution for that purpose in accordance with Subsection (b); or

(2) at a time other than a time designated by the governing board in accordance with Subsection (b).

(b) The governing board of a postsecondary educational institution may designate:

(1) one or more locations on campus where a credit card issuer may engage in campus credit card marketing activities; and

(2) one or more times during which a credit card issuer may engage in campus credit card marketing activities.

Sec. 35.133. CREDIT CARD ISSUER TO DEVELOP FINANCIAL EDUCATIONAL MATERIAL. A credit card issuer who conducts campus credit card marketing activities shall develop financial educational material in consultation with or subject to approval by the postsecondary educational institution. The financial educational material must include a clear and practical explanation of:

(1) effective money management skills, including how to develop and maintain a budget;

(2) key financial terms and phrases related to credit cards and personal debt management;

(3) credit educational materials and programs offered by the credit card issuer that are available to student cardholders after they have opened an account;

(4) resources to assist students in understanding credit reports and credit scores and the consequences of irresponsible credit card use; and

(5) the importance of responsible credit practices, including timely paying the minimum amount due each month and reducing costs by paying as much of the balance as possible.

Sec. 35.134. CREDIT CARD ISSUER TO PROVIDE FINANCIAL EDUCATIONAL MATERIAL. A credit card issuer that conducts campus credit card marketing activities shall:

(1) during the time that the credit card issuer conducts the credit card marketing activity on the campus, make available to students, on the campus, financial educational material developed under Section 35.133;

(2) make financial educational material similar to material developed under Section 35.133 available on the Internet; and

(3) provide to a student to whom a credit card is issued, at the time the credit card is provided to the student, financial educational material developed under Section 35.133.

Sec. 35.135. RESTRICTION ON GIFTS OR INCENTIVES FOR COMPLETING CREDIT CARD APPLICATION. A credit card issuer may not offer a gift or other incentive in exchange for the completion of a credit card application as part of a campus credit card marketing activity unless the credit card issuer, at the time the credit card issuer provides a credit card application to an individual, provides financial educational material developed under Section 35.133 to the individual.

Sec. 35.136. CREDIT CARD AND DEBT EDUCATION AT NEW STUDENT ORIENTATION. The governing board of a postsecondary educational institution that has designated a location for campus credit card marketing activities under Section 35.132(b) shall also adopt a policy requiring a credit card and debt education and counseling session to be included in any orientation program for new students. The postsecondary educational institution may use existing educational materials prepared by nonprofit entities for purposes of the credit card and debt education and counseling session.

Sec. 35.137. CIVIL PENALTY. A person who intentionally violates this subchapter is liable to the state for a civil penalty in an amount not to exceed \$2,500 for each violation. The attorney general or the prosecuting attorney in the county in which the violation occurs may bring suit to recover the civil penalty imposed under this section.

SECTION 2. This Act takes effect September 1, 2007.

HB 1505 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Lucio called up with senate amendments for consideration at this time,

HB 1505, A bill to be entitled An Act relating to a fee to support intercollegiate athletics at The University of Texas at Brownsville.

Representative Lucio moved to concur in the senate amendments to **HB 1505**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 997): 141 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crossover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles;

Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Callegari; Miller; Rose.

STATEMENTS OF VOTE

When Record No. 997 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

When Record No. 997 was taken, I was in the house but away from my desk. I would have voted yes.

Miller

When Record No. 997 was taken, I was in the house but away from my desk. I would have voted yes.

Rose

Senate Committee Substitute

CSHB 1505, A bill to be entitled An Act relating to a fee to support intercollegiate athletics at The University of Texas at Brownsville.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.551 to read as follows:

Sec. 54.551. INTERCOLLEGIATE ATHLETICS FEE; THE UNIVERSITY OF TEXAS AT BROWNSVILLE. (a) The board of regents of The University of Texas System may impose on each student enrolled at The University of Texas at Brownsville an intercollegiate athletics fee in an amount not to exceed \$7 per semester credit hour.

(b) The board shall deposit revenue from the fee to the credit of an account known as The University of Texas at Brownsville intercollegiate athletics fee account. Money in the account shall be used in accordance with the terms of the partnership agreements entered into between The University of Texas at Brownsville and Texas Southmost College under Section 78.02.

(c) The fee may not be imposed unless approved by a majority vote of the students of the university who participate in a general student election held for that purpose.

(d) The amount of the fee may not be increased to an amount that exceeds by 10 percent or more the total amount of the fee as last approved by a student vote under Subsection (c) or this subsection unless the increase has been approved by a majority vote of the students enrolled at the university who participate in a general student election held for that purpose.

(e) A fee imposed under this section is in addition to any other fee the board is authorized by law to impose.

(f) Subject to the limitations of this section on the amount of the fee and any increase in the amount of the fee, the fee imposed under this section must be in the same amount as the intercollegiate athletics fee charged a student at Texas Southmost College by the board of trustees of Southmost Union Junior College District. A student attending either or both institutions may be charged an intercollegiate athletics fee by only one of the institutions.

(g) The board may not impose the fee authorized by this section on a student who is enrolled solely in online courses at the university.

SECTION 2. This Act applies beginning with the 2007 fall semester.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1505** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 54.551, Education Code (page 1, between lines 46 and 47) insert the following:

(h) Notwithstanding Subsection (a), the amount of an intercollegiate athletics fee imposed under this section during the 2008-2009 academic year may not exceed \$5 per semester credit hour. This subsection expires July 31, 2009.

(2) Strike SECTION 2 of the bill (page 1, line 47), and substitute the following:

SECTION 2. A fee authorized to be imposed by Section 54.551, Education Code, as added by this Act, may not be imposed before the beginning of the 2008 fall semester.

HB 121 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative McClendon called up with senate amendments for consideration at this time,

HB 121, A bill to be entitled An Act relating to public school policies and curriculum designed to prevent dating and domestic violence.

Representative McClendon moved to concur in the senate amendments to **HB 121**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 998): 141 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee;

Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Geren; Harper-Brown; Phillips.

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

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Hughes.

Senate Committee Substitute

CSHB 121, A bill to be entitled An Act relating to public school policies designed to prevent dating violence.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.0831 to read as follows:

Sec. 37.0831. DATING VIOLENCE POLICIES. (a) Each school district shall adopt and implement a dating violence policy to be included in the district improvement plan under Section 11.252.

(b) A dating violence policy must:

(1) include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Section 71.0021, Family Code; and

(2) address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

UNFINISHED BUSINESS

The following bill was laid before the house as unfinished business:

CSHB 9 ON SECOND READING**(by Crossover, P. King, Woolley, Hamilton, Escobar, et al.)**

CSHB 9, A bill to be entitled An Act relating to the elimination of smoking in all workplaces and public places; providing penalties.

CSHB 9 was read second time on May 4, and Amendment No. 3, as amended, was pending at the time of that day's adjournment.

Representative Crossover moved to table Amendment No. 3, as amended.

A record vote was requested.

The motion to table prevailed by (Record 999): 75 Yeas, 67 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Burnam; Callegari; Castro; Cohen; Coleman; Cook, B.; Corte; Creighton; Crossover; Darby; Davis, J.; Davis, Y.; Delisi; Eissler; Escobar; Farrar; Flores; Garcia; Giddings; Goolsby; Hamilton; Hancock; Harless; Hartnett; Hernandez; Hochberg; Howard, D.; Jackson; King, P.; King, S.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Madden; Martinez Fischer; McCall; McClendon; Miller; Morrison; Naishtat; Noriega; Olivo; Ortiz; Otto; Patrick; Paxton; Pierson; Pitts; Riddle; Rose; Smith, T.; Strama; Swinford; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Bailey; Brown, F.; Chisum; Christian; Cook, R.; Crabb; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Elkins; England; Farabee; Farias; Flynn; Frost; Gallego; Gattis; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hardcastle; Heflin; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Hughes; Isett; Jones; Keffer; King, T.; Krusee; Macias; Mallory Caraway; Martinez; McReynolds; Menendez; Merritt; Miles; Murphy; O'Day; Oliveira; Orr; Parker; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smith, W.; Smithee; Solomons; Straus; Talton; Thompson; Truitt; Vaught.

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

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Bonnen; Geren; Harper-Brown.

STATEMENT OF VOTE

I was shown voting yes on Record No. 999. I intended to vote no.

Miller

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of illness in the family:

Bonnen on motion of Ritter.

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Kolkhorst on motion of Van Arsdale.

CSHB 9 - (consideration continued)

Amendment No. 1 - Motion to Reconsider Vote

Representative Hartnett moved to reconsider the vote by which Amendment No. 1, as amended, was adopted.

CSHB 9 - POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **CSHB 9** under Rule 7, Section 37 of the House Rules on the grounds that the motion to reconsider Amendment No. 1, as amended, was out of order.

(Speaker in the chair)

The speaker overruled the point of order, and submitted the following statement:

Representative Thompson raises a point of order against further consideration of **CSHB 9** under Rule 7, Section 37. Specifically, Representative Thompson argues that the motion to reconsider the Dutton amendment came after the calendar had begun and thus was too late for consideration by a mere majority vote.

Rule 7, Section 37(a), notes that "if a reconsideration is moved on the next legislative day" (as it was in this case), "it must be done before the order of the day, as designated in the item 11 of Rule 6, Section 1(a), is taken up".

Rule 6, Section 1(a)(9), notes that the ninth item of business is unfinished business. **CSHB 9** is designated as unfinished business. Because the motion was timely made and considered within Rule 6, Section 1(a)(9), the point of order is respectfully overruled.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

County Affairs, upon lunch recess today, Desk 105, for a formal meeting, to consider pending business.

FIVE DAY POSTING RULE SUSPENDED

Representative Swinford moved to suspend the five day posting rule to allow the Committee on State Affairs to consider **SB 889** at 8 a.m. tomorrow in E2.014.

The motion prevailed.

Representative Krusee moved to suspend the five day posting rule to allow the Committee on Transportation to consider legislation in committee during lunch recess today at Desk 46.

The motion prevailed.

Representative Krusee moved to suspend the five day posting rule to allow the Committee on Transportation to consider **SB 1786** at 8 a.m. tomorrow in E2.012.

The motion prevailed.

Representative Berman moved to suspend the five day posting rule to allow the Committee on Elections to consider **SB 292**, **SB 361**, and **SB 1434** during lunch recess today at Desk 21.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Defense Affairs and State-Federal Relations, upon lunch recess today, Desk 76, for a formal meeting, to consider pending business.

Elections, upon lunch recess today, Desk 21, for a formal meeting, to consider **SB 292**, **SB 361**, and **SB 1434**.

Insurance, 1:50 p.m. today, Desk 24, for a formal meeting, to consider pending business.

Culture, Recreation, and Tourism, upon lunch recess today, Desk 66, for a formal meeting, to consider **SB 1659** and pending business.

Ways and Means, upon lunch recess today, Desk 108, for a formal meeting, to consider **SB 242** and other pending business.

Transportation, upon lunch recess today, Desk 46, for a formal meeting, to consider legislation in committee.

Transportation, 8 a.m. tomorrow, E2.012, for a public hearing, to consider **SB 1786**.

Pensions and Investments, upon lunch recess today, Desk 6, for a formal meeting, to consider pending business.

Public Health, upon lunch recess today, Desk 58, for a formal meeting, to consider pending business.

Urban Affairs, upon lunch recess today, Desk 79, for a formal meeting, to consider **HB 4134**.

Regulated Industries, upon lunch recess today, Desk 82, for a formal meeting, to consider **HB 2344**.

State Affairs, 8 a.m. tomorrow, E2.014, for a public hearing, to consider **SB 889**.

Local Government Ways and Means, upon lunch recess today, Desk 73, for a formal meeting, to consider pending business.

Natural Resources, upon lunch recess today, Desk 112, for a formal meeting, to consider **HB 2299** and pending business.

FIVE DAY POSTING RULE SUSPENDED

Representative Peña moved to suspend the five day posting rule to allow the Committee on Criminal Jurisprudence to consider **SB 280** and **SB 1448** at 2 p.m. or upon final adjournment/recess tomorrow in E2.016.

The motion prevailed.

Representative Callegari moved to suspend the five day posting rule to allow the Committee on Government Reform to consider **SB 72** upon final recess today in E2.014.

The motion prevailed.

RECESS

At 12:15 p.m., the speaker announced that the house would stand recessed until 2 p.m. today.

AFTERNOON SESSION

The house met at 2 p.m. and was called to order by the speaker.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 34).

**HR 970 - READ
(by Christian)**

The chair laid out and had read the following previously adopted resolution:

HR 970, In memory of Robert Vance Payne of Center.

HR 970 - MOTION TO ADD NAMES

On motion of Representative Flynn, the names of all the members of the house were added to **HR 970** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Christian who introduced family members of Robert Vance Payne.

COMMITTEES GRANTED PERMISSION TO MEET

Pursuant to House Rule 4, Section 9, Representative Berman requested permission for all committees and subcommittees to meet while the house is in session, today; Tuesday, May 8; Wednesday, May 9; and Thursday, May 10 for the sole purpose of this motion to take committee pictures.

Permission to meet was granted.

Representative Berman requested permission for the Committee on Elections to meet while the house is in session, today, in 3W.9, for a formal meeting, to consider **SB 932**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Elections, 2:30 p.m. today, 3W.9, for a formal meeting, to consider **SB 932**.

FIVE DAY POSTING RULE SUSPENDED

Representative Eissler moved to suspend the five day posting rule to allow the Committee on Public Education to consider **SB 817** and **SB 1697** at 8 a.m. tomorrow in E2.036.

The motion prevailed.

(Bonnen now present)

CSHB 9 - (pending business)**Amendment No. 1 - Vote Reconsidered**

Representative Hartnett moved to reconsider the vote by which Amendment No. 1, as amended, was adopted. The motion was pending at the time of recess.

A record vote was requested.

The motion to reconsider prevailed by (Record 1000): 72 Yeas, 64 Nays, 2 Present, not voting.

Yeas — Anchia; Aycock; Berman; Bohac; Bolton; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Cohen; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Delisi; Eissler; Escobar; Farias; Garcia; Geren; Giddings; Gonzales; Goolsby; Hancock; Harless; Hartnett; Heflin; Hilderbran; Hochberg; Homer; Howard, D.; Jackson; Keffer; King, P.; King, S.; Laubenberg; Leibowitz; McCall; McClendon; Miller; Morrison; Murphy; Naishtat; Ortiz; Otto; Patrick; Pierson; Pitts; Puente; Quintanilla; Riddle; Rose; Smith, T.; Smithee; Strama; Swinford; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Allen; Alonzo; Anderson; Bailey; Bonnen; Coleman; Crabb; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Elkins; England; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Gonzalez Tourelles; Guillen; Haggerty; Hamilton; Hardcastle; Hernandez; Herrero; Hill; Hodge; Hopson; Howard, C.; Hughes; Isett; Jones; King, T.; Krusee; Kuempel; Macias; Madden; Mallory Caraway; Martinez; McReynolds; Menendez; Merritt; Miles; Noriega; Oliveira; Olivo; Orr; Parker; Peña; Phillips; Pickett; Raymond; Ritter; Rodriguez; Solomons; Straus; Talton; Thompson; Zedler.

Present, not voting — Mr. Speaker(C); O'Day.

Absent, Excused — Chavez; Kolkhorst; Moreno; Mowery.

Absent — Branch; Christian; Harper-Brown; Latham; Lucio; Martinez Fischer; Paxton; Smith, W.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1000. I intended to vote yes.

Farrar

I was shown voting no on Record No. 1000. I intended to vote yes.

Hernandez

When Record No. 1000 was taken, I was in the house but away from my desk. I would have voted yes.

Lucio

CSHB 9 - POINT OF ORDER

Representative Talton raised a point of order against further consideration of **CSHB 9** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Crownover moved to postpone consideration of **CSHB 9** until 3:30 p.m. today.

The motion prevailed.

POSTPONED BUSINESS

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

CSHB 1117 ON SECOND READING **(by B. Brown, Flynn, and Zedler)**

CSHB 1117, A bill to be entitled An Act relating to the filing of birth certificates.

CSHB 1117 was read second time on May 4 and was postponed until this time.

A record vote was requested.

CSHB 1117 was passed to engrossment by (Record 1001): 88 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Allen; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Eiland; Eissler; Elkins; Farabee; Flynn; Frost; Gattis; Gonzales; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; Merritt; Miller; Morrison; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pitts; Puente; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Turner; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Cohen; Davis, Y.; Dukes; Dunnam; Dutton; England; Escobar; Farrar; Flores; Gallego; Garcia; Giddings; Gonzalez Toureilles; Guillen; Heflin; Hernandez; Herrero; Hochberg; Hodge; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miles; Naishtat; Noriega; Olivo; Ortiz; Pierson; Quintanilla; Raymond; Rodriguez; Rose; Strama; Thompson; Vaught; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Kolkhorst; Moreno; Mowery.

Absent — Coleman; Farias; Geren; King, S.; Oliveira; Pickett; Straus; Talton.

STATEMENT OF VOTE

When Record No. 1001 was taken, my vote failed to register. I would have voted yes.

S. King

CSHB 3930 ON SECOND READING

(by Homer, R. Cook, Flynn, Anderson, and Geren)

CSHB 3930, A bill to be entitled An Act relating to the appeals process in the disposition of cruelly treated animals.

CSHB 3930 was read second time on May 4 and was postponed until 6:30 a.m. today.

CSHB 3930 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: Bohac and Laubenberg recorded voting no.)

SB 561 ON SECOND READING

(Smithee - House Sponsor)

SB 561, A bill to be entitled An Act relating to the subrogation interests of certain political subdivisions or insurance carriers providing reinsurance for subdivisions.

SB 561 was considered in lieu of **CSHB 1226**.

SB 561 was read second time.

Amendment No. 1

Representative Paxton offered the following amendment to **SB 561**:

Amend **SB 561** by adding the following subsection (j) to Section 172.015:

(j) Subsections (c)-(i) do not apply to a payor of employee benefits participating in a cooperative effort to design and administer benefits through an administrative agency that includes a cooperative number that is a county with a population of at least two million that is adjacent to a county with a population of at least one million.

Amendment No. 1 was adopted.

SB 561, as amended, was passed to third reading. (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: Herrero and Leibowitz recorded voting no.)

CSHB 1226 - LAID ON THE TABLE SUBJECT TO CALL

Representative Smithee moved to lay **CSHB 1226** on the table subject to call.

The motion prevailed.

HB 3109 ON SECOND READING (by B. Cook, West, and Dunnam)

HB 3109, A bill to be entitled An Act relating to the authority of the governor to contract in relation to a clean coal project.

HB 3109 was read second time on May 3 and was postponed until 7 a.m. today.

Representative B. Cook moved to postpone consideration of **HB 3109** until 10 a.m. Friday, June 1.

The motion prevailed.

CSHB 2158 ON SECOND READING (by McReynolds)

CSHB 2158, A bill to be entitled An Act relating to nursing peer review and the regulation of the practice of nursing.

CSHB 2158 was read second time on April 30 and was postponed until 8 a.m. today.

Representative McReynolds moved to postpone consideration of **CSHB 2158** until 7 a.m. Wednesday, May 9.

The motion prevailed.

SB 625 ON THIRD READING (J. Davis - House Sponsor)

SB 625, A bill to be entitled An Act relating to restrictions on the interchange of transplant immunosuppressant drugs.

SB 625 was read third time on May 1, postponed until May 3, and was again postponed until 9 a.m. today.

Representative J. Davis moved to postpone consideration of **SB 625** until 7 a.m. Wednesday, May 9.

The motion prevailed.

CSHB 83 ON SECOND READING
(by Branch, Dutton, Goolsby, Rose, et al.)

CSHB 83, A bill to be entitled An Act relating to requiring a record vote by each house of the legislature on final passage of a bill, resolution to propose or ratify a constitutional amendment, or other nonceremonial resolution and to public notice of the record vote.

CSHB 83 was read second time on April 17, postponed until April 23, postponed until April 30, and was again postponed until 10 a.m. today.

Representative Branch moved to postpone consideration of **CSHB 83** until 10 a.m. Thursday, May 10.

The motion prevailed.

CSHB 1927 ON SECOND READING
(by Chisum)

CSHB 1927, A bill to be entitled An Act relating to the liability of manufacturers or sellers of fuel additives and components and fuels.

CSHB 1927 was read second time on April 25, postponed until April 30, and was again postponed until 10 a.m. today.

Representative B. Cook moved to postpone consideration of **CSHB 1927** until 4 p.m. today.

The motion prevailed.

CSHB 3110 ON SECOND READING
(by B. Cook, West, Dunnam, and Anderson)

CSHB 3110, A bill to be entitled An Act relating to indemnification requirements relating to a clean coal project.

CSHB 3110 was read second time on April 26, postponed until May 1, postponed until May 3, and was again postponed until 10 a.m. today.

Representative B. Cook moved to postpone consideration of **CSHB 3110** until 10 a.m. Friday, June 1.

The motion prevailed.

MAJOR STATE CALENDAR
HOUSE BILLS
THIRD READING

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

HB 3426 ON THIRD READING**(by Flynn, B. Cook, Truitt, Kolkhorst, McClendon, et al.)**

HB 3426, A bill to be entitled An Act relating to the continuation and functions of the Texas Veterans Commission.

A record vote was requested.

HB 3426 was passed by (Record 1002): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Kolkhorst; Moreno; Mowery.

Absent — Delisi; Hardcastle.

(Kolkhorst now present)

HB 2542 ON THIRD READING**(by Kolkhorst, Flynn, Truitt, McClendon, et al.)**

HB 2542, A bill to be entitled An Act relating to the continuation and functions of the Office of Rural Community Affairs.

A record vote was requested.

HB 2542 was passed by (Record 1003): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings;

Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery.

Absent — McClendon.

HB 2543 ON THIRD READING **(by Kolkhorst)**

HB 2543, A bill to be entitled An Act relating to the continuation and operation of the Texas Animal Health Commission; providing penalties.

Amendment No. 1

Representative R. Cook offered the following amendment to **HB 2543**:

Amend **HB 2543** on third reading by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Section 161.034, Agriculture Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) Each meeting of the commission must be held in a location that provide adequate access to members of the public.

(d) The commission shall post audio archives of its meetings on the commission's Internet website.

(b) Section 161.034(d), Agriculture Code, as added by Subsection (a) of this section, applies only to a meeting of the Animal Health Commission held on or after September 1, 2007.

Amendment No. 1 was adopted.

A record vote was requested.

HB 2543, as amended, was passed by (Record 1004): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales;

Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Burnam; Farrar; Pierson; Rodriguez.

STATEMENTS OF VOTE

When Record No. 1004 was taken, my vote failed to register. I would have voted yes.

Pierson

When Record No. 1004 was taken, I was in the house but away from my desk. I would have voted yes.

Rodriguez

CONSTITUTIONAL AMENDMENTS CALENDAR HOUSE JOINT RESOLUTIONS THIRD READING

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

HJR 44 ON THIRD READING

(by Branch, Paxton, Anderson, Raymond, R. Cook, et al.)

HJR 44. A joint resolution proposing a constitutional amendment requiring any increase in a franchise tax rate to be approved by three-fourths of all the members elected to each house of the legislature.

Representative Castro moved to extend speaking time on **HJR 44**.

A record vote was requested.

The motion to extend time prevailed by (Record 1005): 82 Yeas, 32 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Bonnen; Burnam; Castro; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Darby; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Elkins; England; Farabee; Farrar; Flores; Frost; Gallego; Garcia; Gonzales; Gonzalez Tourelles; Guillen; Hancock; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Homer; Hopson; Howard,

D.; Jones; King, S.; King, T.; Krusee; Kuempel; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Pickett; Pierson; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Solomons; Strama; Straus; Swinford; Talton; Thompson; Veasey.

Nays — Aycock; Bohac; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Crabb; Davis, J.; Flynn; Goolsby; Harper-Brown; Hughes; Isett; Jackson; Keffer; Latham; Laubenberg; Macias; Madden; Miller; Morrison; Murphy; Parker; Paxton; Phillips; Riddle; Smithee; Truitt; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Anderson; Berman; Bolton; Branch; Cohen; Crownover; Eissler; Escobar; Farias; Gattis; Geren; Giddings; Haggerty; Hamilton; Harless; Hilderbran; Hodge; Howard, C.; King, P.; Kolkhorst; McClendon; Naishtat; Pitts; Puente; Smith, W.; Taylor; Turner; Van Arsdale; Vaught; Villarreal; Vo; West.

A record vote was requested.

HJR 44 failed of adoption (not receiving the necessary two-thirds vote) by (Record 1006): 93 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eissler; Elkins; England; Farabee; Flores; Flynn; Gattis; Geren; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hilderbran; Hill; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; Mallory Caraway; McCall; McReynolds; Merritt; Miller; Morrison; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Raymond; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Burnam; Castro; Cohen; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farrar; Gallego; Garcia; Giddings; Gonzales; Gonzalez Tourelles; Hartnett; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Leibowitz; Lucio; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Pierson; Puente; Quintanilla; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Bolton; Farias; Frost; King, T.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1006. I intended to vote yes.

Cohen

When Record No. 1006 was taken, I was in the house but away from my desk. I would have voted yes.

Frost

When Record No. 1006 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

I was shown voting no on Record No. 1006. I intended to vote yes.

Martinez

I was shown voting no on Record No. 1006. I intended to vote yes.

Pierson

**GENERAL STATE CALENDAR
HOUSE BILLS
THIRD READING**

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

HB 2859 ON THIRD READING

(by **B. Brown, Madden, Flynn, Pitts, Hughes, et al.**)

HB 2859, A bill to be entitled An Act relating to a memorial sign program for victims of certain vehicle accidents.

Amendment No. 1

Representative Alonzo offered the following amendment to **HB 2859**:

Amend **HB 2859** on third reading as follows:

(1) In SECTION 1 of the bill, strike added Section 201.909(c), Transportation Code, and substitute the following:

(c) A sign designed and posted under this section shall include:

(1) the phrase:

(A) "Please Don't Drink and Drive"; or

(B) "Drive Safely";

(2) the phrase "In Memory of" and the name or names of the victim or victims in whose memory the sign is placed; and

(3) the date of the victim's or victims' death.

(2) In SECTION 1 of the bill, strike added Section 201.909(d), Transportation Code, and substitute the following:

(d) A person may request that a sign be posted under this section by:

(1) making an application to the department on a form prescribed by the department;

(2) submitting an application fee to the department in an amount determined by the department to help defray the costs of administering this program; and

(3) selecting a phrase described by Subsection (c)(1) for the sign.

A record vote was requested.

Amendment No. 1 failed of adoption (not receiving the necessary two-thirds vote) by (Record 1007): 79 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Cohen; Coleman; Cook, R.; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jones; King, P.; King, T.; Krusee; Laubenberg; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Naishtat; Oliveira; Olivo; Ortiz; Paxton; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Smith, T.; Smithee; Strama; Taylor; Thompson; Turner; Veasey; Villarreal; Vo.

Nays — Anderson; Aycock; Berman; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Delisi; Eissler; Elkins; Flynn; Gattis; Geren; Hamilton; Hardcastle; Harless; Hartnett; Hill; Howard, C.; Hughes; Jackson; Keffer; Kolkhorst; Kuempel; Latham; Macias; Madden; McCall; Murphy; Noriega; Otto; Parker; Patrick; Phillips; Pierson; Pitts; Riddle; Ritter; Smith, W.; Solomons; Straus; Swinford; Truitt; Van Arsdale; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Giddings; Isett; King, S.; Morrison; O'Day; Orr; Rose; Talton; Vaught.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1007. I intended to vote no.

Laubenberg

A record vote was requested.

HB 2859 was passed by (Record 1008): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge;

Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Anderson; Burnam; Farias; Flores; McClendon; Rose.

HB 2248 ON THIRD READING

(by Van Arsdale)

HB 2248, A bill to be entitled An Act relating to the ability of a governmental body under the public information law to request a redetermination from the attorney general on dismissal of litigation relating to the same issue.

A record vote was requested.

HB 2248 was passed by (Record 1009): 138 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Herrero; Leibowitz; Thompson; Vaught.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Cohen; Farias; Goolsby; Rodriguez.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1009. I intended to vote no.

Castro

When Record No. 1009 was taken, my vote failed to register. I would have voted yes.

Cohen

LEAVE OF ABSENCE GRANTED

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

Pitts on motion of West.

HB 1977 ON THIRD READING

(by Taylor)

HB 1977, A bill to be entitled An Act relating to liability of the Texas Health Insurance Risk Pool for a state tax, regulatory fee, or surcharge.

A record vote was requested.

HB 1977 was passed by (Record 1010): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery; Pitts.

Absent — Farias; Haggerty; Mallory Caraway.

HB 2504 ON THIRD READING
(by Eissler, Woolley, Bohac, and Veasey)

HB 2504, A bill to be entitled An Act relating to an intensive mathematics and algebra intervention program in public schools.

A record vote was requested.

HB 2504 was passed by (Record 1011): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery; Pitts.

Absent — Callegari; Kolkhorst; Miller.

HB 2724 ON THIRD READING
(by Thompson)

HB 2724, A bill to be entitled An Act relating to the hours for the wholesale delivery or sale of beer.

A record vote was requested.

HB 2724 was passed by (Record 1012): 135 Yeas, 6 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett;

Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Harper-Brown; Latham; Miller; Phillips; Talton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery; Pitts.

Absent — Callegari; Geren; Hill; Kolkhorst.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1012. I intended to vote no.

Anderson

I was shown voting yes on Record No. 1012. I intended to vote no.

Harless

I was shown voting yes on Record No. 1012. I intended to vote no.

C. Howard

HB 2883 ON THIRD READING (by Guillen)

HB 2883, A bill to be entitled An Act relating to a state policy of encouraging voluntary land stewardship to benefit the water in this state.

A record vote was requested.

HB 2883 was passed by (Record 1013): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon;

McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery; Pitts.

Absent — Dunnam; Talton.

HB 3259 ON THIRD READING
(by Branch)

HB 3259, A bill to be entitled An Act relating to the administration of international assessment instruments to certain public school students.

A record vote was requested.

HB 3259 was passed by (Record 1014): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery; Pitts.

Absent — Coleman; Corte; Parker; Talton.

HB 3464 ON THIRD READING
(by Guillen)

HB 3464, A bill to be entitled An Act relating to establishing an office of state statistician.

A record vote was requested.

HB 3464 was passed by (Record 1015): 133 Yeas, 9 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Callegari; Christian; Crabb; Hancock; Harper-Brown; Jackson; Jones; Miller; Phillips.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery; Pitts.

Absent — Farabee; Hill; Talton.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1015. I intended to vote no.

Anderson

When Record No. 1015 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

I was shown voting yes on Record No. 1015. I intended to vote no.

Flynn

I was shown voting yes on Record No. 1015. I intended to vote no.

Harless

POSTPONED BUSINESS

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

CSHB 9 ON SECOND READING

(by Crownover, P. King, Woolley, Hamilton, Escobar, et al.)

CSHB 9, A bill to be entitled An Act relating to the elimination of smoking in all workplaces and public places; providing penalties.

CSHB 9 was read second time on May 4, amendments were offered and disposed of, was considered earlier today, and was postponed until this time. Amendment No. 1, as amended, was pending at the time of postponement.

(Callegari in the chair)

A record vote was requested.

Amendment No. 1, as amended, failed of adoption by (Record 1016): 51 Yeas, 84 Nays, 1 Present, not voting.

Yeas — Alonzo; Bailey; Bonnen; Christian; Coleman; Cook, R.; Crabb; Davis, Y.; Deshotel; Duker; Dutton; Elkins; England; Flores; Flynn; Gallego; Gattis; Gonzalez Tourelles; Guillen; Haggerty; Hardcastle; Herrero; Hill; Hodge; Howard, C.; Hughes; Isett; Jones; King, T.; Krusee; Kuempel; Macias; Mallory Caraway; Martinez; McReynolds; Merritt; Miles; Noriega; Oliveira; Phillips; Pickett; Quintanilla; Raymond; Ritter; Rodriguez; Smith, W.; Straus; Talton; Thompson; Truitt; Vaught.

Nays — Allen; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Brown, B.; Brown, F.; Burnam; Callegari(C); Castro; Chisum; Cohen; Cook, B.; Corte; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eissler; Escobar; Farabee; Farias; Farrar; Frost; Garcia; Geren; Giddings; Gonzales; Goolsby; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hochberg; Homer; Hopson; Howard, D.; Jackson; Keffer; King, P.; Kolkhorst; Latham; Laubenberg; Leibowitz; Lucio; Madden; McCall; Menendez; Miller; Morrison; Murphy; Naishtat; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pierson; Puente; Riddle; Rose; Smith, T.; Solomons; Strama; Swinford; Taylor; Van Arsdale; Villarreal; Vo; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Chavez; Moreno; Mowery; Pitts.

Absent — Branch; Dunnam; Eiland; King, S.; Martinez Fischer; McClendon; Smithee; Turner; Veasey; West.

STATEMENTS OF VOTE

When Record No. 1016 was taken, my vote failed to register. I would have voted no.

S. King

When Record No. 1016 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

(Speaker in the chair)

CSHB 9 - POINT OF ORDER

Representative Talton raised a point of order against further consideration of **CSHB 9** under Rule 4, Section 32 of the House Rules on the grounds that the bill analysis is incorrect.

The speaker overruled the point of order, and submitted the following statement:

Representative Talton raises a point of order against further consideration of **CSHB 9** under Rule 4, Section 32 of the House Rules. Specifically, Representative Talton alleges that the comparison of the original to the substitute section fails to specifically address Section 169.104 and Section 169.105, Health and Safety Code.

As has been mentioned in previous points of order on this bill, this is a summary bill analysis. In two pages, it describes 22 pages of text in the introduced and committee substitute. A summary is just that—a summary.

The chair has reviewed the introduced bill, the committee substitute, and the bill analysis. Both the ability of governmental bodies to seek injunctive relief for violations of the chapter and the ability of state agencies and political subdivisions to enforce the smoking prohibitions of this bill are described in the comparison section. The chair is of the opinion that the **CSHB 9** bill analysis complies with the cited rule.

Accordingly, the point of order is overruled.

Amendment No. 5

Representative Woolley offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) as follows:

- (1) On page 1, line 23, strike "25" and substitute "15".
- (2) On page 4, line 22, strike "(xvii) a bingo hall; or".
- (3) On page 6, line 22, strike "or".
- (4) On page 6, line 27, following "chapter" insert the following:

;

(7) a fraternal or veterans organization as defined by Section 32.11, Alcoholic Beverage Code;

(8) a private club not open to the general public;

(9) a bingo hall; or

(10) a premises on which charitable bingo is authorized to be conducted under Chapter 2001, Occupations Code.

(5) On page 7, line 22-23, strike ", or another state agency, or a political subdivision of the state" and substitute "or a public health official".

(6) On page 7, line 25, strike "or another state agency, or a political subdivision of the state" and substitute "a public health official, or a law enforcement officer".

(7) On page 9, line 3, strike "This" and substitute "Except as provided by Section 169.012, this".

(8) On page 9, between lines 10-11, insert the following:

Sec. 169.012. LOCAL OPTION ELECTION. (a) The voters in a municipality may, in the same manner and procedure as for a charter amendment, vote to allow the governing body of the municipality to adopt a local ordinance that restricts or prohibits smoking to a lesser degree than this chapter. An election under this section shall be held on May 10, 2008.

(b) This chapter, other than this section, does not apply within the boundaries of a municipality that adopts an ordinance under Subsection (a).

(9) On page 10, line 6, strike "September 1, 2007" and substitute "January 1, 2008".

(Callegari in the chair)

Amendment No. 5 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Turner on motion of Puente.

CSHB 9 - (consideration continued)

Amendment No. 6

Representative Bailey offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (house committee printing) as follows:

On page 3, line 20, and on page 4, line 27, strike "enclosed indoor".

Representative Crownover moved to table Amendment No. 6.

A record vote was requested.

The motion to table prevailed by (Record 1017): 101 Yeas, 31 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Callegari(C); Castro; Chisum; Cohen; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eiland; Eissler; Escobar; Farabee; Farias; Farrar; Garcia; Gattis; Geren; Giddings; Gonzalez Tourelles; Goolsby; Guillen; Hamilton; Hancock; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pierson; Puente; Raymond; Riddle; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Van Arsdale; Vaught; Veasey; Villarreal; Vo; Woolley; Zedler; Zerwas.

Nays — Bailey; Bonnen; Burnam; Coleman; Crabb; Davis, Y.; Deshotel; Dukes; Dunnam; Elkins; Flores; Flynn; Frost; Gallego; Gonzales; Haggerty; Hardcastle; Hodge; Kuempel; Mallory Caraway; Merritt; Miles; Oliveira; Pickett; Quintanilla; Ritter; Rodriguez; Solomons; Talton; Thompson; Truitt.

Present, not voting — Mr. Speaker; England.

Absent, Excused — Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Christian; Dutton; Harper-Brown; Hill; Hughes; Isett; Krusee; McClendon; Menendez; Phillips; West.

STATEMENT OF VOTE

I was shown voting no on Record No. 1017. I intended to vote yes.

Gonzales

Amendment No. 7

Representative Dutton offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) by striking page 6, line 22, and renumbering subsequent subdivisions appropriately.

Representative Crownover moved to table Amendment No. 7.

(Hamilton in the chair)

A record vote was requested.

The motion to table prevailed by (Record 1018): 78 Yeas, 57 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycoc; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chisum; Cohen; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eissler; Escobar; Farrar; Garcia; Gattis; Geren; Gonzales; Hancock; Harless; Hartnett; Heflin; Hernandez; Homer; Howard, D.; Jackson; Keffer; King, P.; Kolkhorst; Krusee; Latham; Laubenberg; Lucio; Macias; McCall; Menendez; Miller; Morrison; Murphy; Noriega; O'Day; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pierson; Quintanilla; Raymond; Riddle; Smith, T.; Strama; Swinford; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Anderson; Bailey; Bonnen; Coleman; Crabb; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Elkins; England; Farabee; Farias; Flores; Flynn; Frost; Gallego; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Harcastle; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Hughes; Isett; Jones; King, T.; Kuempel; Leibowitz; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Merritt; Miles; Naishtat; Oliveira; Orr; Pickett; Puente; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Talton; Thompson.

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

Absent, Excused — Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Christian; Giddings; Harper-Brown; Hill; King, S.; Peña; Straus.

STATEMENT OF VOTE

When Record No. 1018 was taken, my vote failed to register. I would have voted yes.

S. King

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).

CSHB 9 - (consideration continued)

Amendment No. 8

Representative Elkins offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) as follows:

(1) On page 6, line 22, strike "or".

(2) On page 6, line 27, strike the period and substitute the following:

; or

(7) a bar that is open only to persons who are at least 21 years of age and derives at least 75 percent of the bar's gross sales from the sale of alcoholic beverages.

Representative Crownover moved to table Amendment No. 8.

A record vote was requested.

The motion to table prevailed by (Record 1019): 82 Yeas, 51 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Cohen; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eiland; Eissler; Escobar; Farias; Farrar; Garcia; Geren; Giddings; Gonzales; Goolsby; Harless; Hartnett; Heflin; Hernandez; Hilderbran; Hochberg; Homer; Hopson; Howard, D.; Jackson; Keffer; King, P.; Kolkhorst; Krusee; Latham; Lucio; Macias; Martinez Fischer; McCall; Morrison; Murphy; Naishtat; Noriega; O'Day; Ortiz; Otto; Paxton; Peña; Pierson; Puente; Quintanilla; Riddle; Rose; Smith, T.; Smithee; Strama; Swinford; Taylor; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Bailey; Coleman; Cook, B.; Crabb; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Elkins; England; Farabee; Flynn; Frost; Gallego; Gattis; Gonzalez Toureilles; Guillen; Haggerty; Hancock; Hardcastle; Herrero; Hill; Hodge; Howard, C.; Hughes; Isett; Jones; King, T.; Kuempel; Leibowitz; Madden; Mallory Caraway; Martinez; McReynolds; Menendez; Merritt; Oliveira; Orr; Parker; Patrick; Phillips; Pickett; Raymond; Ritter; Rodriguez; Smith, W.; Solomons; Talton; Thompson; Truitt.

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

Absent, Excused — Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Christian; Flores; Harper-Brown; King, S.; Laubenberg; McClendon; Miles; Miller; Olivo; Straus.

STATEMENTS OF VOTE

When Record No. 1019 was taken, my vote failed to register. I would have voted yes.

S. King

I was shown voting no on Record No. 1019. I intended to vote yes.

Kuempel

When Record No. 1019 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

Amendment No. 9

Representative Hodge offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) as follows:

(1) Strike page 1, lines 22-24.

(2) Strike page 2, lines 1-6.

(3) Strike page 3, lines 4-18.

(4) Strike page 5, lines 18-21.

(5) Renumber Subdivisions of added Section 169.001, Health and Safety Code, and any cross-references, appropriately.

(6) Strike added Section 169.003, Health and Safety Code, (page 6, lines 3-27) and substitute the following:

Sec. 169.003. EXEMPTION. This chapter does not apply to a private residence, except when used as a child-care, adult day-care, or health care facility.

(7) Strike SECTION 2 (page 9, lines 11-22) and renumber subsequent SECTIONS accordingly.

Representative Crownover moved to table Amendment No. 9.

A record vote was requested.

The motion to table prevailed by (Record 1020): 83 Yeas, 51 Nays, 7 Present, not voting. (The vote was reconsidered later today, and Amendment No. 9 was withdrawn.)

Yeas — Allen; Alonzo; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Cohen; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eiland; Eissler; England; Escobar; Farabee; Farrar; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Guillen; Hancock; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hochberg; Homer; Hopson; Howard, D.; Jackson; Keffer; King, P.; King, T.; Kolkhorst; Latham; Lucio; Madden; McReynolds; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Orr; Otto; Parker; Patrick; Peña; Phillips; Raymond; Riddle; Rose; Smith, T.; Smithee; Strama; Swinford; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Anderson; Bailey; Bonnen; Burnam; Coleman; Cook, B.; Crabb; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Elkins; Farias; Flores; Flynn; Gonzalez Toureilles; Goolsby; Haggerty; Hardcastle; Herrero; Hill; Hodge; Howard, C.; Hughes; Isett; Jones; Kuempel; Leibowitz; Macias; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miles; Oliveira; Paxton; Pickett; Pierson; Puente; Quintanilla; Ritter; Rodriguez; Smith, W.; Solomons; Straus; Talton; Thompson.

Present, not voting — Mr. Speaker; Anchia; Hamilton(C); Harless; Krusee; Ortiz; Vo.

Absent, Excused — Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Christian; King, S.; Laubenberg; Olivo.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1020. I intended to vote yes.

B. Cook

I was shown voting yes on Record No. 1020. I intended to vote no.

Homer

When Record No. 1020 was taken, my vote failed to register. I would have voted yes.

S. King

When Record No. 1020 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

Amendment No. 10

Representative Haggerty offered the following amendment to **CSHB 9**:

Amend **CSHB 9** as follows:

Page 5, line 12, in the definition section of the bill (16) reads;

(16) "Smoke" means to inhale, exhale, burn, or carry a lighted cigar, cigarette, pipe, or other smoking equipment in any manner.

Page 4, line 2, (vii) it also appears an actor can no longer light a cigar, pipe, or cigarette on stage.

Amendment No. 10 was adopted. (The vote was reconsidered later today, and Amendment No. 10 was withdrawn.)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 35).

COMMITTEE GRANTED PERMISSION TO MEET

Representative Peña requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session, 4:45 p.m. today, in 3W.9, for a formal meeting, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, 4:45 p.m. today, 3W.9, for a formal meeting, to consider pending business.

CSHB 9 - (consideration continued)**Amendment No. 11**

Representative Haggerty offered the following amendment to **CSHB 9**:

Amend **CSHB 9** on page 6 as follows:

1. On line 22 strike "or"
2. On line 27 strike the period and insert in lieu thereof "; or"
3. After line 27 insert a new subsection (7) to read as follows:

(7) property owned or leased by an organization that is a church, synagogue, religious society, nonprofit veterans organization or fraternal organization during the times the property is being used for religious services, meetings, fundraising or other activities of the organization.

Amendment No. 11 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Branch on motion of Guillen.

CSHB 9 - (consideration continued)**Amendment No. 10 - Vote Reconsidered**

Representative Haggerty moved to reconsider the vote by which Amendment No. 10 was adopted.

The motion to reconsider prevailed.

Amendment No. 10 was withdrawn.

Amendment No. 12

Representative Bonnen offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) on page 9 by striking lines 3-10 and substituting the following:

Sec. 169.011. APPLICABILITY; CONSTRUCTION. (a) Except as provided by Subsection (b), this chapter preempts and supersedes a local ordinance, rule, or regulation adopted by any political subdivision that restricts or prohibits smoking to a lesser degree than this chapter.

(b) This chapter does not preempt or supersede a local ordinance, rule, or regulation adopted by a political subdivision with a population of fewer than 50,000 people that prohibits or restricts smoking to a lesser degree than this chapter if the local ordinance, rule, or regulation was adopted by a political subdivision before September 1, 2007.

(c) Subsection (a) does not prohibit the adoption by a political subdivision, after September 1, 2007, of a local ordinance, rule, or regulation that prohibits or restricts smoking to a greater degree than this chapter.

(d) This chapter shall not be construed to permit smoking where it is restricted by other law.

(e) This chapter does not preempt or supersede Section 38.006, Education Code.

Amendment No. 12 was adopted.

Amendment No. 13

Representative Dutton offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (house committee printing) as follows:

- (1) On page 1, strike lines 22 through 24.
- (2) On page 2, strike lines 1 through 6.
- (3) On page 6, strike lines 21 through 27 and substitute the following:
 - (4) a tobacco shop; or
 - (5) a private club that does not employ any employees;

(A) unless the club is being used for a function to which the general public is invited; and

(B) provided the club is not established for the sole purpose of avoiding compliance with this chapter.

(4) Strike SECTION 2 of the bill (page 9, lines 11 through 22) and renumber subsequent SECTIONS accordingly.

Amendment No. 13 was adopted.

(Speaker in the chair)

Amendment No. 14

Representative Dutton offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (Committee printing) as follows:

- (1) On page 6, line 22, strike "or".
- (2) On page 6, line 27, strike the period and substitute the following:

; or

(7) a bar, if the operator of the bar provides health benefits coverage for each employee employed by the bar.

Amendment No. 14 was adopted.

Amendment No. 15

Representative Merritt offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) on page 7, between lines 15 and 16, by inserting the following:

Sec. 169.0046. CONTRACTOR PREFERENCES. An employer in control of a place of employment subject to this chapter may not award a contract, including contracts and contracts for services related to contracts under Chapter 2166, Government Code, to a proposed contractor unless the contractor offers to the contractor's employees a smoking cessation program to assist employees who smoke.

Amendment No. 15 was adopted. (Harper-Brown recorded voting no.)

Amendment No. 16

Representative Merritt offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) by inserting the following appropriately numbered SECTION and renumbering existing SECTIONS accordingly:

SECTION _____. Subchapter A, Chapter 2166, Government Code, is amended by adding Section 2166.009 to read as follows:

Sec. 2166.009. CONTRACTOR PREFERENCES: NON-SMOKING POLICY. The commission shall give preference to a proposed state contractor in awarding contracts under this chapter, including contracts for services related to contracts under this chapter, to a contractor who has a work-site non-smoking policy for the contractor's employees.

Amendment No. 16 was adopted. (Harper-Brown and Hochberg recorded voting no.)

Amendment No. 17

Representative Merritt offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) on page 7, between lines 15 and 16, by inserting the following:

Sec. 169.0045. SMOKING CESSATION PROGRAM. (a) An employer in control of a place of employment subject to this chapter may offer to employees a smoking cessation program to assist employees who smoke.

(b) An employer that offers a program under this section is entitled to a credit against taxes owed by the employer under Chapter 171, Tax Code, in accordance with rules adopted by the comptroller. The amount of the credit is equal to the cost of the program.

(c) To qualify for the credit under Subsection (b), the program must offer assistance to an employee through at least two attempts to quit smoking and may be offered directly by the employer or through contract with another provider.

Amendment No. 17 was adopted.

Amendment No. 18

Representative Solomons offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) as follows:

(1) On page 6, line 22, strike "or".

(2) On page 6, line 27, strike the period and substitute the following:

; or

(7) privately owned property designated exempt under Section 169.0035.

Sec. 169.0035. PRIVATELY OWNED PROPERTY. Notwithstanding any other provision in this chapter, a person who privately owns real property may designate the property as exempt from the provisions of this chapter by posting on the property clearly and conspicuously, in a manner reasonably necessary to give notice, a statement that smoking is permitted on the property.

Amendment No. 18 was adopted.

Amendment No. 9 - Vote Reconsidered

Representative Geren moved to reconsider the vote by which Amendment No. 9 was tabled.

The motion to reconsider prevailed.

Amendment No. 9 was withdrawn.

Amendment No. 19

Representative Hodge offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 169 to read as follows:

CHAPTER 169. SMOKING PROHIBITED; SALE OF CERTAIN TOBACCO PRODUCTS PROHIBITED

Sec. 169.001. DEFINITIONS. In this chapter:

(1) "Smoke" means to inhale, exhale, burn, or carry a lighted tobacco product in any manner.

(2) "Tobacco product" means a cigar, cigarette, or smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or as a cigarette.

Sec. 169.002. SMOKING PROHIBITED. A person may not smoke in this state.

Sec. 169.003. SALE OF TOBACCO PRODUCTS PROHIBITED. A person may not sell a tobacco product in this state.

Sec. 169.004. OFFENSES; PENALTIES. A person who violates Sections 169.002 or 169.003 commits an offense. An offense under this subsection is a Class C misdemeanor.

SECTION 2. This Act takes effect September 1, 2007.

Representative Crownover moved to table Amendment No. 19.

A record vote was requested.

The motion to table prevailed by (Record 1021): 100 Yeas, 27 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Brown, B.; Brown, F.; Burnam; Callegari; Chisum; Cohen; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Eiland;

Eissler; England; Escobar; Farabee; Farrar; Frost; Gallego; Garcia; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hochberg; Homer; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; McReynolds; Menendez; Merritt; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Puente; Quintanilla; Riddle; Rose; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Bailey; Bonnen; Coleman; Crabb; Dukes; Dunnam; Dutton; Farias; Flynn; Guillen; Hardcastle; Herrero; Hill; Hodge; Hopson; Isett; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Miles; Pickett; Raymond; Ritter; Rodriguez; Talton; Thompson.

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

Absent, Excused — Branch; Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Bolton; Castro; Christian; Davis, Y.; Elkins; Flores; Giddings; Howard, C.; King, S.; McCall; Oliveira; Smith, T.; Smith, W.; Smithee.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1021. I intended to vote yes.

Guillen

I was shown voting no on Record No. 1021. I intended to vote yes.

Raymond

Amendment No. 20

Representative Jones offered the following amendment to **CSHB 9**:

Amend **CSHB 9** (committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 169 to read as follows:

CHAPTER 169. SMOKING PROHIBITED IN PUBLIC PLACES AND PLACES OF EMPLOYMENT

Sec. 169.001. DEFINITIONS. In this chapter, "smoke" means to inhale, exhale, burn, or carry a lighted cigar, cigarette, pipe, or other smoking equipment in any manner.

Sec. 169.002. DECLARATION OF ESTABLISHMENT AS SMOKING OR NON-SMOKING. A political subdivision of this state may require a person in control of a premises within the jurisdiction of the political subdivision to declare the premises as smoking or non-smoking.

Sec. 169.003. SIGN REQUIRED. The person in control of a premises under Section 169.002 shall post clearly and conspicuously in a manner reasonably necessary to give notice to persons entering the premises a sign designating the premises as smoking or non-smoking.

SECTION 2. This Act takes effect September 1, 2007.

Representative Crossover moved to table Amendment No. 20.

A record vote was requested.

The motion to table prevailed by (Record 1022): 70 Yeas, 62 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Brown, B.; Burnam; Callegari; Cohen; Corte; Creighton; Crossover; Darby; Delisi; Driver; Eiland; Eissler; Escobar; Farias; Farrar; Gallego; Garcia; Gonzales; Goolsby; Hamilton; Hancock; Harless; Hartnett; Heflin; Hernandez; Hochberg; Hopson; Howard, D.; Kolkhorst; Krusee; Latham; Leibowitz; Lucio; Martinez Fischer; McCall; Miller; Morrison; Murphy; Naishtat; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Pierson; Puente; Riddle; Rose; Smith, T.; Strama; Swinford; Taylor; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Bailey; Bonnen; Brown, F.; Christian; Coleman; Cook, B.; Cook, R.; Crabb; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Elkins; England; Farabee; Flynn; Frost; Gattis; Geren; Gonzalez Toureilles; Guillen; Haggerty; Hardcastle; Harper-Brown; Herrero; Hilderbran; Hill; Hodge; Homer; Howard, C.; Hughes; Isett; Jackson; Jones; King, T.; Kuempel; Madden; Mallory Caraway; Martinez; McReynolds; Menendez; Merritt; Miles; Noriega; O'Day; Oliveira; Olivo; Peña; Phillips; Pickett; Quintanilla; Raymond; Ritter; Rodriguez; Smith, W.; Solomons; Straus; Talton; Thompson; Truitt.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Castro; Chisum; Flores; Giddings; Keffer; King, P.; King, S.; Laubenberg; Macias; McClendon; Smithee.

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).

CSHB 9 - (consideration continued)

Amendment No. 21

Representative Dutton offered the following amendment to **CSHB 9**:

Amend **CSHB 9** on page 8, between lines 26 and 27, by inserting the following:

Sec. 169.0095. TAX REFUND FOR CERTAIN RESTAURANTS AND BARS. (a) A taxpayer who is in control of a restaurant or bar in which smoking is not allowed under Section 169.002 or 169.005 is entitled to a refund of 50 percent of all state taxes imposed with respect to the operation of the restaurant or bar and remitted by the taxpayer during the period the restaurant or bar remains a nonsmoking place, including:

- (1) state sales taxes imposed under Chapter 151, Tax Code;
- (2) franchise taxes imposed under Chapter 171, Tax Code; and
- (3) mixed beverage taxes imposed under Chapter 183, Tax Code.

(b) The comptroller shall adopt rules to implement this section.

Representative Crownover moved to table Amendment No. 21.

A record vote was requested.

The motion to table prevailed by (Record 1023): 96 Yeas, 35 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crownover; Darby; Davis, J.; Delisi; Driver; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flynn; Gallego; Garcia; Gonzales; Goolsby; Hamilton; Hancock; Harless; Hartnett; Heflin; Hernandez; Hilderbran; Hochberg; Homer; Hopson; Howard, D.; Jackson; Keffer; Kolkhorst; Krusee; Kuempel; Latham; Leibowitz; Lucio; Madden; Martinez Fischer; McCall; McReynolds; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rose; Smith, T.; Solomons; Strama; Swinford; Taylor; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler.

Nays — Bailey; Coleman; Crabb; Deshotel; Dukes; Dunnam; Dutton; Elkins; Frost; Gattis; Geren; Gonzalez Tourelles; Guillen; Haggerty; Hardcastle; Harper-Brown; Herrero; Hill; Hodge; Howard, C.; Hughes; Isett; Jones; King, T.; Macias; Mallory Caraway; Martinez; Menendez; Merritt; Pickett; Rodriguez; Smith, W.; Talton; Thompson; Truitt.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Creighton; Davis, Y.; Flores; Giddings; King, P.; King, S.; Laubenberg; McClendon; Paxton; Smithee; Straus; Zerwas.

A record vote was requested.

CSHB 9, as amended, was passed to engrossment by (Record 1024): 91 Yeas, 48 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Brown, B.; Burnam; Callegari; Castro; Chisum; Cohen; Coleman; Cook, B.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Gallego; Garcia; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Hamilton; Harless; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, D.; Jackson; Keffer; King, P.; Kolkhorst; Krusee; Latham; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Miles; Morrison; Murphy; Naishtat; Noriega; Olivo; Ortiz; Otto; Patrick; Pierson; Puente; Quintanilla; Raymond; Riddle; Rose; Smith, T.; Smithee; Solomons; Strama; Taylor; Thompson; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Anderson; Bailey; Bonnen; Brown, F.; Christian; Cook, R.; Crabb; Deshotel; Dukes; Dutton; Flynn; Frost; Gattis; Geren; Guillen; Haggerty; Hancock; Hardcastle; Harper-Brown; Hartnett; Hill; Hodge; Howard, C.; Hughes; Isett; Jones; King, T.; Kuempel; Laubenberg; Macias; Madden; McReynolds; Menendez; Merritt; O'Day; Oliveira; Orr; Parker; Paxton; Peña; Phillips; Ritter; Rodriguez; Smith, W.; Straus; Swinford; Talton; Truitt.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Flores; King, S.; Miller; Pickett.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1024. I intended to vote no.

J. Davis

I was shown voting yes on Record No. 1024. I intended to vote no.

England

When Record No. 1024 was taken, my vote failed to register. I would have voted yes.

S. King

CSHB 1927 ON SECOND READING (by Chisum)

CSHB 1927, A bill to be entitled An Act relating to the liability of manufacturers or sellers of fuel additives and components and fuels.

CSHB 1927 was read second time on April 25, postponed until April 30, was considered earlier today, and was again postponed until this time.

Representative Crownover moved to postpone consideration of **CSHB 1927** until 6 p.m. today.

The motion prevailed.

GENERAL STATE CALENDAR (consideration continued)

HB 3123 ON THIRD READING (by Miles)

HB 3123, A bill to be entitled An Act relating to involvement in charitable events by holders of alcoholic beverage licenses and permits.

A record vote was requested.

HB 3123 was passed by (Record 1025): 109 Yeas, 18 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Berman; Bohac; Bolton; Burnam; Callegari; Castro; Cohen; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; England; Escobar; Farabee; Farias; Farrar; Frost; Gallego; Garcia; Geren;

Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; Kolkhorst; Krusee; Kuempel; Latham; Leibowitz; Lucio; Macias; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Miles; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; Woolley; Zerwas.

Nays — Anderson; Aycock; Bonnen; Brown, B.; Brown, F.; Chisum; Christian; Crabb; Harless; Howard, C.; Isett; Miller; Parker; Patrick; Riddle; Talton; West; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Coleman; Eiland; Elkins; Flores; Flynn; Gattis; Hodge; King, S.; King, T.; Laubenberg; Madden; McCall; Menendez; Merritt; Paxton; Smith, W.

STATEMENTS OF VOTE

When Record No. 1025 was taken, I was in the house but away from my desk. I would have voted no.

Flynn

I was shown voting no on Record No. 1025. I intended to vote yes.

Parker

HB 1737 ON THIRD READING (by Giddings)

HB 1737, A bill to be entitled An Act relating to business entities and associations.

A record vote was requested.

HB 1737 was passed by (Record 1026): 135 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez;

Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Chavez; Moreno; Mowery; Pitts; Turner.

Absent — Flores; Hilderbran; Hodge; King, S.; Miles; Pierson; Villarreal.

STATEMENTS OF VOTE

When Record No. 1026 was taken, my vote failed to register. I would have voted yes.

Hilderbran

When Record No. 1026 was taken, I was in the house but away from my desk. I would have voted yes.

Pierson

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Kolkhorst on motion of Geren.

HB 2694 ON THIRD READING (by Hamilton)

HB 2694, A bill to be entitled An Act relating to the disaster contingency fund.

A record vote was requested.

HB 2694 was passed by (Record 1027): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick;

Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Alonzo; Flores; King, S.; Paxton.

HB 2882 ON THIRD READING
(by Hughes, Gonzalez Toureilles, and Paxton)

HB 2882, A bill to be entitled An Act relating to the service retirement annuity of certain members of the Judicial Retirement System of Texas Plan One and the Judicial Retirement System of Texas Plan Two.

A record vote was requested.

HB 2882 was passed by (Record 1028): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Bonnen; Flores; Keffer; Pierson.

STATEMENT OF VOTE

When Record No. 1028 was taken, I was in the house but away from my desk. I would have voted yes.

Pierson

HB 3173 ON THIRD READING
(by Giddings)

HB 3173, A bill to be entitled An Act relating to the transmission of an unsolicited commercial electronic mail message.

A record vote was requested.

HB 3173 was passed by (Record 1029): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Flores; Frost; King, S.

HB 916 ON THIRD READING
(by Menendez, et al.)

HB 916, A bill to be entitled An Act relating to the prosecution and punishment of dog fighting.

A record vote was requested.

HB 916 was passed by (Record 1030): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless;

Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Allen; Driver; Flores; Frost; King, S.; McReynolds.

HB 3232 ON THIRD READING

(by Olivo, C. Howard, Turner, J. Davis, Zerwas, et al.)

HB 3232, A bill to be entitled An Act relating to certain subdivision golf courses.

A record vote was requested.

HB 3232 was passed by (Record 1031): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Flores; Frost; King, S.; Talton.

HB 2617 ON THIRD READING
(by Guillen)

HB 2617, A bill to be entitled An Act relating to the creation of municipal courts of record in the city of Laredo.

A record vote was requested.

HB 2617 was passed by (Record 1032): 138 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Deshotel.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Flores; King, S.; Veasey.

HB 3692 ON THIRD READING
(by Straus)

HB 3692, A bill to be entitled An Act relating to the denial of bail to a person who violates certain court orders or conditions of bond related to victim or community safety.

A record vote was requested.

HB 3692 was passed by (Record 1033): 133 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego;

Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Alonzo; England; Flores; King, S.; Laubenberg; Oliveira; Smithee; Veasey.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 1509 ON THIRD READING
(Kolkhorst - House Sponsor)**

SB 1509, A bill to be entitled An Act relating to the authority of the asset management division of the General Land Office to sell real property to an economic development corporation.

A record vote was requested.

SB 1509 was passed by (Record 1034): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle;

Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Coleman; Flores; King, S.; Smithee; Taylor; Van Arsdale.

SB 823 ON THIRD READING
(Riddle - House Sponsor)

SB 823, A bill to be entitled An Act relating to the interception of or the collection of other information from certain communications in an investigation of criminal conduct.

A record vote was requested.

SB 823 was passed by (Record 1035): 126 Yeas, 7 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Allen; Farrar; Hernandez; Herrero; Leibowitz; Mallory Caraway; Thompson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Brown, B.; Burnam; Dukes; Flores; Hodge; King, S.; Lucio; Rose; Van Arsdale.

STATEMENTS OF VOTE

When Record No. 1035 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 1035 was taken, I was in the house but away from my desk. I would have voted yes.

Rose

SB 796 ON THIRD READING
(Taylor - House Sponsor)

SB 796, A bill to be entitled An Act relating to split payments of ad valorem taxes.

A record vote was requested.

SB 796 was passed by (Record 1036): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Alonzo; Brown, B.; Coleman; Flores; Hodge; Hughes; King, S.

MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING

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

CSHB 2006 ON SECOND READING
(by Woolley, Corte, Callegari, R. Cook, Orr, et al.)

CSHB 2006, A bill to be entitled An Act relating to the use of eminent domain authority.

Amendment No. 1

Representatives P. King, Woolley, and Callegari offered the following amendment to **CSHB 2006**:

Amend **CSHB 2006** (House Committee Printing) as follows:

(1) On page 5, line 4, between "proceeding" and "under", insert "by filing a petition".

(2) On page 5, line 5, strike "Chapter 21" and substitute "Section 21.012".

(3) On page 5, line 7, between "Subsection (b)" and the comma, insert "or Subsection (d)".

(4) On page 5, line 18, after the period and quotation mark, insert the following:

The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(5) On page 5, between lines 18-19, insert the following:

(d) If a project for a public use described by Section 2206.051(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(e) An ordinance, resolution, or order adopted under Subsection (d) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

(6) On page 5, lines 23 and 24, strike "by voluntary purchase or lease" and substitute "from the property owner voluntarily".

(7) On page 6, line 24, strike "by voluntary purchase or lease" and substitute "from the property owner voluntarily".

(8) On page 7, strike lines 19-20 and substitute the following:
including any evidence that an owner of real property who desires but is not obligated to sell the property and a potential purchaser of the property who is under no necessity to purchase the property would consider with respect to the property if it were offered for sale;

(9) On page 8, line 6, strike "by voluntary purchase or lease" and substitute "from the property owner voluntarily".

(10) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 21.042(e), Property Code, is amended to read as follows:

(e) If a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284, Transportation Code, that is eligible for designation as part of the state highway system, ~~[or for the use, construction, development, operation, or maintenance of an improvement or project by a metropolitan rapid transit authority created before January 1, 1980, with a principal municipality having a population of less than 1.9 million and established under Chapter 451, Transportation Code, the special commissioners shall determine the damage to the property owner regardless of whether the property owner makes a claim for damages to the remaining property. In awarding compensation or assessing the damages,]~~ the special commissioners shall consider any diminished access to the highway and diminished access to or from the remaining property to the extent that it affects the present market value of the property, including any factors considered when determining the fair market value of property for ad valorem tax purposes ~~[special and direct benefits that arise from the highway improvement or the transit authority improvement or project that are peculiar to the property owner and that relate to the property owner's ownership, use, or enjoyment of the particular parcel of remaining real property].~~

SECTION _____. Subchapter B, Chapter 111, Natural Resources Code, is amended by adding Section 111.0195 to read as follows:

Sec. 111.0195. RIGHT OF EMINENT DOMAIN: ADDITIONAL PROCEDURES. (a) This section applies only to a condemnation proceeding initiated by a common carrier, as that term is defined by Section 111.002, Natural Resources Code.

(b) A common carrier that intends to exercise the power of eminent domain must serve the owner of the property to be acquired with notice that the common carrier intends to initiate condemnation proceedings on or before the date the common carrier files a condemnation petition.

(c) The special commissioners in an eminent domain proceeding to which this section applies:

(1) may not schedule a hearing to assess damages before the 30th day after the date of the special commissioners' appointment; and

(2) must serve a property owner with notice informing the property owner of the time and place of the hearing not later than the 21st day before the date set for the hearing.

(d) A court that has jurisdiction over a condemnation proceeding may appoint a replacement special commissioner if:

(1) the property owner or the common carrier objects to the appointment of a special commissioner by filing a written statement of the person's objections on the grounds of:

(A) a conflict of interest; or

(B) other good cause; and

(2) the court determines in a hearing that good cause is shown.

(e) The special commissioners may delay scheduling a hearing for a reasonable period if, by motion to the court that has jurisdiction over the condemnation proceeding, the property owner requests and is granted a delay by the court for good cause shown.

(f) A notice required under this section must be served by:

(1) regular mail; and

(2) certified mail, return receipt requested, to the property owner.

(g) A common carrier has the burden of proof to establish that notice was provided as required by Subsection (b).

SECTION _____. Section 111.0195, Property Code, as added by this Act, applies only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

Amendment No. 2

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

Amend Amendment No. 1 by P. King to **CSHB 2006** as follows:

(1) On page 1, between lines 2 and 3, insert the following appropriately numbered item:

() On page 1, strike lines 4-24.

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

SECTION _____. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.024 to read as follows:

Sec. 21.024. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES. (a) Notwithstanding any other law, information collected, assembled, or maintained by an entity that is not a governmental body but is authorized by law to take private property through the use of eminent domain is required to produce information as provided by this section if the information is requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding, but only if the information is related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court in the county in which the entity has its principal place of business that has jurisdiction over condemnation proceedings under this chapter.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines the refusal violates this section, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

(g) If an entity that received a request in accordance with this section does not produce the requested information on or before the 30th day after the request is made, the attorney general may file an action in a court described by Subsection (e) to enforce this section on the request of the person who made the request for the information. If the court determines that the failure to produce the information is a violation of this section, the court may award the attorney general's reasonable expenses incurred to compel the production of the information.

(h) If the attorney general files an action under Subsection (g), the person who requested that the attorney general file the action may not file a private action to enforce this section with respect to the same request for information.

(3) On page 5 of the amendment, after line 5, insert the following:

SECTION _____. Section 552.0037, Government Code, is repealed.

(4) On page 5 of the amendment, after the material added by Item (3) of this amendment, insert the following appropriately numbered item:

() Strike page 28, line 23, through page 29, line 1, and substitute the following:

SECTION 13. (a) The change in law made by Section 21.021, Property Code, as added by this Act, and the repeal by this Act of Section 552.0037, Government Code, applies only to a request for disclosure made on or after the effective date of this Act. A request for disclosure made before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(5) Renumber existing items of the amendment appropriately.

(Miller in the chair)

Amendment No. 2 was adopted.

HCR 236 - ADOPTED
(by Talton)

Representative Talton moved to suspend all necessary rules to take up and consider at this time **HCR 236**.

The motion prevailed.

The following resolution was laid before the house:

HCR 236, Honoring fallen police officers on Peace Officers' Memorial Day and during National Police Week.

HCR 236 was unanimously adopted by a rising vote.

CSHB 2006 - (consideration continued)

Amendment No. 1, as amended, was withdrawn.

Amendment No. 3

Representative Rodriguez offered the following amendment to **CSHB 2006**:

Amend **CSHB 2006** (house committee printing) on page 4, between lines 22 and 23, by inserting the following:

Sec. 2206.052. LIMITATION ON EMINENT DOMAIN FOR TEXAS DEPARTMENT OF TRANSPORTATION. Notwithstanding any other law, the Texas Department of Transportation may not use the power of eminent domain to acquire property for the construction of a toll road.

Representative Woolley moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 1037): 89 Yeas, 40 Nays, 2 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Eissler; Elkins; England; Farabee; Flynn; Frost; Gallego; Gattis; Geren; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Isett; Jackson; Keffer; King, P.; Krusee; Kuempel; Laubenberg; Macias; Madden; Martinez; McCall; McClendon; McReynolds; Merritt; Morrison; Murphy; Noriega; O'Day; Oliveira; Orr; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Raymond; Riddle; Ritter; Smith, T.; Smith, W.; Solomons; Straus; Swinford; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Burnam; Coleman; Davis, Y.; Dukes; Dunnam; Eiland; Escobar; Farias; Farrar; Garcia; Giddings; Gonzales; Gonzalez Tourelles; Hernandez; Herrero; Hodge; Howard, D.; Jones; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez Fischer; Menendez; Miles; Naishtat; Olivo; Ortiz; Puente; Quintanilla; Rodriguez; Rose; Strama; Thompson; Vaught; Veasey; Villarreal.

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

Absent, Excused — Branch; Chavez; Kolkhorst; Moreno; Mowery; Pitts; Turner.

Absent — Bailey; Dutton; Flores; Goolsby; Hill; Hughes; King, S.; Latham; Paxton; Smithee; Talton; Vo.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1037. I intended to vote no.

Gallego

I was shown voting yes on Record No. 1037. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1037. I intended to vote no.

Noriega

Amendment No. 4

Representative Y. Davis offered the following amendment to **CSHB 2006**:

Amend **CSHB 2006** (House Committee Printing) as follows:

(1) On page 7, strike lines 18-25 and substitute the following:

(1) the value of the property being condemned;

(2) the injury to the property owner, including the financial damages associated with the cost of relocating from the condemned property, if the property was habitable, to another property that allows the property owner to have a standard of living comparable to the property owner's standard of living before the condemnation of the property;

(3) the benefit to the property owner's remaining property; and

(4) the use of the property for the purpose of the condemnation.

(2) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 21.042(d), Property Code, is amended to read as follows:

(d) In estimating injury or benefit under Subsection (c), the special commissioners shall consider an injury or benefit that is peculiar to the property owner, including the property owner's financial damages described by Section 21.041(2), and that relates to the property owner's ownership, use, or enjoyment of the particular parcel of real property, but they may not consider an injury or benefit that the property owner experiences in common with the general community.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Puente offered the following amendment to **CSHB 2006**:

Amend **CSHB 2006** by adding the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.258 to read as follows:

Sec. 13.258. EMINENT DOMAIN. (a) A water and sewer utility that is operating in accordance with its certificate of convenience and necessity may acquire by condemnation only easements or lesser property interests reasonably necessary to comply with federal and state regulations relating to sanitation.

(b) The water and sewer utility shall exercise the power of eminent domain in the manner provided by Chapter 21, Property Code.

(c) The water and sewer utility may not exercise the power of eminent domain to condemn land to acquire rights to underground water or for water or water rights.

(d) A water and sewer utility may not exercise the power of eminent domain in a municipality with a population of more than 1.7 million or in the municipality's extraterritorial jurisdiction to condemn land in which the municipality owns a fee, easement, or lesser property interest.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Y. Davis offered the following amendment to **CSHB 2006**:

Amend **CSHB 2006** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 21.046(a) and (b), Property Code, are amended to read as follows:

(a) A department, agency, instrumentality, or political subdivision of this state shall ~~may~~ provide a relocation advisory service for an individual, a family, a business concern, a farming or ranching operation, or a nonprofit organization that ~~[if the service]~~ is compatible with the Federal Uniform Relocation Assistance Advisory Program, 23 U.S.C.A. 501, et seq.

(b) This state or a political subdivision of this state shall ~~may~~, as a cost of acquiring real property, pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, a family, the personal property of a business, a farming or ranching operation, or a nonprofit organization is displaced in connection with the acquisition.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Puente offered the following amendment to **CSHB 2006**:

Amend **CSHB 2006** by adding the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter G, Chapter 13, Water Code, is amended by adding Section 13.258 to read as follows:

Sec. 13.258. EMINENT DOMAIN. (a) A water and sewer utility that is operating in accordance with its certificate of convenience and necessity may acquire by condemnation only easements or lesser property interests reasonably necessary to comply with federal and state regulations relating to sanitation.

(b) The water and sewer utility shall exercise the power of eminent domain in the manner provided by Chapter 21, Property Code.

(c) The water and sewer utility may not exercise the power of eminent domain to condemn land to acquire rights to underground water or for water or water rights.

(d) A water and sewer utility may not exercise the power of eminent domain in a municipality with a population of more than 1.7 million or in the municipality's extraterritorial jurisdiction to condemn land in which the municipality owns a fee, easement, or lesser property interest.

Amendment No. 7 was withdrawn.

Amendment No. 8

Representatives P. King, Woolley, and Callegari offered the following amendment to **CSHB 2006**:

Amend **CSHB 2006** (House Committee Printing) as follows:

(1) On page 5, line 4, between "proceeding" and "under", insert "by filing a petition".

(2) On page 5, line 5, strike "Chapter 21" and substitute "Section 21.012".

(3) On page 5, line 7, between "Subsection (b)" and the comma, insert "or Subsection (d)".

(4) On page 5, line 18, after the period and quotation mark, insert the following:

The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(5) On page 5, between lines 18-19, insert the following:

(d) If a project for a public use described by Section 2206.051(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(e) An ordinance, resolution, or order adopted under Subsection (d) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

(6) On page 5, lines 23 and 24, strike "by voluntary purchase or lease" and substitute "from the property owner voluntarily".

(7) On page 6, line 24, strike "by voluntary purchase or lease" and substitute "from the property owner voluntarily".

(8) On page 7, strike lines 19-20 and substitute the following:
including any evidence that an owner of real property who desires but is not obligated to sell the property and a potential purchaser of the property who is under no necessity to purchase the property would consider with respect to the property if it were offered for sale;

(9) On page 8, line 6, strike "by voluntary purchase or lease" and substitute "from the property owner voluntarily".

(10) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 21.042(e), Property Code, is amended to read as follows:

(e) If a portion of a tract or parcel of real property is condemned for the use, construction, operation, or maintenance of the state highway system or of a county toll project described by Chapter 284, Transportation Code, that is eligible for designation as part of the state highway system, [~~or for the use, construction, development, operation, or maintenance of an improvement or project by a metropolitan rapid transit authority created before January 1, 1980, with a principal municipality having a population of less than 1.9 million and established under Chapter 451, Transportation Code, the special commissioners shall determine the damage to the property owner regardless of whether the property owner makes a claim for damages to the remaining property. In awarding compensation or assessing the damages,~~] the special commissioners shall consider any diminished access to the highway and diminished access to or from the remaining property to the extent that it affects the present market value of the property, including any factors considered when determining the fair market value of property for ad valorem tax purposes [~~special and direct benefits that arise from the highway improvement or the transit authority improvement or project that are peculiar to the property owner and that relate to the property owner's ownership, use, or enjoyment of the particular parcel of remaining real property~~].

SECTION _____. Subchapter B, Chapter 111, Natural Resources Code, is amended by adding Section 111.0195 to read as follows:

Sec. 111.0195. RIGHT OF EMINENT DOMAIN: ADDITIONAL PROCEDURES. (a) This section applies only to a condemnation proceeding initiated by a common carrier, as that term is defined by Section 111.002, Natural Resources Code.

(b) A common carrier that intends to exercise the power of eminent domain must serve the owner of the property to be acquired with notice that the common carrier intends to initiate condemnation proceedings on or before the date the common carrier files a condemnation petition.

(c) The special commissioners in an eminent domain proceeding to which this section applies:

(1) may not schedule a hearing to assess damages before the 30th day after the date of the special commissioners' appointment; and

(2) must serve a property owner with notice informing the property owner of the time and place of the hearing not later than the 21st day before the date set for the hearing.

(d) A court that has jurisdiction over a condemnation proceeding may appoint a replacement special commissioner if:

(1) the property owner or the common carrier objects to the appointment of a special commissioner by filing a written statement of the person's objections on the grounds of:

(A) a conflict of interest; or

(B) other good cause; and

(2) the court determines in a hearing that good cause is shown.

(e) The special commissioners may delay scheduling a hearing for a reasonable period if, by motion to the court that has jurisdiction over the condemnation proceeding, the property owner requests and is granted a delay by the court for good cause shown.

(f) A notice required under this section must be served by:

(1) regular mail; and

(2) certified mail, return receipt requested, to the property owner.

(g) A common carrier has the burden of proof to establish that notice was provided as required by Subsection (b).

SECTION _____. Section 111.0195, Property Code, as added by this Act, applies only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

Amendment No. 9

Representative Krusee offered the following amendment to Amendment No. 8:

Amend Amendment No. 8 by P. King to **CSHB 2006** (House Committee Printing) by striking page 2, line 24, through page 3, line 17.

Amendment No. 9 was adopted. (Aycock recorded voting no.)

(Speaker in the chair)

Amendment No. 8, as amended, was adopted.

CSHB 2006, 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. Members registering votes are as follows: Latham recorded voting no.)

CSHB 13 ON SECOND READING
(by Swinford, Escobar, Christian, Woolley, Guillen, et al.)

CSHB 13, A bill to be entitled An Act relating to homeland security issues, including border security issues.

(Turner now present)

CSHB 13 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE FARRAR: Before we move on to the amendments, if I could ask you some questions, please, Chairman Swinford.

REPRESENTATIVE SWINFORD: Sure.

FARRAR: On several occasions, both on the floor and in the media, you said that you would rather kill the bill than have the funding go to DPS, have them be in charge of allocating the border homeland security funds. Is that correct?

SWINFORD: That's not exactly correct.

FARRAR: Could you explain?

SWINFORD: Let me explain to you exactly what I said. I believe I said the money needs to go through the governor's office because of some agreements that I had with the house of representatives in the form of Mr. Culberson. The thing about it is that if I do not fulfill my obligation, I don't know that he will fulfill his. So that's the reason I said I don't want to move this over here for some symbolism over substance and lose money that I could be getting to the border.

FARRAR: What is the agreement with Mr. Culberson that you've made?

SWINFORD: The agreement that I made to Mr. Culberson, we did it in person when he was here during the member's day and the Easter egg hunt. That day we met some several hours and he and I sat together and discussed the system that he would feel appropriate by helping us get money. Now, the bill that he filed doesn't have all that in it, but the bill that he's working on, the Appropriations Subcommittee on Homeland Security, to get money drafted and put in this direction. So what we agreed to was to have an accountability system to make sure that most of the money went to the border, that it came down through the home security office of the governor, and so those were some of the agreements that we made.

FARRAR: In his legislation that he filed in the previous session, you're aware that **HR 4360**, it didn't pass, and it was actually passed as a part, this is according to your letter, to **HR 4437**, which also, it passed the house, but it didn't make it out of the senate. But both of those pieces of legislation, though, directed the money directly to the border sheriffs. Are you aware of that, versus going to the governor's office?

SWINFORD: They directed it through—there's a Byrne Grant in the governor's office, it went to there and then to the border sheriffs.

FARRAR: Right.

SWINFORD: Are you aware of that?

FARRAR: No, I wasn't aware of that, but it's not in the legislation, so that's why I'm asking you about this agreement that you've made.

SWINFORD: Let's make sure that we understand what we're talking about here. If you'd look at the letter I passed out. Do you have it there?

FARRAR: Yes, I have it.

SWINFORD: If you would look at the letter, it says that the Texas Border Sheriff's Coalition, through the Justice Department's Edward Byrne Grant Program. Do you know who administers that program?

FARRAR: I'm sorry, can you reference?

SWINFORD: It's the last paragraph on the letter from Mr. Culberson.

FARRAR: Okay, go ahead.

SWINFORD: If you look about half-way in that paragraph, it says that last time he was talking about the five million he got before and he's talking about the future money that he was trying to get. He said, "I've secured five million for the Texas Border Sheriff's Coalition, through the Justice Department Edward Byrne Grant Program." Do you know who administers that?

FARRAR: I don't see the Edward Byrne Grant. Oh, I see, Edward Byrne Grant.

SWINFORD: Do you know who administers that? The governor's office.

FARRAR: I'm just learning that right now from you for the very first time.

SWINFORD: You know when we set that up? In 1991. You know who was governor? Ann Richards. You know who voted for it? I did. This is not about the governor's stuff. This is about border security.

FARRAR: Right, I understand that. My questions are how this governor has administered the funds, and I think there are some amendments here that would address proper auditing, the way you actually have to apply for the funds to show that there's need. There has been none of that, and the results, therefore, have been dismal.

SWINFORD: If you would let Mr. Gallego and I put our amendment on it, it would spell all that out.

FARRAR: Right, and I'll address that amendment when we get to that point.

SWINFORD: Okay.

FARRAR: So, back to what we're talking about with Congressman Culberson. So you're basing all of your information, based only on what your conversation with Congressman Culberson?

SWINFORD: I'm basing my information on that and also what has happened in the past. Whenever they sent money to the border sheriffs they did it through this one particular grant and these requested \$27.5 million this year to be done the

same way. And the Southwest Border Sheriff's Coalition, which if for the entire border, is done through those same grants. That's where that money comes from.

FARRAR: In Congressman Culberson's letter, he writes he's working specifically with Congressman Ciro Rodriguez on this legislation. My office contacted Congressman Rodriguez's office, since our last conversation, and they say that they've not agreed to sign on to Congressman Culberson's legislation. Are you aware of that?

SWINFORD: I'm not aware of that. I'm just aware of what he told me and what he sent me in the letter.

FARRAR: And also Congressman Rodriguez is going to author his own legislation and that legislation would send the federal money directly to the border sheriffs and municipalities that apply. Were you aware of that legislation?

SWINFORD: I'm not aware of that, but I'm sure that he would use the same mechanism that Mr. Culberson used to go to the border sheriffs. That's the way they get the money.

FARRAR: Well, that's not my understanding from when I spoke to him.

SWINFORD: Well, you just misunderstand each other.

FARRAR: Congressman Rodriguez is in the majority party and Congressman Culberson, then as a member of the majority party, was unsuccessful in passing his own legislation, so I was wondering why we were putting so much weight onto a deal made with Congressman Culberson, given the new makeup of Congress. I'd like to talk a bit about how other states allocate the funding. Have you—I passed it out, it's on the floor., Did you see how other states allocate their homeland security funds?

SWINFORD: Please tell us.

FARRAR: Well, it lists in detail how all 50 states do so. In fact, only 12 of those states allocate the funding through the governor. Most others do it through their law enforcement agency, their state law enforcement agency, or even independent agencies. Are you aware of that? And did you look at that when you were drafting this legislation?

SWINFORD: Well, I mean, I didn't. Are you aware of how we've done it in Texas since 1991? Did you know that in 1991 we set up the whole program over in the governor's office?

FARRAR: Right. I'm not really pleased on how the performance has been. As you know, we first went through hours and hours of testimony and several hearings and we heard different stats from the governor's office compared to the local police chiefs there. They said that those numbers were completely distorted and also we saw that the mechanism for the reporting from the sheriffs was pretty clear that we couldn't understand what it meant and it did not provide much accountability.

SWINFORD: I understand that you have an amendment to move the money. Would you like to just go ahead and go down to that amendment and then have this discussion?

FARRAR: Sure. I have one last question.

SWINFORD: Okay.

FARRAR: This funding that's in your bill has already passed in the appropriations bill, correct?

SWINFORD: That's correct.

FARRAR: So no matter what we do here, the money will already be allocated, correct?

SWINFORD: That's correct.

FARRAR: Alright.

SWINFORD: What this bill does, it talks about how it allocates and how who is doing the allocation and also how it's accounted for and things like that.

REMARKS ORDERED PRINTED

Representative Farrar moved to print remarks between Representative Swinford and Representative Farrar.

The motion prevailed.

Amendment No. 1

Representative Swinford offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) as follows:

(1) On page 7, line 26, strike "LEGISLATIVE OVERSIGHT COMMITTEE" and substitute "INTERIM COMMITTEE ON BORDER SECURITY".

(2) Strike page 7, line 27, and substitute the following: interim committee on border

(3) On page 8, line 18, strike "oversight" and substitute "interim".

(4) Strike page 8, line 27, through page 9, line 4, and substitute the following:

(e) The committee shall conduct an interim study of border security issues in this state. The committee shall issue a report to the legislature not later than December 1, 2008.

(f) This section expires January 1, 2009.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Raymond and Swinford offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (House Committee Printing) as follows:

(1) On page 2, lines 16-17, strike "necessary project management resources" and substitute "funding".

(2) On page 2, line 17, between "Exchange" and the semicolon, insert "or any other similar comprehensive intelligence database".

(3) Strike SECTION 2 of the bill (page 2, line 19, through page 4, line 5) and substitute the following:

SECTION 2. Subchapter C, Chapter 418, Government Code, is amended by adding Section 418.0431 to read as follows:

Sec. 418.0431. FUNDING OF CERTAIN DATABASES. The division:

(1) may provide funding to the Department of Public Safety for the Texas Data Exchange or any other similar comprehensive intelligence database; and

(2) shall, to any extent necessary, participate in the transfer described by Section 421.0035(2) and the cooperation described by Section 421.0035(3).

(4) Strike SECTION 5 of the bill (page 7, lines 11 through 23) and substitute the following:

SECTION _____. Section 421.003, Government Code, is amended to read as follows:

Sec. 421.003. CRIMINAL INTELLIGENCE INFORMATION; DATABASE MAINTENANCE. (a) The Department of Public Safety of the State of Texas is:

(1) the repository in this state for the collection of multijurisdictional criminal intelligence information that is about terrorist activities or otherwise related to homeland security activities; and

(2) the state agency that has sole [~~primary~~] responsibility to analyze and disseminate that information.

(b) Notwithstanding Section 421.002 or any other law, the Department of Public Safety of the State of Texas is the only state agency or state governmental entity that is authorized to develop, maintain, operate, and control access to the Texas Data Exchange or any other similar comprehensive intelligence database.

(5) Add the following appropriately numbered SECTION to the bill:

SECTION _____. Subchapter A, Chapter 421, Government Code, is amended by adding Section 421.0035 to read as follows:

Sec. 421.0035. CERTAIN COOPERATION REQUIRED. The governor and the governor's office shall cooperate with the Department of Public Safety to:

(1) transfer to the department control of the Texas Data Exchange or any other similar comprehensive intelligence database and any information contained in the Texas Data Exchange or any other similar comprehensive intelligence database;

(2) transfer to the department any federal funds received by the governor or the governor's office for the operation or maintenance of the Texas Data Exchange or any other similar comprehensive intelligence database; and

(3) ensure that the department receives any federal funds received by this state for the operation or maintenance of the Texas Data Exchange or any other similar comprehensive intelligence database.

(6) Appropriately number or renumber all existing SECTIONS of the bill.

Amendment No. 2 was adopted.

Amendment No. 3

Representatives Gallego, Noriega, and Swinford offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) as follows:

(1) On page 4, strike lines 8-16 and substitute the following:

Sec. 421.002. STATE OFFICE OF HOMELAND SECURITY; HOMELAND SECURITY STRATEGY. (a) The director of the State Office of Homeland Security [governor] shall direct homeland security in this state. The director is appointed by the governor with the advice and consent of the senate and serves a two-year term expiring February 1 of each odd-numbered year. The State Office of Homeland Security is administratively attached to the office of the governor.

(a-1) The governor [and] shall develop a statewide homeland security strategy that improves the state's ability to:

- (1) detect and deter threats to homeland security;
- (2) respond to homeland security emergencies; and
- (3) recover from homeland security emergencies.

(2) Strike page 7, lines 9-10.

(3) On page 8, line 3, between "Affairs" and the semicolon, insert "or its successor in function".

(4) On page 8, line 5, between "Relations" and the semicolon, insert "or its successor in function".

(5) On page 8, line 6, between "Affairs" and the semicolon, insert "or its successor in function".

(6) On page 9, line 25, strike "staff of the office of the".

(7) On page 10, line 4, strike "may" and substitute "shall".

(8) On page 10, strike lines 7-13 and substitute the following:

(d) Not later than the 21st day after the date of receiving notice of the determination, a state governmental entity may appeal a determination under Subsection (c) to a Travis County district court and a political subdivision may appeal a determination under Subsection (c) to a district court with jurisdiction in a county in which the political subdivision is located.

(9) On page 11, line 3, strike "and" and substitute [and].

(10) On page 11, line 5, between "funding" and the period, insert the following:
; and

(5) develop objective criteria to evaluate the use of grants and other funds allocated to an entity under this section, including taking into consideration:

(A) the number of officers and employees of the entity;

(B) the size and population of the geographic area under the jurisdiction of the entity;

(C) the size of the border area for which the entity is responsible, if applicable;

(D) the number of arrests made by the entity as a result of the funding, if applicable; and

(E) the number of prosecutions made by the entity as a result of the funding, if applicable

(11) On page 11, line 12, strike "staff of the office of the".

(12) On page 11, line 18, strike "may" and substitute "shall".

(13) On page 11, strike lines 20-25, and substitute the following:

(f) Not later than the 21st day after the date of receiving notice of the determination, a state agency may appeal a determination under Subsection (e) to a Travis County district court and a local agency may appeal a determination under Subsection (e) to a district court with jurisdiction in a county in which the local agency is located.

(14) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS appropriately:

SECTION _____. Subchapter A, Chapter 421, Government Code, is amended by adding Section 421.006 to read as follows:

Sec. 421.006. AUDIT BY STATE AUDITOR. The State Office of Homeland Security, Texas Fusion Center, Border Security Council, Texas Data Exchange, and other offices, agencies, and programs under this chapter are subject to audit by the state auditor in accordance with Chapter 321.

SECTION _____. As soon as practicable after the effective date of this Act, the governor shall appoint the director of the State Office of Homeland Security to a term expiring February 1, 2009.

AMENDMENT NO. 3 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE NORIEGA: Mr. Gallego, for the benefit of a couple of members that had asked me questions, Representative Phillips, Representative Macias, on the first part of your amendment, it was not my intent and I just wanted to make sure that this was entered in that on line 6 of your amendment, "that the director of the state office of homeland security" and it struck the word "governor." We want to make sure that it is not indicating that we are usurping the authority of the governor, but that this Director of the State Office of Homeland Security, on behalf of the governor, shall direct homeland security. That was our understanding, along with Mr. Swinford, and I wanted to make sure for the benefit of Mr. Macias and Mr. Phillips that we had this conversation.

REPRESENTATIVE GALLEGO: Mr. Noriega, I can tell you that this language is your amendment and therefore, your intent is my intent. I would certainly tell you that the intent is not to usurp the authority of the governor, but since the Director of Homeland Security now has to go through senate confirmation and since he's administratively attached, I would think that's the genesis of that, and I agree with your intent 100 percent.

NORIEGA: Second question, Mr. Gallego, in addition, is it your understanding of this as well that there are some parameters based on federal grant dollars that flow through to the locals and therefore, it wouldn't be our intent then that the state would have some revocation authority on those grant dollars that perhaps may flow directly to the locals based on something that doesn't necessarily apply to this legislation, would it?

GALLEGO: No, absolutely not. This legislation would apply to money that is funneled through the state's account, and through the governor's office and homeland security. It would not apply to money that goes directly from the Congress to those sheriffs or those other governmental entities out there.

REMARKS ORDERED PRINTED

Representative Noriega moved to print remarks between Representative Gallego and Representative Noriega.

The motion prevailed.

Amendment No. 3 was adopted.

Amendment No. 4

On behalf of Representative Driver, Representative Swinford offered the following amendment to **CSHB 13**:

Amend **CSHB 13** on Page 13 by striking line 14 after "federal criminal law." through line 24.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Farrar offered the following amendment to **CSHB 13**:

Amend **CSHB 13** as follows:

(1) Strike SECTION 4 of the bill.

(2) On page 10, strike lines 17-18 and substitute "(a) The Department of Public Safety of the State of Texas [~~office of the governor~~] shall:".

(3) On page 11, line 6, strike "governor" and substitute "department".

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

"(g) The department by rule shall adopt a formula for awarding grants under this section. The rules must provide for a formula that gives greater emphasis to the quality of information collected, the number of suspects with higher authority in a criminal enterprise apprehended, and the weight of illegal substances seized. The department may not award a grant that is not scored according to the funding formula.

(h) The department shall report annually to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature on its activities under this section."

(Kolkhorst and Pitts now present)

(Crownover in the chair)

Representative Raymond moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 1038): 90 Yeas, 51 Nays, 3 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Darby; Davis, J.; Delisi; Deshotel; Driver; Eissler; Elkins; England; Escobar; Farabee; Flynn; Frost; Gallego; Gattis; Geren; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; Menendez; Miller; Morrison; Murphy; O'Day; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rose; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Truitt; Van Arsdale; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Cohen; Coleman; Davis, Y.; Dukes; Dunnam; Eiland; Farias; Farrar; Flores; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Heflin; Hernandez; Herrero; Hochberg; Howard, D.; Keffer; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Merritt; Miles; Naishtat; Noriega; Olivo; Ortiz; Pierson; Puente; Ritter; Rodriguez; Smith, T.; Straus; Talton; Thompson; Turner; Vaught; Veasey; Vo.

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

Absent, Excused — Branch; Chavez; Moreno; Mowery.

Absent — Dutton; Hamilton.

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. 4).

CSHB 13 - (consideration continued)

Amendment No. 6

Representative Merritt offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) as follows:

(1) Strike SECTION 4 of the bill and substitute the following:

SECTION 4. Subchapter A, Chapter 421, Government Code, is amended by adding Section 421.0025 to read as follows:

Sec. 421.0025. HOMELAND AND BORDER SECURITY COUNCIL. (a) In this section, "council" means the Homeland and Border Security Council.

(b) The Homeland and Border Security Council consists of:

(1) the public safety director of the Department of Public Safety of the State of Texas or a representative of the department appointed by the public safety director;

(2) the executive director of the Texas Border Sheriffs' Coalition or a representative of the coalition appointed by the executive director;

(3) the president of the County Judges and Commissioners Association of Texas or a representative of the association appointed by the president;

(4) the president of the Texas Police Chiefs Association or a representative of the association appointed by the president; and

(5) three additional members appointed by the governor who are residents of the Texas-Mexico border region, as defined by Section 2056.002, including one member who is an active member of law enforcement.

(c) The council shall develop and implement performance standards, reporting requirements, audit methods, and other procedures to ensure that funds allocated by the office of the governor for purposes related to homeland security and border security are used properly and that the recipients of the funds are accountable for the proper use of the funds.

(d) The council shall direct the allocation of funds by the office of the governor for purposes related to homeland security and border security. Decisions relating to the allocation of those funds must be made by a majority of the members of the council.

(e) The public safety director of the Department of Public Safety of the State of Texas is the chair of the council. The chair shall arrange meetings of the council at times determined by the members of the council.

(f) The actions and plans of the council are subject to the requirements of Chapters 551 and 552 to the same extent as similar actions and plans of the Department of Public Safety of the State of Texas.

(g) Notwithstanding Chapter 551, the council may hold an open or closed meeting by telephone conference call. The meeting is subject to the notice requirements applicable to other meetings. The notice of the meeting must specify as the location of the meeting the location where meetings of the council are usually held. Each part of the meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape-recorded. The tape recording shall be made available to the public.

(h) Service on the council by a state officer or employee or by an officer or employee of a local government is an additional duty of the member's office or employment.

(2) On page 10, lines 17-18, strike "State Office of Homeland Security, with the advice of the Border Security Council, [~~office of the governor~~]" and substitute "office of the governor, at the direction of the Homeland and Border Security Council."

(3) Strike SECTION 15 of the bill and substitute the following:

SECTION 15. The House Committee on Defense Affairs and State-Federal Relations may conduct a study to determine whether it would enhance efficiency in the implementation of homeland security and border security measures in this state for this state or for certain political subdivisions of this state to seek one or more agreements under Section 287(g), Immigration and Nationality Act (8 U.S.C. Section 1357(g)).

(Speaker in the chair)

Representative Swinford moved to table Amendment No. 6.

A record vote was requested.

The motion to table prevailed by (Record 1039): 103 Yeas, 37 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Eiland; Eissler; England; Escobar; Farabee; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Goolsby; Guillen; Haggerty; Hamilton; Harcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Latham; Laubenberg; Lucio; Macias; Madden; Martinez; McCall; McReynolds; Menendez; Miller; Murphy; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rose; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Allen; Bailey; Bolton; Burnam; Castro; Coleman; Dunnam; Elkins; Farias; Farrar; Flores; Garcia; Giddings; Gonzalez Toureilles; Hancock; Heflin; Hernandez; Herrero; Hochberg; Hodge; Jones; Kuempel; Leibowitz; Mallory Caraway; Martinez Fischer; Merritt; Miles; Naishtat; Noriega; Olivo; Pierson; Puente; Rodriguez; Smith, T.; Thompson; Turner; Veasey.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Moreno; Mowery.

Absent — Creighton; Dutton; McClendon; Morrison; Vaught.

STATEMENT OF VOTE

When Record No. 1039 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hartnett requested permission for the Committee on Judiciary to meet while the house is in session, 7:35 p.m. 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, 7:35 p.m. today, 3W.9, for a formal meeting, to consider pending bills.

CSHB 13 - (consideration continued)

Amendment No. 7

Representative Castro offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) on page 6, between lines 7 and 8, by inserting the following:

(a-1) One-third of the members appointed under Subsection (a) must be residents of the Texas-Mexico border region, as defined by Section 2056.002.

Amendment No. 8

Representative Castro offered the following amendment to Amendment No. 7:

Amend Amendment No. 7 by Castro to **CSHB 13** on page 1, line 3, by striking "One-third" and substituting "At least one-third".

Amendment No. 8 was adopted.

Amendment No. 7, as amended, was adopted.

Amendment No. 9

Representative Martinez Fischer offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) as follows:

(1) Strike SECTION 8 of the bill and substitute the following:

SECTION 8. Section 421.072, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The State Office of Homeland Security, with the advice of the Border Security Council, [office of the governor] shall:

(1) allocate available federal and state grants and other funding related to homeland security to state and local agencies and defense base development authorities created under Chapter 379B, Local Government Code, that perform homeland security activities;

(2) periodically review the grants and other funding for appropriateness and compliance;

(3) designate state administering agencies to administer all grants and other funding to the state related to homeland security; and

(4) measure the effectiveness of the homeland security grants and other funding.

(d) The office of the governor and the State Office of Homeland Security may allocate grants for homeland security purposes only to public law enforcement agencies or other public entities as provided by Subsection (a).

Amendment No. 9 was adopted.

Amendment No. 10

Representative Martinez Fischer offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) as follows:

(1) Strike SECTION 8 of the bill and substitute the following:

SECTION 8. Section 421.072, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The State Office of Homeland Security, with the advice of the Border Security Council, [office of the governor] shall:

(1) allocate available federal and state grants and other funding related to homeland security to state and local agencies and defense base development authorities created under Chapter 379B, Local Government Code, that perform homeland security activities;

(2) periodically review the grants and other funding for appropriateness and compliance;

(3) designate state administering agencies to administer all grants and other funding to the state related to homeland security; and

(4) measure the effectiveness of the homeland security grants and other funding.

(d) In allocating grants and other funds to law enforcement entities for border security purposes under Subsection (a), the State Office of Homeland Security shall consider:

(1) the portion of the Texas-Mexico border for which the entity has jurisdiction; and

(2) the extent to which the entity provides law enforcement services along the border.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Herrero offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) as follows:

(1) Strike SECTIONS 1-3 of the bill.

(2) Insert the following appropriately-numbered SECTIONS and renumber any subsequent sections accordingly:

SECTION _____. Chapter 411, Government Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. DOMESTIC SECURITY DIVISION

Sec. 411.401. DEFINITIONS. In this subchapter:

(1) "Domestic security activity" has the meaning assigned to "homeland security activity" by Section 421.001.

Sec. 411.402. COMPOSITION OF DIVISION. (a) The domestic security division of the department consists of the bureaus of:

(1) border security; and

(2) readiness and preparedness.

(b) The director, with the advice and consent of the commission, shall employ chiefs, experts, operators, instructors, and assistants as necessary for the operation of the division and its bureaus.

Sec. 411.403. BUREAU OF BORDER SECURITY. (a) The chief of the bureau is the bureau's executive officer.

(b) The director may appoint assistant chiefs of the bureau.

(c) The chief and assistant chiefs must be qualified by experience and training in state-level response to international border security issues.

(d) The bureau shall advise the director and the commission on issues related to, and the allocation of funds for, security at or near this state's international border.

(e) The bureau shall offer assistance and, if practicable, instruction to sheriffs, chiefs of police, and other peace officers in establishing efficient local programs for securing this state's international border areas.

(f) The bureau shall assist local, state, and federal law enforcement agencies in the sharing of resources and coordination of efforts to secure this state's international border.

Sec. 411.404. BUREAU OF READINESS AND PREPAREDNESS. (a) The chief of the bureau is the bureau's executive officer.

(b) The director may appoint assistant chiefs of the bureau.

(c) The chief and assistant chiefs must be qualified by experience and training in domestic security activities.

(d) The bureau shall perform the duties assigned to the department by Chapter 421.

SECTION ____. Section 421.001, Government Code, is amended by adding Subdivisions (2-a) and (2-b) to read as follows:

(2-a) "Department" means the Department of Public Safety of the State of Texas.

(2-b) "Director" means the public safety director.

SECTION ____. Section 421.002, Government Code, is amended to read as follows:

Sec. 421.002. HOMELAND SECURITY STRATEGY. (a) The ~~director~~ [governor] shall direct homeland security in this state and shall develop in conjunction with the governor the state's [a statewide] homeland security strategy that improves the state's ability to:

- (1) detect and deter threats to homeland security;
- (2) respond to homeland security emergencies; and
- (3) recover from homeland security emergencies.

(b) The state's [governor's] homeland security strategy shall coordinate homeland security activities among and between local, state, and federal agencies and the private sector and must include specific plans for:

- (1) intelligence gathering and analysis;
- (2) information sharing;
- (3) reducing the state's vulnerability to homeland security emergencies;
- (4) protecting critical infrastructure;
- (5) protecting the state's international border, ports, and airports;
- (6) detecting, deterring, and defending against terrorism, including cyber-terrorism and biological, chemical, and nuclear terrorism;
- (7) positioning equipment, technology, and personnel to improve the state's ability to respond to a homeland security emergency;
- (8) directing the Texas Fusion [Infrastructure Protection Communications] Center and giving the center certain forms of authority to implement the state's [governor's] homeland security strategy; and
- (9) using technological resources to:

(A) facilitate the interoperability of government technological resources, including data, networks, and applications;

(B) coordinate the warning and alert systems of state and local agencies;

(C) incorporate multidisciplinary approaches to homeland security; and

(D) improve the security of governmental and private sector information technology and information resources.

(c) The state's [governor's] homeland security strategy must complement and operate in coordination with the federal homeland security strategy.

SECTION _____. Subchapter A, Chapter 421, Government Code, is amended by adding Section 421.0021 to read as follows:

Sec. 421.0021. REFERENCE. A reference in law to the governor's homeland security strategy means the state's homeland security strategy.

Representative Corte moved to table Amendment No. 11.

A record vote was requested.

The motion to table prevailed by (Record 1040): 94 Yeas, 41 Nays, 2 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Darby; Davis, J.; Delisi; Deshotel; Driver; Eiland; Eissler; England; Escobar; Farabee; Flynn; Frost; Gallego; Gattis; Geren; Goolsby; Guillen; Haggerty; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Latham; Laubenberg; Macias; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Miller; Morrison; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Truitt; Van Arsdale; Vaught; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dunnam; Dutton; Elkins; Farias; Farrar; Garcia; Gonzales; Gonzalez Tourelles; Hancock; Hernandez; Herrero; Howard, D.; Jones; Kuempel; Leibowitz; Lucio; Mallory Caraway; Martinez Fischer; Merritt; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Pierson; Puente; Rodriguez; Thompson; Veasey; Vo.

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

Absent, Excused — Branch; Chavez; Moreno; Mowery.

Absent — Creighton; Crownover; Flores; Giddings; Hamilton; Hochberg; King, S.; Taylor; Turner.

STATEMENTS OF VOTE

When Record No. 1040 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

When Record No. 1040 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1040 was taken, my vote failed to register. I would have voted yes.

S. King

When Record No. 1040 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

Amendment No. 12

Representative Hochberg offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) by adding the following appropriately numbered SECTIONS to read as follows and by renumbering existing SECTIONS accordingly:

SECTION _____. Article 61.02(c), Code of Criminal Procedure, is amended to read as follows:

(c) Criminal information collected under this chapter relating to a criminal street gang must:

(1) be relevant to the identification of an organization that is reasonably suspected of involvement in criminal activity; and

(2) consist of:

(A) a judgment under any law that includes, as a finding or as an element of a criminal offense, participation in a criminal street gang;

(B) a self-admission by the individual of criminal street gang membership that is made during a judicial proceeding; or

(C) any two of the following:

(i) [~~A~~] a self-admission by the individual of criminal street gang membership that is not made during a judicial proceeding;

(ii) [~~B~~] an identification of the individual as a criminal street gang member by a reliable informant or other individual;

(iii) [~~C~~] a corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability;

(iv) [~~D~~] evidence that the individual frequents a documented area of a criminal street gang and [;] associates with known criminal street gang members;

(v) evidence that the individual [; and] uses, in more than an incidental manner, criminal street gang dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of the format or medium in which the symbols are displayed, that are associated with a criminal street gang that operates in an area frequented by the individual and described by Subparagraph (iv); or

(vi) ~~(E)~~ evidence that the individual has been arrested or taken into custody with known criminal street gang members for an offense or conduct consistent with criminal street gang activity.

SECTION _____. Article 61.06(c), Code of Criminal Procedure, is amended to read as follows:

(c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the three-year period does not include any period during which the individual who is the subject of the information is:

(1) confined in a correctional facility operated by or under contract with the [institutional division or the state jail division of the] Texas Department of Criminal Justice;

(2) committed to a secure correctional facility operated by or under contract with the Texas Youth Commission, as defined by Section 51.02, Family Code; or

(3) confined in a county jail or a facility operated by a juvenile board in lieu of being confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice or being committed to a secure correctional facility operated by or under contract with the Texas Youth Commission.

SECTION _____. Chapter 61, Code of Criminal Procedure, is amended by adding Article 61.075 to read as follows:

Art. 61.075. RIGHT TO REQUEST EXISTENCE OF CRIMINAL INFORMATION. (a) A person or the parent or guardian of a child may request a law enforcement agency to determine whether the agency has collected or is maintaining under this chapter criminal information relating solely to the person or child. The law enforcement agency shall respond to the request not later than the 10th business day after the date the agency receives the request.

(b) Before responding to a request under Subsection (a), a law enforcement agency may require reasonable written verification of the identity of the person making the request and the relationship between the parent or guardian and the child, if applicable, including written verification of an address, date of birth, driver's license number, state identification card number, or social security number.

Amendment No. 12 was adopted.

Amendment No. 13

Representative Pitts offered the following amendment to **CSHB 13**:

Amend **CSHB 13** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 51.212, Education Code, is amended to read as follows:

Sec. 51.212. PEACE [~~SECURITY~~] OFFICERS AT PRIVATE INSTITUTIONS. (a) The governing boards of private institutions of higher education, including private junior colleges, are authorized to employ and commission peace officers [~~campus security personnel~~] for the purpose of enforcing:

(1) state law [~~the law of this state~~] on the campuses of private institutions of higher education; and

(2) state and local law, including applicable municipal ordinances, at other locations, as permitted by Subsection (b) or Section 51.2125.

(b) Any officer commissioned under the provisions of this section is vested with all the powers, privileges, and immunities of peace officers if the officer:

(1) is [~~while~~] on the property under the control and jurisdiction of the respective private institution of higher education or is otherwise performing [~~in the performance of his assigned~~] duties assigned to the officer by the institution, regardless of whether the officer is on property under the control and jurisdiction of the institution; or

(2) to the extent authorized by Section 51.2125, is:

(A) requested by another law enforcement agency to provide assistance in enforcing state or local law, including a municipal ordinance, and is acting in response to that request; or

(B) otherwise assisting another law enforcement agency in enforcing a law described by Paragraph (A).

(c) Any officer assigned to duty and commissioned shall take and file the oath required of peace officers, and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the governor, with two or more good and sufficient sureties, conditioned that the officer [~~he~~] will fairly, impartially, and faithfully perform the duties as may be required of the officer [~~him~~] by law. The bond may be sued on from time to time in the name of the person injured until the whole amount is recovered.

(d) [~~(b)~~] The governing boards of private institutions of higher education are authorized to hire and pay on a regular basis peace [~~law enforcement~~] officers commissioned by an incorporated city. The officers shall be under the supervision of the hiring institution, but shall be subject to dismissal and disciplinary action by the city. An incorporated city is authorized to contract with a private institution of higher education for the use and employment of its commissioned officers in any manner agreed to, provided that there is no expense incurred by the city.

(e) [~~(c)~~] In this section, "private institution of higher education" means a private or independent institution of higher education as defined [~~has the meaning assigned~~] by Section 61.003 [~~61.003(15) of this code~~].

SECTION _____. Subchapter E, Chapter 51, Education Code, is amended by adding Sections 51.2125 and 51.2126 to read as follows:

Sec. 51.2125. PRIVATE INSTITUTIONS: AUTHORITY TO ENTER INTO MUTUAL ASSISTANCE AGREEMENT. (a) This section applies only to a private institution of higher education, as defined by Section 61.003, with a fall head count enrollment of more than 10,000 students.

(b) If the institution has under its control and jurisdiction property that is contiguous to, or located in any part within the boundaries of, a municipality with a population of more than one million, in addition to exercising the authority provided under Section 51.212(d), the governing board of a private institution of higher education to which this section applies and the governing body of each municipality, regardless of the municipality's population, that is contiguous to, or the boundaries of which contain any part of, property under the control and jurisdiction of the private institution of higher education may enter into a written mutual assistance agreement in which peace officers commissioned by the institution or the applicable municipality serve the public interest by assisting, without any form of additional compensation or other financial benefit, the peace officers of the other party to the agreement in enforcing state or local law, including applicable municipal ordinances. The agreement must be reviewed at least annually by the institution and the municipality and may be modified at that time by a written agreement signed by each party. The agreement may be terminated at any time by a party to the agreement on the provision of reasonable notice to the other party to the agreement.

(c) A mutual assistance agreement authorized by this section may designate the geographic area in which the campus peace officers are authorized to provide assistance to the peace officers of the municipality.

(d) This section does not affect a municipality's duty to provide law enforcement services to any location within the boundaries of the municipality.

(e) A peace officer providing assistance under a mutual assistance agreement authorized by this section may make arrests and exercise all other authority given to peace officers under other state law. The municipal law enforcement agency has exclusive authority to supervise any campus peace officer operating under the agreement to assist the peace officers of the municipality. A municipal peace officer operating under the agreement to assist the campus peace officers remains under the supervision of the municipal law enforcement agency.

(f) In the same manner and to the same extent as a municipality is liable for an act or omission of a peace officer employed by the municipality, a private institution of higher education is liable for an act or omission of a campus peace officer operating under a mutual assistance agreement authorized by this section at a location other than property under the control and jurisdiction of the institution.

(g) This section does not limit the authority of a campus peace officer to make a warrantless arrest outside the officer's jurisdiction as described by Article 14.03(d), Code of Criminal Procedure.

Sec. 51.2126. APPEAL BY CAMPUS PEACE OFFICER OF DISCIPLINARY ACTION OR PROMOTIONAL BYPASS RELATED TO PROVISION OF ASSISTANCE UNDER MUTUAL ASSISTANCE AGREEMENT. (a) A campus peace officer acting under a mutual assistance agreement authorized by Section 51.2125 who is demoted, suspended, or terminated by the applicable private institution of higher education or who

experiences a promotional bypass by the institution may elect to appeal the institution's action to an independent third party hearing examiner under this section.

(b) To elect to appeal to an independent third party hearing examiner under this section, the campus peace officer must submit to the head of the institution's law enforcement agency not later than the 30th day after the date of the action being appealed a written request stating the officer's decision to appeal to such a hearing examiner.

(c) The hearing examiner's decision is final and binding on all parties. If a campus peace officer elects to appeal the institution's action to an independent third party hearing examiner under this section, the officer or institution may appeal the examiner's decision to a district court only as provided by Subsection (j).

(d) If a campus peace officer elects to appeal to a hearing examiner, the officer and the head of the institution's law enforcement agency or their designees shall attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner before the 10th day after the date the appeal is filed, the parties immediately shall request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The officer and the agency head or their designees may agree on one of the seven neutral arbitrators on the list. If the parties do not agree before the fifth business day after the date the parties receive the list, the parties or their designees shall alternate striking a name from the list, and the single name remaining after all other names have been struck is selected as the hearing examiner. The parties or their designees shall agree on a date for the hearing.

(e) The appeal hearing must begin as soon as an appearance by the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing before the 45th day after the date of selection, the campus peace officer may, within 48 hours after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed by Subsection (d).

(f) In a hearing conducted under this section, the hearing examiner has the same duties and powers that a civil service commission has in conducting a hearing or hearing an appeal under Chapter 143, Local Government Code, including the right to issue subpoenas. The hearing examiner may:

(1) order that the campus peace officer be reinstated to the same position or status in which the officer was employed immediately before the demotion, suspension, or termination or, in the case of a promotional bypass, to the position or status with respect to which the officer experienced the bypass; and

(2) award the officer lost wages and any other compensation lost as a result of the disciplinary action or promotional bypass, as applicable.

(g) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall issue a decision on the appeal not later than the 10th day after the date the hearing is completed.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall make a reasonable effort to issue a decision on the appeal not later than the 30th day after the later of the date the hearing is completed or the briefs are filed. The hearing examiner's inability to meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action or promotional bypass, or the hearing examiner's final decision.

(i) The hearing examiner's fees and expenses shall be paid in equal amounts by the parties. The costs of a witness shall be paid by the party who calls the witness.

(j) A district court may hear an appeal of a hearing examiner's decision only on the grounds that the hearing examiner was without jurisdiction or exceeded the examiner's jurisdiction or that the decision was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the district court having jurisdiction in the municipality in which the institution is located.

Amendment No. 13 was adopted.

Amendment No. 14

Representative Raymond offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Section 201.613, Transportation Code, is amended to read as follows:

Sec. 201.613. ONE-STOP BORDER INSPECTION FACILITIES [STATIONS]. (a) The department shall erect and maintain border ~~choose a location for an~~ inspection facilities ~~[station]~~ along a major highway at or near a border crossing from Mexico in the Pharr [Brownsville], [in] Laredo, and [in] El Paso districts for the inspection of motor vehicles for compliance with federal and state commercial motor vehicle regulations [so that all federal, state, and municipal agencies that regulate the passage of persons or vehicles across the border at that border crossing may be located in one place].

(b) If a facility that serves a bridge that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002, is to be located in a municipality or a municipality's extraterritorial jurisdiction, the municipality may choose the location of the facility within the municipality or the municipality's extraterritorial jurisdiction. The municipality shall choose a location before the later of the 180th day after:

- (1) the date the department makes a request for a location; or
- (2) the effective date of the Act enacting this provision.

(c) Only one inspection facility shall be constructed in a municipality described by this subsection.

(d) In determining the location for a border inspection facility under Subsection (b), the municipality shall:

(1) obtain and pay for an independent study completed by a university that conducts transportation studies or any other entity that conducts transportation studies to identify commercial truck traffic patterns for the location at which the facility is to be located to ensure that the location has adequate capacity to conduct a sufficient number of meaningful vehicle safety inspections in compliance with 49 U.S.C. Section 13902; and

(2) choose a location that does not impair the receipt of federal or state funds for implementation of this section.

(e) To the extent the department considers appropriate to expedite commerce, the department shall provide for implementation by the appropriate agencies of the use of Intelligent Transportation Systems for Commercial Vehicle Operations (ITS/CVO) in:

(1) any new commercial motor vehicle inspection facility constructed; and

(2) any existing facility to which this section applies.

(f) Implementation of systems under Subsection (e) must be based on the Texas ITS/CVO business plan prepared by the department, the Department of Public Safety, and the comptroller. The department shall coordinate with other state and federal transportation officials to develop interoperability standards for the systems.

(g) In implementing systems under Subsection (e) in the construction of a facility, the department to the greatest extent possible shall:

(1) enhance efficiency and reduce complexity for motor carriers by providing:

(A) a single point of contact between carriers and state and federal officials regulating the carriers; and

(B) a single point of information, available to wireless access, about federal and state regulatory and enforcement requirements;

(2) prevent duplication of state and federal procedures and locations for regulatory and enforcement activities, including consolidation of collection of applicable fees;

(3) link information systems of the department, the Department of Public Safety, the comptroller, and, to the extent possible, the United States Department of Transportation and other appropriate regulatory and enforcement entities; and

(4) take other necessary action to:

(A) facilitate the flow of commerce;

(B) assist federal interdiction efforts;

(C) protect the environment by reducing idling time of commercial motor vehicles at the facilities;

(D) prevent highway damage caused by overweight commercial motor vehicles; and

(E) seek federal funds to assist in the implementation of this section. [The department shall establish and maintain an inspection station at the locations chosen in Subsection (a) only if the federal agencies involved in the

~~regulation of the passage of persons or vehicles at that border crossing agree to the design of the facility at each location and agree to use the facility at each location if built.~~

~~[(e) The department may enter into agreements with federal, state, and municipal agencies to accomplish the purpose of this section. An agreement may involve the lease of office space at the inspection station by the department to the agency.]~~

SECTION _____. The Texas Department of Transportation shall spend the money appropriated during the 76th Legislature for Section 201.613, Transportation Code, as added by Chapter 1527, Acts of the 76th Legislature, Regular Session, 1999, or money received from the federal government to establish the border inspection facilities under Section 201.613, Transportation Code, as amended by this Act.

Amendment No. 14 was adopted.

Amendment No. 15

Representative Isett offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS appropriately:

SECTION _____. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.452 to read as follows:

Sec. 2155.452. CERTAIN CONTRACTS FOR HOMELAND SECURITY OR LAW ENFORCEMENT TECHNOLOGY. A state governmental entity that issues a request for proposals for technological products or services for homeland security or law enforcement purposes must allow a business entity to substitute the qualifications of its executive officers or managers for the qualifications required of the business entity in the request for proposals.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Merritt offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) as follows:

(1) Strike SECTION 3 of the bill and substitute the following:

SECTION 3. Sections 421.002(a) and (b), Government Code, are amended to read as follows:

(a) The governor shall ~~[direct homeland security in this state and shall]~~ develop a statewide homeland security strategy that improves the state's ability to:

- (1) detect and deter threats to homeland security;
- (2) respond to homeland security emergencies; and
- (3) recover from homeland security emergencies.

(b) The governor's homeland security strategy shall coordinate homeland security activities among and between local, state, and federal agencies and the private sector and must include specific plans for:

- (1) intelligence gathering and analysis;
- (2) information sharing;
- (3) reducing the state's vulnerability to homeland security emergencies;
- (4) protecting critical infrastructure;
- (5) protecting the state's international border, ports, and airports;
- (6) detecting, deterring, and defending against terrorism, including cyber-terrorism and biological, chemical, and nuclear terrorism;
- (7) positioning equipment, technology, and personnel to improve the state's ability to respond to a homeland security emergency;
- (8) establishing and directing the Texas Fusion [Infrastructure Protection Communications] Center and giving the center certain forms of authority to implement the governor's homeland security strategy; [and]
- (9) using technological resources to:
 - (A) facilitate the interoperability of government technological resources, including data, networks, and applications;
 - (B) coordinate the warning and alert systems of state and local agencies;
 - (C) incorporate multidisciplinary approaches to homeland security;and
 - (D) improve the security of governmental and private sector information technology and information resources; and
- (10) creating and operating a multi-agency coordination system as outlined in the federal Department of Homeland Security publication "National Incident Management System," published March 1, 2004.

(2) On page 12, lines 6-7, strike "at the request of the governor".

(3) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS appropriately:

SECTION _____. Subchapter A, Chapter 421, Government Code, is amended by adding Section 421.006 to read as follows:

Sec. 421.006. STATE OFFICE OF HOMELAND SECURITY. The State Office of Homeland Security is a division of the Department of Public Safety of the State of Texas. The office shall direct the implementation of homeland security and border security measures in this state.

SECTION _____. (a) On October 1, 2007, the following are transferred from the office of the governor to the State Office of Homeland Security:

(1) any powers, duties, functions, and activities of the office of the governor relating to directing the implementation of homeland security and border security measures that are subject to Section 421.006, Government Code, as added by this Act;

(2) any obligations and contracts of the office of the governor pertaining to a power, duty, function, or activity transferred under this subsection; and

(3) any property and records in the custody of the office of the governor pertaining to a power, duty, function, or activity transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, or activity.

(b) A rule or form adopted by the office of the governor pertaining to a power, duty, function, or activity transferred under Subsection (a) of this section is a rule or form of the State Office of Homeland Security and remains in effect until altered by the Department of Public Safety of the State of Texas.

(c) A reference in law to the office of the governor pertaining to a power, duty, function, or activity transferred under Subsection (a) of this section means the State Office of Homeland Security.

Representative Swinford moved to table Amendment No. 16.

A record vote was requested.

The motion to table prevailed by (Record 1041): 100 Yeas, 33 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Eiland; Eissler; England; Escobar; Farabee; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Latham; Laubenberg; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Miller; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Riddle; Rose; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Van Arsdale; Vaught; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Bailey; Bolton; Castro; Cohen; Coleman; Davis, Y.; Elkins; Farias; Farrar; Garcia; Gonzalez Toureilles; Hernandez; Herrero; Hochberg; Hodge; Jones; Kuempel; Leibowitz; Martinez Fischer; Merritt; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Pierson; Rodriguez; Smith, T.; Talton; Thompson; Veasey; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Moreno; Mowery.

Absent — Bonnen; Burnam; Creighton; Dunnam; Dutton; Flores; Gonzales; Hamilton; Morrison; Pitts; Ritter; Turner.

STATEMENT OF VOTE

When Record No. 1041 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

Amendment No. 17

Representatives Anchia, Talton, Hughes, and Isett offered the following amendment to **CSHB 13**:

Amend **CSHB 13** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 402, Government Code, is amended by adding Section 402.031 to read as follows:

Sec. 402.031. HOMELAND SECURITY LAW ENFORCEMENT INTEGRITY UNIT. (a) In this section, "law enforcement corruption" means the commission of an offense in this state by an individual elected, appointed, or employed to serve as a peace officer for a governmental entity of this state under Article 2.12, Code of Criminal Procedure, or by a federal law enforcement officer performing duties in this state, under:

(1) Section 15.02, Penal Code, or an analogous federal criminal law, if the object of the conspiracy involves the manufacture or delivery of a controlled substance as described by Chapter 481, Health and Safety Code, or an analogous federal criminal law; or

(2) Section 71.02, Penal Code, or an analogous federal criminal law.

(b) The homeland security law enforcement integrity unit is created within the office of the attorney general to assist in the enforcement of laws relating to law enforcement corruption in law enforcement units that protect the state's homeland security and border security. The unit shall serve as a clearinghouse for information relating to the investigation and prosecution of law enforcement corruption in this state.

(c) The homeland security law enforcement integrity unit may:

(1) assist district attorneys and county attorneys in the investigation and prosecution of law enforcement corruption;

(2) assist state agencies with the investigation of complaints and administrative enforcement actions involving law enforcement corruption, including the assessment of an administrative penalty or other administrative sanction that may be imposed in response to law enforcement corruption;

(3) assist the United States Department of Justice or any other appropriate federal department or agency in the investigation and prosecution of law enforcement corruption;

(4) assist federal agencies with the investigation of complaints and administrative enforcement actions involving law enforcement corruption, including the assessment of an administrative penalty or other administrative sanction that may be imposed in response to law enforcement corruption; and

(5) monitor the use of grants and other funds allocated under Section 421.072.

(d) To the extent allowed by law, a state agency or local law enforcement agency shall cooperate with the homeland security law enforcement integrity unit by providing information requested by the unit as necessary to carry out the purposes of this section. Information disclosed under this subsection is confidential and not subject to disclosure under Chapter 552.

SECTION _____. Not later than December 1, 2007, the attorney general shall establish the law enforcement integrity unit under Section 402.031, Government Code, as added by this Act.

Amendment No. 17 was adopted.

Amendment No. 18

Representative Burnam offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (House committee printing) as follows:

(1)(a) Not later than September 1, 2008, the Border Security Council, in consultation with any relevant agency, shall prepare, issue and distribute to the governor and each member of the legislature a report:

(1) that provides the number of victims of human trafficking that have crossed the border, annually since the year 2000, as defined by Chapter 20A, Penal Code, with at least the following information:

- (a) the age, gender, and nationality of the victims;
- (b) the types of services provided to the victims, if any; and
- (c) the agencies that provided services to victims.

(2) outlining how existing laws and rules concerning victims and witnesses address or fail to address the needs of victims of human trafficking; and

(3) recommending areas of improvement and modifications in existing laws and rules.

(b) Not later than September 1, 2008, the Border Security Council, in consultation with any relevant agency, shall prepare, issue and distribute to the governor and each member of the legislature a report:

(1) outlining how existing social service programs address or fail to address the needs of victims of human trafficking;

(2) with respect to those needs, outlining the interplay of existing social service programs with federally funded victim service programs; and

(3) recommending areas of improvement and modifications in existing social service programs.

Amendment No. 18 was adopted.

Amendment No. 19

Representative Merritt offered the following amendment to **CSHB 13**:

Amend **CSHB 13** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS appropriately:

SECTION _____. Subchapter D, Chapter 421, Government Code, is amended by adding Section 421.073 to read as follows:

Sec. 421.073. TEXAS COMMUNITY ORIENTED HOMELAND SECURITY POLICING SERVICES. (a) The State Office of Homeland Security shall establish the Texas Community Oriented Homeland Security Policing Services program to address border security and homeland security issues through problem-solving tactics and partnerships between the State Office of Homeland Security, local police and local communities.

(b) Out of funds available to the State Office of Homeland Security, the Texas Community Oriented Homeland Security Policing Services program shall provide funding for the training of local law enforcement officers who will perform Homeland Security and Border Security function.

Representative Guillen moved to table Amendment No. 19.

A record vote was requested.

The motion to table prevailed by (Record 1042): 109 Yeas, 32 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Eiland; Eissler; England; Escobar; Farabee; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Goolsby; Guillen; Haggerty; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, T.; Kolkhorst; Latham; Laubenberg; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Miller; Morrison; Murphy; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rose; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Allen; Bailey; Burnam; Castro; Coleman; Dukes; Dunnam; Elkins; Farias; Farrar; Garcia; Gonzalez Toureilles; Hancock; Hernandez; Herrero; Hodge; Jones; Krusee; Kuempel; Leibowitz; Martinez Fischer; Merritt; Miles; Naishtat; Noriega; Olivo; Pitts; Rodriguez; Smith, T.; Talton; Thompson; Veasey.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Branch; Chavez; Moreno; Mowery.

Absent — Dutton; Flores; Hamilton; King, S.

COMMITTEE GRANTED PERMISSION TO MEET

Representative McClendon requested permission for the Committee on Rules and Resolutions to meet while the house is in session, 8:30 p.m. today, in 3N.3, for a formal meeting.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, 8:30 p.m. today, 3N.3, for a formal meeting.

CSHB 13 - (consideration continued)

Amendment No. 20

Representatives Swinford and Gallego offered the following amendment to CSHB 13:

Amend **CSHB 13** (house committee printing) as follows:

(1) On page 9, line 19, strike "fully".

(2) On page 12, line 18, strike "fully" and substitute "[fully]".

Amendment No. 20 was adopted.

Amendment No. 21

Representative Villarreal offered the following amendment to **CSHB 13**:

Amend **CSHB 13** by striking Lines 22 and 23 on Page 9 and substituting in lieu thereof the words "(2) refuse to cooperate with federal authorities in enforcing 8 USC 1252c; or"

Amendment No. 21 was adopted.

(Branch now present)

Amendment No. 22

Representative Hughes offered the following amendment to **CSHB 13**:

Amend **CSHB 13** as follows:

(1) On page 4, line 23, between the semicolon and "analysis," insert "by the Department of Public Safety and other law enforcement agencies".

(2) On page 5, line 17, strike "certain forms of authority to implement" and substitute "authority to coordinate intelligence gathering and analysis by the Department of Public Safety and other law enforcement agencies".

Amendment No. 22 was adopted.

A record vote was requested.

CSHB 13, as amended, was passed to engrossment by (Record 1043): 140 Yeas, 5 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Burnam; Coleman; Farrar; Olivo; Thompson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Martinez.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1043. I intended to vote no.

Hernandez

When Record No. 1043 was taken, my vote failed to register. I would have voted yes.

Martinez

POSTPONED BUSINESS

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

CSHB 1927 ON SECOND READING (by Chisum)

CSHB 1927, A bill to be entitled An Act relating to the liability of manufacturers or sellers of fuel additives and components and fuels.

CSHB 1927 was read second time on April 25, postponed until April 30, postponed until 10 a.m. today, and was again postponed until this time.

Representative Smithee moved to postpone consideration of **CSHB 1927** until 9 a.m. Wednesday, May 9.

The motion prevailed.

ADDRESS BY REPRESENTATIVE BERMAN ON A MATTER OF PERSONAL PRIVILEGE

The chair recognized Representative Berman who addressed the house on a matter of personal privilege, speaking as follows:

Mr. Speaker, members, this is probably the only time that you're going to hear anyone talk about illegal aliens on the floor of this house of representatives because we've been shut out of this bill at every single turn. And I think the final straw, for me, was the fact that from Friday night until this morning, or until today, sanctuary cities and the cities like Farmers Branch were taken out of that bill and today we have absolutely nothing in the bill but total border security.

A majority of the members on the house floor consider **HB 13** to be half a bill. But let me tell you, we all voted for it and we all supported it. We say it's half the bill because we dealt with border security only. But at the same time it was silent about the 1.5 million illegal aliens in Texas that are costing your tax payers \$3.5 billion every single year.

Members, there were two dozen bills that were filed to deal with this problem and the reason we filed these bills is because our constituents asked us to do this. Everyone—or many members on this floor—need a vote on illegal aliens to take home and say we did a little bit of something about it. When they were referred to the State Affairs Committee, I visited with the chairman almost

immediately. I came away disappointed with the knowledge that the chairman told me that he does not want any circuses in his committee and that all the bills are divisive. Members, everything we do in this house is divisive, that's the nature of this beast. There's nothing that we don't do that's divisive.

As it turned out, most of the hearings held by State Affairs were marathon circuses anyway. It was hard for me to accept that a committee chairman took it upon himself to unilaterally decide that no legislation dealing with illegal aliens would be heard on the floor of the house this session. Folks, that's not what my constituents wanted to hear. But whether you agree with me or not about the question of illegal aliens I know that all of you will agree about the method of these two dozen bills that were killed. The State Affairs chairman sent all of our bills to the attorney general for review. Members, that flies in the face of the balance of power. There's not a single bill that you should file in this house that has to be reviewed by anyone in the executive branch. We are the legislative branch and nothing should ever leave this house to be reviewed by anyone.

It's a dangerous precedent and I could kick myself now for not protesting it as soon as it was done. But members I implore you, never let a committee chairman do that to you. If he wants to kill the bills unilaterally, let him do it right here and tell you he is going to do it. But don't let him send it outside of this chamber to do it elsewhere.

Members, I want to tell you why we're concerned about this issue. Recently, Wall Street financial giant Bear Sterns—you've all heard of Bear Sterns—reported that there are more than 20 million illegal aliens in the United States. The report also said that five million illegal aliens work for cash and don't pay income or FICA taxes at all. And if they do pay FICA taxes, members, they are doing so with a stolen identity or with a fraudulent Social Security card. And under the U.S. code dealing with Social Security fraud, they are liable to five years in prison, up to a \$150,000 fine, and three years of probated sentence.

Members, if these numbers don't concern you, consider this. In the early part of the 20th Century when my parents came through Ellis Island as emigrants from Europe, they were given a complete physical examination. If anything was deficient in that examination at all, they were put right back on the boat, and they were sent back to the country they came from. Notice I used the word emigrant, they were emigrants. An emigrant is someone who comes to a country legally, willingly adopts the culture, willingly speaks the language, willingly pays all the taxes, and then at some point in time they willingly raise their hands and pledge allegiance to this country.

We cannot examine illegal aliens when they come across the border, but according the American Journal of Physicians and Surgeons they have brought with them, into the United States, and into Texas: multi-drug resistant TB, polio, the plague, leprosy or Hansen's disease, malaria, Dengue fever, and Chagas disease. The treatment of one TB patient runs anywhere from \$250,000 to \$1.2 million a year. And at the beginning of 2006, according to our department of HHSC, we have 1,535 TB patients in Texas today. We have 36 leprosy patients and we have a number of other patients who are suffering from malaria, Chagas disease, and other diseases that are tremendously costly to treat. If this doesn't

concern you, consider this. As of August of 2006, there were 12,500 illegal aliens in the Texas prison system. There were as many more in county and municipal jails. Illegal aliens make up the bulk of violent gangs in major cities across the United States and Texas.

We're talking about fighting drugs on the border. We also have to fight drugs in Houston, San Antonio, Dallas, Fort Worth, and El Paso. Finally, if this doesn't concern you, a detailed report from the Lone Star Foundation right here in Austin made to an immigration conference last year in September in Washington DC concluded that 1.5 million illegal aliens in Texas are costing Texas taxpayers \$4.5 billion each year. Considering that illegal aliens are spending almost a billion dollars in sales taxes and a small amount of property taxes, Texas is left with a bill of \$3.5 billion every year. Look at the multi-million dollar bond elections in our schools. El Paso is going through a \$290 million bond election right now. They are doing this to accommodate the children of illegal aliens. And look at the chaos in our hospital emergency rooms.

Those of you in the Dallas delegation know that 70 percent of new births at Parkland Hospital—you all know this—are illegal aliens. Look at the Fort Worth delegation, where John Peter Smith Hospital in Fort Worth 75 percent of the new births are illegal aliens. And in Houston, in the public hospital, 70 percent of the new births are illegal aliens. Last fall before she left office, the Comptroller of Texas issued a report relating to illegal aliens. One of the highlights was that illegal aliens input \$17.9 billion a year into the Texas economy. That sounds good. But let's examine the Texas economy. The gross state product of Texas is over \$900 billion a year. That means that illegal aliens who make up seven percent of our population produce two percent of the gross state product. Members, any financial expert will tell you that anyone earning under the federal poverty level for a family of four makes little or no contributions to your economy.

Let's look for a moment at the benefits that illegal aliens are getting from our federal government. Under EMTALA, the Emergency Medical Treatment and Active Labor Act, we provide free health care in every emergency room in the United States. A Supreme Court ruling allows free education, but the most lucrative benefit of all is the one which allows a pregnant illegal alien to check into any U.S. hospital, receive prenatal care and give birth, pay absolutely nothing for the medical service and then receive U.S. citizenship for that child while committing a crime against our country. I want to talk about that for a minute, because I filed a bill that challenged the Fourteenth Amendment to the Constitution.

For those of you who don't know, the Fourteenth Amendment to the U.S. Constitution was ratified in 1868, three years after the Civil War. It was ratified in response to the worst and most horrendous decision ever made by the U.S. Supreme Court, the Dred Scott case. It was terrible and I'm glad they passed the Fourteenth Amendment when they did it. And the Fourteenth Amendment was ratified to ensure that the children of former slaves born in the United States were indeed U.S. citizens. In 1866, when the amendment was debated in the United States Congress—we always talk about legislative intent—well, the congress had

legislative intent in 1866. The author, Senator Howard of Michigan, said that it does not apply to foreigners or individuals who have allegiance to another country. That's why, members, the children of ambassadors that come to the United States who have children in our country every day are not U.S. citizens because it does not apply to foreigners. And I thought it was time for us to challenge the Fourteenth Amendment because we're creating 350,000 new U.S. citizens each year and I believe it's being created erroneously.

Members, finally I just want you to know that my middle-income constituents and your middle-income constituents have less benefits than illegal aliens. When your middle-income constituents are making too much money for Medicaid, and they are making not enough to pay for their own health insurance, they can't walk into a hospital emergency room and get free medical care. I'd like to see EMTALA repealed. And let's do the same thing for our constituents who receive no medical benefits.

Members, on January 9th, 2007, we all stood in this room and took an oath to preserve, to protect, and to defend the Constitution and laws of the United States. Not 98 percent of those laws, but all of the laws. We are a nation of laws and if we can arbitrarily ignore the immigration laws, what other laws can we ignore? Thank you, members.

**ADDRESS BY REPRESENTATIVE MARTINEZ FISCHER
ON A MATTER OF PERSONAL PRIVILEGE**

The chair recognized Representative Martinez Fischer who addressed the house on a matter of personal privilege, speaking as follows:

Thank you, Mr. Speaker, members, I will not take the chamber's time up. I know that we have a calendar and we have lots of work to do, but I can't go home and talk to my constituents knowing that I sat there and listened to that. And, in fact, I can't even go to my house and look at my wife, look at my family, and say that I came up to Austin, at the expense of everything else, and got a mouthful of that.

All I'm going to say is I want to thank Chairman Swinford for drafting a bill and passing a bill that relates to the relating clause of "homeland security issues, including border security." That's what his bill does. That's what **HB 13** does. That's what we debated. That's what we amended. That's what we passed. That's what is going to the senate—**HB 13**. So, Chairman Swinford, I want to thank you for that.

I respect my colleague from District 6. I respect his right; I respect his right of free speech. That's why we built this Capitol, to debate. Speaking of this Capitol, I know that my friend, Rafael Anchia, reminds me that this is a Capitol that was built on the backs of immigrants. European immigrants built this capitol, stone by stone, brick by brick, so that we can have a forum that we can debate these ideas. And we've debated these ideas. This is my fourth term. We've been debating ideas for four terms now. I hope that I have the privilege of debating future issues in this chamber. But I want to leave with a piece for you to think about.

Many of you attended a luncheon, a bipartisan luncheon, where Father Jimmy Drennan from St. Paul's Catholic Church talked about the issue of immigration and reminded us about our Holy Family that traveled from Judea to be born in Bethlehem. Jesus is a Nazarean, but he went to Egypt as a child. There are issues going back to immigration in our Bible and you won't find one sentence in there about anybody having to show papers, anybody having to check-in with the Office of Homeland Security because they are going to someone else's country. The issue of immigration just did not start in this state; it did not start in this century; and it will not end in this state and it will not end in this century.

Let's take for a moment, when we have these debates—we will divide, I guarantee you we will divide. We've been dividing all this session. Let's think about the humanity. Let's think about the human issue. There is nothing more human, nothing more elemental, and nothing more fundamental, than humanity. And when we as a body move in a direction where we break down the human aspect and replace human beings by calling them "aliens" or derogatory terms, we're no longer making them human, so that it's easier to criticize and break them down. We're talking about human beings. We're talking about mothers reacquainting with their husbands, reacquainting with their children—building families. Let's, members, let's not forget about the human aspect of our debate. And we will disagree and we've always disagreed, but I think we can all agree to be human and to remember the humanity in our debate and our words. Thank you for your time.

REMARKS ORDERED PRINTED

Representative Riddle moved to print remarks by Representative Berman.

The motion prevailed.

REMARKS ORDERED PRINTED

Representative Thompson moved to print remarks by Representative Martinez Fischer.

The motion prevailed.

ADDRESS BY REPRESENTATIVE PICKETT ON A MATTER OF PERSONAL PRIVILEGE

The chair recognized Representative Pickett who addressed the house on a matter of personal privilege, speaking as follows:

Mr. Berman, I respect your views, but you said something I just could not sit down and not object to. You mention that the El Paso Independent School District was floating a \$290 million bond issue to take care of illegal children in the schools. You couldn't be more wrong. El Paso is going to grow by 50,000 American citizens by way of Fort Bliss. That bond issue is for U.S. military, in uniform, and their families. That's what the bond issue is for.

REMARKS ORDERED PRINTED

Representative Gallego moved to print remarks by Representative Pickett.

The motion prevailed.

MAJOR STATE CALENDAR
(consideration continued)

CSHB 2960 ON SECOND READING
(by Smithee)

CSHB 2960, A bill to be entitled An Act relating to the operation and funding of the Texas Windstorm Insurance Association.

Amendment No. 1

Representative Smithee offered the following amendment to **CSHB 2960**:

Amend **CSHB 2960** as follows:

(1) On page 4, line 5, strike "2210.052(a)" and substitute "2210.052(a), (c),".

(2) On page 4, between lines 14 and 15, insert the following:

(c) Each member's participation in the association shall be determined annually in the manner provided by the plan of operation. For purposes of determining participation in the association, two or more members that are subject to common ownership or that operate in this state under common management or control shall be treated as a single member. ~~[The determination shall also include the net direct premiums of an affiliate that is under that common management or control, including an affiliate that is not authorized to engage in the business of property insurance in this state.]~~

(3) On page 7, line 7, strike "The association" and substitute "Notwithstanding any other provision of this section, the association".

(4) On page 7, lines 9-11, strike "to fund losses and may pay expenses of the association with other funding available as provided in any subsection of this section".

(5) Strike page 8, line 9 through page 9, line 5, and substitute the following:

Sec. 2210.061. ELIGIBLE SURPLUS LINES INSURERS. (a) An eligible surplus lines insurer may not be a member of the association and is not subject to assessment as a member of the association.

(b) Each surplus lines agent placing property insurance through an eligible surplus lines insurer shall collect from the policyholder and shall remit to the association a surplus lines policy fee on all premiums collected after January 1, 2008, for all insurance written by the surplus lines agent for a policy from an eligible surplus lines insurer for all risks on real property and contents in first tier coastal counties. By procuring or selling insurance on property in this state through an eligible surplus lines insurer, each surplus lines agent described by this subsection agrees to be subject to the provisions of this chapter, and to collect and remit the surplus lines policy fee described by this section.

(c) The surplus lines policy fee shall be five percent of the total policy premium, but the fee may not be considered premium and is not subject to premium taxes or commissions. Failure to pay the surplus lines policy fee shall be treated as a failure to pay premium. For purposes of this subsection, "total policy premium" includes taxes and commissions.

(d) Not later than the 20th day after the last day of each calendar quarter, each surplus lines agent placing insurance through an eligible surplus lines insurer shall remit directly to the association all surplus lines policy fees collected in the preceding quarter.

(6) On page 9, strike lines 20-22 and substitute the following:

(b) Three members must be employed by or affiliated with, other than as agents, [±

(7) On page 9, strike lines 25-26 and substitute the following:

(c) Two members must be [±elected by the members as provided by the plan of

(8) On page 34, line 4, between "(d)" and "The service fees", insert the following:

The premium surcharge shall apply to all insurance policies for all property and casualty lines other than workers' compensation, accident and health, and medical malpractice.

(9) On page 37, line 4, strike "for calendar year 2008" and substitute "for calendar years 2007 and 2008".

(10) On page 38, strike lines 25-27 and substitute the following:

SECTION 38. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

(b) The change in law made by this Act to Sections 2210.251, 2210.252, 2210.254, and 2210.255, Insurance Code, takes effect September 1, 2008.

(11) On page 39, strike lines 1-2.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Smithee offered the following amendment to **CSHB 2960**:

Amend **CSHB 2960**, house committee printing, as follows:

(1) On page 5, lines 16-17, strike "the association may issue catastrophe area public securities in the manner prescribed by Subchapter M." and substitute "catastrophe area public securities may be issued in the manner prescribed by Subchapter M."

(2) On page 6, line 2, strike "the association may issue Class 1 public securities" and substitute "Class 1 public securities may be issued".

(3) On page 27, line 15, strike "must be issued in the name" and substitute "must include the name".

Amendment No. 2 was adopted.

Amendment No. 3

Representative Smithee offered the following amendment to **CSHB 2960**:

Amend **CSHB 2960**, house committee printing, as follows:

(1) On page 38, between lines 24 and 25, insert the following:

SECTION 38. An assessment may not be made before the end of the 2007-2008 state fiscal biennium under Chapter 2210, Insurance Code, as amended by this Act, against any member of the Texas Windstorm Insurance Association until the comptroller has certified that any tax credits allowable to that member under Chapter 2210, Insurance Code, as that chapter existed immediately before amendment by this Act, may be taken within available revenue that has been certified by the comptroller.

(2) On page 38, lines 25, strike "SECTION 38" and substitute "SECTION 39".

Amendment No. 3 was adopted.

Amendment No. 4

Representative Smithee offered the following amendment to **CSHB 2960**:

Amend **CSHB 2960**, house committee printing, by adding the following SECTION, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Subchapter E, Chapter 2210, Insurance Code, is amended by adding Section 2210.209 to read as follows:

Sec. 2210.209. NOTICE TO APPLICANTS FOR INSURANCE AND POLICYHOLDERS; CONSUMER INFORMATION. (a) Each application for insurance and each policy issued by the association must include a notice as provided by this section. The commissioner by rule may prescribe specific requirements for the notice. The notice must be substantially as follows:

IMPORTANT NOTICE TO TEXAS WINDSTORM INSURANCE
ASSOCIATION POLICYHOLDERS

Insurance policies issued by the Texas Windstorm Insurance Association are not guaranteed by the state or federal government. In the event of a major catastrophe, the association may not have sufficient funding resources to pay all losses to all policyholders suffering damage. In such an event, you may be paid less than the full amount of damages that you suffer. You may obtain additional information as to the association's potential exposure and its available funding resources at www.tdi.state.tx.us.

(b) The department shall establish a link on the department's Internet website through which applicants for insurance coverage through the association and association policyholders may obtain information in a format easily understood about the association's exposure and available resources.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Taylor offered the following amendment to **CSHB 2960**:

Amend **CSHB 2960** as follows:

- (1) On page 3, at the end of line 27, strike "The".
- (2) On page 4, strike lines 1 through 4.
- (3) On page 14, strike lines 5 through 13, and substitute:

"imposed on the premium. The commissioner may adopt rules regarding optional mediation procedures for claims made to the association where the cause of loss is in dispute."

Amendment No. 5 was adopted.

Amendment No. 6

Representative Thompson offered the following amendment to **CSHB 2960**:

Amend **CSHB 2960** as by adding the following section.

Section _____

Amend Chapter 2210.355(g) as follows:

A commission paid to an agent for an association policy must be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory and may not exceed 10% with refund for any unearned portion

Amendment No. 6 was adopted.

CSHB 2960, 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. Members registering votes are as follows: Herrero recorded voting no.)

HB 599 ON SECOND READING

(by B. Brown)

HB 599, A bill to be entitled An Act relating to the creation of the Fairfields Municipal Utility District of Kaufman County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

Representative B. Brown moved to postpone consideration of **HB 599** until 7 a.m. Thursday, May 10.

The motion prevailed.

HB 2217 ON SECOND READING

(by Eissler and Bonnen)

HB 2217, A bill to be entitled An Act relating to grants for higher education and workforce readiness programs in public schools.

Representative Eissler moved to postpone consideration of **HB 2217** until 9:30 a.m. tomorrow.

The motion prevailed.

CSSB 103 ON SECOND READING

(Madden, Hochberg, McReynolds, Haggerty, Jones, et al. - House Sponsors)

CSSB 103, A bill to be entitled An Act relating to the Texas Youth Commission and the prosecution of certain offenses and delinquent conduct in the Texas Youth Commission and certain other criminal justice agencies; providing penalties.

CSSB 103 was considered in lieu of **HB 2807**.

(Branch in the chair)

Amendment No. 1

Representative Madden offered the following amendment to **CSSB 103**:

Amend **CSSB 103** (house committee printing) as follows:

(1) On page 25, lines 17 and 18, strike "61.0386, 61.0451, 61.0452, 61.0461, 61.061, 61.062, and 61.0651" and substitute "and 61.0386".

(2) On page 30, between lines 9 and 10, insert the following:

SECTION _____. Section 61.0423, Human Resources Code, is amended to read as follows:

Sec. 61.0423. PUBLIC HEARINGS. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the commission.

(b) The board shall ensure that the location of public hearings held in accordance with this section is rotated between municipalities in which a commission facility is located or that are in proximity to a commission facility.

SECTION _____. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Sections 61.0451, 61.0452, 61.0461, 61.061, 61.062, and 61.0651 to read as follows:

(3) On page 54, line 2, between "governor," and "and", insert "the state auditor,".

(4) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION _____. Chapter 54, Family Code, is amended by adding Section 54.0401 to read as follows:

Sec. 54.0401. COMMUNITY-BASED PROGRAMS. (a) This section applies only to a county that has a population of at least 335,000.

(b) A juvenile court of a county to which this section applies may require a child who is found to have engaged in delinquent conduct that violates a penal law of the grade of misdemeanor and for whom the requirements of Subsection (c) are met to participate in a community-based program administered by the county's juvenile board.

(c) A juvenile court of a county to which this section applies may make a disposition under Subsection (b) for delinquent conduct that violates a penal law of the grade of misdemeanor:

(1) if:

(A) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of misdemeanor on at least two previous occasions;

(B) of the previous adjudications, the conduct that was the basis for one of the adjudications occurred after the date of another previous adjudication; and

(C) the conduct that is the basis of the current adjudication occurred after the date of at least two previous adjudications; or

(2) if:

(A) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony on at least one previous occasion; and

(B) the conduct that is the basis of the current adjudication occurred after the date of that previous adjudication.

(d) The Texas Juvenile Probation Commission shall establish guidelines for the implementation of community-based programs described by this section. The juvenile board of each county to which this section applies shall implement a community-based program that complies with those guidelines.

(e) The Texas Juvenile Probation Commission shall provide grants to selected juvenile boards to assist with the implementation of a system of community-based programs under this section.

(f) Not later than January 1, 2009, the Texas Juvenile Probation Commission shall prepare and deliver to the governor, the lieutenant governor, and each member of the legislature a report describing the implementation and effectiveness of the community-based programs described by this section. The report must include information relating to the cost of requiring a child to participate in a community-based program.

SECTION _____. (a) Not later than November 1, 2007, the Texas Juvenile Probation Commission shall issue guidelines for the creation of community-based programs required by Section 54.0401, Family Code, as added by this Act.

(b) Not later than January 1, 2008, the juvenile board of a county to which Section 54.0401, Family code, as added by this Act, applies shall implement a community-based program that complies with the guidelines established by the Texas Juvenile Probation Commission.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Madden offered the following amendment to **CSSB 103**:

Amend **CSSB 103** (House committee printing) as follows:

(1) In SECTION 23 of the bill, in added Section 61.0451(a)(1), Human Resources Code (page 30, line 13), strike "fraud" and substitute "crimes".

(2) In SECTION 23 of the bill, in added Section 61.0451(c), Human Resources Code (page 31, line 10), strike "fraud or".

(3) In SECTION 43 of the bill (page 62, line 5), strike "male".

Amendment No. 2 was adopted.

Amendment No. 3

Representative Dunnam offered the following amendment to **CSSB 103**:

Amend **CSSB 103** (house committee printing) by adding the following appropriately numbered SECTION of the bill and renumbering the SECTIONS of the bill as appropriate:

SECTION _____. Section 261.201, Family Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) Notwithstanding Subsection (a), the Texas Youth Commission shall release a report of alleged or suspected abuse or neglect made under this chapter if:

(1) the report relates to a report of abuse or neglect involving a child committed to the commission during the period that the child is committed to the commission; and

(2) the commission is not prohibited by Chapter 552, Government Code, or other law from disclosing the report.

(j) The Texas Youth Commission shall edit any report disclosed under Subsection (i) to protect the identity of:

(1) a child who is the subject of the report of alleged or suspected abuse or neglect;

(2) the person who made the report; and

(3) any other person whose life or safety may be endangered by the disclosure.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Phillips offered the following amendment to **CSSB 103**:

Amend **CSSB 103** (House committee printing) as follows:

(1) Immediately following SECTION 2 of the bill, amending Article 104.003(a), Code of Criminal Procedure (page 5, between lines 26 and 27), insert the following appropriately numbered SECTION:

SECTION _____. Section 37.203(a), Education Code, is amended to read as follows:

(a) The center is advised by a board of directors composed of:

(1) the attorney general, or the attorney general's designee;

(2) the commissioner, or the commissioner's designee;

(3) the executive director of the Texas Juvenile Probation Commission, or the executive director's designee;

(4) the executive commissioner ~~[director]~~ of the Texas Youth Commission, or the executive commissioner's ~~[director's]~~ designee;

(5) the commissioner of the Texas Department of Mental Health and Mental Retardation, or the commissioner's designee; and

(6) the following members appointed by the governor with the advice and consent of the senate:

(A) a juvenile court judge;

(B) a member of a school district's board of trustees;

(C) an administrator of a public primary school;

(D) an administrator of a public secondary school;

(E) a member of the state parent-teacher association;

(F) a teacher from a public primary or secondary school;

(G) a public school superintendent who is a member of the Texas Association of School Administrators;

(H) a school district police officer or a peace officer whose primary duty consists of working in a public school; and

(1) two members of the public.

(2) Immediately following SECTION 11 of the bill, adding Section 493.026, Government Code (page 19, between lines 4 and 5), insert the following appropriately numbered SECTION:

SECTION _____. Section 497.052(b), Government Code, is amended to read as follows:

(b) The following individuals shall serve as ex officio members of the authority:

(1) a member of the house of representatives designated by the speaker of the house;

(2) a member of the senate designated by the lieutenant governor;

(3) the executive director of the Texas Department of Criminal Justice or the designee of the executive director;

(4) the executive director of the Texas Workforce Commission or the designee of the executive director; and

(5) the executive commissioner [~~director~~] of the Texas Youth Commission or the designee of the executive commissioner [~~director~~].

(3) Immediately following SECTION 15 of the bill, amending Section 815.505, Government Code (page 20, between lines 21 and 22), insert the following appropriately numbered SECTION:

SECTION _____. Section 551.008(a), Health and Safety Code, is amended to read as follows:

(a) The department may transfer the South Campus of the Vernon State Hospital to the Texas Youth Commission contingent upon the agreement of the governing board of the department and the executive commissioner [~~governing board~~] of the Texas Youth Commission.

(4) Strike SECTION 16 of the bill, amending Section 61.001, Human Resources Code (page 20, lines 22 through 25), and substitute the following appropriately numbered SECTION:

SECTION ___. Section 61.001, Human Resources Code, is amended by amending Subdivisions (2) and (4) and adding Subdivision (7) to read as follows:

(2) "Advisory board" [~~"Board"~~] means the advisory [~~governing~~] board of the commission.

(4) "Executive commissioner" [~~director~~] means the executive commissioner [~~director~~] of the commission.

(7) "Office of inspector general" means the office of inspector general established under Section 61.0451.

(5) Strike SECTION 17 of the bill, amending Section 61.012(b), Human Resources Code (page 20, line 26, through page 21, line 9), and substitute the following appropriately numbered SECTIONS:

SECTION _____. Sections 61.012 and 61.0121, Human Resources Code, are amended to read as follows:

Sec. 61.012. EXECUTIVE COMMISSIONER [~~MEMBERS OF THE GOVERNING BOARD~~]. (a) The [~~governing board of the~~] Texas Youth Commission is governed by an executive commissioner [~~consists of seven members~~] appointed by the governor with the consent of the senate. The

appointment of the executive commissioner [~~Appointments to the board~~] shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee [~~appointees~~].

(b) [~~Members of the board must be citizens who are recognized within their communities for their interest in youth.~~

[(e)] The executive commissioner holds [~~board members hold~~] office for a term of not more than two years expiring February 1 of odd-numbered [~~staggered terms of six years, with the terms of two or three members expiring every two~~] years.

(c) The executive commissioner [~~(d) A member~~] is eligible for reappointment with the consent of the senate.

(d) The executive commissioner is a full-time state officer who is entitled to a salary and reimbursement for actual expenses incurred while on commission business.

Sec. 61.0121. QUALIFICATIONS FOR EXECUTIVE COMMISSIONER, ADVISORY BOARD MEMBERS, AND EMPLOYEES. (a) A person is not eligible for appointment as executive commissioner or as a member of [~~to~~] the advisory board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the commission;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the commission; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law [~~for board membership, attendance, or expenses~~].

(b) An officer, employee, or paid consultant of a Texas trade association in the field of criminal or juvenile justice may not be the executive commissioner, a member of the advisory board, or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of criminal justice or juvenile justice may not be the executive commissioner, a member of the advisory board, or [~~and may not be~~] an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(e) A person may not be appointed as executive commissioner, serve as a member of the advisory board, or act as the general counsel to the executive commissioner, the advisory board, or the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

SECTION _____. Subchapter B, Chapter 61, Human Resources Code, is amended by adding Section 61.0123 to read as follows:

Sec. 61.0123. REMOVAL OF EXECUTIVE COMMISSIONER FROM OFFICE. (a) It is a ground for removal from office as executive commissioner if the executive commissioner:

(1) does not have at the time of appointment the qualifications required by Section 61.0121(a) for appointment;

(2) does not maintain while serving as executive commissioner the qualifications required by Section 61.0121(a) for appointment; or

(3) violates a prohibition established by Section 61.0121(b) or (c).

(b) The validity of an action of the executive commissioner is not affected by the fact that it was taken when a ground for removal existed.

(c) If the advisory board has knowledge that a potential ground for removal exists under this section, the chairman of the advisory board shall notify the executive commissioner, the governor, and the attorney general of the potential ground for removal.

SECTION _____. Section 61.013, Human Resources Code, is amended to read as follows:

Sec. 61.013. ~~ADVISORY BOARD [PRESIDING OFFICER; MEETINGS].~~ (a) ~~An advisory board for the commission is established to:~~

(1) ~~advise the executive commissioner on matters concerning the commission; and~~

(2) ~~assist the executive commissioner in the performance of the executive commissioner's duties. [The governor shall designate a member of the board as the chairman of the board to serve in that capacity at the pleasure of the governor.]~~

(b) ~~The advisory board is composed of nine members appointed by the governor. The governor shall designate a member of the advisory board as the chairman of the advisory board to serve in that capacity at the pleasure of the governor. [The board shall meet at least four times each year.]~~

(c) ~~The appointment of a member of the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee [A meeting shall be held on the call of the chairman or on the request of four members at the time and place designated by the chairman].~~

(d) ~~Members of the advisory board must be citizens who are recognized within their communities for their interest in youth. The board shall be composed of at least one physician, an experienced member of a victims advocacy organization, a mental health professional, and a current or former prosecutor or judge. A majority of the members of the advisory board must be qualified, by~~

experience or education, in the development and administration of programs for the rehabilitation and reestablishment in society of children in the custody of agencies similar in mission and scope to the commission.

(e) The advisory board shall meet at least four times each year. A meeting shall be held at the call of the chairman or on the request of five members at a time and place designated by the chairman.

(f) Advisory board members are entitled to receive a per diem in the amount provided in the General Appropriations Act for not more than 90 days in any fiscal year, plus reimbursement for actual expenses incurred while on advisory board business.

(g) A member of the advisory board serves at the pleasure of the governor.

(6) In SECTION 18 of the bill, strike amended Section 61.019, Human Resources Code (page 21, lines 12 through 17), and substitute the following:

Sec. 61.019. DELEGATION OF POWERS AND DUTIES. (a) Any power, duty, or function of the commission that is not assigned by statute to the chief inspector general of the office of inspector general [or of the board] may be exercised and performed by the executive commissioner.

(b) The executive commissioner may delegate to [director or] any [member or] employee designated or assigned by the [board or by the] executive commissioner a power, duty, or function of the executive commissioner or the commission that is not already assigned by statute to the chief inspector general of the office of inspector general [director].

(7) Immediately following SECTION 18 of the bill, amending Sections 61.019 and 61.0191, Human Resources Code (page 22, between lines 17 and 18), insert the following appropriately numbered SECTION:

SECTION _____. Section 61.022, Human Resources Code, is amended to read as follows:

Sec. 61.022. ACCESSIBILITY TO PROGRAMS AND FACILITIES. The commission shall comply with federal and state laws related to program and facility accessibility. The executive commissioner [director] shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

(8) Immediately following SECTION 21 of the bill, adding Sections 61.0331, 61.0332, and 61.0345, Human Resources Code (page 24, immediately following line 27), insert the following appropriately numbered SECTION:

SECTION _____. Section 61.034, Human Resources Code, is amended to read as follows:

Sec. 61.034. POLICIES AND RULES. (a) The executive commissioner [The commission] is responsible for the adoption of all policies and shall make rules appropriate to the proper accomplishment of the commission's [its] functions.

(b) The executive commissioner [commission] shall adopt rules for the government of the schools, facilities, and programs under the commission's [its] authority and shall see that the schools, facilities, and programs are conducted according to law and to the executive commissioner's [commission's] rules. The

purpose of the rules and of all education, work, training, discipline, recreation, and other activities in the schools, facilities, and programs is to restore and increase the self-respect and self-reliance of the youth under the authority of the commission and to qualify them for good citizenship and honorable employment.

(9) Immediately following SECTION 22 of the bill, amending Section 61.035, Human Resources Code (page 25, between lines 15 and 16), insert the following appropriately numbered SECTIONS:

SECTION _____. Sections 61.0351, 61.0352, and 61.0354, Human Resources Code, are amended to read as follows:

Sec. 61.0351. PROFESSIONAL INFORMATION FOR ADVISORY BOARD MEMBERS AND EMPLOYEES. The executive commissioner [~~director or the executive director's designee~~] shall provide to members of the advisory board and to commission employees, as often as is necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 61.0352. DIVISION OF RESPONSIBILITY. The executive commissioner [~~board~~] shall develop and implement policies that clearly separate the policymaking responsibilities of the executive commissioner [~~board~~] and the management responsibilities of the [~~executive director and the~~] staff of the commission.

Sec. 61.0354. JOB PERFORMANCE EVALUATIONS. The executive commissioner [~~director or the executive director's designee~~] shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on the system established under this section.

SECTION _____. Section 61.0355(a), Human Resources Code, is amended to read as follows:

(a) The executive commissioner [~~director or the executive director's designee~~] shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement shall include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission's work force that meets federal or state laws, rules, and regulations and instructions promulgated directly from those laws, rules, and regulations;

(3) procedures by which a determination can be made about the extent of underuse in the commission's work force of all persons of whom federal or state laws, rules, and regulations and instructions promulgated directly from those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(10) In SECTION 23 of the bill, in added Section 61.0357, Human Resources Code (page 28, lines 14 through 15 and 26 through 27, and page 29, line 6), strike "executive director or the executive director's designee" each place it appears and substitute "executive commissioner".

(11) In SECTION 23 of the bill, in added Section 61.0451(b)(1), Human Resources Code (page 30, line 22), strike "director" and substitute "commissioner".

(12) In SECTION 23 of the bill, in added Section 61.0451(b)(2), Human Resources Code (page 30, line 23), between "the" and "board", insert "advisory".

(13) In SECTION 23 of the bill, in added Section 61.0451(f), Human Resources Code (page 32, line 1), strike "board" and substitute "executive commissioner".

(14) In SECTION 23 of the bill, in added Section 61.0451(g)(1), Human Resources Code (page 32, line 8), strike "director" and substitute "commissioner".

(15) In SECTION 23 of the bill, in added Section 61.0451(g)(2), Human Resources Code (page 32, line 9), between "the" and "board", insert "advisory".

(16) In SECTION 23 of the bill, in added Section 61.0451(i), Human Resources Code (page 33, line 6), strike "director, the board" and substitute "commissioner, the advisory board".

(17) In SECTION 23 of the bill, in added Section 61.0451(i), Human Resources Code (page 33, line 9), strike "board" and substitute "executive commissioner".

(18) Immediately following SECTION 23 of the bill, adding Sections 61.0356, 61.0357, 61.0386, 61.0451, 61.0452, 61.0461, 61.061, 61.062, and 61.0651, Human Resources Code (page 36, between lines 6 and 7), insert the following appropriately numbered SECTION:

SECTION _____. Sections 61.0423 and 61.044, Human Resources Code, are amended to read as follows:

Sec. 61.0423. PUBLIC HEARINGS. The executive commissioner [~~board~~] shall develop and implement policies that provide the public with a reasonable opportunity to appear before the executive commissioner or the executive commissioner's designee [~~board~~] and to speak on any issue under the jurisdiction of the commission.

Sec. 61.044. BIENNIAL BUDGET. [~~DUTIES OF EXECUTIVE DIRECTOR.~~ (a) The executive director shall perform the duties assigned by the commission.

[~~(b)~~] The executive commissioner [~~director~~] shall prepare [~~and submit to the commission for its approval~~] a biennial budget of all funds necessary to be appropriated by the legislature to the commission to carry out the purposes of this chapter. The budget shall be submitted and filed by the executive commissioner [~~commission~~] in the form and manner and within the time prescribed by law.

(19) In SECTION 30 of the bill, in added Section 61.0815(c), Human Resources Code (page 43, lines 22 and 25, and page 44, line 1), strike "board" each place it appears and substitute "executive commissioner".

(20) Immediately following SECTION 32 of the bill, amending Section 61.0841, Human Resources Code (page 49, between lines 8 and 9), insert the following appropriately numbered SECTION:

SECTION _____. Section 61.093(a), Human Resources Code, is amended to read as follows:

(a) If a child who has been committed to the commission and placed by it in any institution or facility has escaped or has been released under supervision and broken the conditions of release:

(1) a sheriff, deputy sheriff, constable, or police officer may, without a warrant, arrest the child; or

(2) a [~~parole officer or other~~] commission employee designated by the executive commissioner [~~director~~] may, without a warrant or other order, take the child into the custody of the commission.

(21) In SECTION 33 of the bill, in added Section 61.099, Human Resources Code (page 51, lines 8 and 10), strike "director" each place it appears and substitute "commissioner".

(22) Immediately following SECTION 34 of the bill, adding Chapter 64, Human Resources Code (page 59, between lines 4 and 5), insert the following appropriately numbered SECTIONS:

SECTION _____. Section 141.022(a), Human Resources Code, is amended to read as follows:

(a) The advisory council on juvenile services consists of:

(1) two juvenile court judges, appointed by the commission;

(2) three juvenile probation officers, appointed by the commission;

(3) two citizens who are knowledgeable of juvenile services, appointed by the commission;

(4) the executive commissioner [~~director~~] of the Texas Youth Commission or the commissioner's [~~director's~~] designee;

(5) the commissioner of education or the commissioner's designee; and

(6) the commissioner of human services or the commissioner's designee.

SECTION _____. Section 141.047(b), Human Resources Code, is amended to read as follows:

(b) The director, the executive commissioner [~~director~~] of the Texas Youth Commission, and the commissioners of education, mental health and mental retardation, and human services shall meet in Austin at least quarterly to:

(1) discuss mutual problems;

(2) resolve conflicts in providing services to juveniles; and

(3) make recommendations to the governor and legislature.

SECTION _____. Section 141.0471(c), Human Resources Code, is amended to read as follows:

(c) The governing board of the Texas Juvenile Probation Commission and the executive commissioner of the Texas Youth Commission [~~each agency~~] shall adopt the coordinated strategic plan on or before December 1st of each odd-numbered year, or before the adoption of the agency's individual strategic plan, whichever is earlier.

(23) In SECTION 38 of the bill, in Subdivision (3) of that SECTION (page 60, line 18), strike "Section 61.084(f)," and substitute "Sections 61.001(3), 61.0122, 61.014, 61.015, 61.0151, 61.017, and 61.084(f)."

(24) Strike SECTION 44 of bill (page 62, lines 9 through 13) and substitute the following appropriately numbered SECTIONS:

SECTION _____. As soon as practicable after the effective date of this Act, the governor shall appoint:

(1) the executive commissioner of the Texas Youth Commission, as required by Section 61.012, Human Resources Code, as amended by this Act, with a term of office expiring February 1, 2009;

(2) members of the advisory board of the Texas Youth Commission, as required by Section 61.013, Human Resources Code, as amended by this Act; and

(3) the independent ombudsman of the Texas Youth Commission, as required by Section 64.051, Human Resources Code, as added by this Act, with a term of office expiring February 1, 2009.

SECTION _____. A rule adopted by the Texas Youth Commission before the effective date of this Act is a rule of the executive commissioner of the Texas Youth Commission until superseded, modified, or repealed by the executive commissioner.

(25) Renumber the SECTIONS of the bill appropriately.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hartnett requested permission for the Committee on Judiciary to meet while the house is in session, at 9:45 p.m. today, in E2.028, for a public hearing, to consider **HB 3095, HB 4125, SB 397, SB 705, SB 706, SB 749, SB 966, SB 1204, SB 1404, SB 1814, and SB 2009.**

Permission to meet was granted.

FIVE DAY POSTING RULE SUSPENDED

Representative Hartnett moved to suspend the five day posting rule to allow the Committee on Judiciary to consider **HB 3095, HB 4125, SB 397, SB 705, SB 706, SB 749, SB 966, SB 1204, SB 1404, SB 1814, and SB 2009** at 9:45 p.m. today in E2.028.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Judiciary, 9:45 p.m. today, E2.028, for a public hearing, to consider **HB 3095, HB 4125, SB 397, SB 705, SB 706, SB 749, SB 966, SB 1204, SB 1404, SB 1814, and SB 2009.**

CSSB 103 - (consideration continued)

Representative Jones moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 1044): 111 Yeas, 31 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Castro; Cohen; Coleman; Cook, B.; Cook, R.; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Jones; King, P.; King, S.; King, T.; Krusee; Kuempel; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Pickett; Pierson; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Turner; Vaught; Veasey; Villarreal; Vo; Woolley; Zedler; Zerwas.

Nays — Berman; Bohac; Callegari; Chisum; Christian; Corte; Crabb; Eissler; Flynn; Geren; Hilderbran; Howard, C.; Isett; Jackson; Keffer; Kolkhorst; Latham; Laubenberg; Miller; Patrick; Paxton; Peña; Phillips; Pitts; Riddle; Smith, T.; Smith, W.; Solomons; Truitt; Van Arsdale; West.

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

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Creighton; Gattis; Hamilton.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1044. I intended to vote no.

Anderson

When Record No. 1044 was taken, I was in the house but away from my desk. I would have voted no.

Creighton

I was shown voting yes on Record No. 1044. I intended to vote no.

Harper-Brown

I was shown voting yes on Record No. 1044. I intended to vote no.

Taylor

Amendment No. 5

Representative Truitt offered the following amendment to **CSSB 103**:

Amend **CSSB 103** by striking SECTION 9 and substituting the following:

SECTION 9. Chapter 325, Government Code, is amended by adding Section 325.0121 to read as follows:

Sec. 325.0121. STUDY ON TRANSITION TOWARD REGIONALIZED JUVENILE CORRECTIONS. (a) As part of its review of juvenile corrections for the 81st Legislature, the commission shall study the merits of moving the Texas Youth Commission toward a regionalized structure of smaller facilities and more diversified treatment and placement options, taking into consideration the likely effects of this regionalized structure on:

- (1) recidivism;
- (2) juvenile and family access to services; and
- (3) costs to this state and the counties of this state.

(b) In conducting the study, the commission shall determine whether the existing Texas Youth Commission facilities meet their intended purposes.

(c) The commission shall take into consideration the findings and conclusions of the study in its report to the 81st Legislature and shall include any recommendations it considers appropriate resulting from its consideration of the study.

(d) The commission, in conducting the study, may seek the assistance of nationally recognized experts in the field of juvenile justice.

(e) This section expires September 1, 2009.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Thompson offered the following amendment to **CSSB 103**:

Amend **CSSB 103** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION ____ Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.016 to read as follows:

Sec. 531.016. EQUAL ACCESS TO FACILITIES, SERVICES, AND TREATMENT. (a) The commission, the Texas Youth Commission, and the Texas Juvenile Probation Commission shall periodically review, document, and compare the accessibility and funding of facilities, services, and treatment provided to females under 18 years of age to the accessibility and funding of facilities, services, and treatment provided to males in the same age group.

(b) The commission shall coordinate the review, documentation, and comparison required by Subsection (a).

(c) The areas of review required by Subsection (a) must include:

(1) the nature, extent, and effectiveness of services offered for females under 18 years of age within the areas of teen pregnancy, physical and sexual abuse, and alcohol and drug abuse, services for runaway and homeless females, and services for females involved in gangs or other delinquent activity; and

(2) the equity of services offered to persons under 18 years of age with respect to gender within the areas of physical and sexual abuse, alcohol and drug abuse, and services offered to runaway and homeless youth.

(d) Each health and human services agency or other state agency that provides facilities, services, treatment, or funding subject to the review required by Subsection (a) shall identify existing differences within the agency in the

allocation and expenditures of money and services for males under 18 years of age in comparison to females in the same age group. Each agency shall submit a report to the commission describing any differences identified.

(e) Each agency described by Subsection (d) shall:

(1) develop a plan to address any lack of services for females under 18 years of age reported by the agency; and

(2) submit a report to the commission on the progress made under the plan.

(f) The commission shall assemble the agency reports submitted under Subsection (d) and (e) and prepare an executive summary to be delivered to the members of the legislature not later than July 1 of each even-numbered year.

(g) This section expires September 1, 2011.

SECTION _____. The Health and Human Services Commission, the Texas Youth Commission, and the Texas Juvenile Probation Commission shall jointly establish a timetable for the submission of agency reports required by Section 531.016, Government Code, as added by this Act, as soon as practicable after the effective date of this Act.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Phillips offered the following amendment to **CSSB 103**:

Amend **CSSB 103** (House committee printing) as follows:

(1) In SECTION 3 of the bill, in the recital to that section (page 5, line 27), strike "Sections 54.04(d) and (u), Family Code, are" and substitute "Section 54.04(d), Family Code, is".

(2) In SECTION 3 of the bill, in amended Section 54.04(d)(2), Family Code (page 6, lines 18 and 19), strike "[~~or, if the requirements of Subsection (s) or (t) are met, of the grade of misdemeanor,~~]" and substitute "or, if the requirements of Subsection [~~(s) or~~] (t) are met, of the grade of misdemeanor,".

(2) In SECTION 3 of the bill, strike amended Section 54.04(u), Family Code (page 7, lines 19 through 24).

(3) Strike SECTION 4 of the bill, amending Section 54.05(f), Family Code (page 7, line 25, through page 8, line 17), and substitute the following:

SECTION 4. Section 54.05(k), Family Code, is amended to read as follows:

(k) The court may modify a disposition under Subsection (f) that is based on an adjudication that the child engaged in delinquent conduct that violates a penal law of the grade of misdemeanor if:

(1) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony [~~or misdemeanor~~] on at least one previous occasion before the adjudication that prompted the disposition that is being modified; and

(2) the conduct that was the basis of the adjudication that prompted the disposition that is being modified occurred after the date of the previous adjudication.

(4) In Subdivision (1), SECTION 38, of the bill (page 60, line 16), strike "Sections 54.04(s) and (t), Family Code;" and substitute "Section 54.04(s), Family Code; and".

(5) In SECTION 38 of the bill (page 60, line 17), strike added Subdivision (2).

(6) In SECTION 38 of the bill (page 60, line 18), strike "(3)" and substitute "(2)".

(7) Strike SECTION 39 of the bill (page 60, lines 19 through 24) and renumber the subsequent SECTIONS of the bill accordingly.

(Speaker in the chair)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Gattis on motion of Van Arsdale.

CSSB 103 - (consideration continued)

Representative Madden moved to table Amendment No. 7.

A record vote was requested.

The motion to table prevailed by (Record 1045): 76 Yeas, 64 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Aycock; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Cohen; Coleman; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Eiland; Elkins; Escobar; Flores; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Harless; Hartnett; Heflin; Hill; Hochberg; Hodge; Hopson; Howard, D.; Jones; King, T.; Krusee; Madden; Mallory Caraway; Martinez; McCall; McClendon; Menendez; Merritt; Miles; Murphy; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Parker; Patrick; Peña; Pickett; Pierson; Quintanilla; Raymond; Rodriguez; Smith, T.; Smithee; Solomons; Strama; Swinford; Talton; Thompson; Turner; Vaught; Veasey; Vo; Zedler; Zerwas.

Nays — Allen; Anderson; Bailey; Berman; Bohac; Bonnen; Callegari; Castro; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Delisi; Dukes; Eissler; England; Farabee; Flynn; Geren; Hamilton; Hancock; Hardcastle; Harper-Brown; Herrero; Hilderbran; Homer; Howard, C.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Martinez Fischer; Miller; Morrison; O'Day; Orr; Otto; Paxton; Phillips; Pitts; Puente; Riddle; Ritter; Rose; Smith, W.; Straus; Taylor; Truitt; Van Arsdale; Villarreal; West; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Gattis; Moreno; Mowery.

Absent — Creighton; Farias; Farrar; Hernandez; McReynolds.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1045. I intended to vote yes.

Bailey

When Record No. 1045 was taken, I was in the house but away from my desk. I would have voted no.

Creighton

I was shown voting yes on Record No. 1045. I intended to vote no.

Parker

I was shown voting yes on Record No. 1045. I intended to vote no.

Zedler

Amendment No. 8

Representative Thompson offered the following amendment to **CSSB 103**:

Amend **CSSB 103** as follows:

On page 23, by striking line 6 and substituting "chemically dependent, ~~and~~ emotionally disturbed children, and females.";

On page 23, line 15, between "(d)" and "If" insert

"The commission shall periodically review, document, and compare the accessibility and funding of treatment programs provided to female children committed to the commission to the accessibility and funding of treatment provided to male children committed to the commission.

(e)"

Amendment No. 8 was adopted.

Amendment No. 9

Representative Hochberg offered the following amendment to **CSSB 103**:

Amend **CSSB 103** by adding the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

"SECTION _____. Article 61.06(c), Code of Criminal Procedure, is amended to read as follows: (c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the three-year period does not include any period during which the individual who is the subject of the information is:

(1) confined in the institutional division or the state jail division of the Texas Department of Criminal Justice;

(2) committed to a secure correctional facility operated by or under contract with the Texas Youth Commission, as defined by Section 51.02, Family Code; or

(3) a facility operated by a juvenile board in lieu of being committed to a secure correctional facility operated by or under contract with the Texas Youth Commission."

Amendment No. 9 was adopted.

Amendment No. 10

Representative Phillips offered the following amendment to **CSSB 103**:

Amend **CSSB 103** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Section 51.12, Family Code, is amended by adding Subsections (b-1), (c-1), and (m) and amending Subsections (c) and (i) to read as follows:

(b-1) A pre-adjudication secure detention facility may be operated only by:

(1) a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code; or

(2) a private entity under a contract with a governmental unit in this state.

(c) In each county, each judge of the juvenile court and a majority of the members of the juvenile board shall personally inspect all public or private [the] juvenile pre-adjudication secure detention facilities [and any public or private juvenile secure correctional facilities used for post-adjudication confinement] that are located in the county [and operated under authority of the juvenile board] at least annually and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that the facilities [they] are suitable or unsuitable for the detention of children. In determining whether a facility is suitable or unsuitable for the detention of children, the juvenile court judges and juvenile board members shall consider:

(1) current monitoring and inspection reports and any noncompliance citation reports issued by the Texas Juvenile Probation Commission, including the report provided under Subsection (c-1), and the status of any required corrective actions;

(2) current governmental inspector certification regarding the facility's compliance with local fire codes;

(3) current building inspector certification regarding the facility's compliance with local building codes;

(4) for the 12-month period preceding the inspection, the total number of allegations of abuse, neglect, or exploitation reported by the facility and a summary of the findings of any investigations of abuse, neglect, or exploitation conducted by the facility, a local law enforcement agency, and the Texas Juvenile Probation Commission;

(5) the availability of health and mental health services provided to facility residents;

(6) the availability of educational services provided to facility residents;

and

(7) the overall physical appearance of the facility, including the facility's security, maintenance, cleanliness, and environment.

(c-1) The Texas Juvenile Probation Commission shall annually inspect each public or private juvenile pre-adjudication secure detention facility. The Texas Juvenile Probation Commission shall provide a report to each juvenile court judge presiding in the same county as an inspected facility indicating whether the facility is suitable or unsuitable for the detention of children in accordance with:

(1) the requirements of Subsections (a), (f), and (g); and

(2) minimum professional standards for the detention of children in pre-adjudication [~~or post-adjudication~~] secure confinement promulgated by the Texas Juvenile Probation Commission or, at the election of the juvenile board of the county in which the facility is located, the current standards promulgated by the American Correctional Association.

(i) Except for [~~a facility operated or certified by the Texas Youth Commission or~~] a facility as provided by Subsection (l), a governmental unit or private entity that operates or contracts for the operation of a juvenile pre-adjudication secure detention facility under Subsection (b-1) [~~or a juvenile post-adjudication secure correctional facility~~] in this state shall:

(1) register the facility annually with the Texas Juvenile Probation Commission; and

(2) adhere to all applicable minimum standards for the facility.

(m) The Texas Juvenile Probation Commission may deny, suspend, or revoke the registration of any facility required to register under Subsection (i) if the facility fails to:

(1) adhere to all applicable minimum standards for the facility; or

(2) timely correct any notice of noncompliance with minimum standards.

SECTION ____. Chapter 51, Family Code, is amended by adding Section 51.125 to read as follows:

Sec. 51.125. POST-ADJUDICATION CORRECTIONAL FACILITIES.

(a) A post-adjudication secure correctional facility for juvenile offenders may be operated only by:

(1) a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code; or

(2) a private entity under a contract with a governmental unit in this state.

(b) In each county, each judge of the juvenile court and a majority of the members of the juvenile board shall personally inspect all public or private juvenile post-adjudication secure correctional facilities that are not operated by the Texas Youth Commission and that are located in the county at least annually and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that the facility or facilities are suitable or unsuitable for the detention of children. In determining whether a facility is suitable or unsuitable for the confinement of children, the juvenile court judges and juvenile board members shall consider:

(1) current monitoring and inspection reports and any noncompliance citation reports issued by the Texas Juvenile Probation Commission, including the report provided under Subsection (c), and the status of any required corrective actions; and

(2) the other factors described under Sections 51.12(c)(2)-(7).

(c) The Texas Juvenile Probation Commission shall annually inspect each public or private juvenile post-adjudication secure correctional facility that is not operated by the Texas Youth Commission. The Texas Juvenile Probation Commission shall provide a report to each juvenile court judge presiding in the same county as an inspected facility indicating whether the facility is suitable or unsuitable for the detention of children in accordance with minimum professional standards for the detention of children in post-adjudication secure confinement promulgated by the Texas Juvenile Probation Commission or, at the election of the juvenile board of the county in which the facility is located, the current standards promulgated by the American Correctional Association.

(d) A governmental unit or private entity that operates or contracts for the operation of a juvenile post-adjudication secure correctional facility in this state under Subsection (a), except for a facility operated by or under contract with the Texas Youth Commission, shall:

(1) register the facility annually with the Texas Juvenile Probation Commission; and

(2) adhere to all applicable minimum standards for the facility.

(e) The Texas Juvenile Probation Commission may deny, suspend, or revoke the registration of any facility required to register under Subsection (d) if the facility fails to:

(1) adhere to all applicable minimum standards for the facility; or

(2) timely correct any notice of noncompliance with minimum standards.

SECTION _____. Section 42.041(b), Human Resources Code, is amended to read as follows:

(b) This section does not apply to:

(1) a state-operated facility;

(2) an agency foster home or agency foster group home;

(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;

(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) a youth camp licensed by the Department of State Health Services [~~Texas Department of Health~~];

(6) a facility licensed, operated, certified, or registered by another state agency;

(7) an educational facility accredited by the Texas Education Agency or the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above, an after-school program operated directly by an accredited educational facility, or an after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency or Southern Association of Colleges and Schools has approved the curriculum content of the after-school program operated under the contract;

(8) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

(10) a family home, whether registered or listed;

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the following: kindergarten through at least grade three, elementary, or secondary grades;

(12) an emergency shelter facility providing shelter to minor mothers who are the sole support of their natural children under Section 32.201, Family Code, unless the facility would otherwise require a license as a child-care facility under this section;

(13) a juvenile detention facility certified under Section 51.12, Family Code, a juvenile correctional facility certified under Section 51.125, Family Code, ~~[or Section 141.042(d),]~~ a juvenile facility providing services solely for the Texas Youth Commission, or any other correctional facility for children operated or regulated by another state agency or by a political subdivision of the state;

(14) an elementary-age (ages 5-13) recreation program operated by a municipality provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff qualifications, minimum facility, health, and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the program is not licensed by the state and the program may not be advertised as a child-care facility; or

(15) an annual youth camp held in a municipality with a population of more than 1.5 million that operates for not more than three months and that has been operated for at least 10 years by a nonprofit organization that provides care for the homeless.

SECTION _____. Section 42.052(h), Human Resources Code, is amended to read as follows:

(h) The certification requirements of this section do not apply to a juvenile detention facility certified under Section 51.12, Family Code, or a juvenile correctional facility certified under Section 51.125, Family Code [~~or Section 141.042(d)~~].

SECTION _____. Section 141.042(d), Human Resources Code, is repealed.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Smithee offered the following amendment to **CSSB 103**:

Amend **CSSB 103** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.055 to read as follows:

Sec. 61.055. ZERO-TOLERANCE POLICY. The commission shall adopt a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact, of children in the custody of the commission.

(b) The commission shall establish standards for reporting and collecting data on the sexual abuse of children in the custody of the commission.

(c) The commission shall establish a procedure for children in the custody of the commission and commission employees to report incidents of sexual abuse involving a child in the custody of the commission. The procedure must designate a person employed at the commission facility in which the abuse is alleged to have occurred as well as a person who is employed at the commission's headquarters to whom a person may report an incident of sexual abuse.

(d) The commission shall prominently display the following notice in the office of the chief administrator of each commission facility, the employees' break room of each commission facility, the cafeteria of each commission facility, and at least six additional locations in each commission facility:

THE TEXAS LEGISLATURE HAS ADOPTED A ZERO-TOLERANCE POLICY REGARDING THE SEXUAL ABUSE, INCLUDING CONSENSUAL SEXUAL CONTACT, CONCERNING A CHILD IN THE CUSTODY OF THE COMMISSION. ANY SUCH VIOLATION MUST BE REPORTED TO

Amendment No. 11 was adopted.

Amendment No. 12

Representative Hodge offered the following amendment to **CSSB 103**:

Amend **CSSB 103** in SECTION 17 of the bill, in amended Subsection (b), Section 61.012, Human Resources Code (page 21, line 9), immediately following "the commission.", by inserting "At least two of the members of the board must have primary experience in a field other than the field of criminal or juvenile justice.".

Amendment No. 12 was adopted.

A record vote was requested.

CSSB 103, as amended, was passed to third reading by (Record 1046): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez; Gattis; Moreno; Mowery.

Absent — Branch; Burnam; Creighton; Farias; Goolsby; Hamilton; Truitt.

STATEMENTS OF VOTE

When Record No. 1046 was taken, I was in the house but away from my desk. I would have voted yes.

Branch

When Record No. 1046 was taken, I was in the house but away from my desk. I would have voted yes.

Burnam

When Record No. 1046 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

When Record No. 1046 was taken, my vote failed to register. I would have voted yes.

Truitt

HB 2807 - LAID ON THE TABLE SUBJECT TO CALL

Representative Madden moved to lay **HB 2807** on the table subject to call.

The motion prevailed.

CSHB 1524 ON SECOND READING (by Guillen and Raymond)

CSHB 1524, A bill to be entitled An Act relating to an election on the use of tax revenue for a sports or community venue project.

Amendment No. 1

Representative Guillen offered the following amendment to **CSHB 1524**:

Amend **CSHB 1524** by adding the following appropriately numbered section and renumbering the remaining sections of the bill accordingly:

SECTION _____. Subchapter A, Chapter 334, Local Government Code, is amended by adding Section 334.008 to read as follows:

Sec. 334.008. PARKS AND RECREATION SYSTEM AS VENUE PROJECT: CERTAIN COUNTIES. (a) A county located on an international border that has a population of less than 15,000 and that contains no incorporated territory of a municipality may provide for the planning, acquisition, establishment, development, construction, or renovation of a county parks and recreation system as a venue project under this chapter.

(b) The venue project authorized by Subsection (a) includes:

(1) improvements or additions to the county parks and recreation system; and

(2) an area or facility that is part of the county parks and recreation system.

(c) To the extent that a provision of this chapter, including Sections 334.024(f), 334.1015, and 334.2515, applies to a venue project that is a municipal parks and recreation system or facility, those provisions apply to a venue project authorized by this section, and references to a municipality are considered references to a county to which this section applies.

(d) A county that authorizes a venue project described by this section maintains the authority granted under this section even if at a later time a part of the county becomes incorporated in a municipality.

Amendment No. 1 was adopted.

CSHB 1524, 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. Members registering votes are as follows: Anderson, Eissler, Flynn, Harless, Paxton, Swinford, Truitt, Woolley, and Zedler recorded voting no.)

HB 4068 ON SECOND READING
(by Guillen)

HB 4068, A bill to be entitled An Act relating to the authority of Zapata County to adopt development regulations for certain unincorporated areas of the county; providing a penalty.

HB 4068 - POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **HB 4068** under Rule 6, Section 7; Rule 6, Section 9; and Rule 6, Section 16(e) of the House Rules on the grounds that the bill is not eligible for placement on the Major State Calendar.

The speaker overruled the point of order, and had read the following statement:

Representative Thompson raises a point of order against further consideration of **HB 4068** under Rule 6, Section 7; Rule 6, Section 9; and Rule 6, Section 16(e). Specifically, Representative Thompson argues that **HB 4068** is not a bill that is eligible for placement on the Major State Calendar.

Under Rule 6, Section 7, the Major State Calendar is for bills of statewide effect, not emergency in nature, which establishes or changes state policy in a major field of governmental activity and which will have a major impact in application throughout the state without regard to class, area, or other limiting factor.

The chair can find only one challenge to the placement of a bill in a category of the calendar. In the 78th Regular Session, a member raised a point of order against further consideration of **SB 945** under Rule 6, Sections 7 and 9 on the grounds that a bill had been originally placed on the General State Calendar and then was placed on the Emergency Calendar. The point of order was raised that the placement was inappropriate because the bill was not emergency in nature. That point of order was overruled.

In addition to this precedent, Rule 6, Section 25, notes the wide discretion that the Committee on Calendars shall have, the rules state "full authority" to make placements in the portion of the calendar as they see fit. The bills may be set "in whatever order is necessary and desirable under the circumstances then existing". That portion of the rule concludes "it is the intent of the calendar system to give the Committee on Calendars wide discretion to insure adequate consideration by the house of important legislation". In deference to this rule and the discretion that the rule bestows on the Calendars Committee in setting bills for consideration by the house, the chair respectfully overrules the point of order.

(Gattis now present)

(Speaker pro tempore in the chair)

HB 4068 - APPEAL OF POINT OF ORDER

Pursuant to Rule 1, Section 9 of the House Rules, an appeal was made to the chair's ruling in the above point of order. The question on whether the chair's ruling should be sustained was before the house.

A record vote was requested.

The chair's ruling failed to be sustained by (Record 1047): 50 Yeas, 87 Nays, 2 Present, not voting.

Yeas — Anderson; Berman; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Corte; Crabb; Creighton; Darby; Delisi; Driver; Dutton; Eissler; Flynn; Goolsby; Guillen; Hancock; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Howard, C.; Isett; Jackson; King, P.; King, S.; Kolkhorst; Laubenberg; Macias; Madden; Morrison; Murphy; O'Day; Parker; Patrick; Paxton; Peña; Phillips; Riddle; Smith, W.; Smithee; Swinford; Taylor; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bohac; Bolton; Bonnen; Burnam; Castro; Cohen; Coleman; Cook, B.; Cook, R.; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Eiland; Elkins; England; Escobar; Farabee; Farias; Farrar; Frost; Gallego; Garcia; Gattis; Geren; Gonzales; Gonzalez Toureilles; Haggerty; Hamilton; Hardcastle; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jones; Keffer; Krusee; Kuempel; Latham; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Naishtat; Noriega; Oliveira; Olivo; Orr; Ortiz; Otto; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Solomons; Strama; Straus; Talton; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West.

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

Absent, Excused — Chavez; Moreno; Mowery.

Absent — Aycock; Bailey; Crownover; Flores; Giddings; Hughes; King, T.; Miller.

STATEMENTS OF VOTE

When Record No. 1047 was taken, my vote failed to register. I would have voted yes.

Aycock

When Record No. 1047 was taken, my vote failed to register. I would have voted present, not voting.

Crownover

When Record No. 1047 was taken, I had submitted an excuse well before the vote and it was not read until after the vote.

Giddings

When Record No. 1047 was taken, my vote failed to register. I would have voted yes.

Hughes

When Record No. 1047 was taken, I was in the house but away from my desk. I would have voted yes.

Miller

HB 4068 was returned to the Committee on Natural Resources.

LEAVES OF ABSENCE GRANTED

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

Giddings on motion of Goolsby.

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

Bailey on motion of Gonzalez Toureilles.

CSHB 3778 ON SECOND READING (by Rose)

CSHB 3778, A bill to be entitled An Act relating to the creation and administration of a quality assurance fee for nursing facilities; providing an administrative penalty.

CSHB 3778 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE LEIBOWITZ: Mr. Rose, it's my understanding that Article IX of the budget bill has a contingency rider and the majority of the money raised by this bill is subject to the language of the original rider will not be used to increase Medicaid reimbursement rates. It's also my understanding that the speaker and Chairman Chisum, along with the budget conference committee, have agreed to eliminate this rider and have agreed to increase Medicaid reimbursement rates by approximately 15 percent with 90 percent of this funding going to long-term care rate increases. As the primary author of **HB 3778** is what I've cited your understanding as well.

REPRESENTATIVE ROSE: It is, except for one thing. The current rider, which I do not think is adequate, in **HB 1**, provides for a 4 percent rate increase. That is far less than the 15 percent rate increase, which is the agreed to situation that we have before you today. I am proceeding with **HB 3778** with the intention that 90 percent of these funds go into a 15 percent or \$16 rate per day rate increase for Medicaid.

LEIBOWITZ: Okay, inclusive of your explanation that you just provided, is that your intent as the primary author of **HB 3778**?

ROSE: Yes, it is, and thank you for the question. You've got one more I believe, and I yield.

LEIBOWITZ: Yes, thank you. Do we have assurances in the bill that places like Air Force Village, a continuing care retirement community in my district, will not be assessed the quality assurance fee?

ROSE: Yes. Section 242.702 page 1, lines 22-24, exempt that facility.

LEIBOWITZ: And is it your intent as the primary author of **HB 3778**, that Air Force Villages 1 and 2 will not be assessed the quality assurance fee?

ROSE: That is correct.

REMARKS ORDERED PRINTED

Representative Leibowitz moved to print remarks between Representative Rose and Representative Leibowitz.

The motion prevailed.

(Speaker in the chair)

A record vote was requested.

CSHB 3778 was passed to engrossment by (Record 1048): 130 Yeas, 11 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Isett; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Leibowitz; Lucio; Macias; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Crabb; Harper-Brown; Hughes; Jackson; Laubenberg; Miller; Paxton; Riddle; Smithee; Talton; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Chavez; Giddings; Moreno; Mowery.

Absent — Escobar; Hartnett; Madden.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1048. I intended to vote no.

Anderson

When Record No. 1048 was taken, I was in the house but away from my desk. I would have voted yes.

Escobar

When Record No. 1048 was taken, I was in the house but away from my desk. I would have voted yes.

Madden

I was shown voting yes on Record No. 1048. I intended to vote no.

Phillips

LEAVE OF ABSENCE GRANTED

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

Flores on motion of McClendon.

FIVE DAY POSTING RULE SUSPENDED

Representative Bonnen moved to suspend the five day posting rule to allow the Committee on Environmental Regulation to consider **SB 1317** at 8 a.m. today, Tuesday, May 8 in E2.028.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Corrections is cancelled.

HR 1911 - ADOPTED

(by Craddick)

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 1911**.

The motion prevailed.

The following resolution was laid before the house:

HR 1911, Congratulating Yotta Wilber on her receipt of a Midland Civics Teacher Award from the Bill of Rights Institute.

HR 1911 was adopted.

HR 1941 - ADOPTED

(by J. Davis)

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 1941**.

The motion prevailed.

The following resolution was laid before the house:

HR 1941, Welcoming a delegation from the Central Party School of China on the occasion of its visit to the Texas State Capitol.

HR 1941 was adopted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, during bill referral today, 3W.9, for a formal meeting, to consider a calendar.

RECESS

Representatives West and Y. Davis moved that the house recess until 9 a.m. today in memory of Myrtle Lee Spivey of Odessa.

The motion prevailed.

The house accordingly, at 12:49 a.m. Tuesday, May 8, recessed until 9 a.m. today.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 34

HB 310, HB 314, HB 320, HB 407, HB 570, HB 709, HB 733, HB 863, HB 886, HB 973, HB 1003, HB 1006, HB 1059, HB 1164, HB 1237, HB 1295, HB 1390, HB 2007, HB 2024, HCR 195

Senate List No. 35

SB 123, SB 1041, SB 1077, SB 1089, SB 1236, SB 1447, SB 1500, SB 1694, SB 1752, SB 1832, SCR 51, SCR 52, SCR 54

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 7, 2007

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 101 Shapiro

Relating to limitations on the automatic admission of undergraduate students to general academic teaching institutions and to fees charged to certain admitted students.

SB 1326 Estes

Relating to the sale by the Brazos River Authority of certain residential and commercial lots in the immediate vicinity of Possum Kingdom Lake to leaseholders of those lots.

SB 1341 Hegar

Relating to the management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.

SB 1951 Wentworth

Relating to the creation of judicial districts, the creation of the office of district attorney in certain counties, and the election and duties of certain district attorneys in certain counties.

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 426

Senate Conferees: West, Royce - Chair/Ellis/Nichols/Patrick, Dan/Wentworth

SB 593

Senate Conferees: Wentworth - Chair/Carona/Duncan/Hinojosa/Watson

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Monday, May 7, 2007 - 2

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 4

Agriculture and Livestock - **HB 1673**

Appropriations - **HB 52, HB 2227, HB 3107, HB 3778, SB 947**

Border and International Affairs - **HB 2535**

Civil Practices - **SB 1309**

Criminal Jurisprudence - **HB 1048, HB 1997, HB 2838**

Culture, Recreation, and Tourism - **HB 3386, HCR 94, HCR 151, HCR 212**

Economic Development - **SB 1152, SB 1424**

Elections - **HB 1364**

Energy Resources - **SB 742**

Financial Institutions - **HB 2679, HB 3216**

Government Reform - **HB 2452, SB 757**

Human Services - **HB 854**

Insurance - **HB 1245, HB 2191, HB 2550, SB 382**

Judiciary - **SB 1655**

Land and Resource Management - **HB 2006**

Law Enforcement - **HB 3854, SB 722**

Licensing and Administrative Procedures - **HB 465**

Natural Resources - **HB 33, HB 911, HB 1591, HB 1699, HB 2782, HB 3570, HB 3988, HB 3998, HB 4009, HB 4012, HB 4016, HB 4028, HB 4032, HB 4046, HB 4071, HB 4075, HB 4083, HB 4084, HB 4104, HB 4115, SB 1932**

Public Education - **HB 2361, HB 3260, HB 3409**

Public Health - **SB 22, SB 143, SB 156, SB 692, SB 811, SB 814, SB 943**

Regulated Industries - **SB 831, SB 1430**

State Affairs - **HB 13**

Transportation - **HB 2862, HB 3190, HB 3524, HB 3666, SB 1084, SB 1260, SB 1372, SB 1396**

Urban Affairs - **SB 350, SB 1104**

Ways and Means - **HB 2971, HB 2972, HJR 93**

May 6

Appropriations - **HB 2241**

Corrections - **SB 103**

County Affairs - **HB 615, HB 2740, HB 3248, SB 63**

Human Services - **HB 1891**

Insurance - **HB 1269**

Licensing and Administrative Procedures - **HB 411, HB 984, HB 1985, HB 3676**

Natural Resources - **HB 3182, HB 3559, HB 3979, HB 3981, HB 3991, HB 3994, HB 4006, HB 4014, HB 4015, HB 4038, HB 4041, HB 4042, HB 4043, HB 4056, HB 4057, HB 4060, HB 4061, HB 4066, HB 4069, HB 4070, HB 4079, HB 4080, HB 4081, HB 4095, HB 4096, HB 4097, HB 4098, HB 4099, HB 4101, HB 4111, HB 4114, HB 4116, HB 4117, HB 4118, HB 4119, HB 4120, HB 4121, HB 4127**

Public Education - **HB 920, HB 1403, HB 2372, HB 3421, HB 3422, HB 3459**

Public Health - **HB 2395**

Urban Affairs - **HB 3079**

ENGROSSED

May 4 - **HB 432, HB 1146, HB 1188, HB 1238, HB 1241, HB 1290, HB 1412, HB 1617, HB 1742, HB 1775, HB 2077, HB 2106, HB 2247, HB 2271, HB 2405, HB 2541, HB 2654, HB 2664, HB 2703, HB 2754, HB 2786, HB 3017, HB 3066, HB 3068, HB 3101, HB 3143, HB 3275, HB 3385, HB 3558, HB 3747, HB 3960, HB 4048, HB 4065, HB 4107, HJR 6, HB 343**

May 6 - **HB 497, HB 945, HB 1034, HB 1082, HB 1314, HB 1633, HB 1659, HB 1847, HB 1857, HB 1864, HB 1903, HB 1995, HB 2015, HB 2042, HB 2117, HB 2118, HB 2444, HB 2471, HB 2479, HB 2524, HB 2546, HB 2624, HB 2783, HB 2834, HB 3106, HB 3114, HB 3194, HB 3438, HB 3453, HB 3518, HB 3560, HB 3581, HB 3635, HB 3674, HB 3711, HB 3960, HCR 198**

ENROLLED

May 4 - **HB 310, HB 314, HB 320, HB 407, HB 570, HB 863, HB 886, HB 973, HB 1003, HB 1006, HB 1059, HB 1164, HB 1237, HB 1295, HB 1390, HB 2007, HB 2024, HCR 195, HB 709**

May 6 - **HB 733**

RECOMMENDATIONS FILED WITH THE SPEAKER

May 4 - **HB 2444, HB 2531, HB 2734, HB 2743, HB 2782, HB 3011, HB 3028, HB 3113, HB 3158, HB 3182, HB 3438, HB 3634, HB 3719, HB 3882, HB 3979, HB 3980, HB 3981, HB 3982, HB 3984, HB 3987, HB 3988, HB 3989, HB 3990, HB 3991, HB 3994, HB 3998, HB 3999,**

**HB 4000, HB 4001, HB 4002, HB 4003, HB 4004, HB 4005, HB 4006,
HB 4010, HB 4011, HB 4012, HB 4013, HB 4014, HB 4015, HB 4016,
HB 4017, HB 4018, HB 4019, HB 4020, HB 4021, HB 4022, HB 4023,
HB 4024, HB 4025, HB 4026, HB 4027, HB 4031, HB 4032, HB 4033,
HB 4034, HB 4038, HB 4041, HB 4042, HB 4043, HB 4044, HB 4045,
HB 4046, HB 4053, HB 4054, HB 4055, HB 4056, HB 4057**

SIGNED BY THE GOVERNOR

**May 4 - HB 5, HB 1447, HB 1518, HB 1967, HCR 26, HCR 158,
HCR 167, HCR 170**