



Legislative Study Group

Texas House of Representatives

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LSG Floor Report For Major State Calendar - Monday, May 18, 2009

<p>SB 643 By Sen. Nelson / et al. SP: Rose</p>	<p>Relating to the protection and care of individuals with mental retardation; providing criminal penalties.</p>	<p>Human Services</p>	<p>Texas recognizes the need to provide services to persons with psychological problems and/or mental retardation through state operated residential centers (i.e. state schools) and community-based service programs. However, due to the recent reports of abuse and neglect of residents in state centers, the legislature is obligated and mandated to respond to ensure the safety and well-being of individuals with psychological problems and/or mental retardation.</p> <p>The Committee Substitute for SB 643 seeks to respond to several investigations and calls for reform, which collectively illustrate the lack of regulations and supervision of services that serve the mentally retarded and disabled. The bill seeks to provide risk management and quality assurance to establish a baseline of operation by creating policies and procedures for the state centers and community-based programs. The core components include: (1) in coordination of responsibility with several state agencies related to children and adults to investigate maltreatment (i.e. abuse, neglect, or exploitation) that occurs in state residential centers and community-based service programs; (2) the requirements related to mandate reporting of maltreatment of residents and clients, providing criminal penalties (3) establishment of a forensic unit for certain residents; (4) the employee policies in state developmental centers (e.g. criminal history checks, drug policy and screening, and required training); and (5) establishment of investigation tracking systems and databases. Additionally, SB 643 proposes to rename state schools to State Supported Living Centers.</p> <p>The bill establishes a Legislative Interim Select Committee on Criminal Commitments of Individuals with Mental Retardation composed of the chairs of the Senate standing committees on Criminal Justice, Health and Human Services, and State Affairs and the House standing committees of Criminal Jurisprudence, Human Services, and Public Health. The Interim Committee must evaluate the criminal commitment process and appropriate placements for individuals with mental retardation and/or with psychological disorders (a.k.a. dual diagnosis) who are found incompetent to stand trial or are acquitted by reason of insanity.</p> <p>As a result of an investigation or audit by the DOIG, DFPS, DOJ, or any legislative council in which recommendations are made to ensure the safety and well-being of residents in a state developmental center or community-based program, DADS shall complete a written corrective action plan. The corrective action plan shall specifically addresses how DADS will address each of the recommendations; including a timeframe of completion. Such as, if appropriations to meet recommendations are required then DADS and the Executive Commissioner shall make the necessary requests. Therefore, DADS or the Executive Commissioner of HHSC shall not wait until legislative session to make such request.</p> <p>Some of the specific favorable policies in SB 643 include: (1) the establishment of a forensic center for certain residents with specialized training for the direct employees; (2) protections for alleged offenders by creating an annual evaluation process to consider whether there has been rehabilitation or whether the person is still a danger to themselves others; (3) protection for employees from retaliation for reporting allegations of maltreatment; (4) the investigation tracking systems and database; (5) on-site surveys of community-based services every 12-months. <i>(continued on next page)</i></p>	<p>Favorable</p> <hr/> <p>Evaluated by: Katharine Ligon 512-391-1770 Katharine@TexasLSG.org</p>
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(SB 643 continued from previous page)

However, the following recommendations would further enhance the quality assurance for providing safe and supportive services to individuals with psychological problems and mental retardation.

1. Safety net for community services: to prevent individuals with mental retardation who are receiving services in the community from being placed in a state developmental center in an emergency situation.
2. Children’s Unit: under DADS which is separate from centers with adult residents should be established to oversee long term care support for children with disabilities and permanency planning processes required under the Government Code.
3. Forensic State Supported Living Center: (at the Mexia State School) for high-risk alleged offender residents which are persons with mental retardation who have committed a criminal offense and are at risk of seriously physically harming another person. The residents that are not a threat to others but have been committed to be placed in a state supported living center may reside in other state centers.
 - a. The proposed forensic center is for adults and children. The treatment and care for children, especially those with mental retardation, in a residential facility must be specific to the child’s developmental (i.e. physical, mental, and emotional) need which requires the direct-care staff to be able to care for and support this very specific and vulnerable population. By placing children, regardless of their criminal conviction, with committed mentally retarded adults could unintentionally subject the children to be easily victimized by adult resident perpetrators. Therefore, it is recommended to establish a separate wing within the children’s unit (as mentioned in # 2) for child residents who are identified as a harm to them self, such as high-risk alleged offender residents who are children.
 - b. The bill mandates that the Forensic Center in Mexia begin fully operating on the 1st of September, 2011 in which all the high-risk alleged offender residents must be transferred to on that date or as soon as possible after that date. Perhaps due the complex needs of these residents, a plan shall be created to phase-in the high-risk residents that are transferring from other state centers either determined by the level of the need and risk of each resident or a designated day to transfer for each of the 12 other state centers. Thus, minimizing the stress and chaos for the residents and the Mexia center staff while also ensuring the success of transferability and stability of each resident.
4. Employee Background Checks: each center shall develop a comprehensive background check policy and procedure. The procedure shall include a criminal background check for every center employee. Additionally, each center should develop a procedure related to employees with a professional license, to examine any disciplinary actions under their respective licensing boards regarding any adverse action taken against an employee which might affect their ability to provide care as a licensed professional.
5. Whistle-Blower Protection: there must be provisions to protect employees from retaliation from reporting abuse, neglect, exploitation of residents or illegal drug use by employees. Further, retaliation should include retaliation from other employees, not just the center. Provisions shall be established to protect residents / clients from retaliation from reporting maltreatment by employees and the center.
6. Reporting Incidents: establish a system for reporting incidents related to residents to ensure timely medical treatment (i.e. first aid, choking, medical illnesses and conditions).
7. Direct-care staff should wear identifiable clothing such as a vest so that staff can be distinguished from residents/clients on video.
8. Use of Restraints: The use of all levels of restraints should be regulated to ensure proper utilization and ensure the safety of residents and employees. Improper use of restraints can result in injury and death. The direct-care employees and supervisors of the each state operated living center should be properly trained to deescalate situations and to administer the most appropriate restraint for the situation as needed. As the DOJ recommended, the use of strait jackets must be prohibited.

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			<p>9. <u>Training Requirements</u>: Although, the bill does require DADS to evaluate and develop the necessary types of training for employees. The following should be considered and included:</p> <ul style="list-style-type: none"> a. As included in SB 643, training is required upon initial employment with a center for direct – care staff. However, the bill does not specify annual on-going training courses for direct-care staff. <ul style="list-style-type: none"> i. It should be a requirement that Behavior Management / Crisis Prevention and Intervention (CPI) training is an annual requirement to ensure the safe and proper use of behavior management techniques, including positive reinforcement and restraints. This training is a mandatory annual training for employees of a residential treatment center for children. b. Properly identifying and responding to the needs of residents and their potential risks of harm (e.g. fall risk, choke risk, suicidal ideations, self-harm behaviors – such as Pica ingesting objects) and implementing preventive strategies for the safety of residents and center staff. <p>10. <u>Minimum Staff Requirements</u>: Increase and improve employment standards such as minimum education requirements (like a GRE or high school degree) should be considered for direct care workers and salary.</p>	
<p>SB 1003 By Sen. Deuell SP: Flynn</p>	<p>Relating to the continuation and functions of the Office of State-Federal Relations and the administrative attachment of that agency to the office of the governor.</p>	<p>Border & Intergovernmental Affairs</p>	<p>The OSFR acts as a liaison to the federal government by advocating for funding and policy on behalf of the best interests of Texas and its residents. The independent office is subject to Sunset Review, which occurred in 2006 as a result of the recommendations to abolish the independent office and transfer the duties and functions under the Governor. In 2007, HB 57 sought to enact the Sunset’s recommendations, it was voted out of the House but did not pass through the Senate. The House companion bill (HB 1538) by Rep. Flynn was brought to the floor in April. However, the bill was recommitted to committee due to the concern that the original bill directed the Governor to provide guidance and direction to the Office of State-Federal Relations (OSFR) by eliminating Legislative authority of the Senate and House of Representatives. In addition, there was concern of a loss of objectivity and a neutral position of the OSFR under the sole direction and guidance of the Governor. SB 1003 seeks to abolish the OSFR as independent agency and establish the OSFR as a division of the Governor’s office. The executive director of the OSFR is appointed by the Governor, with the consent of the Senate in which the director serves at the pleasure of the Governor. The bill proposes to administratively attach the OSFR to the Office of the Governor by providing administrative support. The bill requires the OSFR to notify Governor, Lieutenant Governor, the Speaker of the House, and the Legislative Standing Committees with primary jurisdiction over intergovernmental affairs of federal activities relevant to Texas by conducting frequent conference calls and report to the Legislative Standing Committees on request. The office would no longer be under Sunset Review. The Sunset Reviews in 2003 and 2009 provided three additional recommendations that require statutory changes related to the office which are included in SB 1003. The recommendations are to: (1) develop clear guidelines and procedures for performance evaluations of the contracts with federal-level government relations consultants; (2) mandate state agencies and political subdivisions of the state to report on any contracts with federal-level government relations consultants; and (3) prepare and present an annual policy priority report to the Governor, Lieutenant Governor, the Speaker of the House, and the Legislative Standing Committees. Additionally, the bill would also abolish:</p> <ul style="list-style-type: none"> • OSFR employee protection and promotion, such as (1) advancement program; (2) annual performance evaluation and a merit pay system; and (3) an equal employment opportunity program • Requirement to register as a lobbyist • The requirement of the office to ensure the interest of the public by providing accessible information and receive complaint from the public. • Advisory policy board and their duties. 	<p>Favorable</p> <hr/> <p>Evaluated by: Katharine Ligon 512-391-1770 Katharine@TexasLSG.org</p>

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LSG Floor Report For General State Calendar - Monday, May 18, 2009				
SB 39 By Sen. Zaffirini/Van dePutte/etal SP: Zerwas	Relating to health benefit plan coverage for routine patient care costs for enrollees participating in certain clinical trials.	Insurance	<p>SB 39 would require health benefit plans to cover routine care costs for patients with life-threatening conditions electing to participate in state or federally approved clinical trials. The bill also prohibits the cancelation of a persons' health benefit plan coverage for participating in an approved clinical trial.</p> <p>The Commissioner of Insurance is authorized to adopt rules for the implementation of this bill's provisions.</p>	<p>Favorable</p> <p>Evaluated by: Patrick Yarborough 512-391-1770 Patrick@TexasLSG.org</p>
SB 745 By Sen. Duncan SP: Solomons	Relating to state travel policies and procedures for the reimbursement or payment of travel expenses.	State Affairs	<p>This bill allows travel expense vouchers and reimbursements for state employees to be transmitted electronically and stored electronically by the Comptroller. Accounting codes used in the processing of the voucher by the comptroller sometimes need to be changed, currently requiring the approval of the state employee, further delaying the reimbursement. This bill removes a provision requiring written approval of the state employee filing the voucher for any changes, allowing employees to submit their voucher electronically and approve all information, including any changes, electronically. The comptroller is instructed to require on the voucher a description of official state business performed during the travel. The advanced approval by the agency head for the travel for which reimbursement of expenses is requested can also be transmitted electronically.</p>	<p>Favorable</p> <p>Evaluated by: Holland Jones 512-391-1770 Holland@TexasLSG.org</p>
SB 572 By Sen. Shapiro / et al. SP: Branch	Relating to transportation safety training requirements for certain child-care providers.	Human Services	<p>Each year hundreds of children in the United States are unintentionally left alone in vehicles by their parents or designated care-givers which in some cases caused the child injury or death. In 2003, Texas led the nation of child deaths as a result of being left alone in vehicles. The Texas heat can quick accelerate when in enclosed vehicle; if the outdoor temperature is 93 degrees, the temperature inside can increase to 120 degrees inside within 20 minutes. SB 572 seeks to educate child-care employees, owners and operators of the serious dangers related to leaving children in their care alone in vehicles. The minimum standards for child-care providers would require all employees (i.e. paid, volunteer, full-time and part-time) responsible for transporting children, who chronologically or developmentally 9 years or younger, to complete at least two hours of training on transportation safety annually.</p>	<p>Favorable</p> <p>Evaluated by: Katharine Ligon 512-391-1770 Katharine@TexasLSG.org</p>
SB 28 By Sen. Zaffirini SP: Deshotel	Relating to the use of a computer for an unauthorized purpose.	Technology, Economic Development & Workforce	<p>Botnets, collections of "zombie" computers that are under the control of other persons than their owners and used without permission, are widespread, but there is no specific law or mechanism to penalize persons creating, operating and selling the use of zombie computers and/or botnets. This bill would create civil penalties, to be sued for by affected individuals, organizations or the attorney general, to penalize the abuse of other persons' computers and information in the creation, operation and sale of zombie computers and/or botnets. The bill sets the amounts of damages at an amount equal to the greater of actual damages arising from the violation or \$100,000 for each zombie computer used to commit the violation. The bill also authorizes courts to award as much as three times the damages assigned in the manner prescribed, as well as reasonable costs resulting from the plaintiff's lawsuit. The attorney general may receive maximum damages equal to actual damages caused by the violations, except in those cases in which the attorney general represents a governmental entity. Violations of the new law would include creating zombie computers and botnets to:</p> <ul style="list-style-type: none"> send an unsolicited commercial electronic mail message, as defined by law; send a signal to a computer system or network that causes a loss of service to users; send data from a computer without authorization by the owner or operator of the computer; forward computer software designed to damage or disrupt another computer or system; collect personally identifiable information; or perform an act for another purpose not authorized by the owner or operator of the computer. <p>The bill states that damages awarded under its provisions should not be construed as an exclusive remedy, but may be collected in addition to other remedies available under statute. The bill excludes from liability telecommunications providers with respect to violations committed by other persons.</p>	<p>Favorable</p> <p>Evaluated by: Patrick Yarborough 512-391-1770 Patrick@TexasLSG.org</p>

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<p>SB 68 By Sen. Nelson SP: Darby / Homer / Leibowitz</p>	<p>Relating to licensing and inspection requirements of the Department of Family and Protective Services for certain facilities and homes providing child care; providing penalties.</p>	<p>Human Services</p>	<p>An advisory opinion report by the Texas Attorney General (AG) in July 2008 nullified the adopted DFPS rule to exempt certain facilities from licensing requirements which in statute apply to child-care facilities (i.e. day-care centers). As a result of the AG decision, many in-home caretakers (i.e. live-in nannies and homes that host foreign-exchange students) and organizations that provide services to children such as church retreats, recreational / extracurricular activity clubs (i.e. karate, gymnastics, Boy/Girl Scouts) and educational programs (before and after-school programs for pre-kindergartners through six graders) were now required to obtain a child-care license as if they were in the same category as day-care centers and programs. Therefore, SB 68 seeks to expand the list of child-care facilities exempt from obtaining a child-care license to include such organizations and individuals.</p> <p>In an effort to ensure the health and safety of the children they serve, the bill includes specific provisions for recreational and education child-care programs such as background checks for staff and volunteers, does not present the programs as a day-care center or licensed before/after-school program, and inform the parents that program is not licensed by the state. The bill also exempts temporary shelters (i.e. family violence and homeless) with a child-care facility on the premises in which a child in the conservatorship of an adult may be left while the adult is not present (i.e. job interviews, counseling session). DFPS is authorized to treat and recognize the before/after-school programs and temporary shelters which DFPS must determine and enforce appropriate minimum standards for each these programs. However, the bill requires DFPS to establish a workgroup of at least six members to advise DFPS to on the minimum standards regarding the before/after-school programs for school-age children prior to adoption and implementation.</p> <p>Additionally, the bill permits DFPS to conducts inspections or investigations a child-care facility or family home without interference including having complete access to the premise to records review or to interview any person (e.g. child, worker) and when evidence shows that facility or family home is providing child-care without the necessary license.</p>	<p>Favorable</p> <hr/> <p>Evaluated by: Katharine Ligon 512-391-1770 Katharine@TexasLSG.org</p>
<p>SB 82 By Sen. Nelson / et al. SP: Moody</p>	<p>Relating to a fee imposed as a condition of community supervision for an offense involving family violence and to certain nonsubstantive revisions involving court fees.</p>	<p>Criminal Jurisprudence</p>	<p>Under current statute a person convicted of family violence and granted community supervision may be required to pay a fee of \$100 to a family violence shelter. SB 82 would now require the judge to order the defendant to pay a \$100 fee to family violence centers.</p> <p>SB 82 makes other non-substantive revisions dealing with fees imposed in criminal and civil cases. SB 82 would increase the fee for a copy of a defendant’s driving record requested by the judge from \$10 to the amount required under Certified Information under the Transportation Code (\$10) and the TexasOnline fee.</p> <p>SB 82 would increase the request fee for teen court programs and the fee to cover teen court program duties from \$10 to \$20 if the court ordering the fee is on the Texas-Louisiana border. The fee would remain the same in all other areas.</p> <p>SB 82 would allow a fee of \$60 to be imposed on defendant for supervision during a pre-trial intervention program. Also a district attorney, criminal district attorney, or a county attorney administrative fee not to exceed \$500 would be created for the pre-trial intervention program.</p>	<p>Favorable</p> <hr/> <p>Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org</p>
<p>SB 78 By Sen. Nelson SP: Smithee</p>	<p>Relating to promoting awareness and education about the purchase and availability of health coverage.</p>	<p>Insurance</p>	<p>SB 78 would require the Texas Department of Insurance to replace the Health Coverage and Awareness Program with the Texlink to Health Coverage Program. In addition to the current program’s emphasis on public education and awareness, the new program would add services to assist individuals, groups and small businesses with information about health coverage, as well as promote and facilitate the development of new health care options.</p> <p>SB 78 is supported by a broad array of stakeholders, including the Center for Public Policy Priorities, the Texas Hospital Association and the Texas Association of Health Plans.</p>	<p>Favorable</p> <hr/> <p>Evaluated by: Patrick Yarborough 512-391-1770 Patrick@TexasLSG.org</p>

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<p>SB 93 By Sen. Van de Putte / et al. SP: Castro</p>	<p>Relating to tuition and fee exemptions for certain military personnel and their dependents.</p>	<p>Higher Education</p>	<p>In appreciation for the service of men and women in the U.S. military during a period of conflict, Texas's Hazlewood Act provides a tuition waiver at Texas public colleges and universities for returning veterans. Although the program is intended to further the education of all honorably-discharged Texas veterans, the state interpreted the Act to exclude those veterans who were legal permanent resident immigrants and not U.S. citizens at the time they entered the service, including those veterans who subsequently became citizens. In 2007, a lawsuit in the U.S. District Court for the Western District of Texas on behalf of the American GI Forum, Latino veterans, and veterans of other national origins challenging the state's administration of the Hazlewood Act. The lawsuit alleged that denying the tuition waiver to veterans who enter the military as legal permanent residents violates the Equal Protection and Supremacy Clauses of the U.S. Constitution and Title VI of the Civil Rights Act of 1964. In January 2008, the State of Texas filed a response admitting that two prior opinions issued by its Attorney General in 2006, which had interpreted the Hazlewood Act to deny tuition benefits to thousands of legal permanent resident immigrants who served in the U.S. military, made the Hazlewood Act unconstitutional and, thus, withdrew those opinions. As a result, THECB adopted temporary, and then permanent, rules to provide that all qualified veterans are eligible for the Hazlewood exemption, regardless of their immigration status at the time they entered the military. SB 93 aligns Texas statute with THECB rules and the federal GI Bill to ensure that the rights of all Texas veterans who fought for our country will be upheld, including the right to equal access to higher educational opportunities in the state.</p>	<p>Favorable Evaluated by: Will Pate 512-391-1770 Will@TexasLSG.org</p>
<p>SB 79 By Sen. Nelson SP: Smithee</p>	<p>Relating to specialty certification for insurance agents serving certain employer groups.</p>	<p>Insurance</p>	<p>Due to the difficulty small employers have finding salespeople who understand the unique characteristics of the small employer health coverage market, SB 79 would require the Department of Insurance to establish a voluntary specialty certification for insurance agents who market small employer health benefit plans.</p>	<p>Favorable Patrick Yarborough 512-391-1770 Patrick@TexasLSG.org</p>
<p>SB 223 By Sen. West SP: Thompson</p>	<p>Relating to allowing a person who successfully completes a term of deferred adjudication community supervision to be eligible for a pardon.</p>	<p>Corrections</p>	<p>SB 223 would allow the Governor to grant a pardon to defendants that successfully complete a term of deferred adjudication community supervision. This bill will only be enacted if SJR 11 is passed as well.</p>	<p>Favorable Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org</p>
<p>SB 283 By Sen. Nelson/et al SP: Shelton</p>	<p>Relating to the membership and activities of local school health advisory councils.</p>	<p>Public Education</p>	<p>SB 283 clarifies that a parent member of a Local School Health Advisory Council (LSHAC) be appointed chair or co-chair of the Council. The bill also requires that LSHACs meet at least four times a year and annually submit to the school board a report including recommendations regarding the district's health curriculum, suggested modifications to previous recommendations and a detailed explanation of the Council's activities between submittal of reports. A number of amendments to SB 283 may be offered that will attempt to reduce the teen pregnancy rate in Texas. The state currently ranks third in teen births and first in multiple births to teens. Further, parenthood is the top reason teen girls drop out of school and teen pregnancy cost Texas taxpayers \$1 billion in 2004. An amendment requiring that sex education be medically accurate. According to a recent study, 41% of Texas school districts teach factually incorrect information in sexuality education instruction. An amendment preventing course materials from discouraging condom and contraceptive use by sexually active teens. Currently, 40% of Texas school districts include medically inaccurate information that discourages young people from making responsible decisions to prevent pregnancy and disease. An amendment requiring school districts to provide parents with written notice about the content of the district's human sexuality instruction. An amendment requiring LSHACs to have at least 5 members. 81% of school districts surveyed in 2008 could not produce any LSHAC recommendation on sexuality education instruction despite the fact that the law requires LSHACs to provide community and parental input in district decisions regarding human sexuality instruction.</p>	<p>Favorable Will Pate 512-391-1770 Will@TexasLSG.org</p>

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<p>SB 359 By Sen. Patrick, Dan SP: Eiland</p>	<p>Relating to punishment for certain offenses committed in a disaster area or an evacuated area.</p>	<p>Criminal Jurisprudence</p>	<p>SB 359 increases the penalty for certain offenses committed in a disaster or evacuation area to the next higher category. If the offense is proven to be committed in an area that is considered to be a disaster area by the President, the Governor, the presiding officer of the governing body of a political subdivision, any other government official under state or federal law, or subject to an emergency evacuation area. Assault, robbery, burglary, and theft are the only offenses subject to this bill.</p> <p>An assault or theft that is a Class A misdemeanor the term of confinement is increased to 180 days. Burglary or theft offenses that are punishable as first degree felonies may not be increased. It is a defense to a charge for a theft that the conduct meets the elements of necessity under the Necessity section of the Penal Code.</p> <p>An emergency evacuation order is defined as an official statement issued by the governing body of this state or a political subdivision of this state to recommend or require the evacuation of all or part of the population of an area stricken or threatened with a disaster.</p>	<p>Favorable</p> <hr/> <p>Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org</p>
<p>SB 286 By Sen. Nelson SP: Kolkhorst / Davis, John / Howard, Donna</p>	<p>Relating to a health passport for Medicaid recipients.</p>	<p>Public Health</p>	<p>The 80th Legislature established an electronic medical records system called Health Passport, for children in the custody of the state who receive Medicaid benefits. By utilizing the existing Health Passport computer software to transmit medical record information electronically, SB 286 proposes to expand the Health Passport system to Medicaid recipients by developing an interval expansion process to be completely engrossed by September 1, 2014. The bill authorizes the HHSC to develop the regulations of the required information to be included in the Passport such as physician and contact information, record of visits, immunization records, the recipient's health status and known medical conditions, and all medications and their associated diagnosis. Access and the maintenance of the electronic personal medical information must adhere to HIPAA confidentially standards. The bill mandates that HHSC provide informational trainings to health care providers and participating Medicaid recipients. Additionally, SB 286 requires the Health Passport information be accessible for 90 days if an individual with disabilities or their parent if a child becomes ineligible for Medicaid.</p>	<p>Favorable</p> <hr/> <p>Evaluated by: Katharine Ligon 512-391-1770 Katharine@TexasLSG.org</p>
<p>SB 395 By Sen. Lucio SP: Lucio III</p>	<p>Relating to creation of the Early Childhood Health and Nutrition Interagency Council.</p>	<p>Agriculture & Livestock</p>	<p>SB 395 establishes the Early Childhood Health and Nutrition Interagency Council that will review current research and develop an early intervention plan to prevent childhood obesity. The council will include representatives from Health and Human Services, Texas Department of Agriculture, Texas Education Agency, Department of State Health Services, Family Protective Services, and Workforce. The council will be tasked with implementing its plan within six years.</p> <p>According to a study of childhood health conducted by researchers at the Johns Hopkins Bloomberg School of Public Health and published in the May 15, 2009 issue of the journal Academic Pediatrics, promoting the health of children before age five could save society up to \$65 billion in future health care costs. Preventing childhood obesity will prevent future health costs and improve the overall quality of young Texan's health throughout their entire life.</p>	<p>Favorable</p> <hr/> <p>Evaluated by: Virg Parks 512-391-1770 Virg@TexasLSG.org</p>
<p>SB 328 By Sen. Carona SP: Phillips</p>	<p>Relating to the civil and criminal consequences of operating a motor vehicle or a watercraft while intoxicated or under the influence of alcohol.</p>	<p>Criminal Jurisprudence</p>	<p>SB 328 includes operation of a watercraft while under the influence of alcohol by a minor in the Alcoholic Beverage Code. A minor commits an offense if the minor has a detectable amount of alcohol in his/her system while operating a watercraft. An offense under this section is not a lesser included offense under driving while intoxicated, driving while intoxicated with a child passenger, or boating while intoxicated. Watercraft is defined as a vessel, one or more water skis, an aquaplane, or another device used for transporting or carrying a person on water, other than a device propelled only by the current of water.</p> <p>SB 328 amends the Alcohol-related or drug-related enforcement contact to include a refusal to submit to the taking of a breath or blood specimen following the arrest for an offense prohibiting the operation of a watercraft, if the watercraft was powered with an engine having a manufacturer's rating of 50 horsepower or more.</p> <p>The Department of Public Safety shall suspend a person's driver's license and the issue must be proved at a hearing by a preponderance of evidence that the person had an alcohol concentration level of .08 or higher while operating a watercraft; or the person was a minor on the date the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a watercraft. SB 328 makes conforming changes to the Transportation Code to include operation of a watercraft while intoxicated.</p>	<p>Favorable</p> <hr/> <p>Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org</p>

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<p>SB 472 By Sen. Estes / Van de Putte / et al. SP: Deshotel / Thibaut / Thompson</p>	<p>Relating to notice required before and period to vacate after foreclosure sale of real property.</p>	<p>Business & Industry</p>	<p>Rising foreclosure rates are underlining the need for basic consumer protections to reduce the occurrence and impact of foreclosures across the state. In response, SB 472 would instate several new consumer protections. To protect debtors, SB 472 would require foreclosure notices to homeowners be made both by certified and first class regular mail, since homeowners not at home when the mail comes can fail to receive notice of foreclosure and be unaware of the seriousness of the situation. As well, it would increase the minimum time period a lender must give a borrower to cure default from 20 to 60 days before notice of sale may be given. A debtor is not obligated to vacate foreclosed property before the fourteenth day after sale. The bill would also void any contract provision that claims to waive a right of a debtor or exempt a mortgagee, mortgage servicer, trustee or government official from a duty under provisions relating to liens. To protect tenants of foreclosed properties, SB 472 would require a debtor to notify tenants on her property within seven days of the receipt of a notice of foreclosure sale. As well, a tenant in good standing may not be forced to vacate property before 60 days after forced sale. This would give tenants who pay in a timely manner adequate time to find a new lease when they must move unexpectedly.</p>	<p>Favorable Evaluated by: Patrick Yarborough 512-391-1770 Patrick@TexasLSG.org</p>
<p>SB 333 By Sen. Carona SP: Jackson, Jim</p>	<p>Relating to the retention by a county or municipality of certain court costs for maintaining and supporting a certified breath alcohol testing program.</p>	<p>Criminal Jurisprudence</p>	<p>SB 333 is a clean up bill that continues a fee of \$22.50 for a breath alcohol testing program in a county that maintains a certified breath alcohol testing program but does not use the services of a certified technical supervisor. The fee is to defray the cost of maintaining and supporting the program.</p>	<p>Favorable Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org</p>
<p>SB 476 By Sen. Nelson / et al. SP: Howard, Donna / King, Susan / Gattis / Guillen / Maldonado</p>	<p>Relating to staffing, overtime, and other employment protections for nurses.</p>	<p>Public Health</p>	<p>Research indicates that demanding schedules and mandatory overtime in hospitals are the primary reasons for nurse turnover. In an effort to increase nurse satisfaction, protect patient care, and reduce turnover rates within hospitals, SB 476 creates a hospital nurse staffing policy and seeks to prohibit hospitals from requiring nurses to overtime. The bill requires the governing board of hospitals to establish a Nursing Staffing Committee which is primarily composed of registered nurses from that hospital. The Committee must develop and recommend a nurse staffing policy to ensure an adequate staffing of nursed with mixed skills are available to meet the level of patient care needed on each shift. Each governing board of a hospital must adopt, implement, and enforce the nurse staffing policy. The policy must be a component in setting the hospital's nursing staff budget. The bill prohibits hospitals from requiring nurses to work mandatory overtime, but does not restrict a nurse from volunteering to work overtime. However, the bill does stipulate exemptions in which mandatory overtime might be required such as health care disasters (including natural disasters) and when a nurse is actively engaged in an ongoing medical procedure. Additionally, SB 476 prohibits hospitals from retaliating against nurses who participate in the Committee, contributing to the policy planning and development, and refuse to work mandatory overtime.</p>	<p>Will of the House Evaluated by: Katharine Ligon 512-391-1770 Katharine@TexasLSG.org</p>
<p>SB 408 By Sen. Carona SP: Hughes</p>	<p>Relating to the jurisdiction of and appeals from certain courts.</p>	<p>Judiciary & Civil Jurisprudence</p>	<p>SB 408 increases the amount in appeals or writs of error from \$100 to \$250. The bill allows a person to take an appeal or writ of error to the court of appeals from a final judgment of the district or county court that does not exceed \$250. SB 408 amends the Right to Appeal under the Government Code, to allow except to the extent of any conflict with this subchapter appeal is in the manner provided by law for appeals from justice courts. Section 28.053 of the Government Code would have a new title De Novo Trial on Appeal. The bill would provide trial on appeal to the county court or county court at law is de novo. A person may appeal the final judgment of the county court or county court at law on the appeal to the court of appeals.</p>	<p>Favorable Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org</p>
<p>SB 532 By Sen. Patrick, Dan SP: Coleman</p>	<p>Relating to a physician's delegation of prescriptive authority to physician assistants or advanced practice nurses.</p>	<p>Public Health</p>	<p>Physician Assistants (PAs) and Advanced Practice Nurses (APNs) are formally trained to provide diagnostic, therapeutic, and preventive health care services which includes prescribing some medications under the delegation of a licensed physician. However, current Texas law restricts the prescriptive authority of PAs and APNs. Therefore, SB 532 proposes to expand the prescriptive abilities of PAs and APNs to practice in a location (e.g. retail clinics, physician's office, or patient residence) with a delegating physician present more than 50% of the time. A physician is permitted to have delegating authority over three PAs or APNs. The bill requires the practice the practice location of PAs and APNs to be with 75 miles of the delegating physician's residence or primary practice. The bill mandates that the delegating</p>	<p>Favorable Evaluated by: Katharine Ligon 512-391-1770 Katharine@TexasLSG.org</p>

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			physician to review 10% of the PAs and/or APNs medical charts which can be done electronically. Additionally, the bill authorizes the Texas Medical Board grant a delegating physician waiver to be responsible for and supervise more than three PAs or APNs, but no more than six in which the mileage limitation and on-site supervision requirements remain the same.	
SB 451 By Sen. Van de Putte / et al. SP: Patrick	Relating to staff development requirements in public schools.	Public Education	SB 451 requires that school districts provide scientifically based training to an educator who works primarily outside the area of special education if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student with disabilities receiving instruction from the educator.	Favorable Evaluated by: Will Pate 512-391-1770 Will@TexasLSG.org
SB 650 By Sen. Van de Putte SP: Hopson	Relating to certain peace officers commissioned by the Texas State Board of Pharmacy.	Public Safety	The State Board of Pharmacy (SBP) currently commissioned peace officers to conduct the investigatory and other responsibilities of their organization including serving search warrants and conducting searches. They are however not allowed to carry firearms or make arrests. Due to the increase in the illegal sale, theft, and use of pharmaceuticals, this boards work has increased, including much larger and more severe cases, including the confiscation and transportation of large sums of cash. This bill would allow SBP commissioned peace officers to make arrests and carry a firearm in the course of their duty.	Favorable Evaluated by: Holland Jones 512-391-1770 Holland@TexasLSG.org
SB 518 By Sen. Harris SP: Madden	Relating to providing access to certain information relating to the discretionary transfer of a child from a juvenile court to a criminal court.	Corrections	Under current statute the juvenile court has to provide written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses to the child's attorney at least one day prior to the hearing for a transfer of the juvenile. SB 518 would require the court to provide the information at least 5 days prior to the hearing and the information be provided to the prosecuting attorney as well.	Favorable Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org
SB 743 By Sen. Wentworth SP: Gutierrez	Relating to the time allowed for execution of a search warrant issued to obtain a specimen for DNA analysis.	Criminal Jurisprudence	Under current statute a search warrant is allowed to run for 3 whole days regardless of the circumstance. SB 743 would allow a search warrant to run for 20 whole days if the warrant is issued solely to search for and seize specimens from a specific person for DNA analysis and comparison, including blood and saliva samples; or 3 whole days if the warrant is issued for any other purpose. The magistrate shall endorse on the search warrant the date and hour of its issuance.	Favorable Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org
SB 527 By Sen. Nelson SP: Kolkhorst / Laubenberg	Relating to certain mammography systems that fail certification standards.	Public Health	The condition and efficiency of mammography equipment and systems is essential to the detection of breast cancer. Currently, statute requires the mammography system to be certified and inspected by DSHS. SB 527 proposes to clarify the requirements in incidents of noncompliance of a system to the certification standards. The bill would require each facility that performs mammograms to promptly notify each patient that received a mammogram on the noncompliant system during the period in which the system was not functioning up to standards. Additionally, the notice to the patient must include a recommendation that the patient consult with their physician for follow-up with completing another exam.	Favorable Evaluated by: Katharine Ligon 512-391-1770 Katharine@TexasLSG.org

<p>SB 833 By Sen. Carona SP: Turner, C / Vaught</p>	<p>Relating to the accrual of vacation and sick leave for certain state employees on a military leave of absence.</p>	<p>Defense & Veterans' Affairs</p>	<p>SB 833 allows state government employees who are on unpaid leave of absence to perform military duties to continue to accrue vacation and sick leave.</p>	<p>Favorable Evaluated by: Will Pate 512-391-1770 Will@TexasLSG.org</p>
<p>SB 1091 By Sen. Ellis / Duncan SP: Gallego</p>	<p>Relating to the establishment of the capital writs committee and the office of capital writs and to the appointment and compensation of certain counsel for indigent defendants in a capital case.</p>	<p>Criminal Jurisprudence</p>	<p>SB 1091 creates a Capital Writs Committee and the Office of Capital Writs. The committee will consist of 5 members that are appointed by the president of the State Bar of Texas. If a defendant sentenced to death desires appointment of counsel for the purpose of a writ of habeas corpus, the court shall appoint the office to represent the defendant. Within 30 days after the court makes a finding of needed representation, the court shall appoint the office or if the office does not accept or is prohibited from accepting an appointment, other competent counsel shall be provided from the list kept by the presiding judges of the Administrative Judicial Regions. The state shall reimburse a county for compensation of counsel, other than for compensation of counsel employed by the office. Payment of expenses regardless of whether counsel is employed by the office shall also be reimbursed.</p>	<p>Favorable Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org</p>
<p>LSG Floor Report For Resolutions Calendar - Monday, May 18, 2009</p>				
<p>HCR 22 By Reps. Burnam / Kent</p>	<p>Granting the Chishty family permission to sue the State of Texas, the Department of Aging and Disability Services, and the Denton State School.</p>	<p>Judiciary & Civil Jurisprudence</p>	<p>HCR 22 would allow Haseeb Chishty's family the right to sue the State of Texas, the Department of Aging and Disability Services (DADS), and the Denton State School for medical expenses, attorney fees, and interest on any amounts due as authorized by law for the failure of DADS and the Denton State School to protect the health and well-being of Haseeb Chishty while residing at the state school. A similar resolution granting the family permission to sue passed unanimously out of the House last session (HCR 155). Haseeb Chishty was a mentally disabled, but physically healthy young man who was a resident of the Denton State School, which is under the jurisdiction of DADS. Haseeb was abused by Kevin Miller, a direct care aide employed by the school that had a history of illicit drug use and inappropriate behavior toward residents of the school. Some time before September 27, 2002, Kevin Miller physically abused Haseeb and Haseeb sustained life-threatening injuries to his lower abdomen and pelvic area which have left him unable to eat on his own, speak, walk, or interact with his family. It is suspected that Kevin Miller was in a drug induced state at the time of the abuse. It is alleged that DADS and the Denton State School attempted to conceal the incident by informing Haseeb's mother that Haseeb was injured by a vehicle safety belt. On or about January 27, 2003 DADS and the Denton State School informed Haseeb's mother that Haseeb may have been physically abused by an employee, who at the time the information was provided was on leave of absence status. Upon Kevin Miller's return to the Denton State School he was permitted to work with Haseeb, although the Denton State School knew that Kevin Miller may have been responsible for Haseeb's abuse. Kevin Miller has been indicted by a Denton County grand jury and charged with reckless bodily injury to a disabled person and is currently in prison. HCR 22 would allow the Chishty Family the right to sue the State of Texas, DADS, and the Denton State School in order to receive restitution for the damages caused. The Chishty Family still has to prove in court that they are entitled to the damages, this resolution only gives the family the right to their day in court.</p>	<p>Favorable Evaluated by: Dawnetta Smith 512-391-1770 Dawnetta@TexasLSG.org</p>
<p>HCR 139 By Reps. Flores / Gonzalez Toureilles / Martinez, M /Leibowitz /</p>	<p>Directing the State Preservation Board to amend its rules to allow the statue in honor of Tejanos to be placed on the south lawn of the Capitol.</p>	<p>Culture, Recreation & Tourism</p>	<p>Currently, there is a prohibition on placing additional memorials and/or monuments on the Capitol grounds, with an exception provided for the placement of the Emancipation Juneteenth monument. HCR 139 would include the currently constructed statue in honor of Tejanos be placed on the south lawn of the Capital in order to recognize role of Tejanos in the Texas heritage.</p>	<p>Favorable Evaluated by: Monica Webb 512-391-1770 Monica@TexasLSG.org</p>

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<p>HCR 67 By Rep. Farabee / Gonzalez Toureilles</p>	<p>Urging the United States Congress to maintain state regulatory coverage of hydraulic fracturing.</p>	<p>Energy Resources</p>	<p>A process called hydraulic fracturing is the standard method used to extract natural gas from deep rock in an efficient manner. The US congress has been considering bringing regulation of hydraulic fracturing under federal control through the Safe Drinking Water Act (SDWA). This is a resolution to be sent to The President and both houses of congress reinforcing the effectiveness of the regulation of this method on the state level for the last 50 years and urge that the regulation of this method stay at the state level. The resolution also points out that the 2005 Energy Policy Act expressly exempted this technology from regulation under SDWA. A process called hydraulic fracturing is the standard method used to extract natural gas from deep rock in an efficient manner. The process involves pumping a mixture of water, sand, and other unidentified chemicals into the well at high pressure to break up the gas bearing porous rock, hold the cracks open with the sand, and extract additional gas from the well.</p> <p>The US congress has been considering bringing regulation of hydraulic fracturing under federal control through the Safe Drinking Water Act (SDWA). This is a resolution to be sent to the President and both houses of congress reinforcing the effectiveness of the regulation of this method on the state level for the last 50 years and urge that the regulation of this method stay at the state level. The resolution also points out that the 2005 Energy Policy Act expressly exempted this technology from regulation under SDWA.</p> <p>Concerned citizens and environmental groups have raised concerns in multiple states about the contamination of water supplies in proximity to gas wells that utilize hydraulic fracturing, but cannot confirm the association as the exact chemical content of the fracking liquid is protected as a trade secret. The US Congress has exempted hydraulic fracturing from the Safe Drinking Water Act (SDWA) and the EPA released a report in 2004 that concluded there was no risk to drinking water and considered the process safe. This EPA report has drawn substantial fire from many groups who have questioned their conclusions and criticized their methods and sources, including the use of studies that are considered unqualified for use as scientific data.</p>	<p>Will of the House</p> <hr/> <p>Evaluated by: Holland Jones 512-391-1770 Holland@TexasLSG.org</p>
<p>HCR 139 By Reps. Flores / Gonzalez Toureilles / Martinez, "Mando" / Leibowitz / et al.</p>	<p>Directing the State Preservation Board to amend its rules to allow the statue in honor of Tejanos to be placed on the south lawn of the Capitol.</p>	<p>Culture, Recreation & Tourism</p>	<p>Currently, there is a prohibition on placing additional memorials and/or monuments on the Capitol grounds, with an exception provided for the placement of the Emancipation Juneteenth monument. HCR 139 would include the currently constructed statue in honor of Tejanos be placed on the south lawn of the Capital in order to recognize role of Tejanos in the Texas heritage.</p>	<p>Favorable</p> <hr/> <p>Evaluated by: Monica Webb 512-391-1770 Monica@TexasLSG.org</p>
<p>HCR 119 By Rep. Swinford</p>	<p>Designating the Panhandle Region of Texas as an official Natural Renewable Resource Area.</p>	<p>State Affairs</p>	<p>This HCR designates the Texas Panhandle Region of Texas as an official Natural Renewable Resource area in recognition of their vast wind and solar generation potential, the prevalence of wind generation in the area, the strides made by local industry and Universities to develop education and development programs for renewable energy.</p>	<p>Favorable</p> <hr/> <p>Holland Jones 512-391-1770 Holland@TexasLSG.org</p>
<p>HCR 50 By Reps. Creighton / Hughes / Berman / Gattis /</p>	<p>Affirming that the State of Texas claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and</p>	<p>State Affairs</p>	<p>This is a resolution to be sent to the federal government to reassert the sovereign rights guaranteed to Texas as a state in the Tenth Amendment of the US Constitution. The resolution demands the federal government cease actions deemed outside the bounds of the power granted in the 10th amendment. A copy of this resolution is to be sent to the President, the Speaker of the House, the President of the Senate and to all members of the Texas Congressional delegation.</p>	<p>Will of the House</p> <hr/> <p>Evaluated by: Holland Jones 512-391-1770 Holland@TexasLSG.org</p>

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Guillen / et al.	granted to the federal government by the U.S. Constitution, serving notice to the federal government to cease and desist certain mandates, and providing that certain federal legislation be prohibited or repealed.			
HCR 54 By Reps. Truitt	Urging the United States Congress to enact legislation facilitating a technology-based solution that allows consumers to subscribe to Internet services that exclude adult content.	Technology, Economic Development & Workforce	Urging the United States Congress to enact legislation facilitating a technology-based solution that allows consumers to subscribe to Internet services that exclude adult content. With pornography easily accessible on the Internet, it is vitally necessary to protect children from inappropriate and disturbing content. HCR 54 by Rep. Truitt calls for a “technology-based solution” that would give consumers the option of subscribing to Internet service free from adult content. While this is an excellent goal, the provision of internet is unique in the media for content neutrality, and if Internet service providers (ISPs) may treat some content differently, it may open the door to Internet users being steered toward some websites and away from others due to relationships their ISP has with content providers. Regulation of pornographic content is important, but it may be best to do so with a different approach than allowing ISPs to be gatekeepers of content.	Will of the House <hr/> Evaluated by: Patrick Yarborough 512-391-1770 Patrick@TexasLSG.org
HCR 61 By Reps. Herrero / Gattis / Truitt / Kent / et al.	Affirming that the State of Texas claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the U.S. Constitution, serving notice to the federal government to cease and desist certain mandates, and providing that certain federal legislation be prohibited or repealed.	Pensions, Investments and Financial Services	This resolution is intended to urge Congress to repeal the Windfall Elimination Provision (WEP) as well as the Government Pension Offset (GPO). The Windfall Elimination Provision adversely affects public employees such as teachers and discourages future educators from entering into the field. The intention of (WEP) was to eliminate benefits to highly paid government employees; however, for low income employees this provision has devastating consequences. WEP can deprive a retiree of nearly \$300 a month in social security benefits duly earned by that individual. This provision reduces the Social Security benefit for public employees who did not participate in Social Security while working for the government, but who at some time in their careers paid Social Security taxes for the period required to qualify for retirement benefits. The Government Pension Offset prohibits some government retirees from collecting both their own pension and full Social Security benefits as a surviving spouse; an estimated 9 out of 10 public employees affected by the GPO lose their entire spousal benefit, even though their deceased spouse paid Social Security taxes for many years. The cumulative loss of benefits as a result of these penalties over the next 10 years has been projected by the Congressional Budget Office to exceed \$60 billion.	Favorable <hr/> Evaluated by: Monica Webb 512-391-1770 Monica@TexasLSG.org
HCR 126 By Rep. S. Miller	Designating the Mills County Goat and BBQ Cook-off as the official Texas State Goat Barbecue Championship Cook-off.	Culture, Recreation and Tourism	HCR 126 designates the Mills County Goat and BBQ Cook-off as the official Texas State Goat Barbecue Championship Cook-off.	Favorable <hr/> Evaluated by: Monica Webb 512-391-1770 Monica@TexasLSG.org
HCR 168 By Reps. Anderson / Miller, Sid / Button /	Extending appreciation to former president George W. Bush for his service to our state and nation.	Culture, Recreation and Tourism	HCR 168 would honor former president George W. Bush for his service to the state and for his eight years of service as President of the nation.	Favorable <hr/> Evaluated by: Monica Webb 512-391-1770 Monica@TexasLSG.org

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Branch / Hartnett / et al.				
HCR 120 By Reps. Guillen / Gonzalez Toureilles	Memorializing the United States Congress to make eradication of the fever tick in South Texas a priority and provide appropriate funding and resources.	Agriculture & Livestock	The fever tick causes illness in cattle and historically infested the entirety of the southeastern United States killing 90% of cattle infected. From 1943-2007, the fever tick has been contained to a quarantine zone along the Rio Grande. However, in the last two years it has been identified outside that zone and preventive quarantine zones have been established in Starr, Zapata, Jim Hogg, Dimmit and Webb Counties. Texas is literally on the front line of this battle and has received \$10.1 of the \$13 million requested to fight the spread of the fever tick. HCR 120 memorializes the United States Congress to make eradicating the fever tick a national priority and continue investing in Texas' efforts.	Favorable Evaluated by: Virg Parks 512-391-1770 Virg@TexasLSG.org
HR 798 By Rep. Taylor	Expressing opposition to any federal legislation that would create an optional federal charter for insurers.	Insurance	HR 798 urges Congress not to back legislation creating a federal charter option for insurers to avoid state-level regulations. HR 798 calls for Congress to ensure that insurers doing business in Texas and every other state must follow the applicable state's insurance regulations.	Favorable Evaluated by: Patrick Yarborough 512-391-1770 Patrick@TexasLSG.org

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