

FIFTY-THIRD DAY

TUESDAY, APRIL 17, 2001

PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini, Mr. President.

The President announced that a quorum of the Senate was present.

The Reverend Dr. Robert L. Allen, First United Methodist Church, Wichita Falls, offered the invocation as follows:

Eternal God, who created us and continues to create through us, we come before You with a spirit of thankfulness. We are thankful for the gift of life You have given to us. We are thankful for the freedom we share in this great nation and this great state. We are thankful for the opportunities which this freedom presents to us.

O God, You know that we live in the midst of a complicated world with a lot of unsolved problems. Forgive us for allowing a sense of futility to overwhelm us. Remind us that Your power has never been obstructed by difficulties, nor Your love limited simply because we face troubling situations.

We come today requesting Your special watch over the men and women of our armed forces and the men and women who wear uniforms to serve and protect the innocent in our local and state governments. Let them feel the support of the prayers of the host of grateful people throughout our state.

O God, You know the difficulties the men and women of this Senate face. We pray today for Senator Haywood's son, Tommy, and any other Member's family who may be facing illness. We pray for the important decisions these Senators must make for the people of our state. Give them the courage to do what is right instead of what is politically expedient. Grant that their decisions will be so clear that they will not have any vain regrets after the decisions are made. Give to them backbones instead of wishbones as they seek to help the people of this state. We pray this in that name which is sacred to us all. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, April 11, 2001, was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 102

On motion of Senator Nelson and by unanimous consent, Senator West will be shown as Co-author of **SB 102**.

CO-AUTHOR OF SENATE BILL 297

On motion of Senator West and by unanimous consent, Senator Bernsen will be shown as Co-author of **SB 297**.

CO-AUTHOR OF SENATE BILL 305

On motion of Senator Harris and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 305**.

CO-AUTHOR OF SENATE BILL 536

On motion of Senator Ellis and by unanimous consent, Senator West will be shown as Co-author of **SB 536**.

CO-AUTHORS OF SENATE BILL 789

On motion of Senator Moncrief and by unanimous consent, Senators Bernsen and Zaffirini will be shown as Co-authors of **SB 789**.

CO-AUTHOR OF SENATE BILL 894

On motion of Senator Moncrief and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 894**.

CO-AUTHORS OF SENATE BILL 1067

On motion of Senator Harris and by unanimous consent, Senators Carona and Van de Putte will be shown as Co-authors of **SB 1067**.

CO-AUTHOR OF SENATE BILL 1329

On motion of Senator Bivins and by unanimous consent, Senator Nelson will be shown as Co-author of **SB 1329**.

CO-AUTHOR OF SENATE BILL 1358

On motion of Senator Armbrister and by unanimous consent, Senator Nelson will be shown as Co-author of **SB 1358**.

CO-AUTHORS OF SENATE BILL 1461

On motion of Senator Nelson and by unanimous consent, Senators Armbrister, Carona, Lucio, and Shapiro will be shown as Co-authors of **SB 1461**.

CO-AUTHOR OF SENATE BILL 1483

On motion of Senator Duncan and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 1483**.

CO-AUTHORS OF SENATE BILL 1526

On motion of Senator Van de Putte and by unanimous consent, Senators Gallegos, Sibley, and Staples will be shown as Co-authors of **SB 1526**.

CO-AUTHOR OF SENATE BILL 1651

On motion of Senator Bernsen and by unanimous consent, Senator Truan will be shown as Co-author of **SB 1651**.

PERMISSION TO INTRODUCE BILLS

Senator Truan moved to suspend Senate Rule 7.07(b) and Section 5, Article III of the Texas Constitution to permit the introduction of the following bills: **SB 1806, SB 1807**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

SB 1806 by Lucio

Relating to the purchase and lease of vacant land.
To Committee on Natural Resources.

SB 1807 by Ogden

Relating to the duties of a magistrate regarding the provision of bail for a person arrested for a criminal offense.
To Committee on Criminal Justice.

SB 1808 by Ogden

Relating to the creation of a county court at law in Navarro County. (Local bill)
To Committee on Intergovernmental Relations.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

HB 7 to Committee on State Affairs.

HB 47 to Committee on Education.

HB 164 to Committee on Intergovernmental Relations.

HB 269 to Committee on Business and Commerce.

HB 631 to Committee on Natural Resources.

HB 706 to Committee on Jurisprudence.

HB 978 to Committee on Jurisprudence.

HB 1118 to Committee on Jurisprudence.

HB 1162 to Committee on Business and Commerce.

HB 1196 to Committee on State Affairs.

HB 1266 to Committee on Jurisprudence.

HB 1323 to Committee on Criminal Justice.

HB 1465 to Committee on Education.

HB 1811 to Committee on State Affairs.

HB 1833 to Committee on Intergovernmental Relations.

HB 1876 to Committee on Jurisprudence.

HB 1884 to Committee on Jurisprudence.

HB 2509 to Committee on State Affairs.

HB 3334 to Committee on Intergovernmental Relations.

(Senator Haywood in Chair)

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were referred to the Committee on Nominations:

Austin, Texas

April 5, 2001

TO THE SENATE OF THE SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE TEXAS WOMAN'S UNIVERSITY BOARD OF REGENTS for terms to expire February 1, 2007:

Therese Bartholomew Bevers, M.D.

2505 Addison Road

Houston, Texas 77030

(replacing Carlos Hamilton of Houston whose term expired)

Kenneth L. Ingram

2144 Savannah Trail

Denton, Texas 76205

(replacing Richard Hayes of Denton whose term expired)

Annie F. Williams

2040 Argyle Avenue

Dallas, Texas 75203

(replacing Kay Goodman of Sanger whose term expired)

Respectfully submitted,

/s/Rick Perry

Governor

Austin, Texas

April 12, 2001

TO THE SENATE OF THE SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF STEPHEN F. AUSTIN STATE UNIVERSITY BOARD OF REGENTS for terms to expire January 31, 2007:

Margarita de la Garza-Graham, M.D.

533 Wilder Way

Tyler, Texas 75703

(replacing Richard Brookshire of Lufkin whose term expired)

Kenneth James

1914 River Glen Forest

Kingwood, Texas 77345

(replacing Jimmy Murphy of Houston whose term expired)

Fredrick A. Wulf

P.O. Box 2108

Center, Texas 75935

(replacing Pattye Greer of Cushing whose term expired)

Respectfully submitted,

/s/Rick Perry

Governor

Austin, Texas

April 17, 2001

TO THE SENATE OF THE SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE MIDWESTERN STATE UNIVERSITY BOARD OF REGENTS for a term to expire February 25, 2004:

Munir A. Lalani

4307 Lake Park Drive

Wichita Falls, Texas 76302

(Mr. Lalani will be replacing Carolyn Park of Eules, Texas who resigned.)

TO BE A MEMBER OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS for a term to expire January 31, 2007:

Mayor Norberto Salinas

2000 Brazos Court

Mission, Texas 78572

(replacing Margie Lee Bingham of Houston whose term expired)

Respectfully submitted,

/s/Rick Perry

Governor

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The Presiding Officer announced the time had arrived to consider the executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given Wednesday, April 11, 2001, by Senator Nelson.

Senator Nelson moved confirmation of the nominees reported Wednesday by the Committee on Nominations.

The Presiding Officer asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees as reported by the Committee on Nominations were confirmed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Members, Texas Board of Criminal Justice: Adrian A. Arriaga, Hidalgo County; Mary Bacon, Harris County; Christina Melton Crain, Dallas County; Pierce Miller, Tom Green County.

Justice, Supreme Court of Texas: Wallace B. Jefferson, Bexar County.

Commissioner of Education: James E. Nelson, Travis County.

Member, State Board for Educator Certification: John J. Beck, Jr., Ph.D., Hays County.

Members, Texas Guaranteed Student Loan Corporation Board of Directors: Jennifer M. Esterline, Travis County; Albon O. Head, Jr., Parker County; James R. Langabeer, Hidalgo County; Jerry Don Miller, Randall County.

Members, Texas Military Facilities Commission: Sandra Paret, Dallas County; Jorge D. Perez, Hidalgo County.

Members, Interagency Council on Early Childhood Intervention Board: Michael Fuhrman, Denton County; Maria Dolores Garcia, Deaf Smith County.

Members, Texas School for the Deaf Governing Board: Charles C. Estes, Collin County; Lesa Von Thomas, Nueces County.

Member, Board of Protective and Regulatory Services: Cristina "Ommy" Strauch, Bexar County.

Members, Automobile Theft Prevention Authority: Michael F. Gerik, McLennan County; Al A. Philippus, Comal County.

Members, Correctional Managed Health Care Committee: Jean Marie Frazier, Harris County; James Dale Griffin, M.D., Dallas County; George Willeford III, M.D., Travis County.

Presiding Officer, Texas Council on Offenders with Mental Impairments: David Gutierrez, Lubbock County.

Members, Texas Council on Offenders with Mental Impairments: Dennis R. Myers, Ph.D., McLennan County; George A. Urias, Bexar County.

Members, Produce Recovery Fund Board: Ralph Diaz, Nueces County; Jay Pack, Dallas County.

Member, College Opportunity Act Committee: Michelle Marie Tobias, Travis County.

Members, Texas Commission for the Deaf and Hard of Hearing: Beverly Sue Hill, Tarrant County; Jeffrey W. Jordan, Midland County; Paul A. Locus, M.D., Travis County; Myfe White Moore, Bexar County.

Members, State Bar of Texas Board of Directors: John Stanley Mayfield, Tom Green County; David W. Stevens, Travis County.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 17, 2001

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 85, Relating to the location of a disposal facility selected by the Texas Low-Level Radioactive Waste Disposal Authority.

HB 310, Relating to the establishment and operation of veterans cemeteries.

HB 337, Relating to cancelling or prohibiting the issuance of certain original or renewal alcoholic beverage permits or licenses for nonpayment of ad valorem taxes.

HB 821, Relating to cardiopulmonary resuscitation instruction for public school students.

HB 1117, Relating to petition requirements for an application for a place on the general primary election ballot for certain judicial candidates.

HB 1922, Relating to state government privacy policy.

HB 2109, Relating to exempting certain higher education students from the TASP test based on the student's high school grade point average in college preparatory courses.

HB 2147, Relating to contributions for the governor for a day or speaker's reunion day ceremony.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

CONCLUSION OF MORNING CALL

The Presiding Officer, Senator Haywood in Chair, at 10:12 a.m. announced the conclusion of morning call.

(President in Chair)

**SENATE CONCURRENT RESOLUTION 1
ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

SCR 1, Granting R. C. Crawford and Crawford Heavy and Marine Construction Limited permission to sue the state and the Texas Department of Transportation.

The resolution was read second time and was adopted by a viva voce vote.

**SENATE RULE 2.02 SUSPENDED
(Restrictions on Admission)**

On motion of Senator Harris and by unanimous consent, Senate Rule 2.02 was suspended to grant floor privileges to Sunset Advisory Commission staff members during the deliberation of **CSSB 305**.

**COMMITTEE SUBSTITUTE
SENATE BILL 305 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 305, Relating to the continuation and functions of the Texas Parks and Wildlife Department.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 305 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 305** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 1339 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1339, Relating to requiring owners or operators of poultry operations to implement and maintain certified water quality management plans.

The bill was read second time.

Senator Ogden offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1339** as follows:

(1) In SECTION 2 of the bill (Introduced version page 1, line 24, through page 2, line 4), strike Subsection (b) and substitute the following:

(b) Each owner or operator of a poultry facility required to implement and maintain a certified water quality management plan under Section 26.302, Water Code, as amended by this Act, shall develop and submit to the State Soil and Water Conservation Board a site-specific water quality management plan according to the following schedule:

Date of initial operation of facility	Plan submission date
January 1, 2002, or later	before receipt of birds
September 1, 2001, to December 31, 2001	before January 1, 2002
January 1, 1993, to August 31, 2001	before January 1, 2002
January 1, 1988, to December 31, 1992	before January 1, 2003
January 1, 1983, to December 31, 1987	before January 1, 2005
December 31, 1982, or earlier	before January 1, 2008

(2) In SECTION 2 of the bill (Introduced version, page 2, line 5), add a new Subsection (c) to read as follows and reletter existing Subsection (c) as Subsection (d):

(c) Each owner or operator of a poultry facility required to implement and maintain a certified water quality management plan under Section 26.302, Water Code, as amended by this Act, who expands the facility on or after September 1, 2001, shall develop and submit to the State Soil and Water Conservation Board a site-specific water quality management plan for the expanded facility before the later of the receipt of the additional birds that will occupy the expanded facility or January 1, 2002.

(3) In SECTION 2 of the bill, in the subsection redesignated as Subsection (d) (Introduced version, page 2, line 6), strike "poultry operation" and substitute "poultry facility".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 1339 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1339 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1339** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1289 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1289, Relating to designating a model injury prevention center.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1289** in SECTION 1 of the bill as follows:

(1) Strike existing Section 780.006, Health and Safety Code (senate committee printing, page 2, lines 13-19).

(2) Renumber existing Section 780.007, Health and Safety Code, as Section 780.006, Health and Safety Code (senate committee printing, page 2, line 20).

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1289 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1289 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1289** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla,

Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

(Senator Staples in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1282 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1282, Relating to the funding of port transportation or facility projects or port studies.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1282 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1282** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

PHYSICIAN OF THE DAY

Senator Truan was recognized and presented Dr. John Whitham of Corpus Christi as the Physician of the Day.

The Senate welcomed Dr. Whitham and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

**COMMITTEE SUBSTITUTE
SENATE BILL 297 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 297, Relating to providing supplemental financial assistance to certain grandparents.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 297 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 297** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Oden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1186 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1186, Relating to requiring the Texas Higher Education Coordinating Board to publish certain performance data provided to the board by general academic teaching institutions.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1186 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1186** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla,

Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

SENATE BILL 551 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 551, Relating to the possession of and access to certain children by parents who have engaged in sexual assault.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 551 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 551** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1196 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1196, Relating to the use of certain practices in disciplining or techniques in managing the behavior of public school students.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1196 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1196** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 1345 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1345, Relating to the interception of wire, oral, or electronic communications, to the use of pen registers and trap and trace devices, and to the civil and criminal consequences of improperly engaging in those activities.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1345 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1345** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 246 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 246, Relating to a review of transportation projects related to international trade.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 246 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 246** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1358 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1358, Relating to the regulation of the practice of public accounting.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1358** as follows:

- (1) On page 7, line 10 strike "Section" and substitute "Sections".
- (2) On page 7, line 10 following "901.005", insert "901.006".
- (3) On page 7, line 10 strike "is" and substitute "are".
- (4) On page 9, between lines 13 and 14 insert the following:

"Sec. 901.006. APPLICATION OF SUNSET ACT. The Texas Board of Public Accountancy is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2005 [~~2003~~]."

(5) On page 13, lines 4 through 10, strike the existing subsection (c) and substitute the following:

"(c) The state shall hold each board member, employee or agent of the board, and volunteer member of a constructive enforcement committee of the board harmless from any cost, damage, or attorney's fees arising from a claim or suit against that person for an action taken by the person in good faith in the discharge of the board's responsibilities."

(6) On page 20, line 14 strike ", if so doing would result in a greater degree of".

(7) On page 20, line 15 strike "reciprocity with the examination results of other states".

(8) On page 35, line 8 after "terms" insert "or assert that the person has expertise in accounting or auditing only".

(9) On page 43, line 6 strike ", other than Section".

(10) On page 43, line 7 strike "901.457 or 901.459".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1358 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Jackson asked to be recorded as voting "Nay" on the passage of **CSSB 1358** to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1358 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1358** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Jackson, Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Jackson asked to be recorded as voting "Nay" on the final passage of **CSSB 1358**.

SENATE RESOLUTION 690

Senator Gallegos offered the following resolution:

WHEREAS, The Senate of the State of Texas proudly recognizes the Battleship *Texas*, the flagship of the Texas Navy, on the grand occasion of the 53rd anniversary of its decommissioning on April 21, 2001; and

WHEREAS, Commissioned in 1914, the Battleship *Texas* served in both world wars; she saw action in the Atlantic Ocean and off the North African coast and was present at the battles of Okinawa and Iwo Jima in the South Pacific; and

WHEREAS, During the legendary Normandy invasion, the Battleship *Texas* was one of thousands of ships sailing as part of the Allied fleet and took part in the bombardment of Cherbourg; and

WHEREAS, Throughout its active history, the Battleship *Texas* earned the reputation as a "ship of many firsts"; it was the first battleship to launch an airplane, the first to offer talking movies, and one of the first to use radar in the Atlantic squadron; and

WHEREAS, Nicknamed "the Lucky Ship," the Battleship *Texas* suffered only one combat casualty in her many campaigns; she was decommissioned on April 21, 1948, and retired to her present berth at the San Jacinto Battlegrounds; and

WHEREAS, The Battleship *Texas* is currently in state care under the direction of the Texas Parks and Wildlife Department and the Battleship *Texas* Foundation; and

WHEREAS, The Battleship *Texas* Foundation is charged with raising funds to restore and promote the educational value of the Battleship *Texas*; and

WHEREAS, The Battleship *Texas* Foundation Board is comprised of retired military leaders, active business and civic leaders, and concerned community volunteers all focused on promoting the historical and educational significance of the Battleship *Texas*; and

WHEREAS, The Battleship *Texas* Foundation has solicited funding for restoration, enhancements, and a Youth Overnight Program to serve organized youth groups across the state; and

WHEREAS, Built as a vessel of war, the Battleship *Texas* now symbolizes our nation's commitment to freedom; it is of the utmost importance that this extraordinary historical object be preserved for future generations; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Legislature, hereby recognize April 21, 2001, as the 53rd Anniversary of the decommissioning of the Battleship *Texas*, the flagship of the Texas Navy; and, be it further

RESOLVED, That a copy of this Resolution be prepared to express the high regard that the Texas Senate holds for all the institutions and volunteers who dedicate their resources and time to preserving and enhancing the Battleship *Texas*.

The resolution was again read.

The resolution was previously adopted on Monday, April 9, 2001.

GUESTS PRESENTED

Senator Gallegos was recognized and introduced to the Senate representatives of the Battleship *Texas* Foundation.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Brown, joined by Senator Ellis, was recognized and introduced to the Senate Mayor Allen Owen of Missouri City, accompanied by members of the Missouri City Mayor's Youth Commission.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Cain was recognized and introduced to the Senate a delegation from the Lake Highlands/White Rock Democrats.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Fraser was recognized and introduced to the Senate a group of students from the City of Killeen Youth Advisory Commission.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Cain was again recognized and introduced to the Senate students from North Dallas High School in Dallas, accompanied by their teachers.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
SENATE BILL 1335 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1335, Relating to certain river authorities and water districts, the codification of Acts creating and regulating the authorities and districts, and the creation of the Texas Water Policy Council to review the authorities and districts.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1335** as follows:

Add a new CHAPTER 49.457 as follows: CHAPTER 49.457. REVENUE BONDS OF SURFACE WATER AUTHORITIES. Sec. 457.001. REVENUE BONDS. (a) As used in this Section: (1) 'Person' means any individual, partnership, corporation, public utility, or other private entity or any public agency. (2) 'Public agency' means any authority, district, city, town, or other political subdivision, joint board, or other public agency created pursuant to and operating under the laws of the State.

(b) An authority and all persons are authorized to contract with each other in any manner and on terms as to which the parties may agree with respect to any power, function, facilities, or services which an authority is authorized by law to provide or finance. All public agencies are authorized to use and pledge any available revenues for and in the payment of amounts due under the contracts as an additional source or sources of payment of the contracts or as the sole source or sources of payment of the contracts and may covenant with respect to available revenues so as to assure the availability of these revenues when required. The term 'revenues' as used in this subsection does not mean or include revenues from ad valorem taxes levied and collected by a public agency or the proceeds from the sale or refunding of bonds of a public agency that are to be wholly or partially paid from ad valorem taxes levied and collected by the public agency unless the use or pledge of the tax revenues or bond proceeds are approved by the qualified voters of the public agency at an election called for the purpose of levying taxes or issuing or refunding bonds or both for the purpose of using or pledging their revenues or proceeds under contracts entered into under this subsection.

(c) Each public agency is authorized to fix, charge, and collect fees, rates, charges, rentals, and other amounts for any services or facilities provided by any utility operated by it or provided pursuant to or in connection with any contract with an authority from its inhabitants or from any users or beneficiaries of any utility, services, or facilities, including specifically water charges, sewage charges, solid waste disposal system fees and charges, including garbage collection or handling fees, and other fees or charges and to use and pledge same to make payments to an authority required under the contract and may covenant to do so in amounts sufficient to make all or any part of the payments to an authority when due. The payments shall, if the parties agree in the contract, constitute an expense of operation of any facilities or utility operated by the public agency.

(d) An authority, acting through its governing body, is authorized to undertake and carry out any activities and to acquire, purchase, construct, own, operate, maintain, repair, improve, or extend and to lease or sell on terms and conditions, including rentals or sale prices, on which the parties may agree any and all works, improvements, facilities, plants, buildings, structures, equipment, and appliances and all real and personal property or any interest in real or personal property related thereto that are incident to or necessary in carrying out or performing any power or function of an authority under this section.

(e) A public agency is authorized to sell any utility owned by such public agency directly to an authority on such terms, and at such price, as the public agency and the authority may agree upon. Notwithstanding any law or home rule charter provision to the contrary, a public agency may sell any utility to an authority without either an election or competitive bidding with respect thereto.

(f) An authority is authorized to issue bonds with respect to the acquisition, purchase, construction, maintenance, repair, improvement, and extension of works, improvements, facilities, plants, buildings, structures, appliances, and property for the purpose of exercising any of its powers and functions under this section in the manner provided by this Section or any other applicable law. An authority is further authorized to issue revenue bonds to pay for the costs of feasibility studies for proposed projects of an authority, including engineering, planning and design, and environmental studies. An authority is authorized to include in any revenue bond issue the funds to operate and maintain for a period not to exceed two years after completion of the facilities acquired or constructed through the revenue bond issue. If any bonds issued by an authority recite that they are secured by a pledge of payments under any contract, a copy of the contract and the proceedings relating to the contract may be submitted to the attorney general along with the bonds, and if the attorney general finds that the bonds have been authorized and the contract or contracts has or have been made and entered into in accordance with law, then he shall approve the bonds and the contract or contracts, and after the approval, the bonds and the contract or contracts shall be incontestable in any court or other forum for any reason and shall be valid and binding in accordance with its or their terms and provisions for all purposes. The provisions of Chapter 618, Government Code, as amended, Chapter 1201, Government Code, as amended, Chapter 1204, Government Code, as amended, Chapter 1207, Government Code, as amended, and Chapter 1371, Government Code, as amended, are applicable to bonds issued by an authority.

(g) This Section is wholly sufficient authority within itself for the issuance of the bonds, the execution of contracts, and the performance of the other acts and

procedures authorized in this Section by an authority and all persons, including specifically public agencies, without reference to any other provisions of law or any restrictions or limitations contained therein, except as in this Section specifically provided; and in any case, to the extent of any conflict or inconsistency between any provisions of this Section and any other provisions of law, including any home-rule city charter, this Section shall prevail and control; provided, however, that an authority and all persons, including specifically public agencies, shall have the right to use any other provisions of law not in conflict with the provisions of this Section to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Section.

The amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1335** as follows:

1. On page 398, line 9, Sec. 267.009 strike "reservoirs" and replace with "reservoir".

On page 398, line 10, Sec. 267.009 strike "reservoir" and replace with "reservoirs".

2. On page 1, line 8, TITLE 6 strike "RIVER" and add "SURFACE WATER".

3. On page 1, line 14, Sec. 201.001(2) strike lines 14-17 in their entirety and add "Surface water authority" means an entity listed in Section 9.010(b)."

4. On page 1, line 18, Sec. 201.002 strike "river" and add "surface water".

5. On page 2, line 1, SUBTITLE B strike "RIVER" and add "SURFACE WATER".

6. On page 28, line 17, SUBTITLE C strike "RIVER" and add "SURFACE WATER".

7. On page 589, line 4 strike "an authority employee holding a noncommercial aquatic herbicide applicator license or".

8. On page 819, line 25, Sec. 49.187(a) strike "1201" and add "1207".

9. On page 830, line 13, SECTION 9, delete SECTION 9 in its entirety and renumber the remaining SECTIONS accordingly.

The amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 1335** as follows:

On page 167, line 24, Sec. 256.010 add a new subsection 262.010(d) as follows:

"(d) The board may issue tax-supported bonds and notes, revenue bonds and notes and make all expenditures of funds and issue all bonds, notes, and credit agreements authorized under subsections (a), (b) and (c) above as a political subdivision authorized as an aggregator, an owner or joint owner of generation facilities, (lessor, lessee) and be authorized to take any and all actions authorized for any political subdivisions pursuant to and in accordance with Title 2, the Public Utility Regulatory Act, 'Chapter 39, Texas Utilities Code'."

The amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 1335** as follows:

1. On page 539, line 6, Sec. 271.023(f) between "authority" and "," insert the following: "and shall be subject to the provisions of Chapter 171, Local Government Code".
2. On page 539, line 26, Sec. 271.024(b) strike "open to public inspection at all reasonable times" and add "subject to the provisions of Chapter 552, Government Code".

The amendment was read and was adopted by a viva voce vote.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 1335** as follows:

1. On page 421, line 11, Sec. 268.004 after ";" strike the word "and".
On page 421, line 14, Sec. 268.004 strike "." and insert "; and".
On page 421, line 15, Sec. 268.004 add a new subsection (8) as follows: "(8) protection of the beds and banks of the state-owned rivers and watercourses in the Nueces River Basin."
2. On page 438, line 10 insert a new Sec. 268.037 and renumber the remaining Sections accordingly:
"Sec. 268.037. PROTECTION OF NATURAL CONDITION OF BEDS AND BANKS OF STATE-OWNED WATERCOURSES. (a) The authority may adopt and enforce rules to protect the natural condition of the state-owned beds and banks of the watercourses within the authority's boundaries against disturbance of their beds and banks by limiting or prohibiting vehicular access and use thereof, except by owners of the adjacent uplands and the owner's agents, employees, representatives and lessees, for reasonable purposes related to usual and customary agricultural operations conducted only in those reaches of the watercourse adjacent to the owner's property. The authority in its rules may also prohibit within the state-owned beds and banks of the watercourses littering, destruction of aquatic habitat, pollution, and activities endangering the public safety. In adopting rules, the board shall comply, as appropriate, with the requirements of Chapter 2001, Government Code.
(b) Nothing herein is intended to nor shall affect such use of the beds and banks of the watercourses for emergency or rescue operations or for activities specifically authorized by the state or its political subdivisions acting pursuant to state law.
(c) A violation of the rules adopted pursuant to this section is a Class B Misdemeanor. Actions for violations of the rules may be brought under this section or under Section 268.032(a) of this chapter. The authority may also seek injunctive relief as provided in Section 268.032 of this chapter for enforcement of rules.
(d) The authority may contract for, employ or appoint peace officers in the manner provided in Section 49.216, Water Code, to enforce the rules within the state-owned beds and banks of the watercourses within the authority's boundaries.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1335 as amended was passed to engrossment by a viva voce vote.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

April 17, 2001

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 302, Relating to the continuation of the State Pension Review Board and to functions performed by the board.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE**SENATE BILL 310 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 310, Relating to the continuation and functions of the Railroad Commission of Texas.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 310** as follows:

Strike Section 43 of the bill and renumber the subsequent sections appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 310** as follows:

1. Amend **CSSB 310** by striking SECTION 4 of the bill and substituting in lieu thereof the following new SECTION 4 to read as follows:

SECTION 4. Section 81.116(a), Natural Resources Code, is amended to read as follows:

(a) An oil-field cleanup regulatory fee is imposed on crude petroleum produced in this state in the amount of [~~five sixteenths~~] five-eighths of one cent on each barrel of 42 standard gallons.

2. Amend **CSSB 310** by striking SECTION 5 of the bill and substituting in lieu thereof the following new SECTION 5 to read as follows:

SECTION 5. Section 117(a), Natural Resources Code, is amended to read as follows:

(a) An oil-field cleanup regulatory fee is imposed on gas initially produced and saved in this state in the amount of [~~one thirtieth~~] one-fifteenth of one cent for each thousand cubic feet.

3. Amend **CSSB 310** by striking SECTION 7 of the bill and substituting in lieu thereof the following new SECTION 7 to read as follows:

SECTION 7. Section 85.2021, Natural Resources Code, is amended to read as follows:

Sec. 85.2021. DRILLING PERMIT FEE. (a) With each application or materially amended application for a permit to drill, deepen, plug back, or reenter a well, the applicant shall submit to the commission a nonrefundable fee of:

(1) [~~\$100~~] \$200 if the total depth of the well is 2,000 feet or less;

(2) [~~\$125~~] \$225 if the total depth of the well is greater than 2,000 feet but less than or equal to 4,000 feet;

(3) [~~\$150~~] \$250 if the total depth of the well is greater than 4,000 feet but less than or equal to 9,000 feet;

(4) [~~\$200~~] \$300 if the total depth of the well is greater than 9,000 feet.

(b) An applicant shall submit an additional nonrefundable fee of \$200 when a Rule 37 spacing and/or a Rule 38 density exception review is requested.

~~[(b)]~~ (c) An applicant shall submit an additional nonrefundable fee of [~~\$50~~] \$150 when requesting that the commission expedite the application for a permit to drill, deepen, plug back, or reenter a well.

~~[(c)]~~ (d) With each application for an extension of time to plug a well pursuant to commission rules, an applicant shall submit to the commission a nonrefundable fee of [~~\$100~~], \$300 unless the applicant has filed a bond under Section 91.1041 or Section 91.1042 of this code.

~~[(d)]~~ (e) All fees collected under this section shall be deposited in the state oil-field cleanup fund.

4. Amend **CSSB 310** by striking SECTION 9, and substituting in lieu thereof a new SECTION 9 to read as follows:

SECTION 9. Sections 91.104(b)(4) and (c), Natural Resources Code, are amended to read as follows:

(b)(4) a nonrefundable annual fee equal to [~~three~~] twelve and one-half percent of the bond that otherwise would be required; or

(c) a person who chooses to file a form of financial security other than a bond shall also submit a fee of [~~\$100~~] \$300 for each application to extend the time to plug a well in accordance with Section 85.2021.

5. Amend **CSSB 310** by amending Section 13 of the bill, by adding a new subsection (22) to Section 91.111(c), Natural Resources Code, to read as follows and by renumbering the subsequent subsection:

(22) fees collected under Section 81.0521;

6. Amend **CSSB 310** by striking SECTION 16 and substituting in lieu thereof the following new SECTION 16 to read as follows:

SECTION 16. Section 91.142(e), Natural Resources Code, is amended to read as follows:

Sec. 91.142(e) The commission shall require an entity described by Subsection (a) of this section to refile an organization report annually according to a schedule established by the commission. The maximum annual fee for any single organization report filing shall be \$1000.

(1) The commission shall require the following annual fees with the filing of each organization report: \$300 for operators with 1-25 wells, \$500 for operators with 26 to 100 wells, and \$1000 for operators with 101 or more wells.

(2) For operators of natural gas pipelines as classified by the commission, the commission shall require an annual fee with the filing of each organizational report of \$100;

(3) For operators of service activities or facilities including liquids pipelines as classified by the commission without wells, the commission shall require an annual fee with the filing of each organizational report of no less than \$300 and no more than \$500 as determined by the commission.

(4) For operators of both service activities or facilities including liquids pipelines and wells, as classified by the commission, the commission shall require an annual fee with the filing of each organizational report based on the sum of the fees required by this subsection, of no less than \$300 and no more than \$1000 as determined by the commission

7. Amend **CSSB 310** by adding a new SECTION 17 to read as follows and renumbering the subsequent sections appropriately:

SECTION 17. Section 81.0521, Natural Resources Code, is amended to read as follows:

Sec. 81.0521. FEE FOR APPLICATION FOR EXCEPTION TO RAILROAD COMMISSION RULE. (a) With each application for an exception to any commission rule contained in Chapter 3 of Part I of Title 16 of the Texas Administrative Code, the applicant shall submit to the commission a fee of [~~\$50~~] \$150.

(b) The application fee for an exception to any commission rule may not be refunded.

(c) Two thirds of the proceeds from this fee, including any penalties collected in connection with the fee, shall be deposited to the oil-field cleanup fund as provided by Section 91.111 of this code.

8. Amend **CSSB 310** by adding a new SECTION 18 to read as follows and renumbering the subsequent sections appropriately:

SECTION 18. Sections 91.1013(a) and (b), Natural Resources Code, are amended to read as follows:

Sec. 91.1013. APPLICATION FEES. (a) With each application for a fluid injection well permit, the applicant shall submit to the commission a nonrefundable fee of [~~\$100~~] \$200. In this section, "fluid injection well" means any well used to inject fluid or gas into the ground in connection with the exploration or production of oil or gas other than an oil and gas waste disposal well regulated by the commission pursuant to Chapter 27, Water Code.

(b) With each application for a permit to discharge to surface water under this chapter and commission rules, other than a permit for a discharge that meets National Pollutant Discharge Elimination System requirements for agricultural or wildlife use, the applicant shall submit to the commission a nonrefundable fee of [~~\$200~~] \$300.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Moncrief asked to be recorded as "Present-not voting" on the adoption of Floor Amendment No. 2.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 310** as follows:

On page 4, line 31, insert new subsection (3) as follows and renumber subsequent subsections:

"If the Railroad Commission finds that individual or blanket bonds as specified in subparagraph (1) and (2) are not obtainable at reasonable prices, the commission may permit a nonrefundable annual fee of \$1000, if the person can demonstrate to the commission an acceptable record of compliance with all commission rules, orders, licenses, permits, or certificates that relate to safety or the prevention or control of pollution for the previous 48 months and the person and, if a firm, partnership, joint stock association, corporation, or other organization, its officers, directors, general partners, or owners of more than 25 percent ownership interest or any trustee:

(A) has no outstanding violations of such commission rules, orders, licenses, permits, or certificates;

(B) has paid all administrative, civil, and criminal penalties, if any, relating to any violation of such commission rules, orders, licenses, permits, or certificates; and

(C) has paid all reimbursements of any costs and expenses incurred by the commission in relation to any violation of such commission rules, orders, licenses, permits, or certificates;"

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Moncrief asked to be recorded as "Present-not voting" on the adoption of Floor Amendment No. 3.

Senator Haywood was recognized to ask Senator Harris questions regarding **CSSB 310**.

POINT OF ORDER

Senator Truan raised a point of order that Senator Haywood's questions were not germane to the bill.

POINT OF ORDER RULING

The President ruled that the point of order was well-taken and sustained and advised Senator Haywood that his questions must pertain to the bill.

Senator Haywood resumed his questioning of Senator Harris regarding **CSSB 310**.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 310 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 310 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 310** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Haywood asked to be recorded as voting "Nay" on the final passage of **CSSB 310**.

(Senator Whitmire in Chair)

SENATE BILL 1430 ON SECOND READING

Senator West asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

SB 1430, Relating to a court order of retroactive child support or for the abeyance of the enforcement of child support arrearages.

There was objection.

Senator West then moved to suspend the regular order of business and take up **SB 1430** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden.

Present-not voting: Mr. President.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Odgen asked to be recorded as voting "Nay" on the passage of **SB 1430** to engrossment.

SENATE BILL 1430 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1430** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Ogden, Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden.

Present-not voting: Mr. President.

**VOTES RECONSIDERED ON
COMMITTEE SUBSTITUTE SENATE BILL 1335**

On motion of Senator Brown and by unanimous consent, the vote by which **CSSB 1335** was passed to engrossment was reconsidered.

CSSB 1335, Relating to certain river authorities and water districts, the codification of Acts creating and regulating the authorities and districts, and the creation of the Texas Water Policy Council to review the authorities and districts.

Question—Shall the bill be passed to engrossment?

On motion of Senator Brown and by unanimous consent, the vote by which Floor Amendment No. 1 was adopted was reconsidered.

Question—Shall Floor Amendment No. 1 to **CSSB 1335** be adopted?

Senator Brown offered the following amendment to the amendment:

Floor Amendment No. 6

Amend Floor Amendment No. 1 to **CSSB 1335** as follows:

On page 3, strike lines 5 through 11 and renumber accordingly.

The amendment to the amendment was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

CSSB 1335 as amended was again passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1335 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1335** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 536 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 536, Relating to compensation for wrongful imprisonment.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 536 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 536** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1329 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1329, Relating to the regulation of insurance and to requirements regarding motor vehicle insurance; providing penalties.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 1

Amend the Committee Printing of **CSSB 1329**, page 7, as follows:

On line 55 after "responsible party." add

"No written rejection of coverage for noneconomic and exemplary damages shall be effective unless the insurer provides the insured with a written notice, acknowledged in writing by the insured at the time of the rejection, disclosing the amount of potential coverage that is available, the types of damages that would be covered, and the amount of premium saved because the coverage is rejected."

The amendment was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 2

Amend Committee Printing of **CSSB 1329**, page 4, as follows:

On line 14, after "false," insert "and that the owner had knowledge that the proof of financial responsibility was false."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Bivins and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1329 as amended was passed to engrossment by a viva voce vote.

(Senator Bernsen in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1329 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1329** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla,

Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 572 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 572, Relating to the reduction of the shortage of registered nurses by establishing a program to increase enrollments in nursing education programs, increasing nursing faculty, and creating a nursing workforce data center.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 572 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 572** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1783 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1783, Relating to the regulation of telecommunications services, fees, and programs.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1783** as follows:

(1) On page 1, strike lines 49 through 52 and substitute the following:

"(1) "Advanced service" means a service that, regardless of transmission medium or technology, is capable of originating and receiving data transmissions with an upstream speed of at least 128 kilobits per second and a downstream speed of at least 200 kilobits per second."

(2) On page 1, line 64, insert the following and renumber accordingly:

"(3) "Bona fide request" means a retail request from a person residing in a rural community that:

(A) requests that a provider offer an advanced service in the community and sets forth the name, address, and telephone number of each person to whom service is to be provided;

(B) sets forth the service area proposed to be served within the community; and

(C) contains the agreement of the customer to presubscribe to an advanced service the provider offers in the rural community with a minimum term commitment of one year at prices and on terms and conditions reasonably comparable to those offered in the company's larger exchanges."

(3) On page 2, line 43, between "state" and "." insert, ", if the community is not already receiving advanced services, as defined in Section 55.402, from a wire-line provider."

(4) On page 2, strike lines 46 through 47.

(5) On page 2, line 57, between "applicable." and "A" insert:

"An election pursuant to this section supercedes any provisions in any prior commission orders relating to pricing of services specific to the electing company."

(6) On page 2, line 63, strike "landline" and substitute "wire-line".

(7) On page 3, line 29, between "state" and "." insert, ", if the community is not already receiving advanced services, as defined in Section 55.402, from a wire-line provider."

(8) On page 3, line 36, strike "landline" and substitute "wire-line".

(9) On page 3, line 38, between "exchanges." and "Upon" insert:

"The advanced service a company offers is reasonably comparable to the advanced service a community requests if it meets or exceeds the criteria of Section 55.402(1)."

(10) On page 3, line 51, insert new Subsection (f) to read as follows and renumber subsequent sections appropriately:

"(f) The price of an advanced service is reasonably comparable if it is offered at monthly rates no higher than 125 percent of the price of comparable advanced services offered by the same provider in its other service territories. The terms and conditions of an offering of advanced service are reasonably comparable if the terms and conditions are applicable to the advanced service of the same technology offered by the same provider in its other service territories. The quality of an offering of advanced service is reasonably comparable if the advanced service a provider offers under this subsection has a similar level of reliability to another advanced service."

(11) On page 4, line 40, between "AUTHORITY." and "Notwithstanding" insert: "This subchapter establishes the state's uniform policy for the deployment of advanced services in rural communities. Accordingly, this subchapter supercedes any provisions in any prior commission orders."

(12) On page 4, line 42, after "Subchapter." insert:
"Not later than November 1, 2004, the commission shall begin a review and evaluation of the availability and quality of advanced services and information services in rural and high cost areas, as well as the issue of whether this state's definition of advanced service should be modified to take into account advances in technology and changes in market conditions. The commission shall file a report with the legislature not later than January 1, 2005. The report shall include the commission's recommendations on the issues reviewed and evaluated."

(13) On page 7, line 13, strike ".625" and substitute ".5".

(14) Renumber sections appropriately.

The amendment was read and was adopted by a viva voce vote.

(Senator Armbrister in Chair)

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1783** as follows:

(1) On page 1, strike lines 29 through 35.

(2) On page 1, line 36, insert the following new section and renumber subsequent sections appropriately:

"SECTION 2. Chapter 54, Utilities Code, is amended to read as follows:

Section 54.2045. LIMITATIONS ON PROVISION OF SERVICE BY MUNICIPALITY. (a) A municipality otherwise authorized by law to provide an advanced service or any other communications service to the public, may do so only in compliance with the following requirements:

(1) a municipality may only begin offering an advanced service or other communications service, either directly or through an electric system which it owns, operates and controls, after approval by a majority of the municipality's voters casting ballots on a proposal authorizing the municipality to provide such service; and

(2) if a municipality offers an advanced service or other communications service to the public, either directly or through an electric system which it owns, operates and controls, and does so in competition with a private provider, then the municipality must conduct its activities in the provision of such services and its regulation and control of competitors in a manner so as to avoid cross-subsidization or other discriminatory practices that could limit competition, and shall specifically ensure non-discriminatory treatment among all providers with respect to:

(A) all financial and operational requirements imposed by the municipality;

(B) requiring that a franchise, license or other authorization be obtained by a provider before such services may be offered within the municipality;

(C) compliance with municipal regulations and requirements governing the construction, operation and maintenance of facilities used in the provision of service; and

(D) access to the municipality's or electric system's poles and conduits at comparable terms and conditions, and at rates that would apply if the municipality were subject to the provisions of Section 224 of the Federal Communications Act of 1934, as amended.

(b) If a municipality offers an advanced service or other communications service to the public, either directly or indirectly through an electric system which it owns, operates and controls, in competition with a private provider, no revenues obtained from electric service ratepayers shall be used to finance the construction and deployment of facilities used in the provision of service; payments in lieu of property taxes shall be made to the municipality; and tying arrangements and price discrimination activities of the sort commonly proscribed by antitrust law shall be prohibited."

(3) On page 4, line 15, between "the" and "residents" insert "voting age".

(4) On page 4, line 22, strike "and" and substitute "or".

(5) On page 4, line 24, strike "under Section 54.202(c)" and insert "as allowed by law".

(6) On page 8, line 18, insert the following and renumber subsequent sections appropriately:

"(7) the Texas Department of Agriculture;".

(7) On page 9 line 59, strike SECTION 15 of the bill and renumber subsequent sections appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 1783** as follows:

(1) Insert the following new section, and renumber the subsequent sections appropriately:

"SECTION __. Section 151.007, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) The sales price of telecommunications services does not include the telecommunications infrastructure fund assessment imposed under Subchapter C, Chapter 57, Utilities Code, if the assessment or fee is passed through to the purchaser of the service and is listed as a separate line item on the customer's bill."

(2) Strike Section 16 and 17 of the bill (page 10, lines 33 and 34) and substituting:
SECTION 16. (a) The change in law made by this Act to Section 151.007, Tax Code, takes effect September 1, 2006.

(b) Section 55.014, Utilities Code, is repealed.

(c) Except as provided by Subsection (a) of this section, this Act takes effect September 1, 2001.

The amendment was read and was adopted by a viva voce vote.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 1783** as follows:

On page 9, between lines 19 and 20, insert the following:

Sec. 55.4055. STUDY REGARDING COMPETITION IN ADVANCED SERVICES MARKET. (a) In conjunction with fulfilling the strategic planning objectives in Section 55.405, the commission shall study and report to the legislature on the status of the development and vitality of competition in the market for providing advanced services, including the related impact on the competitive provision of local

exchange telephone service, both in the rural areas of the state as well as the urban areas of the state.

(b) The report required by subsection (a) shall include recommendations for legislation the commission determines appropriate to promote the development and vitality of competition in the market for providing advanced services, as well as providing local exchange telephone service, in rural and urban areas of the state.

(c) The report required by subsection (a) shall include an evaluation of and recommendations for legislation the commission determines appropriate regarding the impact of long distance charges and their inputs on rural citizens who pay long distance charges to connect with their chosen Internet service provider.

(d) The report required by subsection (a) shall include an evaluation of and recommendations for legislation the commission determines appropriate regarding the availability and cost of high-speed transport service and the related impact on the provision of advanced services in rural areas.

(e) The commission shall file the report with the legislature not later than January 15, 2003.

The amendment was read and was adopted by viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1783 as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1783 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1783** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 875 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 875, Relating to participation of fathers in programs and services administered by the Health and Human Services Commission and health and human services agencies and functions performed by the office of the attorney general.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 875 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 875** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 5 ON SECOND READING**

Senator Brown moved to suspend the regular order of business to take up for consideration at this time:

CSSB 5, Relating to the Texas emissions reduction plan; providing a penalty.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Moncrief, Nelson, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden.

Present-not voting: Madla, Mr. President.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 1

CSSB 5 is amended as follows:

On page 2, line 2, insert a new (7) to read as follows and renumber accordingly: "Laboratory" means Energy Systems Laboratory at the Texas Engineering Experiment Station of the Texas A&M University System.

On page 13, line 49, strike Sec. 386.206.

On page 14, line 14, strike "67.5" and substitute "66"

On page 14, line 30, strike "and" after the first ", " and after the word "comptroller" insert "and the Laboratory"; strike "2.5" and substitute "4"

On page 15, after line 47, insert the following: "(f) Studies authorized under

Subdivision (a)(3) of this section shall be consistent with air quality research priorities identified by the Commission."

On page 16, on line 42, strike the "," and insert "and"

On page 16, beginning on line 43 after the word "quality" and before the word "concerns" strike ", and electric-reliability" and after the word "within" and before the word "affected" insert "nonattainment areas"

On page 16, beginning on line 45 insert "building" before the word "energy" and strike everything beginning with the word "than" and ending with the word "efficiency".

On page 16, line 60, strike the word "administrator" and insert the word "official".

On page 16, line 65, between the word "the" and "International", insert "Laboratory, the"

On page 17, line 1, between the word "energy" and "chapter" insert "efficiency"

On page 17, line 15, between the word "at" and "Texas" insert "the Texas Engineering Experiment Station of the"

On page 17, line 28, between "ENERGY" and "PERFORMANCE", insert "EFFICIENCY"

On page 17, line 40, between "energy" and "chapter", insert "efficiency"

On page 17, line 48, between "energy" and "chapter", insert "efficiency"

On page 17, line 61, strike "amendments" and insert "revisions"

On page 17, line 62, between "energy" and "chapter", insert "efficiency"

On page 17, line 64, insert the following: "(f) The laboratory shall have the authority to set and collect fees to perform certain tasks in support of the requirements in Sections 388.005, 388.009 and 388.010.

On page 18, line 19, before the word "an" insert "a nonattainment area and"; and after "the" insert "nonattainment and"

On page 19, line 52, between "energy" and "chapter", insert "efficiency"

On page 19, line 61, between "energy" and "chapter", insert "efficiency"

On page 20, line 2, between "energy" and "chapter", insert "efficiency"

On page 20, line 20, between "energy" and "chapter", insert "efficiency"

On page 20, line 65, strike everything after the word "amount" and before the "." on line 66.

The amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 2

CSSB 5 is amended as follows:

On page 11, line 26, strike all language beginning with the word "to" and ending with and including the word "lease"

On page 11, line 43, strike "2,500" and insert "4,000"

On page 12, line 2, after the word "vehicle" and before the word "distributor", insert "manufacturer or"

On page 12, beginning on line 6, strike everything beginning with the word "The" and ending with and including the "." on line 7.

On page 12, beginning on line 8, strike the existing subsection (b) and substitute the following: "A new motor vehicle dealer or leasing agent shall make available to the dealer's or leasing agent's prospective purchasers or lessees, a copy of the list prepared and published by the commission under Section 386.156."

On page 12, beginning on line 15, strike everything beginning with the word "POINT" and ending with and including the word "PENALTY" and substitute "LOW-EMISSIONS VEHICLE PURCHASE OR LEASE INCENTIVE"

On page 12, beginning on line 20, strike all language beginning with the word "A" and ending with and including the (d) on line 35.

On page 12, after line 36, insert a new (c) to read as follows: "(c) To receive money under an incentive program provided by this subchapter, the purchaser or lessee of a motor vehicle eligible for an incentive under this subchapter shall apply for the incentive in the manner provided by law or by rule of the comptroller."

On page 12, beginning on line 49, strike all the language beginning with the word "administer" and ending with the word "dealer" on line 51 and substitute the following: "pay incentive money to the purchaser or lessee of a new motor vehicle, on application of the purchaser or lessee as provided by this subchapter"

On page 12, beginning on line 52, strike all the language beginning with the word "may" and ending with the word "incentives" on line 57, and substitute the following: "shall develop and publish forms and instructions for the purchaser or lessee of a new motor vehicle to use in applying to the comptroller for an incentive payment under this subchapter. The comptroller shall make the forms available to new motor vehicle dealers and leasing agents. Dealers and leasing agents shall make the forms available to their prospective purchasers or lessees"

On page 12, beginning on line 58, strike all the language beginning with the word "The" and ending with the word "agent" on line 60, and substitute the following: "In addition to other forms developed and published under this section, the comptroller shall develop and publish a verification form by which, with information provided by the dealer or leasing agent, the comptroller can verify the sale of a vehicle covered by this subchapter. The verification form shall include at least the name of the purchaser, the VIN of the vehicle involved, the date of the purchase, and the name of the new motor dealer or leasing agent involved in the transaction. At the time of sale or lease of a vehicle eligible for an incentive under this subchapter, the dealer or leasing agent shall complete the verification form supplied to the dealer by the comptroller. The purchaser or lessee shall include the completed verification form as part of the purchaser's application for an incentive. The dealer shall maintain a copy of the completed verification form for at least two years from the date of the transaction"

On page 13, beginning on line 11, strike all the language beginning with the word "New" and ending with the word "incentives" on line 13, and substitute the following: "Reliance by a dealer or leasing agent on information provided by the comptroller or commission is a complete defense to an action involving or based on eligibility of a vehicle for an incentive, or availability of vehicles eligible for an incentive"

The amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 5** as follows:

On page 24, beginning on line 11, strike Sec. 3 and substitute the following:

Sec. 3. IMPOSITION AND COLLECTION OF SURCHARGE. (a) A surcharge of \$1.00 is imposed on each fare collected by a taxi driver for transportation by a taxi to and from an airport in a nonattainment area or affected county.

(b) The comptroller shall adopt any necessary rules for the administration, payment, collection and enforcement of this surcharge and shall deposit all surcharges remitted under this section to the Texas emissions reduction plan fund.

The amendment was read and was adopted by a viva voce vote.

Senator Bernsen offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 5** as follows:

Amend section 386.056(d) on page 8 line 23 as follows:

~~(d) To the extent practicable,~~ The commission shall assure that the emissions reductions funded under the programs authorized by this subchapter used to offset commission requirements under this section benefit the community in which the site using the emissions reductions is located. If there are no eligible emission reduction projects within the community, the commission may authorize projects in an adjacent community. In this subsection, "community" means a justice of the peace precinct.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 5 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 5 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 5** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2, Present-not voting 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Moncrief, Nelson, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Ogden, Wentworth.

Present-not voting: Madla, Mr. President.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1, Present-not voting 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Moncrief, Nelson, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden.

Present-not voting: Madla, Mr. President.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate Congressman Charlie Gonzalez and Bexar County Judge Cyndi Taylor Krier, both of San Antonio.

The Senate welcomed Congressman Gonzalez and Judge Krier.

**SENATE RULE 11.10 SUSPENDED
(Posting Rule)**

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.10 was suspended in order that the Committee on State Affairs might meet today.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator West and by unanimous consent, Senate Rule 11.10 and Senate Rule 11.18 were suspended in order that the Committee on Jurisprudence might meet and consider **SB 1292** today.

SENATE BILL 1801 REREFERRED

Senator Ogden submitted a Motion In Writing requesting that **SB 1801** be withdrawn from the Committee on Education and rereferred to the Committee on Finance.

The Motion In Writing prevailed without objection.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 740 by Truan, Armbrister, Barrientos, Cain, Carona, Duncan, Fraser, Gallegos, Jackson, Lucio, Madla, Moncrief, and Van de Putte, In memory of the Honorable Renato Cuellar of Weslaco.

SR 749 by Ogden, In memory of Charley V. Wootan of College Station.

SR 751 by Zaffirini, In memory of the life of Leopoldo Muñiz, Jr., of Rio Grande City.

Congratulatory Resolutions

SR 741 by Truan, Congratulating Freddy Fender.

SR 742 by Truan, Commending Texas A&M University—Kingsville.

SR 743 by Ellis, Congratulating Sylvia and Errol Brooks.

SR 744 by Shapleigh, Congratulating Pat Aduato of El Paso.

SR 745 by West, Commending the Dallas Public Library.

SR 746 by Barrientos, Congratulating Cassandra and Bryan Lovelady on the birth of their son, Cade Horace Lovelady.

SR 748 by Zaffirini, Congratulating Norma Vargas of Laredo.

SR 752 by President Ratliff, Congratulating Lanny Edwin Blaine of Dallas.

ADJOURNMENT

On motion of Senator Truan, the Senate at 3:02 p.m. adjourned until 10:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

April 17, 2001

INTERGOVERNMENTAL RELATIONS — **SJR 47, SB 1113, SB 1189, SB 1393, SB 1574, SB 1773, SB 1784, HB 440, HB 630, HB 782, HB 1569, HB 1573**

HEALTH AND HUMAN SERVICES — **CSSB 1080, CSSB 1299**

STATE AFFAIRS — **CSSB 292**

NATURAL RESOURCES — **HB 453, HB 924, SB 1058, SB 1203, SB 1792, SB 1771**

REDISTRICTING — **CSSJR 35**

FINANCE — **HB 82, HB 1130 (Amended), CSSB 896, CSSB 1156, CSHB 1840, CSSB 1497**

EDUCATION — **HB 120, HB 753, SB 1446, SB 1260, SB 1625, SB 1727, SB 1731, CSSB 1432**

BUSINESS AND COMMERCE — **CSSB 440, CSSB 1658, CSSB 1294, CSSB 1185, CSSB 1524, CSSB 1198, SB 1045, SB 1395**

INTERGOVERNMENTAL RELATIONS — **CSSB 322, CSSB 379, CSSB 569, CSSB 800, CSSB 881, CSSB 944, CSSB 954, SB 1145 (Amended), SB 1272 (Amended), CSSB 1302, CSSB 1308, CSSB 1677, CSSB 1772, CSSB 1775, CSSB 1776**

EDUCATION — **CSSB 1705, CSSB 1798, CSSB 1293, CSSB 526, CSSB 1466**

INTERGOVERNMENTAL RELATIONS — **CSSB 1777**

EDUCATION — **CSSB 914**