

# SIXTY-SECOND DAY

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MONDAY, APRIL 30, 2001

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## 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, Wentworth, West, Whitmire, Zaffirini, Mr. President.

Absent-excused: Van de Putte.

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

The Reverend C. Lane Boyd, First United Methodist Church, Midland, offered the invocation as follows:

O creator God, who has all authority both in heaven and on Earth, we praise You for Your providential goodness to the State of Texas. Please continue to bless us with countless resources including inspired state leaders who seek to know and to do Your will. Bless especially today the 77th legislative session and particularly Senator Teel Bivins. May the work of this Senate be Your work. Help all involved to do justice, to love kindness, and to walk humbly with You.

Give these legislators the vision You want for Texas. Help them to dream dreams which lead toward a stronger state. Give these men and women stamina, insight, wisdom, and discernment. Fill them with love for truth and righteousness, while saving them from discord, confusion, and arrogance and from every evil way. Unite them, O God, in common goals, for the betterment of Your people throughout Texas. To the honor and glory of Your holy name. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of Friday, April 27, 2001, was dispensed with and the Journal was approved.

## **LEAVE OF ABSENCE**

On motion of Senator Zaffirini, Senator Van de Putte was granted leave of absence for today on account of illness.

**CO-AUTHOR OF SENATE BILL 745**

On motion of Senator Shapleigh and by unanimous consent, Senator Shapiro will be shown as Co-author of **SB 745**.

**CO-AUTHOR OF SENATE BILL 806**

On motion of Senator Van de Putte and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 806**.

**CO-AUTHOR OF SENATE BILL 1100**

On motion of Senator Moncrief and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 1100**.

**CO-AUTHOR OF SENATE BILL 1458**

On motion of Senator Duncan and by unanimous consent, Senator Shapleigh will be shown as Co-author of **SB 1458**.

**CO-AUTHOR OF SENATE BILL 1467**

On motion of Senator Moncrief and by unanimous consent, Senator Lindsay will be shown as Co-author of **SB 1467**.

**CO-AUTHOR OF SENATE BILL 1621**

On motion of Senator Barrientos and by unanimous consent, Senator Gallegos will be shown as Co-author of **SB 1621**.

**CO-AUTHOR OF SENATE BILL 1815**

On motion of Senator Truan and by unanimous consent, Senator Shapleigh will be shown as Co-author of **SB 1815**.

**MESSAGE FROM THE HOUSE**

## HOUSE CHAMBER

Austin, Texas

April 30, 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 119**, Relating to the period for filing a petition for a place on the ballot for the board of directors of the Ector County Hospital District.

**HB 195**, Relating to the analysis of information identifying persons committing or suspected of committing certain property offenses against elderly individuals.

**HB 298**, Relating to the appointment of an assistant administrator for the Ector County Hospital District.

- HB 548**, Relating to the conduct of the business of certain surety companies.
- HB 560**, Relating to the liability of certain religious charitable organizations for transportation services provided to certain welfare recipients.
- HB 602**, Relating to the creation and financing of hospital districts in small counties.
- HB 628**, Relating to authorizing a person other than a corporate fiduciary to serve as trustee of certain trusts.
- HB 840**, Relating to a defendant's waiver of arraignment.
- HB 981**, Relating to oil and gas royalty reporting standards.
- HB 998**, Relating to the animal friendly account and advisory committee.
- HB 1128**, Relating to the registration period for a truck-tractor or commercial motor vehicle transporting seasonal agricultural products.
- HB 1348**, Relating to a grant program for local workforce development boards to design and implement child-care demonstration projects.
- HB 1368**, Relating to application for registration of vehicles used by nonprofit disaster relief organizations.
- HB 1592**, Relating to a project of an industrial development corporation.
- HB 1651**, Relating to the authority of optometrists and therapeutic optometrists to form certain professional associations.
- HB 1680**, Relating to the regulation of certain extra job coordinators by the Texas Commission on Private Security.
- HB 1681**, Relating to the regulation of tow trucks by political subdivisions of this state.
- HB 1799**, Relating to long-range planning for higher education.
- HB 1838**, Relating to the distance between certain pits that are part of quarrying operations and adjacent property.
- HB 1851**, Relating to the examination requirement for licensing as a chemical dependency counselor.
- HB 1874**, Relating to the filing of an affidavit supporting a criminal charge based on the use of a check or similar sight order.
- HB 1939**, Relating to the fee charged by the Texas Department of Transportation for the Texas Airport Directory.
- HB 1985**, Relating to the regulation of proprietary schools.
- HB 1995**, Relating to encumbrances that may be fixed on homestead property.
- HB 1999**, Relating to the authority of a magistrate in certain counties to issue a search warrant for certain property or items.
- HB 2005**, Relating to the creation, administration, powers, duties, operation, and financing of the Trinity Glen Rose Groundwater Conservation District.
- HB 2040**, Relating to defense base development authorities created by certain municipalities.

**HB 2049**, Relating to enforcement by open-enrollment charter schools of laws concerning compulsory school attendance.

**HB 2054**, Relating to the mission of Texas Southern University.

**HB 2092**, Relating to the abatement of public nuisances in counties.

**HB 2127**, Relating to unfair discrimination by the issuer of a health benefit plan; providing penalties.

**HB 2146**, Relating to provision of certain health benefit claims information to employers.

**HB 2152**, Relating to the validity of certain devises or bequests.

**HB 2167**, Relating to the jurisdiction of the County Court at Law Number 4 of Travis County.

**HB 2175**, Relating to an exemption from ad valorem taxation of property owned by nonprofit corporations that provide chilled water and steam to certain health-related institutions of this state.

**HB 2239**, Relating to the use of certain photographs for purposes of the sex offender database maintained by the Department of Public Safety.

**HB 2277**, Relating to contracts by certain educational institutions, state agencies, and local governments for energy conservation measures.

**HB 2327**, Relating to the operation, funding, and assessment of local workforce development boards.

**HB 2412**, Relating to ad valorem taxation.

**HB 2439**, Relating to uses of balances in the inaugural fund.

**HB 2459**, Relating to the composition of the governing board of certain community college districts.

**HB 2484**, Relating to the regulation of racing.

**HB 2532**, Relating to the water rights permit for the proposed Lake Eastex water supply reservoir project.

**HB 2557**, Relating to the payment of certain judgments.

**HB 2580**, Relating to establishing the enforcement of land use restrictions as a governmental function of a municipality.

**HB 2602**, Relating to indigent health care.

**HB 2616**, Relating to a prohibition against converting the Queen Isabella Causeway to a turnpike project.

**HB 2751**, Relating to the amount of compensation and allowances for county auditors.

**HB 2756**, Relating to the recording of expenditures of revenue from the county hotel occupancy tax.

**HB 2761**, Relating to the conversion of the Kaufman County Municipal Utility District No. 1 to Kaufman County Levee Improvement District No. 4, operating as a levee improvement district.

**HB 2784**, Relating to recordkeeping pertaining to incidents involving persons licensed to carry a handgun.

**HB 2793**, Relating to the share of the cost of a coastal erosion response study or project required to be paid by a qualified project partner under an agreement with the commissioner of the General Land Office.

**HB 2794**, Relating to the placement of dredged material on beaches adjacent to navigation inlets and channels.

**HB 2812**, Relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 76th Legislature to other Acts of that legislature.

**HB 2814**, Relating to the operation of statutory probate courts.

**HB 2817**, Relating to certain laws governing water districts and nonprofit water or sewer service corporations; creating a criminal offense.

**HB 2864**, Relating to the small and mid-sized district adjustment under the public school finance system.

**HB 2877**, Relating to the operations, powers, and duties of the State Preservation Board.

**HB 2881**, Relating to continuing education programs for peace officers and county jailers.

**HB 2908**, Relating to transferring the Texas Strategic Military Planning Commission to the office of the governor.

**HB 2988**, Relating to the execution of bonds and the sale of loans by the Veterans' Land Board.

**HB 3015**, Relating to regulation of the issuance of a security to a charitable organization.

**HB 3024**, Relating to the powers of the Panhandle Groundwater Conservation District.

**HB 3044**, Relating to the desalination of water.

**HB 3144**, Relating to incapacitated persons, wards, and former wards.

**HB 3162**, Relating to the payment of fees or costs to certain political subdivisions by credit card.

**HB 3192**, Relating to associate judges appointed by the district courts of Bexar County.

**HB 3193**, Relating to the number of members of the governing body of certain home-rule municipalities.

**HB 3247**, Relating to the collection of money by certain prosecuting attorneys.

**HB 3265**, Relating to notice to higher education students of the sanctions for failure to timely pay tuition and fees.

**HB 3285**, Relating to the issuance and refunding of anticipation notes and the financing of certain contracts by certain political subdivisions.

**HB 3355**, Relating to water quality management plans for agricultural and silvicultural facilities.

**HB 3383**, Relating to the exemption from ad valorem taxation for certain community housing development organizations.

**HB 3404**, Relating to the classification of the use of water for purposes of fees and regulations imposed by, and the repeal of certain statutes applicable to, the Edwards Aquifer Authority.

**HB 3413**, Relating to the exemption of a public housing authority from competitive bidding requirements for certain activities.

**HB 3414**, Relating to the powers of public housing authorities regarding the development and operation of housing projects.

**HB 3421**, Relating to the licensure of physician assistants.

**HB 3491**, Relating to the training of law enforcement officers and recruits on dual arrests and the determination of predominant aggressors in family violence situations.

**HB 3567**, Relating to permitting land mortgage loans from the veterans' land fund.

**HB 3586**, Relating to an additional fee for filing civil cases in certain Dallas County courts.

**HB 3627**, Relating to the creation of the County Court at Law No. 4 of Montgomery County and to the jurisdiction, operation, and administration of the county courts at law in Montgomery County.

**HB 3634**, Relating to the creation of the Greater Northside Management District; providing authority to impose a tax and issue bonds.

**HB 3639**, Relating to the expansion of the boundaries and the number of members of the board of the Upper Kirby Management District.

**HB 3640**, Relating to the creation, administration, powers, duties, operation, and financing of the Coastal Plains Groundwater Conservation District and the authorization of the district to impose an ad valorem tax.

**HB 3642**, Relating to the creation, administration, powers, duties, operation, and financing of the Lower Seymour Groundwater Conservation District; authorizing a tax.

**HB 3646**, Relating to the jurisdiction of and procedure in a county court at law in Travis County.

**HB 3647**, Relating to the creation of the Smith County Economic Development District; providing the authority to impose a tax and issue bonds.

**HB 3651**, Relating to the creation, administration, powers, duties, operation, and financing of the Goliad County Groundwater Conservation District.

**HB 3652**, Relating to the creation, administration, powers, duties, operation, and financing of the Lavaca County Groundwater Conservation District.

**HB 3655**, Relating to the creation, administration, powers, duties, operation, and financing of the Bluebonnet Groundwater Conservation District.

**HB 3661**, Relating to the powers, duties, and board of managers of the Reagan Hospital District of Reagan County, Texas.

**HB 3662**, Relating to the administration of the justice courts of Harris County.

**HB 3664**, Relating to the authority of criminal law hearing officers in certain counties to enforce certain judgments and orders.

**HB 3674**, Relating to the creation, administration, powers, duties, operation, and financing of the Clear Fork Groundwater Conservation District; authorizing a tax.

**HCR 84**, Memorializing congress to expand the number of community health centers and other community-based safety-net programs serving the poor and medically underserved communities.

**HCR 174**, Expressing the public policy relating to software piracy.

**HCR 237**, Designating the Double Mountain Fork of the Brazos River in southern Stonewall County as a site of unique value for the construction of a reservoir.

**HCR 261**, Congratulating Dee K. Carter of Midland on his election as president of the Texas Association of Insurance and Financial Advisors.

**SB 54**, Relating to reports by health and human services agencies on the efforts to deliver health and human services to young Texans.

**SB 68**, Relating to protective orders with regard to dating violence.

**SB 98**, Relating to the regulation of certain automated systems used to dispense prescription drugs.

**SB 201**, Relating to authorizing counties and municipalities to provide information and to enter into contracts for the payment of taxes, fees, or other charges through the Internet.

**SB 276**, Relating to the application of a seal to an electronic document.

**SB 301**, Relating to the continuation of the Office for the Prevention of Developmental Disabilities.

**SB 335**, Relating to an interlocal cooperation contract between a local government in this state and a local government in another state.

**SB 399**, Relating to the operation of a vehicle with a child in an open bed of the vehicle or in the open bed of a trailer being towed by the vehicle.  
(Amended)

**SB 462**, Relating to certain fees for students attending institutions in the Texas Tech University System.

**SB 519**, Relating to requiring a state agency that adjusts a local matching funds requirement to submit an annual report.

**SB 665**, Relating to the creation of an office within the Health and Human Services Commission for coordinating the delivery of early childhood services.

**SB 693**, Relating to short-term motor vehicle liability insurance policies for non-Texas resident motorists visiting this state.

(Amended)

**SB 718**, Relating to membership of the board of directors of the Lubbock Reese Redevelopment Authority.

**SB 739**, Relating to the powers and duties of the board of managers of certain joint municipal and county hospitals.

(Committee Substitute)

**SB 743**, Relating to the tuition charged to certain foreign students enrolled in a graduate public health course in a border county.

(Amended)

**SB 788**, Relating to certain suits by perpetual care cemetery plot owners.

**SB 862**, Relating to the exemption from ad valorem taxation for freeport goods.

(Amended)

**SB 884**, Relating to eligibility to vote in an election held by an irrigation district.

**SB 945**, Relating to the publication of certain brochures for the federal special supplemental food program for women, infants, and children.

**SB 966**, Relating to preventing the consequences of theft, including retail theft; providing penalties.

**SB 969**, Relating to the Deaf Smith County Hospital District.

**SB 1147**, Relating to county authority to regulate vehicular or pedestrian gates to and to require building numbers for certain multi-unit housing projects; providing a penalty.

**SB 1171**, Relating to authorizing counties to recover certain transaction fees for fines and other charges paid by credit card.

(Committee Substitute)

**SB 1287**, Relating to the financing of certain housing and nonhousing facilities by a housing finance corporation.

**SCR 25**, Memorializing Congress to recognize the impact on Texas of the federal policy of opening the border to Mexican trucks in accordance with provisions of the North American Free Trade Agreement.

**SCR 29**, Designating March 2001 as Colorectal Cancer Awareness Month in Texas.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

### BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**SB 184, SB 277, SB 405, SB 648, SB 777, SB 1166, SB 1468, SCR 30, SCR 31.**



**MESSAGES FROM THE GOVERNOR**

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

Austin, Texas  
April 27, 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 appointment:

TO BE A MEMBER OF THE TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION for a term to expire August 30, 2003:

David N. James  
2709 Devonshire Drive  
Carrollton, Texas 75007

(replacing Charles Williams of Marshall who is deceased)

Respectfully submitted,

/s/Rick Perry  
Governor

Austin, Texas  
April 30, 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 appointment:

TO BE A MEMBER OF THE VETERANS LAND BOARD for a term to expire December 29, 2004:

M. S. Mike Ussery  
3530 Beau Brummel Place  
Amarillo, Texas 79121-1653

(replacing Neal Thomas Jaco of San Antonio whose term expired)

Respectfully submitted,

/s/Rick Perry  
Governor

**SENATE BILL ON FIRST READING**

The following bill was introduced, read first time, and referred to the committee indicated:

**SB 1830** by Ellis

Relating to the creation of the Greater Southeast Management District; providing authority to impose a tax and issue bonds. (Local bill)

To Committee on Intergovernmental Relations.

**HOUSE BILLS AND RESOLUTIONS ON FIRST READING**

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

- HB 59** to Committee on Jurisprudence.
- HB 73** to Committee on Criminal Justice.
- HB 156** to Committee on Criminal Justice.
- HB 176** to Committee on Jurisprudence.
- HB 232** to Committee on Criminal Justice.
- HB 259** to Committee on Business and Commerce.
- HB 298** to Committee on Intergovernmental Relations.
- HB 335** to Committee on Criminal Justice.
- HB 371** to Committee on State Affairs.
- HB 407** to Committee on State Affairs.
- HB 471** to Committee on Business and Commerce.
- HB 510** to Committee on Criminal Justice.
- HB 557** to Committee on Business and Commerce.
- HB 622** to Committee on Natural Resources.
- HB 691** to Committee on Jurisprudence.
- HB 840** to Committee on Jurisprudence.
- HB 892** to Committee on Natural Resources.
- HB 1047** to Committee on Business and Commerce.
- HB 1077** to Committee on State Affairs.
- HB 1094** to Committee on Health and Human Services.
- HB 1148** to Committee on Business and Commerce.
- HB 1475** to Committee on Education.
- HB 1541** to Committee on Criminal Justice.
- HB 1592** to Committee on Business and Commerce.
- HB 1651** to Committee on Health and Human Services.
- HB 1669** to Committee on State Affairs.
- HB 1680** to Committee on Criminal Justice.
- HB 1681** to Committee on Intergovernmental Relations.
- HB 1692** to Committee on Business and Commerce.
- HB 1799** to Committee on Education.
- HB 1939** to Committee on State Affairs.
- HB 1995** to Committee on Business and Commerce.
- HB 1999** to Committee on Jurisprudence.
- HB 2005** to Committee on Natural Resources.
- HB 2006** to Committee on Education.
- HB 2007** to Committee on Education.
- HB 2092** to Committee on Intergovernmental Relations.
- HB 2123** to Committee on Intergovernmental Relations.
- HB 2127** to Committee on Business and Commerce.
- HB 2152** to Committee on Jurisprudence.
- HB 2391** to Committee on State Affairs.
- HB 2446** to Committee on Health and Human Services.
- HB 2459** to Committee on Education.
- HB 2463** to Committee on Health and Human Services.

**HB 2616** to Committee on State Affairs.  
**HB 2761** to Committee on Natural Resources.  
**HB 2793** to Committee on Natural Resources.  
**HB 2794** to Committee on Natural Resources.  
**HB 2812** to Committee on Administration.  
**HB 2813** to Committee on Administration.  
**HB 2853** to Committee on Administration.  
**HB 2864** to Committee on Education.  
**HB 2988** to Committee on Veteran Affairs and Military Installations.  
**HB 3144** to Committee on Jurisprudence.  
**HB 3247** to Committee on Jurisprudence.  
**HB 3265** to Committee on Education.  
**HB 3421** to Committee on Health and Human Services.  
**HB 3451** to Committee on Intergovernmental Relations.  
**HB 3491** to Committee on Criminal Justice.  
**HB 3524** to Committee on Education.  
**HB 3642** to Committee on Natural Resources.  
**HB 3647** to Committee on Intergovernmental Relations.  
**HB 3655** to Committee on Natural Resources.  
**HB 3662** to Committee on Jurisprudence.  
**HB 3664** to Committee on Criminal Justice.  
**HB 3674** to Committee on Natural Resources.  
**HCR 174** to Committee on Business and Commerce.  
**HCR 196** to Committee on Administration.  
**HCR 237** to Committee on Natural Resources.

### **CONCLUSION OF MORNING CALL**

The President at 10:10 a.m. announced the conclusion of morning call.

### **COMMITTEE SUBSTITUTE HOUSE BILL 1629 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 third reading:

**CSHB 1629**, Relating to the provision of water by the Lower Colorado River Authority to a municipality outside the Colorado River basin.

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

### **COMMITTEE SUBSTITUTE HOUSE BILL 1629 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 **CSHB 1629** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

### **SENATE BILL 1678 ON SECOND READING**

On motion of Senator Jackson 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 1678**, Relating to exempting certain electronic information services from the sales and use tax.

The bill was read second time.

Senator Jackson offered the following committee amendment to the bill:

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

Amend **SB 1678** by inserting an appropriately numbered SECTION of the bill to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION 3. Section 151.3511, Tax Code, as added (amended) by this Act, expires August 31, 2003.

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

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

**SB 1678** as amended was passed to engrossment by a viva voce vote.

### **SENATE BILL 1678 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1678** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

### **PHYSICIAN OF THE DAY**

Senator Ogden was recognized and presented Dr. Marcus Purvus of Brenham as the Physician of the Day.

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

### **BILLS AND RESOLUTION SIGNED**

The President announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

**HB 120, HB 271, HB 477, HB 753, HB 1569, HB 1573, HB 1754, HCR 11.**

### **COMMITTEE SUBSTITUTE SENATE BILL 1720 ON SECOND READING**

On motion of Senator Cain 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 1720**, Relating to the regulation of card-minding devices used to play bingo.

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

### **COMMITTEE SUBSTITUTE SENATE BILL 1720 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1720** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1224 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 1224**, Relating to occupations regulated by the Texas Commission on Private Security.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1224** on page 4 by striking lines 19 through 22 and inserting the following:

(e) This chapter applies to any person who conducts an investigation if the investigation involves a person or the affairs of a person who is not employed by the same employer as the person conducting the investigation and the investigation is not conducted on the premises of the employer. Premises of the employer include walkways, parking areas and other areas relating to the affairs of the employer.

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

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

**CSSB 1224** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1224 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 1224** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 312 ON SECOND READING**

On motion of Senator Zaffirini 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 312**, Relating to the review and functions of the Texas Water Development Board.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 312 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 312** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

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

**SENATE BILL 508 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:

**SB 508**, Relating to establishing task forces in certain border communities to study impediments to trade in the border region.

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

**SENATE BILL 508 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 **SB 508** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

### **COMMITTEE SUBSTITUTE SENATE BILL 344 ON SECOND READING**

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

**CSSB 344**, Relating to the rates of the gas and oil severance taxes.

There was objection.

Senator Bivins then moved to suspend the regular order of business and take up **CSSB 344** for consideration at this time.

The motion prevailed by the following vote: Yeas 22, Nays 5, Present-not voting 3.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Nelson, Shapiro, Sibley, Staples, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Bernsen, Gallegos, Shapleigh, Truan.

Present-not voting: Moncrief, Ogden, Mr. President.

Absent-excused: Van de Putte.

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

### **RECORD OF VOTES**

Senators Moncrief and Ogden asked to be recorded as "Present-not voting" on the passage of **CSSB 344** to engrossment.

### **COMMITTEE SUBSTITUTE SENATE BILL 980 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 980**, Relating to the imposition by a municipality of a moratorium on property development in certain circumstances.

The bill was read second time.



Senator Carona offered the following amendment to the bill:

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

Amend **CSSB 980** as follows:

(1) Strike added Sec. 212.131, Local Government Code, (Committee Printing page 1, lines 17-19) and substitute the following:

Sec. 212.131. DEFINITIONS. In this subchapter:

(1) "Essential public facilities" means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

(2) "Residential property" is property zoned for or otherwise authorized for single-family or multi-family use.

(2) Strike added Sec. 212.135, Local Government Code, (Committee Printing page 1, line 62, through page 2, line 60) and substitute the following:

Sec. 212.135. JUSTIFICATION FOR MORATORIUM; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on property development, the moratorium is justified by demonstrating a need to prevent a shortage of essential public facilities. The municipality must issue written findings based on reasonably available information. The written findings must include a summary of:

(1) evidence demonstrating the extent of need beyond the estimated capacity of existing essential public facilities that is expected to result from new property development, including identifying:

(A) any essential public facilities currently operating near, at, or beyond capacity;

(B) the portion of that capacity committed to the development subject to the moratorium;

(C) the impact fee revenue allocated to address the facility need; and

(2) evidence demonstrating that the moratorium is reasonably limited to:

(A) areas of the municipality where a shortage of essential public facilities would otherwise occur; and

(B) property that has not been approved for development because of the insufficiency of existing essential public facilities;

(b) A moratorium that is not based on a shortage of essential public facilities is justified only by demonstrating a significant need for other public facilities, including police and fire facilities. For purposes of this subsection, a significant need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities or would be detrimental to the health, safety, and welfare of the residents of the municipality. The municipality must issue written findings based on reasonably available information. The written findings must include a summary of:

(1) evidence demonstrating that applying existing development ordinances or regulations and other applicable laws is inadequate to prevent the new development from causing the overcapacity of municipal infrastructure or being detrimental to the public health, safety, and welfare in an affected geographical area;

(2) evidence demonstrating that alternative methods of achieving the objectives of the moratorium are unsatisfactory; and

(3) evidence demonstrating that the municipality has approved a working plan and time schedule for achieving the objectives of the moratorium.

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 980** as amended was passed to engrossment by a viva voce vote.

### **RECORD OF VOTES**

Senators Barrientos and Truan asked to be recorded as voting "Nay" on the passage of **CSSB 980** to engrossment.

### **COMMITTEE SUBSTITUTE SENATE BILL 980 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 980** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3, Present-not voting 1.

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

Nays: Barrientos, Truan, Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2, Present-not voting 1.

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

Nays: Barrientos, Truan.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

### **MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

April 30, 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:

**HCR 263**, Honoring Richard L. "Rick" Crawford for his exceptional public service to the State of Texas.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**COMMITTEE SUBSTITUTE  
SENATE BILL 962 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 962**, Relating to a pilot project to address the need for more child protective services workers in certain regions of the state.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 962 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 962** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 638 ON SECOND READING**

On motion of Senator Barrientos 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 638**, Relating to the taking of a specimen from a person arrested for, charged with, or convicted of certain offenses for the purposes of DNA analysis; providing penalties.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 638** as follows:

(1) On page 2, line 25, strike "411.1471(a)" and substitute "411.1471(a)(1)".

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

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

**CSSB 638** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 638 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 638** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 1825 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 1825**, Relating to state energy policy and the creation, powers, and duties of the Texas Energy Policy Council.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 1825 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 1825** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Van de Putte.

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

### MESSAGE FROM THE HOUSE

#### HOUSE CHAMBER

Austin, Texas

April 30, 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:

**HCR 238**, In honor of the retirement of Texas Tech University head football coach Spike Dykes.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

### SENATE BILL 1653 ON SECOND READING

On motion of Senator Bernsen 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 1653**, Relating to prohibition of disclosure of defense counsel's fee statements by liability insurers; providing a civil penalty.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **SB 1653** by striking all below the enacting clause and substituting the following:

SECTION 1. Subtitle B, Title 2, Insurance Code, is amended by adding Chapter 103 to read as follows:

#### CHAPTER 103. DISCLOSURE OF FEE STATEMENTS

Sec. 103.001. DEFINITION. In this chapter, "insurer" means a partnership, corporation, association, or other group, however organized, that issues any form of

liability insurance, whether primary insurance coverage, excess insurance coverage, or umbrella insurance coverage. The term includes a Lloyd's plan, a reciprocal or interinsurance exchange, a county mutual insurance company, or a farm mutual insurance company.

Sec. 103.002. APPLICABILITY. This chapter applies only to an insurer that issues a liability insurance policy:

- (1) to or covering any resident of this state;
- (2) covering liability incurred by an insured in this state; or
- (3) under which the insurer provides a defense to an insured in a claim or action pending in this state.

Sec. 103.003. DISCLOSURE PROHIBITED; EXCEPTION. (a) Except as provided by Subsection (c), an insurer may not disclose defense counsel fee statements regarding services provided for an insured to any person, other than the insured, who is not an employee of the insurer.

(b) An insurer may not require defense counsel to disclose the defense counsel's fee statements to any person who is not an employee of the insurer.

(c) To the extent, if any, otherwise permitted by law, an insurer may disclose defense counsel's fee statements to a person who is not an employee of the insurer for the purpose of reviewing the fee statements in connection with a lawsuit over payment of the fees. Disclosure under this subsection does not, in itself, waive any attorney-client privilege.

Sec. 103.004. CONTRACT PROVISIONS VOID; WAIVER PROHIBITED. (a) A provision in a contract entered into between an insurer and defense counsel or between an insurer and an insured that requires or permits disclosure of the defense counsel's fee statements to a person who is not an employee of the insurer is against public policy and is void and unenforceable.

(b) A waiver by an insured of the requirements of Section 103.003(a) or (b) is against public policy and is void and unenforceable.

Sec. 103.005. DAMAGES; INJUNCTIVE RELIEF. (a) An insured may bring an action against an insurer to:

- (1) recover any actual damages proximately suffered by the insured because of a violation of Section 103.003(a) or (b); and
- (2) obtain injunctive relief to prevent the threatened or continued violation of Section 103.003(a) or (b).

(b) A court shall award reasonable and necessary attorney's fees to a person who recovers damages or obtains injunctive relief under this section.

Sec. 103.006. CIVIL PENALTY. (a) An insurer who violates Section 103.003(a) or (b) is liable for a civil penalty. A civil penalty assessed under this section may not exceed:

- (1) \$5,000 for the first or second act of violation; or
- (2) \$10,000 for the third and each subsequent act of violation.

(b) At the commissioner's request, the attorney general shall file and prosecute a civil action in a district court in Travis County to recover a civil penalty under this section.

SECTION 2. This Act applies only to a disclosure that occurs on or after the effective date of this Act. A disclosure that occurred before that date is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2001.

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

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

**SB 1653** as amended was passed to engrossment by a viva voce vote.

#### **RECORD OF VOTE**

Senator Haywood asked to be recorded as voting "Nay" on the passage of **SB 1653** to engrossment.

#### **SENATE BILL 1653 ON THIRD READING**

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1653** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2, Present-not voting 1.

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

Nays: Haywood, Wentworth.

Present-not voting: Mr. President.

Absent: Duncan.

Absent-excused: Van de Putte.

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 **SB 1653**.

#### **LEAVE OF ABSENCE**

On motion of Senator Madla, Senator Lucio was granted leave of absence for the remainder of today on account of important business.

#### **SENATE BILL 1689 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:

**SB 1689**, Relating to the franchise tax.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

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

Amend **SB 1689** as follows:

1. On page 1, line 34, between "surplus." and "A business" insert the following: "Except as otherwise provided in subsection (k)."
2. On page 1, line 39, insert the following new subsection to Section 171.110, Tax Code:

"(k) For reports originally due on or after January 1, 2004, a surviving corporation of a merger may claim the business loss of the non-surviving corporation. Such business losses may be carried forward not more than five years following the merger or until the losses are exhausted."

3. On page 1, line 42 between "2001" and "." insert the following:  
" , except for subsection (k) as added by this act should take effect for reports originally due on or after January 1, 2004"

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

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

**SB 1689** as amended was passed to engrossment by a viva voce vote.

### **SENATE BILL 1689 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 **SB 1689** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

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

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Lucio, Van de Putte.

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

### **SENATE BILL 1815 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:

**SB 1815**, Relating to establishing a loan program to assist communities that may be affected by federal military base closures.

The bill was read second time.

Senator Truan offered the following committee amendment to the bill:

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

Amend **SB 1815** by adding the following at the end of Section 3 of the bill: The Office of Defense Affairs has no duty to act under this section or Subchapter B, Chapter 486, Government Code, as added by this Act, unless the infrastructure development revolving loan account in the general revenue fund is



funded sufficiently to enable the Office of Defense Affairs to make loans under that subchapter and to pay the office's costs of administering that subchapter.

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

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

**SB 1815** as amended was passed to engrossment by a viva voce vote.

### **SENATE BILL 1815 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 **SB 1815** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

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

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Lucio, Van de Putte.

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

### **SENATE BILL 512 ON SECOND READING**

On motion of Senator Duncan 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 512**, Relating to the investment and management of the permanent school fund.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

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

Amend **SB 512** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 43, Education Code, is amended by adding Section 43.0011 to read as follows:

Sec. 43.0011. PERMANENT SCHOOL FUND INVESTMENT ADVISORY COMMITTEE. (a) The permanent school fund investment advisory committee shall advise the State Board of Education regarding management and investment of the permanent school fund.

(b) The committee is composed of:

(1) two members appointed by the governor, who are not subject to confirmation by the senate;

(2) one member appointed by the lieutenant governor;  
(3) one member appointed by the speaker of the house of representatives; and

(4) one member appointed by the State Board of Education.

(c) A person appointed to the committee must have appropriate expertise in investing institutional funds, as determined by the appointing entity.

(d) Members of the committee serve staggered terms of six years, with the terms of one or two members expiring February 1 of each odd-numbered year, except that a member may be removed by the appointing entity for good cause.

(e) For purposes of this section, "good cause" means:

(1) a serious violation of a law relating to the member's official duties as a committee member or to the conduct of public officials generally;

(2) gross or persistent failure to perform the committee member's duties as a committee member;

(3) conduct that is reasonably likely to undermine the public's trust in the committee member; or

(4) conduct that constitutes a felony or a crime of moral turpitude, if the committee member is charged with or convicted of a criminal offense.

(f) For purposes of Subsection (e), failure to attend any meetings of the committee over a period of six months, if more than one meeting is held during that period, constitutes persistent failure to perform the member's duties as a committee member.

(g) The committee shall meet regularly to advise the State Board of Education regarding the management and investment of the permanent school fund.

(h) A committee member may not receive compensation for performing duties as a committee member but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

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

SECTION 2. Section 43.0031(b), Education Code, is amended to read as follows:

(b) The ethics policy must include provisions applicable to:

(1) members of the State Board of Education;

(2) members of the permanent school fund investment advisory committee;

(3) the commissioner;

(4) ~~(3)~~ employees of the agency; and

(5) ~~(4)~~ any person who provides services to the board relating to the management or investment of the permanent school fund.

SECTION 3. Section 43.0032, Education Code, is amended to read as follows:

Sec. 43.0032. CONFLICTS OF INTEREST. (a) This section applies to:

(1) a ~~(A)~~ member of the State Board of Education;

(2) a member of the permanent school fund advisory committee;

(3) ~~(;)~~ the commissioner;

(4) ~~(;)~~ an employee of the agency; and

(5) ~~(-or)~~ a person who provides services to the board that relate to the management or investment of the permanent school fund.

(b) A person to whom this section applies who has a business, commercial, or other relationship that a reasonable person would find likely ~~could reasonably be~~

expected] to diminish the person's independence of judgment in the performance of the person's responsibilities relating to the management or investment of the fund shall disclose the relationship in writing to the board.

(c) [(b)] The board or the board's designee shall, in the ethics policy adopted under Section 43.0031, define the kinds of relationships that may create a possible conflict of interest.

(d) [(c)] A person who files a statement under Subsection (b) [(a)] disclosing a possible conflict of interest may not give advice or make decisions about a matter affected by the possible conflict of interest unless the board, after consultation with the general counsel of the agency, expressly waives this prohibition. The board may delegate the authority to waive the prohibition established by this subsection.

SECTION 4. Section 43.0033, Education Code, is amended to read as follows:

Sec. 43.0033. REPORTS OF EXPENDITURES. A consultant, advisor, broker, or other person providing services to the State Board of Education relating to the management and investment of the permanent school fund shall file with the board regularly, as determined by the board, a report that describes in detail any expenditure of more than \$50 made by the person on behalf of:

- (1) a member of the board;
- (2) a member of the permanent school fund advisory committee;
- (3) the commissioner; or
- (4) [(3)] an employee of the agency or of a nonprofit corporation created

under Section 43.006.

SECTION 5. Chapter 43, Education Code, is amended by adding Section 43.0035 to read as follows:

Sec. 43.0035. EMPLOYMENT OR COMPENSATION OF LOBBYIST PROHIBITED. (a) A person who serves as a money manager, advisor, consultant, or broker regarding the permanent school fund may not knowingly employ or compensate a person who is or would be required to register under Chapter 305, Government Code, to communicate directly with a member of the legislative branch, the State Board of Education, or the permanent school fund investment advisory committee on a matter relating to the permanent school fund.

(b) If the State Board of Education determines that a person has violated this section, the board shall terminate the person's contract to provide services regarding the permanent school fund.

(c) A person who violates Subsection (a) commits an offense. An offense under this subsection is a Class B misdemeanor.

(d) In this section, "communicate directly with" and "member of the legislative branch" have the meanings assigned by Section 305.002, Government Code.

SECTION 6. Chapter 43, Education Code, is amended by adding Section 43.0061 to read as follows:

Sec. 43.0061. BOARD ACTION ON INVESTMENT DECISIONS. In considering and making investment decisions relating to the permanent school fund, the State Board of Education must meet and act as a body corporate. The board may not create a committee or subcommittee to consider or make such investment decisions.

SECTION 7. Section 43.005, Education Code, is repealed.

SECTION 8. Not later than November 1, 2001, the governor, lieutenant governor, speaker of the house of representatives, and the State Board of Education

shall each appoint the initial members of the permanent school fund advisory committee, as required by Section 43.0011, Education Code, as added by this Act. The governor shall appoint one person for a term expiring February 1, 2003, and one person for a term expiring February 1, 2007. The person appointed by the lieutenant governor serves a term expiring February 1, 2007. The persons appointed by the speaker of the house of representatives and the State Board of Education serve terms expiring February 1, 2005.

SECTION 9. This Act takes effect September 1, 2001.

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

#### RECORD OF VOTE

Senator Wentworth asked to be recorded as "Present-not voting" on the adoption of the amendment.

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

**SB 512** as amended was passed to engrossment by a viva voce vote.

#### RECORD OF VOTE

Senator Wentworth asked to be recorded as "Present-not voting" on the passage of **SB 512** to engrossment.

#### SENATE BILL 512 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 512** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

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

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Lucio, Van de Putte.

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

#### RECORD OF VOTE

Senator Wentworth asked to be recorded as "Present-not voting" on the final passage of **SB 512**.

#### REASON FOR VOTE

Senator Wentworth submitted the following reason for vote on **SB 512**:

I voted "Present-not voting" on **SB 512** because of repeated newspaper reports in the *Austin American-Statesman* this month that Robert Finney of San Antonio,

a partner in the law firm of Arter & Hadden, LLP, was paid between \$25,000 and \$50,000 to lobby for the defeat of this bill. The truth is that neither Robert Finney nor any lawyer associated with Arter & Hadden was so employed. It is true that the law firm was retained last year in 2000 on other matters wholly unrelated to any legislation during the 2001 regular session. It is also true that the firm's engagement on those matters ended over two months ago and that the firm never received any compensation whatsoever to influence the outcome of this bill. Nevertheless, in order to avoid even the appearance of impropriety or a conflict of interest, I have chosen not to vote at all on this bill.

WENTWORTH

### HOUSE BILL 835 REREFERRED

Senator Moncrief submitted a Motion In Writing requesting that **HB 835** be withdrawn from the Committee on Business and Commerce and rereferred to the Committee on Health and Human Services.

The Motion In Writing prevailed without objection.

### COMMITTEE SUBSTITUTE SENATE BILL 1114 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 1114**, Relating to an exemption from the sales and use tax for taxable items used in the performance of a space flight contract.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSSB 1114** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.355 to read as follows:

Sec. 151.355. TAXABLE ITEMS USED IN PERFORMANCE OF SPACE FLIGHT CONTRACT. (a) In this section:

(1) "Space flight" means a flight designed for suborbital, orbital, or interplanetary travel capable of placing humans at a minimum altitude of 50 miles above mean sea level. The term does not include flight by an aircraft as defined by Section 151.328(c).

(2) "Space flight contract" means a contract with the National Aeronautics and Space Administration for the use or provision of taxable items related to the development, construction or fabrication, testing, administrative support, research and development, vehicle assembly, processing, remodeling, repair, operation, or maintenance of space vehicles.

(3) "Space vehicles" means tangible personal property that:  
(A) has space flight capability, including a space shuttle, orbital space facility, space propulsion system, satellite, or space station of any kind;

(B) is placed on or used aboard property described by Subdivision (A); or

(C) is an integral part of and is used in support of a space flight, including tangible personal property used in training, launch, ground support, landing, and recovery activities.

(b) The sale, lease, rental, storage, use, or consumption of a taxable item that is used or consumed by a person in the performance of a space flight contract is exempt from the taxes imposed by this chapter as provided by Subsection (c), and the person who uses or consumes the item may claim a refund as provided by that subsection, if the item is included as an allowable direct or indirect item of cost under 48 C.F.R. Section 9904.418-30, 48 C.F.R. Section 52.216-7, 48 C.F.R. Subpart 31.2, or similar federal regulations, regardless of whether the contract is a cost-reimbursement contract.

(c) A person described by Subsection (b) may apply to the comptroller not later than March 31 for a refund of taxes paid during the preceding calendar year on taxable items exempt under Subsection (b). The comptroller shall determine the total amount of valid claims for refunds of taxes paid during the preceding calendar year and, not later than May 30, send to each applicant who submits a valid refund claim under this section:

(1) the full amount of the refund if the total amount of valid claims for refunds of taxes paid during the preceding calendar year does not exceed \$800,000; or

(2) a portion of that refund determined in accordance with Subsection (d) if the total amount of valid claims for refunds of taxes paid during the preceding calendar year exceeds \$800,000.

(d) If the total amount of valid claims for refunds of taxes paid during the preceding year exceeds \$800,000, the comptroller shall determine the amount of a person's refund by multiplying the full amount of that refund by a fraction:

(1) the numerator of which is \$800,000; and

(2) the denominator of which is the total amount of valid claims for refunds of taxes paid during the preceding year.

(e) A valid refund claim draws interest at the rate prescribed by Section 111.060 beginning on the later of March 31 of the year in which the claim is filed or the 61st day after the date the claim is filed.

(f) This section does not apply to a part of direct or indirect costs allocated to a contract that is not a space flight contract.

SECTION 2. (a) This Act takes effect September 1, 2003, if it receives a majority vote of the members elected to each house during the 78th Legislature, Regular Session, 2003.

(b) The change in law made by this Act does not affect taxes imposed before the effective date of this Act, and the former law is continued in effect for purposes of the liability for and collection of those taxes.

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 1114** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1114 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 1114** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

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

Nays: Wentworth.

Present-not voting: Mr. President.

Absent-excused: Lucio, Van de Putte.

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

**SENATE BILL 819 ON THIRD 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 third reading and final passage:

**SB 819**, Relating to regulation of the carrying of a handgun.

The bill was read third time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 819**, on third reading, by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 370, Local Government Code, is amended by adding Section 370.004 to read as follows:

Sec. 370.004. CRIMINAL BACKGROUND CHECK AT GUN SHOW. (a) Notwithstanding Section 215.001, a municipality may require that a criminal background check be conducted on a prospective purchaser of a handgun at a gun show held within the limits of the municipality.

(b) A county may require that a criminal background check be conducted on a prospective purchaser of a handgun at a gun show held within the unincorporated area of the county.

The amendment was read.

**POINT OF ORDER**

Senator Bernsen raised a point of order that Floor Amendment No. 1 was not germane to the bill.

**POINT OF ORDER WITHDRAWN**

On motion of Senator Bernsen, the point of order was withdrawn.

Question—Shall Floor Amendment No. 1 to **SB 819** be adopted?

The amendment failed of adoption by the following vote: Yeas 7, Nays 21, Present-not voting 1.

Yeas: Barrientos, Ellis, Gallegos, Shapleigh, Truan, West, Zaffirini.

Nays: Armbrister, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Fraser, Harris, Haywood, Jackson, Lindsay, Madla, Moncrief, Nelson, Ogden, Shapiro, Sibley, Staples, Wentworth, Whitmire.

Present-not voting: Mr. President.

Absent-excused: Lucio, Van de Putte.

**SB 819** was finally passed by a viva voce vote.

**RECORD OF VOTES**

Senators Barrientos and Truan asked to be recorded as voting "Nay" on the final passage of **SB 819**.

**HOUSE BILL 2787 REREFERRED**

Senator Brown submitted a Motion In Writing requesting that **HB 2787** be withdrawn from the Committee on Education and rereferred to the Committee on Natural Resources.

The Motion In Writing prevailed without objection.

**SENATE RULE 11.18 SUSPENDED  
(Posting Rule)**

On motion of Senator West and by unanimous consent, Senate Rule 11.18 was suspended in order that the Committee on Jurisprudence might consider the following bills today: **SB 801, HB 822**.

**SENATE RULE 11.18 SUSPENDED  
(Posting Rule)**

On motion of Senator Harris and by unanimous consent, Senate Rule 11.18 was suspended in order that the Committee on Jurisprudence might consider **HB 1365** today.

**NOTICE GIVEN FOR  
LOCAL AND UNCONTESTED CALENDAR**

Senator Cain announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 8:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.



### **GUESTS PRESENTED**

Senator Truan was recognized and introduced to the Senate fourth- and fifth-grade students from Mirabeau B. Lamar Elementary School in Corpus Christi, accompanied by their teachers.

The Senate welcomed its guests.

### **MOTION TO ADJOURN**

On motion of Senator Truan and by unanimous consent, the Senate at 12:02 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session tomorrow, until 10:00 a.m. tomorrow.

### **RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

#### **Memorial Resolution**

**HCR 252** (Bivins), Honoring the memory of Julian Harris Zimmerman of Austin.

#### **Welcome and Congratulatory Resolutions**

**SR 830** by Ellis, Congratulating Marthea Davis of Houston.

**SR 831** by Ellis, Congratulating Anthony J. Sadberry.

**SR 832** by Ellis, Commending the Central Congregational Church in Houston.

**SR 833** by Fraser, Congratulating Gregg Pate of Austin.

**SR 835** by Barrientos, Congratulating Maria Elisa Hashemian.

**SR 838** by Wentworth, Welcoming Elsa Ramos Rodriguez to the State Capitol.

**HCR 259** (Jackson), Welcoming the visiting students and staff from North Pointe Elementary School in Clear Lake City to the State Capitol on April 26, 2001.

**HCR 261** (Bivins), Congratulating Dee K. Carter of Midland on his election as president of the Texas Association of Insurance and Financial Advisors.

#### **Designation Resolution**

**SR 834** by Barrientos, Declaring Monday, May 7, 2001, as Autism Awareness Day in Texas.

### **RECESS**

On motion of Senator Truan, the Senate at 12:04 p.m. recessed until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

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**APPENDIX**

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**COMMITTEE REPORTS**

The following committee reports were received by the Senate:

April 30, 2001

**EDUCATION — CSSB 350, CSSB 1636, CSSB 1743, CSSB 1814, CSSB 1817, CSSB 1818, CSHB 1641**

**NATURAL RESOURCES — SCR 22, SCR 23, SB 868, SB 1697, SB 1764, HB 561, HB 702, HB 742, HB 1081, HB 1136, HB 1274, HB 1402, HB 1663, HB 2032, HJR 53, HJR 52**

**HEALTH AND HUMAN SERVICES — CSHB 1018, CSHB 2258**

**EDUCATION — CSSB 702**

**FINANCE — SB 1488, SB 1804, HB 1098**

**HEALTH AND HUMAN SERVICES — CSSB 527, CSSB 1470**

**EDUCATION — CSSB 1317**

**FINANCE — CSSB 1184**

**CRIMINAL JUSTICE — SB 110, CSSB 455, SB 786, CSSB 1120, CSSB 1312, CSSB 1313, CSSB 1367, SB 1807, CSHB 772, HB 139, HB 261, HB 780, CSHB 1600, HB 1739**

**EDUCATION — CSSB 273**

**SIGNED BY GOVERNOR**

April 20, 2001

**SB 37, SB 746, SB 848**

**SENT TO GOVERNOR**

April 30, 2001

**SB 184, SB 277, SB 405, SB 648, SB 777, SB 1166, SB 1468, SCR 30, SCR 31**