

FORTY-EIGHTH DAY

WEDNESDAY, APRIL 13, 2005

PROCEEDINGS

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, Whitmire, Williams, Zaffirini.

Absent-excused: West.

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

The Reverend Stephen Warren, First Baptist Church, Buda, offered the invocation as follows:

Our heavenly Father, we come before You with humility asking again that You bless us with Your wisdom. We know that You are our creator and sustainer. Bless our leaders of our state, as they seek to lead our state. As they lead our state, give them justice tempered with mercy. We thank You for the love that You continually give to us. Please forgive us when we fail You and forget to acknowledge You. We ask that You be with our men and women who are so gallantly serving in our armed forces and that You keep them safe and out of harm's way. Please give comfort and peace to the families that are remaining here at home as they wait for their loved ones to come home. Lord, continue to watch over our great state and nation and give wisdom to our leaders as they seek to serve us with guidance from You, so that our state and nation will find favor in Your sight. In Your precious name we ask these things. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator West was granted leave of absence for today on account of important business.

CO-AUTHOR OF SENATE BILL 14

On motion of Senator Jackson, Senator Lucio will be shown as Co-author of **SB 14**.

CO-AUTHOR OF SENATE BILL 42

On motion of Senator Nelson, Senator Deuell will be shown as Co-author of **SB 42**.

CO-AUTHOR OF SENATE BILL 122

On motion of Senator Hinojosa, Senator Williams will be shown as Co-author of **SB 122**.

CO-AUTHOR OF SENATE BILL 425

On motion of Senator Hinojosa, Senator Ellis will be shown as Co-author of **SB 425**.

CO-AUTHOR OF SENATE BILL 604

On motion of Senator Ellis, Senator Armbrister will be shown as Co-author of **SB 604**.

CO-AUTHOR OF SENATE BILL 827

On motion of Senator Zaffirini, Senator Ellis will be shown as Co-author of **SB 827**.

CO-AUTHOR OF SENATE BILL 854

On motion of Senator Lucio, Senator Madla will be shown as Co-author of **SB 854**.

CO-AUTHOR OF SENATE BILL 943

On motion of Senator Armbrister, Senator Nelson will be shown as Co-author of **SB 943**.

CO-AUTHOR OF SENATE BILL 1202

On motion of Senator Lucio, Senator Ellis will be shown as Co-author of **SB 1202**.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

April 13, 2005

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 178, Relating to the use of electronically readable information from a driver's license or personal identification card in an election.

HB 233, Relating to the securing by municipal police officers of a scene to which the municipality's emergency ambulance service responds.

HB 340, Relating to the authority of a navigation district to establish a volunteer police reserve force and to the state law enforcement authority of certain federal peace officers.

HB 345, Relating to the disclosure of certain information provided on a voter registration application.

HB 550, Relating to the preparation of and procedures related to a presentence report in a felony case.

HB 654, Relating to professional liability insurance for volunteer health care providers.

HB 824, Relating to a requirement that appraisal review board members complete a training and education course biennially.

HB 900, Relating to the requirement that workforce development programs provide training in financial literacy.

HB 975, Relating to a deposition taken of a witness in a criminal action.

HB 1116, Relating to the governmental entities subject to the sunset review process.

HB 1528, Relating to the expiration of the other events trust fund established to support local efforts to recruit or retain certain sports events.

HB 1540, Relating to the regulation by the Texas Commission on Environmental Quality of the idling of a motor vehicle while the driver is using the vehicle's sleeper berth; providing a penalty.

HB 1587, Relating to liability and validation issues of the Downtown Midland Management District.

HB 1938, Relating to the award of a grant and reporting requirements under the Texas Enterprise Fund.

HB 2228, Relating to the creation of the offense of online sexual solicitation of a minor.

HB 2795, Relating to certain appointments made by the governor and the chief justice of the supreme court.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

RESOLUTION SIGNED

The President announced the signing of the following enrolled resolution in the presence of the Senate: **HCR 8**.

SENATE RESOLUTION 602

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Southlake Carroll High School football team for winning the University Interscholastic League 2004 Class 5A Division II state championship title; and

WHEREAS, The nationally ranked Carroll Dragons topped off a 16-0 season by defeating the Smithson Valley Rangers 27-24 on December 18 at Texas Stadium, earning the school its second Class 5A state title in three years; Carroll had previously won three state championships as a Class 3A school; and

WHEREAS, The state championship game was tied until a field goal in the last seconds of the game put the Dragons ahead and clinched the title; by finishing the season at the top of the *USA Today* and National Prep Poll rankings, the Dragons have earned the "mythical" national championship; and

WHEREAS, These young athletes entered the season with determination and have exhibited perseverance and respect for the highest ideals of sportsmanship as they developed their skills, discipline, and teamwork under the expert guidance of coach Todd Dodge and his staff; and

WHEREAS, This exemplary group of young men, together with their coaches and staff, can truly be proud of their accomplishments, and they are a source of tremendous pride for the students and faculty at Carroll High School and for the entire Southlake community; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby extend sincere congratulations to the team members and coaching staff of the Southlake Carroll High School football team for winning the University Interscholastic League 2004 Class 5A Division II state championship title and commend them for their first place national ranking; and, be it further

RESOLVED, That a copy of this Resolution be prepared as an expression of high regard from the Texas Senate.

NELSON
BRIMER

SR 602 was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson, joined by Senator Brimer, was recognized and introduced to the Senate members of the football team from Carroll Senior High School in Southlake: Mitch Enright, Pete Fleeps, Travis Stacy, Patrick Benoist, and Head Coach Todd Dodge.

The Senate welcomed its guests.

GUEST PRESENTED

The President acknowledged the presence of the Governor, Rick Perry, in the Senate Chamber.

The Senate welcomed its guest.

GUESTS PRESENTED

Senator Madla was recognized and introduced to the Senate a delegation of citizens representing the Texas Association of Counties.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Fraser was recognized and introduced to the Senate members of the six-man football team of Richland Springs School in Richland Springs, accompanied by their coach.

The Senate welcomed its guests.

PHYSICIAN OF THE DAY

Senator Barrientos was recognized and presented Dr. Michael Lifshen of Austin as the Physician of the Day.

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

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate a delegation from the Texas Dietetic Association.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Averitt was recognized and introduced to the Senate a delegation of citizens representing Leadership Copperas Cove.

The Senate welcomed its guests.

SENATE CONCURRENT RESOLUTION 28

The President laid before the Senate the following resolution:

WHEREAS, The Legislature of the State of Texas is pleased to recognize the Texas Motor Speedway in Fort Worth, previously the host of one annual spring NASCAR Nextel Cup race, on its selection as the host of two annual Nextel Cup races beginning in 2005; and

WHEREAS, Opened in 1997, the Texas Motor Speedway is the second-largest racing complex in the country; it consists of a 1.5-mile, quad-oval track and seats more than 150,000 spectators; its state-of-the-art facility offers amenities never before made available at an auto racing venue; and

WHEREAS, Since construction on the track began in 1995, the speedway has contributed more than \$2 billion to the regional economy; a recent study concluded that a second NASCAR Nextel Cup race at the speedway will generate an estimated \$295.7 million in new economic activity in the region during the 2005-2008 period; and

WHEREAS, This year, the Texas Motor Speedway is hosting the Samsung/RadioShack 500 on April 17 and the Dickies 500 on November 6; the November race, one of the final 10 Nextel Cup races of the season, will place the Texas Motor Speedway in the Chase for the Championship playoff format that decides the Nextel Cup championship; and

WHEREAS, The selection of the Texas Motor Speedway as host of two NASCAR Nextel Cup races a year is a tribute to the high quality of the complex and its many assets and will undoubtedly be a catalyst for the growth of motor sports in the Lone Star State; now, therefore, be it

RESOLVED, That the 79th Legislature of the State of Texas hereby extend congratulations to the Texas Motor Speedway on its selection to host a second NASCAR Nextel Cup race and extend to Bruton Smith, chairman of the board of Speedway Motorsports, Incorporated, and to all those associated with the speedway best wishes for the future; and, be it further

RESOLVED, That a copy of this resolution be prepared for the Texas Motor Speedway as an expression of esteem from the Texas Legislature.

NELSON

SCR 28 was read.

On motion of Senator Nelson and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: West.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate Eddie Gossage, President and General Manager of Texas Motor Speedway; Mike Moncrief, Mayor of Fort Worth; and Mary Horn, Denton County Judge.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 13, 2005

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 280, Relating to an injunction to prevent violations by automotive wrecking and salvage yards in certain counties.

(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Duncan was recognized and introduced to the Senate a delegation of retired teachers representing the Texas Retired Teachers Association, accompanied by James Logan, Charles and Mary Rose Bowen, and Janie Lou Greenlee.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The President at 11:46 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE

SENATE BILL 481 ON THIRD READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 481** at this time on its third reading and final passage:

CSSB 481, Relating to creating an offense for the unauthorized operation of a recording device in a motion picture theater.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

COMMITTEE SUBSTITUTE

SENATE BILL 848 ON SECOND READING

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSSB 848** at this time on its second reading:

CSSB 848, Relating to the approval of certain permit applications by local governments.

The motion prevailed.

Senators Madla and Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 848** (Senate committee printing) on page 1, between lines 46 and 47, by inserting the following new section and renumbering all subsequent sections accordingly:

"SECTION 3. Section 245.004, Local Government Code, is amended by adding the following new subsection, to read as follows:

(12) regulations found by a political subdivision to be necessary to protect clean and safe drinking water or to prevent degradation of water quality of an aquifer that serves as a source of drinking water."

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 1 was tabled by the following vote: Yeas 21, Nays 7.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Whitmire.

Nays: Barrientos, Ellis, Lucio, Madla, Shapleigh, Van de Putte, Zaffirini.

Absent: Carona, Williams.

Absent-excused: West.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 848** by the following:

1) On page 1, line 10, between the word "agency" and the comma, insert the words "that is required prior to filing an application for a preliminary plan or final plat";

2) On page 1, line 24, strike the words "for any purpose";

3) On page 2, line 2, strike the word "plan" and insert the word "permit";

4) On page 2, line 5, strike the words "plan of" and insert the words "permit for";

5) On page 2, lines 9-14, strike the words "or deposits the application or plan with the United States Postal Service by certified mail addressed to the regulatory agency. A certified mail receipt obtained by the applicant at the time of deposit is prima facie evidence of the date the application or plan was deposited with the United States Postal Service";

6) On page 2, lines 20-22, strike the words "after the applicant's development rights have accrued pursuant to Subsection (a-1), Section 245.002, Local Government Code, as added by this Act,"

The amendment was read.

Senator Van de Putte withdrew Floor Amendment No. 2.

CSSB 848 was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Barrientos, Madla, Zaffirini.

Absent-excused: West.

**COMMITTEE SUBSTITUTE
SENATE BILL 848 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 848** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Whitmire, Williams.

Nays: Barrientos, Madla, Wentworth, Zaffirini.

Absent-excused: West.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 848**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 848** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, Whitmire, Williams.

Nays: Barrientos, Madla, Zaffirini.

Absent-excused: West.

COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 14 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration **CSSJR 14** at this time on its second reading:

CSSJR 14, Proposing a constitutional amendment allowing certain counties to abolish and reinstate the office of constable in the county or in a precinct of the county.

The motion prevailed.

Senator Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The resolution was read second time.

Senator Seliger offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **CSSJR 14** as follows:

(1) In SECTION 1 of the joint resolution, in added Section 18A, strike proposed Subsection (a) (page 1, lines 15-18, committee report) and substitute the following:

(a) The Commissioners Court of Potter or Randall County may call an election in the county to abolish the office of constable countywide or in a specified precinct.

(2) In SECTION 2 of the joint resolution, strike the text of the ballot proposition (page 2, lines 18-20, committee report) and substitute the following:

"The constitutional amendment allowing Potter or Randall County to abolish and reinstate the office of constable in the county or in a precinct of the county."

The amendment to **CSSJR 14** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: West.

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

CSSJR 14 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Zaffirini.

Absent-excused: West.

COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 14 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSJR 14** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Whitmire, Williams.

Nays: Wentworth, Zaffirini.

Absent-excused: West.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSJR 14**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSJR 14** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The resolution was read third time and was passed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, Whitmire, Williams.

Nays: Lucio, Zaffirini.

Absent-excused: West.

**COMMITTEE SUBSTITUTE
SENATE BILL 882 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 882** at this time on its second reading:

CSSB 882, Relating to the Texas Council on Autism and Pervasive Developmental Disorders.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: West.

**COMMITTEE SUBSTITUTE
SENATE BILL 882 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 882** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: West.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 882**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 882** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 286 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 286** at this time on its second reading:

CSSB 286, Relating to requiring public officials to receive training in the requirements of the open meetings and public information laws.

Senator Wentworth withdrew the motion to suspend the regular order of business.

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

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 572** at this time on its second reading:

CSSB 572, Relating to the development and implementation of personnel policies and procedures for certain state agencies.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: West.

**COMMITTEE SUBSTITUTE
SENATE BILL 572 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 572** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: West.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 572**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 572** would

have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

**COMMITTEE SUBSTITUTE
SENATE BILL 890 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 890** at this time on its second reading:

CSSB 890, Relating to the amount of recovery in a civil action.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: West.

**COMMITTEE SUBSTITUTE
SENATE BILL 890 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 890** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: West.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 890**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 890** would

have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: West.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Lindsay submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed:

Members, State Board of Barber Examiners: Mary Lou Daughtrey, Smith County; James Hinton Dickerson, Jr., J.D., Brazoria County.

Members, Texas Tech University System Board of Regents: Larry Keith Anders, Collin County; Frederick "Scott" Dueser, Taylor County; Lawrence Frederick "Rick" Francis, El Paso County; Mark Griffin, Lubbock County; J. Frank Miller, Dallas County; Dan T. Serna, Tarrant County; Windy M. Sitton, Lubbock County; Bob L. Stafford, M.D., Potter County.

Members, Family and Protective Services Council: Ronald Brandon, Williamson County; John R. Castle, Jr., Dallas County; Anne C. Crews, Dallas County; Richard S. Hoffman, Cameron County; Faith Johnson, Dallas County; Catherine Clark Mosbacher, Harris County; Imogen Sherman Papadopoulos, Harris County; Linda Bell Robinson, Harris County; Cristina Ommy Strauch, Bexar County.

Member, Gulf States Marine Fisheries Commission: Ralph Rayburn, Brazos County.

Justice, Court of Appeals, Fourth Court of Appeals District: Rebecca Simmons, Bexar County.

Members, Midwestern State University Board of Regents: Pamela Odom Gough, Young County; Stephen A. Gustafson, Wichita County; Munir A. Lalani, Wichita County; Ben F. Wible, Grayson County.

Member, Texas Board of Occupational Therapy Examiners: Cecilia Fierro, El Paso County.

Members, Stephen F. Austin State University Board of Regents: Valerie E. Ertz, Dallas County; Joe Max Green, Nacogdoches County; Paul Gifford Pond, Jefferson County.

Members, Texas State Technical College System Board of Regents: Nora Castañeda, Cameron County; James Virgil "J. V." Martin, Nolan County; Barbara N. Rusling, McLennan County.

Members, Texas State University System Board of Regents: Dora G. Alcalá, Val Verde County; John E. Dudley, Comanche County; Bernie Francis, Denton County.

Members, Texas Woman's University Board of Regents: Virginia Chandler Dykes, Dallas County; William H. Fleming III, M.D., Harris County; Lou Halsell Rodenberger, Callahan County; Sharon Venable, Dallas County.

Members, University of Houston System Board of Regents: Dennis Golden, O.D., Panola County; Lynden B. Rose, Harris County; Calvin W. Stephens, Dallas County.

Members, University of North Texas System Board of Regents: Robert A. Nickell, Dallas County; Gayle W. Strange, Denton County; Rice M. Tilley, Jr., Tarrant County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Lindsay gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

(Senator Brimer in Chair)

SENATE RULE 11.10(a) SUSPENDED (Public Notice of Committee Meetings)

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Criminal Justice might meet today.

SENATE RULE 11.18(a) SUSPENDED (Public Hearings)

On motion of Senator Madla and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on Intergovernmental Relations might consider **SB 1850** tomorrow.

NOTICE GIVEN FOR LOCAL AND UNCONTESTED CALENDAR

Senator Harris 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.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Fraser and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Business and Commerce might meet and consider the following bills today: **SB 957**, **SB 1464**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 615 by Shapleigh, In memory of Isadore J. "Izzy" Kahn of El Paso.

SR 618 by Wentworth, In memory of Donald Timothy Hart of San Antonio.

HCR 62 (Eltife), In memory of Dr. Edmund Whetstone Robb, Jr., of Marshall.

HCR 125 (Shapiro), In memory of former State Representative Frederick Joseph Agnich of Dallas.

HCR 126 (Seliger), In memory of Clayton McKinney of Midland, retired Texas Ranger and chief deputy of the Midland County Sheriff's Office.

Congratulatory Resolutions

SR 604 by Ogden, Recognizing Sister Gretchen Kunz for her service to the people of the Brazos Valley.

SR 605 by Ellis, Recognizing Ky'era Washington, who is participating in the Buds of Royalty Revue sponsored by Omicron Gamma Zeta Chapter of Zeta Phi Beta Sorority, Incorporated.

SR 606 by Ellis, Recognizing LaToya Beaver, who is participating in the Buds of Royalty Revue sponsored by Omicron Gamma Zeta Chapter of Zeta Phi Beta Sorority, Incorporated.

SR 607 by Ellis, Recognizing Skyla Williams, who is participating in the Buds of Royalty Revue sponsored by Omicron Gamma Zeta Chapter of Zeta Phi Beta Sorority, Incorporated.

SR 608 by Ellis, Recognizing members of the Omicron Gamma Zeta Chapter of Zeta Phi Beta Sorority, Incorporated, for their contributions to the young people of Texas.

SR 609 by Ellis, Commending Michael Samuelson Gottesman for achieving the rank of Eagle Scout.

SR 610 by Ellis, Congratulating Amanda and Herman Walter Taylor on the birth of their son, Isaiah Andrew Taylor.

SR 611 by Gallegos, Recognizing the Rodriguez family on the occasion of their 2005 family reunion.

SR 612 by Ellis, Commending Christopher Jacob Ainsworth of Houston for achieving the rank of Eagle Scout.

SR 613 by Ellis, Commending Zachary Scott Meyerson for achieving the rank of Eagle Scout.

SR 614 by Ellis, Recognizing Enrique and Margaret Palacios on the occasion of their 50th wedding anniversary.

SR 616 by Shapleigh, Recognizing the University Democrats for its selection as Most Outstanding Student Organization at The University of Texas at Austin.

SR 617 by Shapleigh, Recognizing Gary Scharrer for his contributions to the El Paso community.

SR 619 by Wentworth, Recognizing Jay Millikin for his selection as Citizen of the Year by *The Herald-Zeitung* of New Braunfels.

HCR 129 (Fraser), Recognizing the 125th anniversary of the Y. O. Ranch.

HCR 134 (Fraser), Congratulating the mock trial team of Tivy High School in Kerrville for winning the state championship.

Official Designation Resolutions

HCR 87 (Eltime), Designating March 2, 2005, as Mount Pleasant/Titus County Day at the State Capitol.

HCR 107 (Gallegos), Recognizing Wildfire Awareness Week, April 4 through 8, 2005.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 1:03 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 10:00 a.m. tomorrow.

RECESS

On motion of Senator Whitmire, the Senate at 1:03 p.m. recessed until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

April 13, 2005

EDUCATION — **SB 114, CSSB 302, CSSB 528, SB 697, CSSB 800, CSSB 959, SB 996, SB 1146, SB 1376** (Amended)

NATURAL RESOURCES — **SB 1707, SB 1708, SB 1709**

CRIMINAL JUSTICE — **SB 304, SB 394, SB 665, SB 689, SB 909, SB 925, SB 1126, SB 1264, SB 1265, SB 1305, SB 1461, SB 1551, SB 1552**

HEALTH AND HUMAN SERVICES — **SB 565, SB 815**

GOVERNMENT ORGANIZATION — **SB 318, SB 1139, SB 1345, SB 1491, SB 1573**

STATE AFFAIRS — **CSSB 442, SB 449, CSSB 728, CSSB 805, CSSB 895, CSSB 1052, CSSB 1272**

SIGNED BY GOVERNOR

April 12, 2005

SB 252