

FORTY-NINTH DAY

THURSDAY, APRIL 14, 2005

PROCEEDINGS

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

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, West, Whitmire, Williams, Zaffirini.

The Presiding Officer announced that a quorum of the Senate was present.

The Reverend Dr. Orin Smith, Klein United Methodist Church, Spring, offered the invocation as follows:

Holy and compassionate God, before whose face the generations rise and fall and pass away, age unto age the living seek You and find that of Your faithfulness there is no end. Hear us, we pray, as we turn to You with gratitude for the very breath of life. We thank You for setting us in the land of the free and the home of the brave. We thank You for the glory of its skies, the grandeur of its mountains, the harvest of its fruited plains, and its amber waves of grain. In our sometimes bumbling, grumbling, stumbling world, we pray for a faith that will keep us steady, that will carry us through. In the midst of often confused and conflicting voices, we pray for all those who serve in this Chamber that they may be given the wisdom to discern the common good and to make decisions that benefit all of Your people. Hold before us the truth that our efforts are always judged alongside the plumbline of Your righteous will. Go with us wherever we go, be our companion in all that we do. In Your strong name we pray. 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.

CO-AUTHOR OF SENATE BILL 326

On motion of Senator Zaffirini, Senator Duncan will be shown as Co-author of **SB 326**.

CO-AUTHOR OF SENATE BILL 327

On motion of Senator Zaffirini, Senator Duncan will be shown as Co-author of **SB 327**.

CO-AUTHOR OF SENATE BILL 604

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

CO-AUTHOR OF SENATE BILL 1146

On motion of Senator Shapiro, Senator Zaffirini will be shown as Co-author of **SB 1146**.

CO-AUTHORS OF SENATE BILL 1845

On motion of Senator Deuell, Senators Armbrister, Eltife, Nelson, Seliger, and Van de Putte will be shown as Co-authors of **SB 1845**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 14, 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 150, Relating to the eligibility of a person to be appointed to serve on certain civil service commissions.

HB 307, Relating to court-ordered representation in suits affecting the parent-child relationship.

HB 341, Relating to regulation of motor carriers transporting household goods.

HB 607, Relating to the delivery of blank check forms; providing a civil penalty.

HB 617, Relating to contributions made by and the service retirement annuity paid to certain members of the Judicial Retirement System of Texas Plan Two.

HB 655, Relating to certain volunteer health care providers.

HB 765, Relating to notice of coverage under certain group health insurance policies and standard health benefit plans.

HB 835, Relating to the creation of an additional judicial district in Williamson County.

HB 962, Relating to requiring the Texas Department of Transportation to include in the unified transportation program a list of transportation projects that the department considers to be eligible for tolling or feasible for tolling.

HB 1007, Relating to certain low-interest home loan programs administered by the Texas State Affordable Housing Corporation.

HB 1071, Relating to the format in which certain reports of political contributions and expenditures are filed.

HB 1130, Relating to the adoption of a privacy policy by a person who requires the disclosure of an individual's social security number; providing a civil penalty.

HB 1271, Relating to the voter registration of certain persons disqualified from jury service.

HB 1503, Relating to the additional exit conference required following inspection, survey, or investigation of certain facilities.

HB 1815, Relating to term limitations for members of boards of certain metropolitan rapid transit authorities.

HB 2097, Relating to the authority of a home-rule municipality to prohibit public nuisances.

HB 2129, Relating to energy-saving measures that reduce the emission of air contaminants.

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 1

House Conferees: Pitts - Chair/Gattis/Kolkhorst/Luna/Turner

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Jackson was recognized and presented Dr. P. J. Mock of La Porte as the Physician of the Day.

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

SENATE RESOLUTION 620

Senator Averitt offered the following resolution:

WHEREAS, The Baylor University Lady Bears basketball team has completed a phenomenal season by winning the 2005 National Collegiate Athletic Association's Women's National Basketball Championship, and the players and coaches of this superior team are indeed deserving of special recognition for this significant accomplishment; and

WHEREAS, The Lady Bears captured their first national title by dominating a talented Michigan State team at the RCA Dome in Indianapolis, Indiana; the Big 12 champions defeated the Spartans by the score of 84-62, relying on brilliant guard play, unrelenting defensive pressure, and timely and accurate 3-point shooting to win the crown; and

WHEREAS, With their national championship triumph, the Lady Bears completed the 2004-2005 season with a 20-game winning streak and an impressive 33-3 record; the team's road to the championship included a remarkable win over top-ranked Louisiana State University, which was highlighted by a memorable first-half comeback and a refuse-to-lose attitude that carried the Lady Bears to victory in the second half; and

WHEREAS, The Lady Bears have prospered under the direction of head coach Kim Mulkey-Robertson, who has been a source of much inspiration to the team during her five-year tenure; she has been assisted in her efforts by associate head coach Bill Brock, assistant coaches Johnny Derrick and Jennifer Roberts, and graduate assistant Mike Snauffer; and

WHEREAS, Members of the 2005 National Championship team are starters Sophia Young, Chameka Scott, Chelsea Whitaker, Abiola Wabara, and Steffanie Blackmon and reserves Emily Niemann, Latoya Wyatt, Angela Tisdale, Melanie Hamerly, Chanelle Fox, Jordan Davis, Monique Jones, Tiffanie Blackmon, Victoria Jones, and Chisa Ononiwu; these young women demonstrated a commitment to teamwork on both offense and defense throughout the season, combining their remarkable skill and athleticism with an uncompromising work ethic to produce a national championship team; and

WHEREAS, The Lady Bears and their coaches and staff have created tremendous pride among members of the Baylor University community and the citizens of Waco, and it is a pleasure to honor them at this time; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby congratulate Coach Kim Mulkey-Robertson and the Baylor Lady Bears for winning the 2005 National Colligate Athletic Association's Women's National Basketball Championship and extend best wishes to the many individuals who contributed to this remarkable achievement; and, be it further

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

AVERRITT
HARRIS

SR 620 was read and was adopted without objection.

GUESTS PRESENTED

Senator Averitt was recognized and introduced to the Senate head coach of the Baylor University Lady Bears basketball team, Kim Mulkey-Robertson, and senior team members Steffanie Blackmon, Tiffanie Blackmon, Chelsea Whitaker, and Melanie Hamerly.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 14, 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:**HCR 10**, Declaring April Child Abuse Prevention Month in Texas.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PERMISSION TO INTRODUCE BILLS

Senator Whitmire moved to suspend Senate Rule 7.07(b) and Section 5, Article III, of the Texas Constitution to permit the introduction of the following bills:

SB 1852, SB 1856, SB 1858, SB 1859.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 603

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the members of the Texas Federation of Republican Women on their visit to the Capitol on April 14, 2005; and

WHEREAS, The Texas Federation of Republican Women is one of the largest women's political organizations in the country; organized in 1955, 17 years after the National Federation of Republican Women was formed, it is widely recognized for its effectiveness in the election of Republican Party candidates to city, county, state, and national offices; and

WHEREAS, President George W. Bush acknowledged the importance of the Texas Federation of Republican Women in the growth of the Republican Party in Texas and in his successful campaign for election as Governor of the State of Texas; and

WHEREAS, Members of the Texas Federation of Republican Women spend countless hours researching issues and working on behalf of Republican Party candidates; the organization's top six officers for the 2004-2005 year are Taffy Goldsmith, president; Pauline Cusack, first vice president; Ann Anderson, vice president bylaws; Toni Anne Dashiell, vice president campaign activities; 'Borah Van Dormolen, vice president finance; and Kaye Goolsby, vice president legislation; and

WHEREAS, Through the commitment, hard work, and dedication of federation members, women of all ages, ethnic groups, and backgrounds have an increased awareness of political issues and have recognized their importance in the political process; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the members of the Texas Federation of Republican Women for their exemplary accomplishments and proclaim April 14, 2005, Texas Federation of Republican Women Legislative Day at the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for them as an expression of esteem from the Texas Senate.

NELSON
SHAPIRO

SR 603 was read and was adopted without objection.

(President in Chair)

GUESTS PRESENTED

Senator Nelson, joined by Senator Shapiro, was recognized and introduced to the Senate representatives of the Texas Federation of Republican Women: Taffy Goldsmith, Kaye Goolsby, 'Borah Van Dormolen, and Toni Anne Dashiell.

The Senate welcomed its guests.

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate:

HCR 62, HCR 87, HCR 107, HCR 125, HCR 126, HCR 129, HCR 134.

SENATE BILLS ON FIRST READING

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

SB 1852 by Van de Putte

Relating to consideration of a person's eligibility for a tuition and fee exemption for certain veterans or their family members in determining whether to admit the person into a certificate or degree program of a public institution of higher education.

To Committee on Veteran Affairs and Military Installations.

SB 1855 by Deuell

Relating to the creation of the Rockwall County Municipal Utility Districts Nos. 6, 7, 8, and 9; providing authority to impose a tax and issue bonds; granting the power of eminent domain. (Local Bill)

To Committee on Intergovernmental Relations.

SB 1856 by Deuell

Relating to tax increment financing.

To Committee on Intergovernmental Relations.

SB 1857 by Madla

Relating to the consolidation of the Kinney County Groundwater Conservation District into the Edwards Aquifer Authority. (Local Bill)
To Committee on Natural Resources.

SB 1858 by Armbrister

Relating to the authority of a local government to enforce a water pollution control and abatement program and establish standards and practices for water quality.
To Committee on Natural Resources.

SB 1859 by Lindsay

Relating to the annexation of territory by a junior college district.
To Subcommittee on Higher Education.

HOUSE BILLS ON FIRST READING

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

HB 178 to Committee on State Affairs.

HB 233 to Committee on Intergovernmental Relations.

HB 340 to Committee on Natural Resources.

HB 345 to Committee on State Affairs.

HB 550 to Committee on Criminal Justice.

HB 654 to Committee on State Affairs.

HB 824 to Committee on Intergovernmental Relations.

HB 900 to Committee on Business and Commerce.

HB 975 to Committee on Criminal Justice.

HB 1116 to Committee on Government Organization.

HB 1528 to Committee on Business and Commerce.

HB 1540 to Committee on Natural Resources.

HB 1587 to Committee on Intergovernmental Relations.

HB 1938 to Subcommittee on Emerging Technologies and Economic Development.

HB 2228 to Committee on Criminal Justice.

HB 2795 to Committee on Jurisprudence.

HOUSE CONCURRENT RESOLUTION 10

The President laid before the Senate the following resolution:

WHEREAS, April is National Child Abuse Prevention Month, and Texans stand ready to join with their fellow Americans in the prevention of child abuse and neglect; and

WHEREAS, The increasing number of child deaths in Texas due to abuse and neglect has caused the 79th Legislature to take emergency action to protect the children of our state; and

WHEREAS, More than three million cases of child abuse and neglect were reported in the United States last year, and approximately 2,000 children died as a result of such maltreatment; and

WHEREAS, At least 150 Texas children died as a result of abuse or neglect last year, and more than 47,000 children were confirmed as victims of abuse or neglect; and

WHEREAS, The legislature recognizes that child abuse and neglect frequently start a cycle of violence that perpetuates itself through generations of families and that preventing or interrupting this violent cycle at the earliest opportunity is not only our moral duty but also a public policy choice that improves the health, safety, and productivity of our society as a whole; and

WHEREAS, We acknowledge that the future of our state depends on the children we raise and the opportunities we create for them; and

WHEREAS, We recognize that strengthening our communities and families is essential to raising children to be adults who are strong in mind, body, and spirit; and

WHEREAS, We believe that it is possible to fight child abuse and neglect with prevention programs that draw on the vitality, ingenuity, and diversity that have always characterized the history and traditions of our great state; now, therefore, be it

RESOLVED, That the 79th Legislature of the State of Texas hereby declare April Child Abuse Prevention Month in Texas and call on all citizens to work together to create a Texas where all children are protected and cherished as the future of our state.

VAN DE PUTTE

HCR 10 was read.

On motion of Senator Van de Putte 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.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate members of the Blue Ribbon Task Force on Child Abuse and Bexar County Bikers Association, accompanied by Jack Downey, The Children's Shelter, San Antonio; Erin Barry, Chair, Blue Ribbon Task Force on Child Abuse; Mark Carmona, Alamo Children's Advocacy Center; Thomas Block, recently adopted; and David Rivas, emancipated foster child.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate James Avery, a star of the television series, *The Fresh Prince of Bel-Air*, accompanied by Al Freeman, comedian and film producer; Sam Pink, film producer; and John Childs, film producer and music promoter.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Jackson was recognized and introduced to the Senate members of the Pearland Chamber of Commerce and Brazosport Area Chamber of Commerce Leadership groups.

The Senate welcomed its guests.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Lindsay.

Senator Lindsay moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

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 Omy 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.

CONCLUSION OF MORNING CALL

The President at 11:19 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 480 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 480** at this time on its second reading:

CSSB 480, Relating to the authority of a city to take certain actions with regard to certain pipelines.

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.

COMMITTEE SUBSTITUTE SENATE BILL 480 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 480** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 480**, 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 480** 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 31, Nays 0.

SENATE JOINT RESOLUTION 21 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **SJR 21** at this time on its second reading:

SJR 21, Proposing a constitutional amendment authorizing the legislature to define rates of interest for commercial loans.

The resolution 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.

SENATE JOINT RESOLUTION 21 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 21** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 **SJR 21**, 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 **SJR 21** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 574 ON SECOND READING**

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSSB 574** at this time on its second reading:

CSSB 574, Relating to requirements for the issuance of land development permits by political subdivisions.

The motion prevailed.

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

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 574** on page 2, line 15 by inserting the following after the period: "Nothing in this subsection shall be deemed to affect the timing of a permit issued solely under the authority of Chapter 366, Health and Safety Code, by the Texas Commission on Environmental Quality or its authorized agent."

The amendment to **CSSB 574** 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:

Nays: Zaffirini.

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

CSSB 574 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.

**COMMITTEE SUBSTITUTE
SENATE BILL 574 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 574** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, 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, West, Whitmire, Williams.

Nays: Wentworth, Zaffirini.

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 574**, 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 574** 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 1.

Nays: Zaffirini.

SENATE BILL 443 ON SECOND READING

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 443** at this time on its second reading:

SB 443, Relating to the regulation of industrialized buildings.

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.

SENATE BILL 443 ON THIRD READING

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 443** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 **SB 443**, 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 **SB 443** 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 31, Nays 0.

COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 40 ON SECOND READING

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSJR 40** at this time on its second reading:

CSSJR 40, Proposing a constitutional amendment clearing land titles by relinquishing and releasing any state claim to sovereign ownership or title to interest in certain land.

The resolution 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.

COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 40 ON THIRD READING

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSJR 40** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 40**, 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 40** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1103 ON SECOND READING**

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1103** at this time on its second reading:

CSSB 1103, Relating to the powers and duties of the General Land Office and the disposition of certain unsurveyed public school land.

The bill was read second time.

Senator Eltife offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1103** as follows:

(1) In SECTION 1 of the bill, in amended Section 51.191, Natural Resources Code, redesignated by the bill as Section 51.194, Natural Resources Code, strike Subsection (c) (committee printing, page 11, lines 18-32) and substitute the following:

(c) A [The] good-faith claimant that owns a separate surface interest, a contractual right to a mineral or leasehold interest, a leasehold interest, or a royalty interest in the land occupied or used that is found to be part of or to include a vacancy is entitled to purchase or lease that same interest in the portion of the land determined to be [that is] vacant[;

[~~(1)~~] at the price and under the conditions set by the board[;

[~~(2)~~ subject to the royalty reservations provided by the board;] and

[~~(3)~~] in accordance with the law in effect on the date the application is filed.

(d) If the interest purchased under Subsection (c) is less than a permanent interest, then:

(1) the interest purchased is limited to the duration of a deed, contract, instrument, or lease in existence before the filing of the vacancy application and subject to a division of the amount of the royalty between the state and the existing royalty owners, provided that the state retains at least one-half of the amount of the royalty interest; and

(2) the interest and any remaining mineral interest, including all executory rights, vest with the state at the expiration of the deed, contract, instrument, or lease.

(2) In SECTION 1 of the bill, in amended Section 51.192, Natural Resources Code, redesignated by the bill as Section 51.195, Natural Resources Code, strike Subsection (a)(2) (committee printing, page 11, lines 41-42) and substitute the following:

(2) ~~[the expiration of]~~ the period for a good-faith claimant to exercise [exercising] a preferential right to purchase or lease the land determined to be vacant expires.

(3) In SECTION 1 of the bill, in amended Section 51.192, Natural Resources Code, redesignated by the bill as Section 51.195, Natural Resources Code, strike Subsections (b) and (c) (committee printing, page 11, lines 43-57) and substitute the following:

(b) If a good-faith claimant exercises the claimant's preferential right in the land determined to be vacant, the applicant has a preferential right to either:

(1) an award by the board of a perpetual 1/32 nonparticipating royalty of the full mineral interest of the vacancy; or

(2) a preferential right to purchase or lease any remaining interest in the land determined to be vacant.

(c) If a lease described by Section 51.194(d)(1) exists on the land determined to be vacant, the applicant's 1/32 nonparticipating royalty interest, as described by Subsection (b)(1), shall be taken from the state's royalty interest as reserved under Section 51.194(d)(1) for the duration of the lease, provided that the applicant's share for the duration of the lease may never equal more than the interest retained by the state.

(d) An applicant who exercises a preferential right under Subsection (a) or (b)(2) may purchase or lease the land or an interest in the land:

(1) at the price set by the board;

(2) subject to the royalty reservations provided by the board; and

(3) in accordance with the law in effect on the date the application is filed.

~~[The board shall award an applicant, other than a good faith claimant, a perpetual nonparticipating royalty of:~~

~~[(1) not less than 1/32 or more than 1/16 of the value of oil, gas, and sulphur; and~~

~~[(2) one percent of the value of all geothermal and other minerals produced.]~~

The amendment to **CSSB 1103** 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.

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

CSSB 1103 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1103 ON THIRD READING**

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1103** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 1103**, 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 1103** 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 31, Nays 0.

(Senator Brimer in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 575 ON SECOND READING**

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSSB 575** at this time on its second reading:

CSSB 575, Relating to notice to a surface owner by an oil or gas well operator of certain oil and gas operations.

The motion prevailed.

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

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:

Nays: Ogden.

**COMMITTEE SUBSTITUTE
SENATE BILL 575 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 575** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

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

Nays: Ogden, Wentworth.

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 575**, 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 575** 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 1.

Nays: Ogden.

SENATE BILL 726 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 726** at this time on its second reading:

SB 726, Relating to the authority of a dental hygienist to prescribe and administer fluoride varnish.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 726** as follows:

(1) Strike SECTION 1 of the bill (committee printing page 1, lines 11-54) and SECTION 2 of the bill (committee printing page 1, line 55, through page 2, line 11).

(2) Strike SECTION 4 of the bill (committee printing page 2, lines 23-38) and substitute the following:

SECTION 4. Subchapter D, Chapter 262, Occupations Code, is amended by adding Section 262.153 to read as follows:

Sec. 262.153. LIMITED FLUORIDE VARNISH PERMIT. (a) The board by rule shall provide for issuance of a permit to a dental hygienist to administer fluoride varnish.

(b) To obtain a permit under this section, a dental hygienist must meet the educational qualifications and provide proof of competency in the administration of fluoride varnish as required by the board after consultation with the advisory committee.

(c) Rules adopted by the board under this section must include rules that regulate the administration of fluoride varnish by a dental hygienist who holds a permit under this section.

(d) A dental hygienist with a permit issued under this section may administer fluoride varnish without supervision by a dentist.

(3) Renumber remaining SECTIONS of the bill accordingly.

The amendment to **SB 726** 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.

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

SB 726 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 726 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 726** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 **SB 726**, 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 **SB 726** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1567 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 1567** at this time on its second reading:

CSSB 1567, Relating to the amount of longevity and hazardous duty pay for certain state employees.

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.

**COMMITTEE SUBSTITUTE
SENATE BILL 1567 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 1567** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 1567**, 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 1567** 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 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
April 14, 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:

HCR 120, Honoring Louis, Ben, Bill, and Rick Bolanos for their valiant service in this country's behalf.

HCR 135, Congratulating the Texas A&M University–Kingsville football team for an outstanding 2004 season.

HCR 136, Designating May 2005 as Texas Natural Resources Month.

SB 234, Relating to the appointment of grand jury bailiffs in Tarrant County.

SB 346, Relating to conforming the law concerning the removal of a guardian of a ward to amendments made by the 78th Legislature.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

(President in Chair)

SENATE BILL 743 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 743** at this time on its second reading:

SB 743, Relating to independent organizations in ERCOT and their regulation and certification by the Public Utility Commission of Texas; providing an administrative penalty.

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.

SENATE BILL 743 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 743** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 **SB 743**, 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 **SB 743** 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 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 327 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 327** at this time on its second reading:

CSSB 327, Relating to the installation, copying, or use of computer software for unauthorized purposes; providing a penalty.

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.

COMMITTEE SUBSTITUTE
SENATE BILL 327 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 327** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 327**, 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 327** 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 31, Nays 0.

SENATE BILL 250 ON SECOND READING

Senator West moved to suspend the regular order of business to take up for consideration **SB 250** at this time on its second reading:

SB 250, Relating to the information contained on a driver's license or personal identification certificate.

The motion prevailed.

Senators Nelson, Wentworth, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 250** as follows:

(1) Page 1, line 19, after "The holder." insert "A holder must be informed of the right to elect not to have the holder's race or ethnicity stated on the holder's personal identification certificate."

(2) Page 1, line 30, after "The holder.", insert "A holder must be informed of the right to elect not to have the holder's race or ethnicity stated on the holder's driver's license."

(3) Page 1, line 47, after "of the applicant.", insert "The applicant must be informed of the right to elect not to have the applicant's race or ethnicity stated on the application."

The amendment to **SB 250** 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.

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

SB 250 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: Nelson, Wentworth, Williams.

SENATE BILL 250 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 250** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Nelson, Wentworth, Williams.

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 **SB 250**, 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 **SB 250** 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 28, Nays 3. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 60 ON SECOND READING**

Senator Lucio moved to suspend the regular order of business to take up for consideration **CSSB 60** at this time on its second reading:

CSSB 60, Relating to the punishment for a capital offense.

The motion prevailed by the following vote: Yeas 25, Nays 6.

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

Nays: Estes, Fraser, Jackson, Nelson, Shapiro, Wentworth.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 60**, by striking all below the enacting clause and substituting the following:

SECTION 1. Section 508.046, Government Code, is amended to read as follows:

Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on parole an inmate who was convicted of [~~a capital felony or~~] an offense under Section 21.11(a)(1) or 22.021, Penal Code, or who is required under Section 508.145(c) to serve 35 calendar years before becoming eligible for release on parole, all members of the board must vote on the release on parole of the inmate, and at least two-thirds of the members must vote in favor of the release on parole. A member of the board may not vote on the release unless the member first receives a copy of a written report from the department on the probability that the inmate would commit an offense after being released on parole.

SECTION 2. Section 508.145(b), Government Code, is amended to read as follows:

(b) An inmate serving a life sentence for a capital felony is not eligible for release on parole [~~until the actual calendar time the inmate has served, without consideration of good conduct time, equals 40 calendar years~~].

SECTION 3. Section 2(e), Article 37.071, Code of Criminal Procedure, is amended to read as follows:

(e)(1) The court shall instruct the jury that if the jury returns an affirmative finding to each issue submitted under Subsection (b) of this article, it shall answer the following issue:

Whether, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed.

(2) The court~~[, on the written request of the attorney representing the defendant,]~~ shall:

(A) instruct the jury that if the jury answers that a circumstance or circumstances warrant that a sentence of life imprisonment rather than a death sentence be imposed, the court will sentence the defendant to imprisonment in the institutional division of the Texas Department of Criminal Justice for life; and

(B) charge the jury in writing as follows:

"Under the law applicable in this case, if the defendant is sentenced to imprisonment in the institutional division of the Texas Department of Criminal Justice for life, the defendant will not become eligible for release on parole or mandatory supervision~~], but not until the actual time served by the defendant equals 40 years, without consideration of any good conduct time. It cannot accurately be predicted how the parole laws might be applied to this defendant if the defendant is sentenced to a term of imprisonment for life because the application of those laws will depend on decisions made by prison and parole authorities, but eligibility for parole does not guarantee that parole will be granted]."~~

SECTION 4. Subsections (a) and (f), Section 508.046, Government Code, are amended to read as follows:

§ 508.146. **MEDICALLY RECOMMENDED INTENSIVE SUPERVISION.** (a) An inmate, other than an inmate who is serving a sentence of death or life without parole or an inmate who has a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, may be released on medically recommended intensive supervision on a date designated by a parole panel described by Subsection (e), except that an inmate with an instant offense that is an offense described in Section 3g, Article 42.12, Code of Criminal Procedure, may only be considered if a medical condition of terminal illness or long-term care has been diagnosed, if:

(1) the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, identifies the inmate as being elderly, physically disabled, mentally ill, terminally ill, or mentally retarded or having a condition requiring long-term care;

(2) the parole panel determines that, based on the inmate's condition and a medical evaluation, the inmate does not constitute a threat to public safety; and

(3) the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the pardons and paroles division, has prepared for the inmate a medically recommended intensive supervision plan that requires the inmate to submit to electronic monitoring, places the inmate on super-intensive supervision, or otherwise ensures appropriate supervision of the inmate.

(f) An inmate who is not a citizen of the United States, as defined by federal law, who is not under a sentence of death or life without parole, and who does not have a reportable conviction or adjudication under Chapter 62, Code of Criminal Procedure, or an instant offense described in Section 3g, Article 42.12, Code of Criminal Procedure, may be released to immigration authorities pending deportation on a date designated by a parole panel described by Subsection (e) if the parole panel determines that on release the inmate would be deported to another country and that the inmate does not constitute a threat to public safety in the other country or this country and is unlikely to reenter this country illegally.

SECTION 5. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2005.

The amendment was read.

Senator Lucio offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSSB 60** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS to read as follows:

SECTION __. Subchapter E, Chapter 72, Government Code, is amended by adding Section 72.087 to read as follows:

Sec. 72.087. CAPITAL TRIALS. (a) The office shall annually collect and publish a report of information regarding cases involving the trial of a capital offense.

(b) The report must include:

- (1) the manner in which the trial court charges the jury;
- (2) the contents of the trial court's charge to the jury; and
- (3) the sentence issued in each case.

(c) Not later than the 30th day after the date the judgment of conviction or acquittal is entered in a case involving the trial of a capital offense, the judge or clerk of the court shall submit to the office a written record of the case containing the information required by Subsection (b).

The amendment was read.

Senator Lucio withdrew Floor Amendment No. 2.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 60**, the amendment was adopted by a viva voce vote.

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

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

CSSB 60 as amended was passed to engrossment by the following vote: Yeas 25, Nays 6.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Gallegos, Harris, Hinojosa, Janek, Lindsay, Lucio, Madla, Ogden, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Jackson, Nelson, Seliger, Shapiro.

**COMMITTEE SUBSTITUTE
SENATE BILL 60 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 60** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Estes, Fraser, Nelson, Shapiro, Wentworth.

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 60**, 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 60** 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 26, Nays 5.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Gallegos, Harris, Hinojosa, Janek, Lindsay, Lucio, Madla, Ogden, Seliger, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Jackson, Nelson, Shapiro.

**COMMITTEE SUBSTITUTE
SENATE BILL 827 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 827** at this time on its second reading:

CSSB 827, Relating to systems for identifying colonias and for tracking the progress of state-funded projects that benefit colonias and the submission of a related report to the legislature.

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.

**COMMITTEE SUBSTITUTE
SENATE BILL 827 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 827** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

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 827**, 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 827** 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 31, Nays 0.

(Senator Hinojosa in Chair)

**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.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Brimer, Estes, West.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 286** (Senate committee printing) as follows:

(1) In Section 1 of the bill, in added Section 551.005, Government Code, strike added Subsection (b) (page 1, lines 28-29) and reletter subsequent subsections in added Section 551.005 accordingly.

(2) In Section 2 of the bill, in added Section 552.012, Government Code, strike added Subsection (c) (page 2, lines 32-34) and reletter subsequent subsections in added Section 552.012 accordingly.

(3) In Section 3 of the bill, at the end of Subsection (a) (page 3, lines 29 and 30), strike ", and must complete subsequent training in accordance with that law".

(4) In Section 3 of the bill, in Subsection (b), between "before January 1, 2007, and" and "must complete subsequent training" (page 3, between lines 39 and 40), insert "a public information coordinator".

The amendment to **CSSB 286** 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.

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

CSSB 286 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE RULE 11.18(a) SUSPENDED
(Public Hearings)

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on State Affairs might consider **SB 1493** today.

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

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on International Relations and Trade might meet today.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Staples and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Transportation and Homeland Security might meet and consider the following bills today: **SB 292, SB 642, SB 737, SB 1336, SB 1670.**

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

On motion of Senator Jackson and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Subcommittee on Agriculture and Coastal Resources might meet today.

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

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Natural Resources might meet today at 2:00 p.m.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SR 598 by West, Recognizing Betty Culbreath for being selected as a recipient of the Weselene Wiley Inspirational Award for Lifetime Achievement by the Dallas Chapter of the National Association of Black Social Workers, Incorporated.

SR 599 by West, Recognizing Lillie P. Mitchell for being selected as a recipient of the Weselene Wiley Inspirational Award for Lifetime Achievement by the Dallas Chapter of the National Association of Black Social Workers, Incorporated.

SR 600 by West, Recognizing Gloria Terrell Jackson for being selected as a recipient of the Weselene Wiley Inspirational Award for Lifetime Achievement by the Dallas Chapter of the National Association of Black Social Workers, Incorporated.

SR 601 by West, Recognizing Rhonda Jones for being selected as a recipient of the Weselene Wiley Inspirational Award for Lifetime Achievement by the Dallas Chapter of the National Association of Black Social Workers, Incorporated.

SR 621 by Ellis, Recognizing Mary Bates Bentsen for her service to the San Jacinto Museum of History.

SR 622 by Van de Putte, Recognizing Roberta Meads on the occasion of her 90th birthday.

HCR 142 (Averitt), Congratulating Coach Kim Mulkey-Robertson and the Baylor Lady Bears for winning the 2005 NCAA Women's National Basketball Championship.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:19 p.m. adjourned, in memory of Dorothy Nell Turner of Austin and Boyd Reginald Vance of Austin, until 1:30 p.m. Monday, April 18, 2005.

APPENDIX

COMMITTEE REPORTS

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

April 14, 2005

CRIMINAL JUSTICE — **CSSB 578, CSSB 1465, CSSB 1307, CSSB 1473, SB 544, CSSB 893**

HEALTH AND HUMAN SERVICES — **CSSB 361, CSSB 42**

CRIMINAL JUSTICE — **CSSB 548**

HEALTH AND HUMAN SERVICES — **CSSB 325, CSSB 1586**

INTERGOVERNMENTAL RELATIONS — **SB 434, SB 526, SB 919, SB 1067, SB 1068, SB 1106, SB 1353, SB 1457, SB 1518, SB 1635, SB 1754, SB 1792**

JURISPRUDENCE — **SB 1424, SB 1216, SB 1178, SB 1151, SB 1147, SB 1426, SB 1425, SCR 14**

GOVERNMENT ORGANIZATION — **CSSB 1002, CSSB 1663**