

FIFTY-SECOND DAY

WEDNESDAY, APRIL 20, 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, West, Whitmire, Williams, Zaffirini.

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

The Reverend Barry W. Chinn, Woodlawn Baptist Church, Austin, offered the invocation as follows:

Almighty Creator, we offer our gratitude and thanksgiving for this day You have given us. We thank You for this great state and for all the natural resources You have entrusted to our care. We thank You for the work You have called these gentlemen and gentlewomen to do. Their challenges are great and many. Help them. Bless them. May their deliberations and legislation build opportunities and give hope to every person who lives within the borders of our state. May this Senate's work be remembered for generations to come because it made a difference in all Texans' lives. May the men, women, boys, and girls of Texas be blessed by the work our Senators do this day. Watch over their families, give them peace, give them happiness. 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-AUTHORS OF SENATE BILL 24

On motion of Senator Zaffirini, Senators Ellis, Gallegos, and Van de Putte will be shown as Co-authors of **SB 24**.

CO-AUTHORS OF SENATE BILL 604

On motion of Senator Ellis, Senators Whitmire and Zaffirini will be shown as Co-authors of **SB 604**.

CO-AUTHORS OF SENATE BILL 859

On motion of Senator Ellis, Senators Deuell and Shapleigh will be shown as Co-authors of **SB 859**.

CO-AUTHOR OF SENATE BILL 1102

On motion of Senator Jackson, Senator Staples will be shown as Co-author of **SB 1102**.

CO-AUTHORS OF SENATE BILL 1845

On motion of Senator Deuell, Senators Barrientos, Brimer, Ellis, Estes, Gallegos, Harris, Hinojosa, Jackson, Lucio, Madla, Shapiro, Shapleigh, West, and Whitmire will be shown as Co-authors of **SB 1845**.

CO-SPONSOR OF HOUSE BILL 304

On motion of Senator Deuell, Senator Gallegos will be shown as Co-sponsor of **HB 304**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 20, 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 56, Relating to the offense of tampering with a direct recording electronic voting machine; providing criminal penalties.

HB 57, Relating to the dates on which elections may be held and certain procedures involving the uniform election held in May.

HB 311, Relating to the prosecution and punishment of the offense of making a false report to a peace officer or law enforcement employee.

HB 348, Relating to limiting the authority of a property owner to erect a gate on certain third-class and neighborhood roads.

HB 383, Relating to the right of certain persons to discipline a child.

HB 571, Relating to the establishment of auxiliary county facilities in the unincorporated area of a county.

HB 678, Relating to the accrual of interest on overdue child support.

HB 758, Relating to a pilot program allowing for countywide voting locations in certain elections.

- HB 856**, Relating to the general powers, authority, and directors of the West Harris County Regional Water Authority.
- HB 942**, Relating to the registration of antique boats with the Parks and Wildlife Department.
- HB 1015**, Relating to the continuation and functions of the Texas State Board of Examiners of Psychologists.
- HB 1088**, Relating to an automobile club membership offered in connection with a loan.
- HB 1155**, Relating to the continuation and functions of the Texas State Board of Examiners of Dietitians.
- HB 1215**, Relating to the degree programs offered by the University of Houston-Victoria.
- HB 1262**, Relating to the collection and dissemination by the Department of Public Safety of information relating to certain threats against detention officers.
- HB 1304**, Relating to sanitation requirements for certain barbering and cosmetology services.
- HB 1347**, Relating to the power of a local authority to enforce compliance with a traffic-control signal on a highway under its jurisdiction by a photographic traffic signal enforcement system.
- HB 1685**, Relating to the establishment of an interagency coordinating council for the prevention of child abuse and neglect.
- HB 2131**, Relating to the demonstration of financial assurance by a local government in relation to the operation of a municipal solid waste landfill facility.
- HB 2194**, Relating to the review of the results of competency examinations in criminal cases by the Texas Correctional Office on Offenders with Medical or Mental Impairments.
- HB 2199**, Relating to the salaries of a county elections administrator and the administrator's employees.
- HB 2274**, Relating to the continuation and functions of the Texas Guaranteed Student Loan Corporation.
- HB 2392**, Relating to the property tax situs and rendition requirements for motor vehicles located at a place of business of a wholesale motor vehicle auction.
- HB 2650**, Relating to local government participation in the financing of turnpike projects.
- HB 2653**, Relating to the use of tax increment financing to pay certain costs associated with certain transportation or transit projects.
- HB 3016**, Relating to the determination of the market value of certain drug supplies for ad valorem property tax purposes.

HB 3036, Relating to the number, terms, and removal of directors of certain development corporations.

HCR 146, Honoring Pope Benedict XVI on his election to the papacy.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate Prince James Nyondo of the Republic of Malawi, Africa, accompanied by Richard Gambitta, Chair, The University of Texas at San Antonio Department of Political Science and Geography.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Madla was recognized and introduced to the Senate a delegation of citizens from Eagle Pass.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate a group of students who are recipients of Tuition Equalization Grants.

The Senate welcomed its guests.

SENATE RESOLUTION 643

Senator Deuell offered the following resolution:

WHEREAS, Members of Leadership Sachse are visiting the State Capitol on April 19 and 20, 2005, to gain further insight into the workings of state government; and

WHEREAS, Sponsored by The Sachse Economic Development Corporation and the Sachse Chamber of Commerce, this exceptional program provides opportunities for participants to increase their knowledge of vital public issues and to visit with the leaders who are making decisions that affect their communities; and

WHEREAS, Classes inspire the spirit of activism and provide a diverse membership with personal leadership training, networking opportunities, and instruction from influential figures from both the public and private sectors; and

WHEREAS, Current members of this important enterprise include David Baskin, Guy Brown, Sigvard Haglund, Wil Large, Jeanie Marten, Susan Matlock, Matt Prestenberg, Dixie Scogin, Terri Shatter, Chuck Sprague, Tina Stelnicki, Brian Sweany, David Todd, Albert Vanderkroon, and Jason Worley; and

WHEREAS, Endeavoring to build a more informed and involved citizenry and to develop new leaders, Leadership Sachse is helping to build a brighter and more promising future for the Lone Star State; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby welcome Leadership Sachse to the State Capitol and extend to all participants sincere best wishes for continued success; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the group as an expression of high regard by the Texas Senate.

SR 643 was read and was adopted without objection.

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate members of Leadership Sachse.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate a group of students from the University of North Texas Health Science Center.

The Senate welcomed its guests.

MESSAGES FROM THE GOVERNOR

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

Austin, Texas
April 20, 2005

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

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

To be members of the Council on Sex Offender Treatment for terms to expire as indicated:

To Expire February 1, 2009:

Glenn Allen Kercher
Huntsville, Texas

(replacing Linda Robinson of Houston who resigned)

To Expire February 1, 2011:

Monica Hernandez
McAllen, Texas 78501

(replacing Kristy Carr of Austin whose term expired)

Aaron Paul Pierce
Belton, Texas

(replacing Richard Mack of Lubbock whose term expired)

To be a member of the Texas Polygraph Examiners Board for a term to expire June 18, 2009:

Andy Sheppard
Rowlett, Texas

(Mr. Sheppard is replacing Mr. Kelly Hendricks of Houston who resigned)

To be members of the Texas School Safety Center Board for terms to expire February 1, 2007:

Judge Marilea Whatley Lewis
Dallas, Texas

(replacing Judge Cheryl Shannon of Dallas whose term expired)

Eric J. Cederstrom
Lubbock, Texas

James Richard Pendell
Clint, Texas

(Mr. Cederstrom and Mr. Pendell are being reappointed)

Respectfully submitted,

/s/Rick Perry
Governor

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

PHYSICIAN OF THE DAY

Senator Ogden was recognized and presented Dr. Daniel Saylak of Bryan as the Physician of the Day.

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

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:

Inspector General, Office of Inspector General for the Health and Human Services Commission: Brian Glenn Flood, Travis County.

Members, Texas Juvenile Probation Commission: Bob Ed Culver, Jr., Hemphill County; Roberto I. Lopez, Harris County; Cheryl Lee Shannon, Dallas County.

Presiding Officer, Board of Pardons and Paroles: Rissie Owens, Walker County.

Members, Board of Pardons and Paroles: Jose L. Aliseda, Jr., Bee County; Charles Franklin Aycock, Parmer County; Jackie deNoyelles, Smith County; Linda Faye Garcia, Harris County; Juanita Maria Gonzalez, Williamson County; Elvis Hightower, Walker County.

Member, Evergreen Underground Water Conservation District Board of Directors: Darrell Travis Brownlow, Wilson County.

Members, Brazos River Authority Board of Directors: Roberto Bailon, Bell County; Mark J. Carrabba, Brazos County; Jacqueline Baly Chaumette, Fort Bend County; Wade Compton Gear, Palo Pinto County; Jere Lawrence, Nolan County; Billy Wayne Moore, Hood County.

Members, Trinity River Authority of Texas Board of Directors: Katrina Keyes, Dallas County; Andrew Martinez, Walker County; AnaLaura Saucedo, Dallas County; Kimberly Chris "K. C." Wyatt, Navarro 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.

SENATE BILL 280 WITH HOUSE AMENDMENT

Senator Gallegos called **SB 280** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 280** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill appropriately:

SECTION ____ . Section 396.001, Transportation Code, is amended to read as follows:

Sec. 396.001. DEFINITIONS. In this chapter:

(1) "Automotive wrecking and salvage yard" means an outdoor place where a person stores three or more wrecked vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in ~~an~~ automotive repair or rebuilding ~~business~~.

The amendment was read.

Senator Gallegos moved to concur in the House amendment to **SB 280**.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 20, 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 6, Relating to protective services; providing penalties.
(Committee Substitute/Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Janek was recognized and introduced to the Senate seventh-grade students from Saint Vincent de Paul Catholic Elementary School in Houston, accompanied by their teachers and principal.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The President at 11:43 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 767 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 767** at this time on its third reading and final passage:

CSSB 767, Relating to the appraisal for ad valorem tax purposes of certain land included in a habitat preserve and subject to a conservation easement.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 517 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 517** at this time on its second reading:

SB 517, Relating to studies or projects concerning coastal erosion that may be undertaken by the General Land Office in conjunction with qualified project partners.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 517** as follows:

(1) On page 1, lines 15-16, (committee printing), strike "Subsection (g)" between "adding" and "to", and insert "Subsections (g) and (h)".

(2) On page 1, line 47 (committee printing), strike the word "and" between the comma and "debris".

(3) On page 1, line 47 (committee printing), between "removal" and "from", insert ", and removal and relocation of structures".

(4) On page 1, line 62 (committee printing), insert new Subsection (h) to read as follows:

"(h) Notwithstanding Subsection (e), the commissioner may determine the percentage of the shared project cost a qualified project partner must pay for a project undertaken pursuant to Subsection (b)(11) for removal of debris or structures, or relocation of structures from the public beach; provided, however, that no money in the account may be used for a project undertaken pursuant to Subsection (b)(11) to purchase real property or reimburse a property owner for the purchase of real property."

The amendment to **SB 517** 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 Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 517 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 517 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 517** 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 517**, 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 517** 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 253 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 253** at this time on its second reading:

CSSB 253, Relating to the eligibility of juvenile justice alternative education programs for free textbooks for use in the programs.

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 253 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 253** 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 253**, 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 253** 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 1345 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1345** at this time on its second reading:

SB 1345, Relating to the amount of emergency leave granted by state agencies to state employees on unpaid military leave.

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 1345 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1345** 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 1345**, 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 1345** 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 1525 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 1525** at this time on its second reading:

CSSB 1525, Relating to safe patient handling and movement practices of nurses in hospitals and nursing homes.

The motion prevailed.

Senator Wentworth 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: Wentworth.

**COMMITTEE SUBSTITUTE
SENATE BILL 1525 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 1525** 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 1525**, 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 1525** 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. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 938 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 938** at this time on its second reading:

CSSB 938, Relating to the creation of a prison diversion pilot program.

The motion prevailed.

Senators Nelson and Wentworth 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 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, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Wentworth.

**COMMITTEE SUBSTITUTE
SENATE BILL 938 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 938** 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, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, 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 938**, 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 938** 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 29, Nays 2. (Same as previous roll call)

SENATE BILL 1298 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1298** at this time on its second reading:

SB 1298, Relating to restrictions on the transfer of a fuel tank to a metal recycling entity.

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 1298 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1298** 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 1298**, 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 1298** 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 729 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 729** at this time on its second reading:

SB 729, Relating to a weighted caseload study of the district courts.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 729** in SECTION 1 of the bill (committee printing, page 1, line 14) between "state" and the period by inserting the following:

for the purpose of making recommendations regarding the implementation of a systematic approach for analyzing the need for new district courts

The amendment to **SB 729** 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.

SB 729 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 815 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 815** at this time on its second reading:

SB 815, Relating to the long-range plan for the South Texas Health Care System and the provision of tuberculosis and other health care services in the Lower Rio Grande Valley.

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 815 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 **SB 815** 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 815**, 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 815** 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.

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 BILL 1201 REREFERRED

Senator Ellis submitted a Motion In Writing requesting that **SB 1201** be withdrawn from the Committee on State Affairs and rereferred to the Committee on Government Organization.

The Motion In Writing prevailed without objection.

SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate is meeting today.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Government Organization might meet and consider the following bills today:

SB 408, SB 409, SB 422, SB 1382, HB 773.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Criminal Justice might meet and consider **SB 881** 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 and resolutions today:

SB 433, SB 642, SB 1089, SB 1713, SCR 10, SCR 15, HB 364, HB 372, HB 747.

MOTION TO RECESS AND ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 12:26 p.m. agreed to recess, upon completion of the introduction of bills and resolutions on first reading, until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

The Senate further agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 11:00 a.m. tomorrow.

(Senator Whitmire in Chair)

SENATE BILLS ON FIRST READING

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

SB 1870 by Seliger

Relating to the board of directors of the Permian Basin Underground Water Conservation District; validating certain district actions and proceedings. (Local Bill)
To Committee on Natural Resources.

SB 1871 by Jackson

Relating to the creation of the Brazoria County Municipal Utility District No. 44; providing authority to impose a tax and issue bonds; granting the power of eminent domain. (Local Bill)
To Committee on Intergovernmental Relations.

SB 1872 by Armbrister

Relating to the addition of road district powers to the Fort Bend County Municipal Utility District No. 134. (Local Bill)
To Committee on Intergovernmental Relations.

SB 1873 by Armbrister

Relating to the creation of the Fort Bend County Municipal Utility District No. 167; providing authority to impose taxes and issue bonds; granting the power of eminent domain. (Local Bill)
To Committee on Intergovernmental Relations.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 649 by Staples, In memory of Joshua Alan "Joppie" Frazier of Palestine.

SR 650 by Staples, In memory of Marley Patrick "Moe" Styner.

Congratulatory Resolutions

SR 652 by Nelson, Recognizing the School of Public Health at the University of North Texas Health Science Center for its contributions to higher education.

SR 653 by Nelson, Recognizing John Avila, Jr., for his contributions to the City of Fort Worth and to the State of Texas.

SR 656 by West, Recognizing Rosie Sorrells on the occasion of her induction into the African American Educators Hall of Fame.

SR 657 by Lucio, Recognizing Paul S. Moxley for his contributions to the banking industry of Texas.

SR 658 by Lucio, Congratulating Frank N. Boggus for receiving the Salute to Dealers award from the Ford Motor Company.

SR 659 by Ellis, Recognizing John C. Brittain for his contributions to this state and nation.

Official Designation Resolution

SR 651 by Madla, Recognizing April 20, 2005, as Eagle Pass and Maverick County Day at the State Capitol.

RECESS

Pursuant to a previously adopted motion, the Senate at 12:31 p.m. recessed until 8:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

April 20, 2005

NATURAL RESOURCES — **CSSB 93**

STATE AFFAIRS — **SB 896, CSSB 1510**

GOVERNMENT ORGANIZATION — **HB 762, HB 67, HB 297, HB 423, SB 825, SB 982, SB 1081, SB 1250, SB 1341**

HEALTH AND HUMAN SERVICES — **SB 984, SB 1099, SB 1771, SB 1830**

FINANCE — **CSSB 18, CSSB 1655**

EDUCATION — **CSSB 39, CSSB 386, SB 1034, CSSB 1043**

BUSINESS AND COMMERCE — **CSSB 790, SB 957, SB 1246, SB 1255, CSSB 1331, SB 1464, SB 1471, SB 1472, CSSB 1626**

CRIMINAL JUSTICE — **SB 440**

STATE AFFAIRS — **CSSB 1319**

INTERGOVERNMENTAL RELATIONS — **SB 1238, SB 1587, SB 1621**

NATURAL RESOURCES — **SJR 3, SB 444, CSSB 785, CSSB 1045, CSSB 1064, CSSB 1354, SB 1603, CSSB 1674, CSSB 1740, SB 1831, HB 965, HB 1657**

SIGNED BY GOVERNOR

April 15, 2005

SB 88

