

# SEVENTIETH DAY

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MONDAY, MAY 16, 2005

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## PROCEEDINGS

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

Absent-excused: Lucio.

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

The Reverend Johnny Dammon, Fredonia Hill Baptist Church, Nacogdoches, offered the invocation as follows:

Our heavenly Father, we come humbly into Your presence this day, entering Your gates with thanksgiving and Your courts with praise. We know the Earth is the lord's and the fullness thereof. We know You have made us, and we know You have loved us, even with our flaws and failures, sorrows and sins, You have loved us. We know that every human institution is given for our good. We know that government is among Your gifts to us. And, so we take seriously now, on this day, our responsibility to pray for those in authority and to ask Your blessing on those who lead. Give to them guidance and direction and courage and compassion and a sense of Your leadership in their lives. Guide them as they lead us. This we ask, in Christ's name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Friday, May 13, 2005, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

## LEAVE OF ABSENCE

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

**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

May 16, 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 31**, Relating to state assessment of public school students in social studies in the fifth grade.

**HB 34**, Relating to erecting an off-premise sign adjacent to and visible from certain roads.

**HB 39**, Relating to outdoor burning of household refuse in certain counties; creating an offense.

**HB 65**, Relating to establishing a pilot program for Bexar County for the designation and enforcement of drug-free zones; providing penalties.

**HB 133**, Relating to the award of academic credit to a student at an institution of higher education for the completion of certain military training.

**HB 164**, Relating to the civil and criminal consequences of engaging in certain conduct related to the manufacture of methamphetamine and to the distribution and retail sales of pseudoephedrine; providing penalties.

**HB 273**, Relating to the regulation of certain alcoholic beverage retailers; providing an administrative penalty.

**HB 275**, Relating to the application fee for wine and beer retailer's permits and retail dealer's on-premise licenses.

**HB 363**, Relating to the declination of certain property and casualty insurance policies.

**HB 407**, Relating to coverage for school district employees under certain health benefit plans.

**HB 502**, Relating to prohibiting a person from offering to deliver or delivering, or offering to purchase or purchasing, a substance or device with the intent to falsify a drug test.

**HB 573**, Relating to collateral for deposits of public school funds.

**HB 580**, Relating to the authority of a county to provide hazardous materials services.

**HB 582**, Relating to the prosecution of the offense of taking or attempting to take a stun gun from a peace officer, parole officer, or community supervision and corrections department officer.

**HB 602**, Relating to the designation of a weight enforcement officer by a commissioners court in certain counties.

**HB 609**, Relating to tuition rebate incentives for persons who complete certain degree and certificate programs without excessive credit hours.

**HB 615**, Relating to a defendant's right to appear by counsel in certain misdemeanor cases.

**HB 637**, Relating to authorizing an extension of credit secured by a residence homestead in which a minor or ward has an ownership interest.

**HB 677**, Relating to emergency services for sexual assault survivors.

**HB 776**, Relating to the Wharton County Junior College District service area.

**HB 781**, Relating to the suspension of sentence and deferral of final disposition for a violation of certain state laws or local ordinances committed by a holder of a commercial driver's license.

**HB 873**, Relating to regulation by a property owners' association of certain displays on property in a residential subdivision.

**HB 908**, Relating to the use of the reverse auction procedure by the Texas Building and Procurement Commission and other state agencies.

**HB 986**, Relating to information contained on a driver's license or personal identification certificate issued to a health care practitioner.

**HB 1030**, Relating to availability of preferred providers.

**HB 1053**, Relating to the location of certain municipal solid waste landfills.

**HB 1075**, Relating to the application of the offense of criminal trespass to certain law enforcement officers.

**HB 1092**, Relating to the authority of certain counties to remove property from county roads.

**HB 1102**, Relating to certain student fees at Tarleton State University.

**HB 1106**, Relating to the repeal of the Public School Facilities Funding Act.

**HB 1173**, Relating to the regulation of the use of postsecondary credits and degrees, persons offering or granting certain postsecondary credits and degrees, and the manner of offering or granting those credits and degrees; providing criminal penalties.

**HB 1203**, Relating to the establishment of a tow truck rotation list in certain counties; providing a penalty.

**HB 1207**, Relating to the deadline for filing a petition to exclude land from a water district with outstanding bonds for failure to provide sufficient services.

**HB 1220**, Relating to the appointment of mental health masters.

**HB 1234**, Relating to the appointment of substitute trustees in certain foreclosures.

**HB 1252**, Relating to providing services for persons with chronic kidney disease under the medical assistance program.

**HB 1294**, Relating to permissive interlocutory appeals in civil actions.

**HB 1342**, Relating to the imposition of the sales and use tax on certain sales made by individuals.

**HB 1399**, Relating to notice of a landlord's motor vehicle towing or parking rules and policies and to liability arising from certain actions of a towing service; providing a civil penalty.

**HB 1404**, Relating to the fees collected by a county clerk for certain filings in pending probate actions.

**HB 1414**, Relating to the acceptance and counting of certain ballots voted by mail.

**HB 1434**, Relating to the continuation and functions of the Texas Lottery Commission.

**HB 1449**, Relating to suits affecting the parent-child relationship, including proceedings for the establishment, modification, and enforcement of child support; providing a civil penalty.

**HB 1472**, Relating to the creation of a management trust by a probate court.

**HB 1474**, Relating to certain information contained in records about members, retirees, annuitants, or beneficiaries of the Texas County and District Retirement System.

**HB 1475**, Relating to repealing certain authority regarding taxation and financing by the Chambers County Public Hospital District No. 1.

**HB 1481**, Relating to the offense of disobeying certain motor vehicle traffic warning devices.

**HB 1485**, Relating to health benefit plan coverage for screening tests for human papillomavirus and cervical cancer.

**HB 1502**, Relating to payment for medical assistance provided to an individual who is dually eligible for Medicaid and Medicare.

**HB 1516**, Relating to the Department of Information Resources' management of state electronic services.

**HB 1570**, Relating to certain health benefit plans.

**HB 1574**, Relating to the offense of fraudulent use or possession of a person's identifying information.

**HB 1580**, Relating to the period for preserving precinct election records.

**HB 1583**, Relating to the authority of an emergency services district to obtain information to determine whether the district's 9-1-1 emergency service fee is correctly billed, collected, and remitted.

- HB 1632**, Relating to the powers of a property owners' association relating to restrictive covenants in certain subdivisions.
- HB 1636**, Relating to residency in relation to a license or permit or certain hunting and catching restrictions of the Parks and Wildlife Department; providing a penalty.
- HB 1648**, Relating to the expansion of the boundaries of the Wood County Central Hospital District of Wood County.
- HB 1655**, Relating to funding for the Texas statewide emergency services personnel retirement fund.
- HB 1664**, Relating to the reporting of political contributions and expenditures by certain political committees.
- HB 1719**, Relating to point-of-sale health warnings for tobacco products.
- HB 1740**, Relating to authorizing the City of Aransas Pass to acquire certain state property.
- HB 1744**, Relating to the operation of the Fair Access to Insurance Requirements (FAIR) Plan Association.
- HB 1748**, Relating to African American studies programs and course work at certain public junior colleges.
- HB 1772**, Relating to permitting a general-law municipality to annex land in certain circumstances.
- HB 1775**, Relating to the meaning of certain terms used in a specified disease insurance policy.
- HB 1791**, Relating to application of the hazing statutes to private institutions of higher education; providing penalties.
- HB 1822**, Relating to an offense of passing or avoiding a weigh station by certain vehicle operators.
- HB 1829**, Relating to authorizing certain institutions of higher education to charge fees for processing or handling certain payments or payment transactions.
- HB 1851**, Relating to erecting an off-premise sign adjacent to and visible from certain roads.
- HB 1859**, Relating to a court's continuing jurisdiction to handle the disposition of a felony case.
- HB 1885**, Relating to requiring the Texas Department of Transportation to place a sign on the approach to each toll booth on certain turnpikes that describes the improvements the department has made or proposes to make using revenue collected for use of the turnpike.
- HB 1890**, Relating to the operation and funding of the Texas Windstorm Insurance Association, including funding of coverage for certain catastrophic events through the establishment of a revenue bond program.

**HB 1891**, Relating to certain insurers subject to the Texas Windstorm Insurance Association.

**HB 1892**, Relating to excluding certain challenge courses from regulation as amusement rides.

**HB 1896**, Relating to the application of laws awarding credit to an inmate for time between release on and subsequent revocation of parole, mandatory supervision, or conditional pardon.

**HB 1928**, Relating to the reimbursement of medical expenses incurred by county jailers and detention officers exposed to certain contagious diseases.

**HB 2023**, Relating to funding for the continuing education of certain peace officers.

**HB 2064**, Relating to private club alcoholic beverage permits issued to a fraternal or veterans organization.

**HB 2065**, Relating to operation of the holder of a private club registration permit under the Alcoholic Beverage Code.

**HB 2101**, Relating to heirloom birth certificates.

**HB 2109**, Relating to the Early High School Graduation Scholarship program.

**HB 2140**, Relating to the provision of notice to affected political subdivisions regarding the proposed construction of a reservoir.

**HB 2144**, Relating to veteran's employment preferences.

**HB 2157**, Relating to the receivership of insurers in this state; providing penalties.

**HB 2162**, Relating to hospital and clinic fees collected by certain public medical schools.

**HB 2163**, Relating to the use by an active peace officer of the officer's rank or status to advertise or promote certain private businesses.

**HB 2177**, Relating to the administration of certain traffic safety grants.

**HB 2180**, Relating to donees of anatomical gifts.

**HB 2193**, Relating to the operation of a system of community supervision.

**HB 2221**, Relating to the territory of a public junior college district and to the provision of services by a junior college district to students residing outside the district.

**HB 2235**, Relating to the merger of emergency services districts.

**HB 2249**, Relating to the reporting of loans made for political campaign or officeholder purposes.

**HB 2254**, Relating to reducing the penalty for a failure by a disabled or elderly person to make a timely installment payment of ad valorem taxes imposed on the person's residence homestead.

**HB 2300**, Relating to the authority of metropolitan rapid transit authorities to enter into comprehensive development agreements.

- HB 2309**, Relating to certain election processes and procedures.
- HB 2329**, Relating to authorizing the issuance of revenue bonds or other obligations to fund capital projects at public institutions of higher education.
- HB 2371**, Relating to the use of acupuncturists as health care providers under certain health benefit plans.
- HB 2388**, Relating to insurance fraud reporting requirements.
- HB 2402**, Relating to erecting an off-premise sign adjacent to and visible from certain roads.
- HB 2421**, Relating to the use of an employer assessment to fund the skills development program and authorizing the Texas Workforce Commission to develop new job incentive programs.
- HB 2437**, Relating to rate regulation of certain insurers writing personal automobile insurance.
- HB 2471**, Relating to authorizing the Department of State Health Services to issue a single license for multiple hospitals.
- HB 2496**, Relating to the publication of the notice of a public hearing on a proposed conversion of a nontoll state highway or highway segment to a turnpike project or toll facility.
- HB 2551**, Relating to the subrogation interests of certain political subdivisions or carriers providing reinsurance for subdivisions.
- HB 2593**, Relating to the TexasOnline project, the TexasOnline Authority, and related powers and fees.
- HB 2596**, Relating to excusing a member of the legislature from being compelled to testify or give a deposition in a civil suit, including a condemnation proceeding, or in contested administrative case when the legislature is in session.
- HB 2618**, Relating to county expenditures for certain health care services.
- HB 2640**, Relating to municipal civil service coverage for certain employees of a fire department.
- HB 2651**, Relating to the regulation of subsurface area drip dispersal systems by the Texas Commission on Environmental Quality.
- HB 2701**, Relating to higher education authorities.
- HB 2750**, Relating to certain identifying information provided in connection with a decedent's estate or guardianship.
- HB 2765**, Relating to the definition of a legally authorized representative under the Texas Hospital Licensing Law.
- HB 2769**, Relating to the presentation of state flags to survivors of certain deceased honorably retired peace officers.

**HB 2791**, Relating to the use of substance abuse treatment facilities and other community corrections facilities for individuals referred for treatment as part of a drug court or similar program.

**HB 2793**, Relating to the removal and collection of convenience switches from motor vehicles; providing penalties.

**HB 2810**, Relating to certain inquiries relating to an applicant for individual health benefit plan coverage.

**HB 2863**, Relating to certification of compliance with requirements for sales of certain items to metal recycling entities.

**HB 2901**, Relating to a deer breeder's permit.

**HB 2956**, Relating to filing requirements for certain candidates for the board of trustees of a junior college district.

**HB 2957**, Relating to an exemption from the competitive bidding requirement for certain purchases by an emergency services district.

**HB 2965**, Relating to insurance premium finance agreements.

**HB 2999**, Relating to contracts between hospitals and preferred provider benefit plan issuers.

**HB 3012**, Relating to the investment capital fund for public education.

**HB 3024**, Relating to the sale of fish collected from certain private property.

**HB 3045**, Relating to the juvenile boards of Grimes, Leon, Madison, and Walker Counties.

**HB 3073**, Relating to certain disclosure requirements regarding inspections of fire extinguishers.

**HB 3098**, Relating to the composition of the Rockwall County Juvenile Board.

**HB 3112**, Relating to the security of computer networks in state government.

**HB 3122**, Relating to prohibiting the sale or possession of a device that vaporizes alcoholic beverages for the purpose of inhalation; providing criminal penalties.

**HB 3140**, Relating to exemption of certain electronic access control device or alarm system manufacturers or providers from private security regulation.

**HB 3152**, Relating to procedures applicable to waivers of the right to counsel.

**HB 3169**, Relating to purchase of equivalent membership service credit in the Teacher Retirement System of Texas.

**HB 3207**, Relating to increasing the penalties for certain criminal offenses involving an election.

**HB 3208**, Relating to the investigation of certain criminal conduct in election matters.

**HB 3221**, Relating to the records of certain vehicle repairs, sales, and purchases; providing penalties.



- HB 3271**, Relating to the provision of dental care benefits in certain health benefit plans.
- HB 3284**, Relating to requiring voter approval for certain rate increases by water and sewer utilities.
- HB 3299**, Relating to certain fees paid by authorized insurers.
- HB 3300**, Relating to reinstatement of a personal automobile insurance policy.
- HB 3302**, Relating to the membership and powers and duties of the Texas Military Preparedness Commission.
- HB 3357**, Relating to certain information required to be contained in an application for or renewal of a hospital license.
- HB 3409**, Relating to the application of the municipal civil service law for firefighters and police officers to certain municipalities.
- HB 3410**, Relating to immunity from liability for certain civil actions and civil actions against a sales agent licensed by the Texas Lottery Commission.
- HB 3423**, Relating to the creation of the Victoria County Groundwater Conservation District; providing authority to impose a tax and issue bonds; abolishing the Crossroads Groundwater Conservation District.
- HB 3425**, Relating to the use of certain exhibition vehicles.
- HB 3426**, Relating to the establishment of a binational alcohol and substance abuse task force.
- HB 3428**, Relating to financial institution accounts.
- HB 3441**, Relating to the exchange of benches between justices of the peace.
- HB 3477**, Relating to the creation of the Central Texas Groundwater Conservation District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- HB 3478**, Relating to the exemption of certain municipalities, utilities, and consumers from fees or taxes imposed by the Trinity Glen Rose Groundwater Conservation District.
- HB 3479**, Relating to the South Buda Water Control and Improvement District No. 1.
- HB 3486**, Relating to the Nocona Hospital District.
- HB 3487**, Relating to the creation of the Schertz Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- HB 3497**, Relating to the creation of the Sonterra Municipal Utility District; providing authority to impose a tax and issue bonds.
- HB 3508**, Relating to the method of electing directors of the Lake Cities Municipal Utility Authority.
- HB 3513**, Relating to the creation of the Corpus Christi Aquifer Storage and Recovery Conservation District.

- HB 3515**, Relating to the composition of the Comal County Juvenile Board.
- HB 3516**, Relating to the creation of the Harris County Improvement District No. 8; providing authority to impose a tax and issue bonds.
- HB 3517**, Relating to the creation of the Harris County Improvement District No. 7; providing authority to impose a tax and issue bonds.
- HB 3518**, Relating to the creation of the Harris County Improvement District No. 6; providing authority to impose a tax and issue bonds.
- HB 3520**, Relating to the distribution of assessments charged by Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1.
- HB 3524**, Relating to the creation of the Williamson County Municipal Utility District No. 19; providing authority to impose a tax and issue bonds.
- HB 3525**, Relating to the creation, administration, powers, duties, functions, operations, and financing of the Parker County Special Utility District; providing authority to issue bonds.
- HB 3526**, Relating to the creation of the Greater Sharpstown Management District; providing authority to impose a tax and issue a bond or similar obligation.
- HB 3527**, Relating to the ability of certain water supply or sewer service corporations to dissolve and transfer assets to a municipality.
- HB 3533**, Relating to the powers and duties of the Karnes County Hospital District.
- HB 3537**, Relating to the board of directors of the Palo Pinto County Hospital District.
- HB 3542**, Relating to the composition of the juvenile board of Fayette County.
- HB 3543**, Relating to the appointment of the superintendent of juvenile detention facilities in Wichita County.
- HB 3550**, Relating to the powers and duties of the Aldine Improvement District; providing authority to impose a tax and issue bonds.
- HB 3560**, Relating to the boundaries and organization of the Spring Branch Area Management District.
- HB 3563**, Relating to the use of anabolic steroids by public school students.
- HCR 34**, Designating San Felipe as the Colonial Capital of Texas.
- HCR 96**, Declaring legislative support for the continued expansion of Texas' energy generation capacity and its leading role in energy generation through the development of liquefied natural gas receiving terminals in the state.
- HCR 98**, Designating pan de campo the Official State Bread of Texas.
- HCR 105**, Designating Buda as the official Outdoor Capital of Texas.
- HCR 108**, Designating the Blue Lacy as the official State Dog Breed of Texas.
- HCR 111**, Honoring the silver anniversary of the East Texas Oil Museum in Kilgore and the diamond anniversary of the discovery of the East Texas Oil Field.

**HCR 115**, Designating June as Texas Picnic Month.

**HCR 117**, Designating Elissa the official tall ship of Texas.

**HCR 131**, Honoring the Friends of Monahans Sandhills State Park for its efforts to promote and sustain this important geological treasure throughout the past half-century.

**HCR 138**, Memorializing Congress and the Department of Veterans Affairs to support the veterans of South Texas by building a veterans hospital in Weslaco, Texas.

**HCR 143**, Encouraging managers of Texas public pension funds to divest their portfolios of any stock in publicly-traded companies doing business in Sudan.

**HCR 153**, Requesting the Texas Legislative Council to schedule a revision of the Family Code during the 2005-2006 interim.

**HCR 155**, Requesting the Texas Commission on Environmental Quality develop rules to permit and manage dairy-based food production activities.

**HCR 159**, Welcoming the World Congress on Information Technology to Austin in May 2006.

**SB 122**, Relating to the prevention and punishment of identity theft and the rights of certain victims of identity theft; providing penalties.  
(Amended)

**SB 624**, Relating to the regulation of bail bond sureties.  
(Committee Substitute/Amended)

**SB 1027**, Relating to the authority of the board of directors of the Maverick County Hospital District to employ health care providers.

**SB 1537**, Relating to the administration, powers, duties, and operation of the Harris-Galveston Subsidence District and the Fort Bend Subsidence District.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 87** (141 Yeas, 0 Nays)

**HB 937** (Non-record vote)

**HB 1285** (145 Yeas, 0 Nays)

**HB 2814** (141 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 2** (non-record vote)

House Conferees: Grusendorf - Chair/Branch/Delisi/Eissler/Keffer, Bill

**HB 304** (non-record vote)

House Conferees: Talton - Chair/Bailey/Blake/Menendez/Reyna

**HB 1239** (non-record vote)

House Conferees: Hodge - Chair/Anchia/Hupp/Keel/McClendon

**HB 1503** (non-record vote)

House Conferees: Davis, John - Chair/Griggs/Paxton/Quintanilla/Uresti

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

**HB 3**

House has refused to concur in Senate amendments by non-record vote and has requested the appointment of a conference committee.

House Conferees appointed with instructions: Keffer, Jim - Chair / Chisum / Geren / Otto / Swinford

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**BILLS AND RESOLUTION SIGNED**

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

**SB 466, SB 602, SB 929, SB 1199, SB 1253, SB 1302, SB 1436, SB 1754, SCR 33.**

**PHYSICIAN OF THE DAY**

Senator Nelson was recognized and presented Dr. Erica Swegler of Keller as the Physician of the Day.

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

**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.

**SENATE RESOLUTION 895**

Senator Shapiro offered the following resolution:

WHEREAS, Dallas-based Texas Instruments, Incorporated, is celebrating its 75th anniversary on May 16, 2005, and this memorable occasion provides a fitting opportunity to take note of this technology innovator and the generations of Texans who have contributed to the company's success; and

WHEREAS, Since its inception, TI has been a leading developer of technologies that have affected the world and has pioneered improvements in reflection seismology, defense and space electronic systems, integrated circuits, digital signal processing, and analog technologies; and

WHEREAS, In addition to its impressive technological and business success, TI has consistently established the highest standards for corporate engagement in behalf of the community; the company and its employees are committed to education and diversity initiatives, and TI has donated more than \$89 million in the last 10 years to

philanthropic organizations across the state and the nation; in addition, the company's founders, Erik Jonsson, Eugene McDermott, Cecil Green, and Patrick Haggerty and their families have a legacy of charitable giving that has benefited civic, educational, and human service entities around the world; and

WHEREAS, In 1989, TI began a formal program to identify and develop minority-owned and women-owned business enterprises as suppliers and has spent more than \$2 billion with these firms; and

WHEREAS, Texas Instruments has received numerous awards and honors for its business practices; it has been named one of the best companies for working mothers by *Working Mother* magazine and one of "America's most admired companies" by *Fortune* magazine, and it has also won two Emmy Awards for its digital light processing technology; and

WHEREAS, In October 2004, Texas Instruments rededicated itself to the future of the state by breaking ground on a new \$3 billion semiconductor manufacturing plant in Richardson; and

WHEREAS, The company has revolutionized the way people use technology in their daily lives and secured a position for the American semiconductor industry in the global marketplace, and it is truly deserving of special recognition and praise; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby congratulate Texas Instruments, Incorporated, on the occasion of its 75th anniversary and extend to all those associated with the company sincere best wishes for continued success and achievement; and, be it further

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

**SR 895** was read and was adopted without objection.

#### **GUEST PRESENTED**

Senator Shapiro was recognized and introduced to the Senate Gray Mayes, Director of Governmental and Community Affairs, representing Texas Instruments on the occasion of its 75th anniversary.

The Senate welcomed its guest.

#### **SENATE RESOLUTION 898**

Senator Seliger, on behalf of Senator Averitt, offered the following resolution:

WHEREAS, The Brazos Higher Education Authority, Inc., is celebrating its 30th anniversary on May 16, 2005; and

WHEREAS, Established three decades ago in Waco, the organization began with the goal of helping area residents obtain affordable student loans; since that time, the Brazos Higher Education Authority has become the largest not-for-profit holder of FFELP loans in the country and is ranked sixth nationwide among all FFELP loan holders; and

WHEREAS, In 1980, the Brazos Higher Education Service Corporation, Inc., was established by Murray Watson, Jr., to support the education-financing efforts of the authority; in October of that same year, the authority issued its first bond issue debt in the amount of \$6 million; and

WHEREAS, Today, Brazos is also committed to supporting the communities it serves in other ways; affirming the philosophy that "youth are our future leaders," the Brazos Group of companies has contributed to more than 40 charitable projects focused on children and educational opportunities and donated scholarship money to a number of institutions of higher education; and

WHEREAS, For 30 years, the Brazos Higher Education Authority has enabled countless young people to successfully pursue their dreams of a brighter future, and for its efforts, the organization is truly deserving of special praise; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby honor the Brazos Higher Education Authority, Inc., on its 30th anniversary and extend sincere best wishes for continued success to all those associated with this notable organization; and, be it further

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

**SR 898** was read and was adopted without objection.

### GUEST PRESENTED

Senator Seliger, on behalf of Senator Averitt, was recognized and introduced to the Senate Murray Watson, Jr., representing the Brazos Higher Education Authority, Incorporated, on the occasion of its 30th anniversary.

The Senate welcomed its guest.

### SENATE BILL 15 WITH HOUSE AMENDMENT

Senator Janek called **SB 15** 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 **CSSB 15** (House committee printing) as follows:

(1) On page 10, line 18, strike "or 90.004" and substitute ". 90.004, or 90.010(f)(1)".

(2) On page 11, line 17, strike "performed" and substitute "interpreted".

(3) On page 13, line 8, between "1/0" and the comma, insert "or higher".

(4) On page 13, line 23, strike "of predicted".

(5) On page 14, line 10, strike "x-ray examinations" and substitute "diagnostic imaging of the chest".

(6) On page 14, lines 25 and 26, strike "are not on inactive status" and substitute "were not on inactive status at the time the report was made".

(7) On page 15, line 21, strike "x-ray examinations" and substitute "diagnostic imaging of the chest".

(8) On page 15, line 27, strike "are not on inactive status" and substitute "were not on inactive status at the time the report was made".

(9) On page 16, line 15, strike "of predicted".

(10) On page 17, line 5, strike "x-ray examinations" and substitute "diagnostic imaging of the chest".

(11) On page 19, lines 13 and 14, strike "(5th ed. 2000)".

(12) On page 21, lines 1 and 2, strike "Except as provided by Subsections (b) and (c), in" and substitute "In".

(13) On page 21, lines 21 and 22, strike "Except as provided by Section 90.010(d)" and substitute "In an action filed on or after the date this chapter becomes law".

(14) On page 22, line 16, strike "If" and substitute "Except as provided by Section 90.010(d) or (e), if".

(15) On page 23, line 17, between "(1)" and "trial", insert "the action was filed before September 1, 2003, and".

(16) On page 25, strike lines 11 through 17 and substitute the following:

(2)(A) the claimant does not serve a report that complies with Section 90.003 or 90.004;

(B) the claimant serves a report complying with Subsection (f)(1); and

(C) the court, on motion and hearing, makes the findings required by Subsection (f)(2).

(17) On page 26, line 2, between "(d)" and "or", insert "(2)".

(18) On page 30, line 2, between "90.003" and the period, insert "or 90.010(f)".

(19) On page 30, line 9, between "90.004" and the period, insert "or 90.010(f)".

(20) On page 35, line 3, strike "or pending".

(21) On page 36, line 17, between "all" and "provisions", insert "of those".

The amendment was read.

Senator Janek moved to concur in the House amendment to **SB 15**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

### **SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)**

On motion of Senator Brimer and by unanimous consent, Senate Rule 11.13 was suspended to grant the conference committee on **SB 1** permission to meet while the Senate is meeting today.

### **SENATE BILL 846 WITH HOUSE AMENDMENT**

Senator Janek called **SB 846** 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.

#### **Amendment**

Amend **SB 846** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to distribution of recordings on consignment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2101.002, Occupations Code, is amended by amending Subdivision (1) and adding Subdivisions (6) and (7) to read as follows:

(1) "Art" means a commonly recognized art form, including a painting, sound recording of a musical performance, sculpture, drawing, work of graphic art, pottery, weaving, batik, macrame, or quilt.

(6) "Recording distributor" means a person who acquires a sound recording and sells the sound recording to another person for use or resale.

(7) "Sound recording" means a tangible medium on which music or other sounds are recorded or otherwise stored, including a phonograph record, disc, tape, cassette, or other medium now existing or developed later on which music or other sounds are or can be recorded or otherwise stored or a copy or reproduction that duplicates in whole or in part the original. The term does not include a medium on which the primary recorded information is information other than music or other sound, such as a motion picture or computer program, and that contains recorded sound as an integrated part of the primary recorded information.

SECTION 2. Chapter 2101, Occupations Code, is amended by adding Section 2101.004 to read as follows:

Sec. 2101.004. CONSIGNED SOUND RECORDINGS EXEMPT FROM CERTAIN LIENS OR CLAIMS. (a) Notwithstanding any provision of the Business & Commerce Code, a sound recording delivered by the artist who produced the music or other sound on the recording to a recording distributor for sale and the proceeds from the recording distributor's sale of the sound recording are not subject to a claim, lien, or security interest of a creditor of the recording distributor.

(b) Except as provided by Subsection (c), this section applies to the proceeds of a sale of a sound recording regardless of whether the recording distributor or another person purchased the recording.

(c) This section does not apply to the proceeds of a sale of a sound recording if the artist delivered the recording to the recording distributor pursuant to a sale for which the artist has been paid in full.

SECTION 3. Section 9.102(a)(20), Business & Commerce Code, is amended to read as follows:

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery;

(D) the transaction does not create a security interest that secures an obligation; and

(E) the transaction does not involve delivery of a work of art to an art dealer or delivery of a sound recording to a distributor if, ~~as provided by~~ Chapter 2101, Occupations Code, applies to the delivery.



SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Janek moved to concur in the House amendment to **SB 846**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

### **BILLS SIGNED**

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

**HB 18, HB 22, HB 74, HB 230, HB 256, HB 263, HB 330, HB 503, HB 532, HB 564, HB 604, HB 685, HB 736, HB 737, HB 738, HB 739, HB 740, HB 741, HB 742, HB 743, HB 744, HB 964, HB 1015.**

### **GUESTS PRESENTED**

Senator Van de Putte was recognized and introduced to the Senate members of the Mariachi Group of Irving Middle School in San Antonio, accompanied by their teacher, Roland San Miguel; band director, Rick Flores; principal, Anita Chavera; and members of the Irving Middle School Band.

The Senate welcomed its guests.

### **CONCLUSION OF MORNING CALL**

The President at 11:39 a.m. announced the conclusion of morning call.

### **COMMITTEE SUBSTITUTE HOUSE BILL 976 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSHB 976** at this time on its second reading:

**CSHB 976**, Relating to allowing the Texas Building and Procurement Commission to deliberate in a closed meeting regarding business and financial considerations of a contract being negotiated.

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

Nays: Barrientos.

Absent-excused: Lucio.

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

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

Nays: Barrientos.

Absent-excused: Lucio.

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
HOUSE BILL 976 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 976** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 18, Nays 12. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Averitt, Carona, Duncan, Eltife, Estes, Fraser, Hinojosa, Janek, Lindsay, Nelson, Ogden, Shapiro, Staples, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Brimer, Deuell, Ellis, Gallegos, Harris, Jackson, Madla, Seliger, Shapleigh, Van de Putte, West.

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1891 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1891** at this time on its second reading:

**CSSB 1891**, Relating to the creation of the La Salle Water Control and Improvement District No. 1; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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

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

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1891 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 1891** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**BILLS AND RESOLUTIONS SIGNED**

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

**HB 1076, HB 1139, HB 1155, HB 1190, HB 1328, HB 1602, HB 1677, HB 1752, HB 2131, HB 2377, HB 2379, HB 2453, HB 2475, HB 2555, HB 2949, HB 3240, HB 3340, HCR 2, HCR 24, HCR 37, HCR 59, HCR 128.**

**(Senator Armbrister in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 1730 ON SECOND READING**

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1730** at this time on its second reading:

**CSSB 1730**, Relating to the use of ad valorem taxes by a municipality or county for a sports and community venue project.

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

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

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1730 ON THIRD READING**

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1730** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 2202 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2202** at this time on its second reading:

**HB 2202**, Relating to prohibited conflicts of interest of registered lobbyists.

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

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

Absent-excused: Lucio.

**HOUSE BILL 2202 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2202** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1857 ON SECOND READING**

Senator Madla moved to suspend the regular order of business to take up for consideration **CSSB 1857** at this time on its second reading:

**CSSB 1857**, Relating to the consolidation of the Kinney County Groundwater Conservation District into the Edwards Aquifer Authority.

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 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: Zaffirini.

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1857 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1857** be placed on its third reading and final passage.

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

Nays: Zaffirini.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1704 ON THIRD READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 1704** at this time on its third reading and final passage:

**CSSB 1704**, Relating to jury service.

The motion prevailed.

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

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1.

Nays: Staples.

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1735 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1735** at this time on its second reading:

**CSSB 1735**, Relating to benefits and rights for certain members of the Texas National Guard and armed forces of the United States.

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

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

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1735 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1735** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1548 ON SECOND READING**

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSSB 1548** at this time on its second reading:

**CSSB 1548**, Relating to hydrogen-fueled vehicles and refueling stations.

The motion prevailed.

Senator Williams 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: Williams.

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1548 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 **CSSB 1548** be placed on its third reading and final passage.

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

Nays: Williams.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1020 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1020** at this time on its second reading:

**CSSB 1020**, Relating to the exemption from ad valorem taxation of certain property used by a charitable organization operating a radio station that is funded through donations.

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

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

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1020 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1020** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
May 16, 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 5**, Relating to the continuation and operation of the workers' compensation system of this state and to the abolition of the Texas Workers' Compensation Commission, the establishment of the office of injured employee counsel, and the transfer of the powers and duties of the Texas Workers' Compensation Commission to the Texas Department of Insurance and the office of injured employee counsel; providing administrative violations.  
(Committee Substitute)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### SENATE BILL 1103 WITH HOUSE AMENDMENT

Senator Eltife called **SB 1103** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Armbrister in Chair, laid the bill and the House amendment before the Senate.

#### Amendment

Amend **SB 1103** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the powers and duties of the General Land Office and the disposition of certain unsurveyed public school land.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 51, Natural Resources Code, is amended to read as follows:

#### SUBCHAPTER E. SALE AND LEASE OF VACANCIES

Sec. 51.171. PURPOSE; APPLICATION OF OTHER LAW. (a) This subchapter controls the purchase and lease of vacant land and the authority of the commissioner and the board to:

- (1) determine whether a vacancy exists; and
- (2) sell and lease vacant land.

(b) To the extent a provision of this subchapter conflicts with another law relating to vacant land or Chapter 2001, Government Code, this subchapter controls.

~~[(c) Chapter 2001, Government Code, does not apply to a proceeding under this subchapter.]~~

Sec. 51.172. DEFINITIONS. In this subchapter:

(1) "Administratively complete" means a vacancy application that complies with Section 51.176 and any rule adopted by the commissioner regarding the filing of a vacancy application.

(1-a) "Applicant" means any person, including a good-faith claimant, who files a vacancy [an] application [to purchase or lease a vacancy].

(1-b) "Application commencement date" means:

(A) the date, as designated in the commissioner's notice to the applicant required by Section 51.177(b); or

(B) the date, as designated in the commissioner's notice to the applicant required by Section 51.177(d), indicating that any deficiency in the vacancy application has been resolved.

(2) "Good-faith claimant" means a person who, on the application commencement date:

(A) occupies or uses or has previously occupied or used, or whose predecessors in interest in the land claimed to be vacant have occupied or used, the land or any interest in the land [~~a vacancy~~] for any purposes, including occupying or using:

(i) the surface or mineral estate for any purposes, including [~~other than~~] exploring for or removing oil, gas, sulphur, or other minerals and geothermal resources from the land;

(ii) an easement or right-of-way; or

(iii) a mineral royalty or leasehold interest; [~~vacancy; and~~]

(B) has had, or whose predecessors in interest have had, the land claimed to be vacant [~~vacancy~~] enclosed or within definite boundaries recognized in the community and in possession under a chain of title for a period of at least 10 years with a good-faith belief that the land [~~vacancy~~] was included within the boundaries of a survey or surveys that were previously titled, awarded, or sold under circumstances that would have vested title in the land [~~vacancy~~] if the land [~~vacancy~~] were actually located within the boundaries of the survey or surveys;

(C) is the owner of land:

(i) that adjoins the land claimed to be vacant; and

(ii) for which no vacancy application has been previously filed; or

(D) holds title under a person described by Paragraph (A), (B), or (C) or is entitled to a distributive share of a title acquired under an application filed by a person described by Paragraph (A), (B), or (C).

(3) "Interest" means any right or title in or to real property, including a surface, subsurface, or mineral estate. "Interest" includes a right or title described as follows:

(A) a fee simple title;

(B) a determinable fee or other leasehold or mineral interest created under a conveyance instrument, including a mineral lease;

(C) a mineral royalty, nonparticipating royalty, or overriding royalty interest described by Section 51.194(c);

(D) a life estate;

(E) a remainder or reversionary interest; or

(F) a secured interest under a lien [~~"Interested person" means a person, excluding a good faith claimant or an applicant, who has a present legal interest in the surface or mineral estate of the land claimed to be vacant~~].

(4) "Necessary party" means:

(A) an applicant or [~~interested person, and~~] good-faith claimant whose present legal interest in the surface or mineral estate of the land claimed to be vacant may be adversely affected by a vacancy determination;



(B) a person who asserts a right to or who claims an interest in land claimed to be vacant;

(C) a person who asserts a right to or who claims an interest in land claimed to be vacant or in land adjoining land claimed to be vacant as shown in the records of the land office or the county records, including tax records, of any county in which all or part of the land claimed to be vacant is located;

(D) a person whose name appears in the records described by Paragraph (C); or

(E) an attorney ad litem appointed under Section 51.180.

(5) "Survey report" means a written report of a survey conducted by a licensed state land surveyor or a county surveyor of the county in which a majority of the land claimed to be vacant is located.

(6) "Vacancy" means an area of unsurveyed public school land that:

(A) is not in conflict on the ground with land previously titled, awarded, or sold;

(B) has not been listed on the records of the land office as public school land; and

(C) was not, on the application commencement date [~~of filing of an application~~]:

(i) subject to an earlier subsisting application; [~~or~~]

(ii) subject to a vacancy application denied with prejudice;

(iii) the subject of pending litigation relating to state ownership or possession of the land; or

(iv) subject to a previous vacancy application that has been finally adjudicated by the commissioner or a court of this state or the United States.

(7) "Vacancy application" means a form submitted to the commissioner by an applicant to:

(A) initiate a determination by the commissioner whether land claimed to be vacant is vacant;

(B) purchase vacant land; or

(C) lease vacant land.

Sec. 51.173. DISPOSITION OF VACANT LAND. (a) Vacant and unsurveyed public school land shall be located, sold, and leased under this subchapter, except:

(1) submerged lands within tidewater limits;

(2) all islands, flats, and emergent lands within tidewater limits;

(3) natural lakes; and

(4) riverbeds, including channels and islands in riverbeds, above tidewater limits.

(b) This subchapter does not alter or diminish the public domain status of the surface estate of riverbeds and channels and islands in riverbeds that are located above tidewater limits.

Sec. 51.174. GENERAL POWERS AND DUTIES OF COMMISSIONER. (a) The commissioner may:

(1) delegate responsibility for implementing this subchapter; [~~and~~]

(2) perform any other act necessary to administer and implement the purposes of this subchapter, including entering into a contract with a private party to provide the notices required under this subchapter; and

(3) terminate without prejudice a vacancy application if an applicant fails to comply with this subchapter or a rule adopted under this subchapter.

(b) The commissioner may grant an extension of time to comply with a requirement under this subchapter. For each application, the commissioner may grant not more than a total of 30 days in extensions of time to comply with one or more requirements of this subchapter, excluding any extensions of time related to the survey report under this subchapter. The commissioner may grant not more than 90 days in extensions of time to comply with a requirement related to the survey report under this subchapter.

(c) The commissioner shall adopt rules necessary and convenient to administer this subchapter.

(d) ~~(e)~~ The commissioner shall advise the board relating to the market value of the surface, ~~and~~ mineral, and leasehold estates of vacant land.

Sec. 51.175. GENERAL POWERS AND DUTIES OF BOARD. (a) The board shall set the terms and conditions for each sale and lease of a vacancy.

(b) The board shall adopt rules governing the terms and conditions for the sale and lease of a vacancy. The rules shall be adopted and amended as necessary to be consistent with real property law of this state and other applicable law.

(c) The board may adopt rules governing mineral classification, royalty reservations, and awards of royalty reservations and preferential rights to an applicant or to a good-faith claimant in addition to the provisions prescribed by this subchapter.

Sec. 51.176. VACANCY APPLICATION; FILING. (a) To purchase or lease land claimed to be vacant, a person must file a vacancy ~~an~~ application on a form prescribed by the commissioner. A completed application must include:

(1) a description of ~~describe~~ the land ~~that is~~ claimed to be vacant that is sufficient to locate the land on the ground;

(2) a written statement indicating ~~state~~ whether the applicant seeks to purchase the land ~~that is~~ claimed to be vacant or obtain a mineral lease on the land or both purchase the land and obtain a mineral lease on the land;

(3) a list, in a format prescribed by the commissioner, containing ~~state~~ the name and last known mailing address of each necessary party whose name appears in the records described by Section 51.172(4)(C) ~~person who, from facts known to the applicant, asserts a present legal interest in the land claimed to be vacant~~;

(4) an affidavit executed by the applicant affirming that the applicant conducted a diligent search of all the records described by Section 51.172(4)(C) in preparing the list required by Subdivision (3);

(5) if applicable, a statement of ~~state~~ the basis for and ~~provide~~ documentary proof for an assertion of good-faith-claimant status;

(6) at the applicant's discretion:

(A) a survey report; or

(B) an abstract of title to any land that adjoins the land claimed to be vacant; and

(7) ~~(5) provide~~ any other information required by the commissioner.

(b) The applicant must file the original and a duplicate copy of the vacancy application with the county clerk [surveyor] of each [the] county in which all or part of the land claimed to be vacant is located. [If the county does not have a county surveyor, the application must be filed with the county clerk.]

(c) The [~~county surveyor or~~] county clerk[~~, as applicable,~~] shall mark the exact date and hour of filing on the original and a duplicate copy of the vacancy application and shall return a marked copy to the person filing the application. The original shall be recorded in a book kept for that purpose separate from the deed or real property records. The failure to record a vacancy [an] application as provided by this subsection does not affect the validity of the application filing.

(d) Not later than the fifth day after the date an applicant files the vacancy application with the county clerk, the applicant shall file a duplicate copy of the marked copy received from the county clerk with the county surveyor of each county in which all or part of the land claimed to be vacant is located if that county has a county surveyor.

(e) Priority among vacancy applications covering the same land claimed to be vacant is determined by the earliest time of filing indicated by the date and hour marked on the application by the [county surveyor or] county clerk.

(f) ~~(e)~~ The applicant shall submit to [file with] the commissioner two duplicate copies of the marked copy that has been file-stamped by the county clerk [the duplicate copy of the application with the county official's mark indicating the time of filing] not later than the 30th day after the date the vacancy application is filed with the county [surveyor or] clerk. The commissioner shall mark the date the two duplicate copies are received on each copy, assign a file number to the vacancy application, and return a marked duplicate copy containing the file number to the applicant [If the 30th day after the date of filing falls on a Saturday, Sunday, or state or federal holiday, the application may be filed on the next regular business day following the 30th day].

(g) The applicant shall include a filing fee set by the commissioner in an amount of not less than \$100.

Sec. 51.177. PROCESSING VACANCY APPLICATION. (a) Not later than the 45th day after the date the applicant files the duplicate copies with the commissioner as provided by Section 51.176(f), the commissioner shall:

- (1) determine whether the vacancy application is administratively complete;
- and
- (2) provide to the applicant the notice required by this section.

(b) If the commissioner determines that the vacancy application is administratively complete, the commissioner shall provide written notice to the applicant that:

- (1) informs the applicant that the application is administratively complete;
- (2) states the application commencement date; and
- (3) states the amount of any deposit required under Section 51.178 and the date by which the applicant must pay the deposit.

(c) If the commissioner determines that the vacancy application is not administratively complete, the commissioner shall provide written notice to the applicant that:

(1) informs the applicant that the application is not administratively complete;

(2) provides a list of any deficiencies the applicant must resolve; and

(3) states a reasonable period of not more than 30 days from the date of the notice to resolve any listed deficiencies.

(d) Not later than the 30th day after the date provided under Subsection (c)(3) to resolve any deficiencies, the commissioner shall determine whether the vacancy application is administratively complete. If the commissioner determines that the vacancy application is administratively complete, the commissioner shall provide the notice required by Subsection (b). If the commissioner determines that the vacancy application is not administratively complete, the commissioner shall:

(1) dismiss the application without prejudice; and

(2) provide written notice to the applicant informing the applicant that the application is not administratively complete and is dismissed without prejudice. [The commissioner shall mark the date of filing on the application and assign a file number to the application.]

~~[(b) The commissioner shall accept an application filed in compliance with this subchapter and shall notify the applicant on acceptance of the application.]~~

~~[(c) The commissioner may reject an application and shall notify the applicant of the rejection if the application:~~

~~[(1) has material omissions;~~

~~[(2) does not describe the land claimed to be vacant adequately for the land to be located on the ground; or~~

~~[(3) describes as vacant land that has been finally adjudicated in a court of this state or of the United States not to be vacant.]~~

~~[(d) A rejected application is terminated. No further action is taken on the application, and the land office file is closed.]~~

~~[Sec. 51.178. APPLICATION FOR AND DETERMINATION OF GOOD FAITH CLAIMANT STATUS. (a) A person may apply for good faith claimant status not later than the 90th day after:~~

~~[(1) the date of a final order by the commissioner finding that a vacancy exists; or~~

~~[(2) the date of final judgment by a court that a vacancy exists, if the commissioner does not find that a vacancy exists.]~~

~~[(b) The application must include certified copies of applicable county records supporting the good faith claimant's status.]~~

~~[(c) The commissioner shall, after expiration of the period prescribed by Subsection (a)(2), declare whether a person is a good faith claimant. The commissioner may consider documents filed in support of the person's good faith claimant status and any other relevant information. The commissioner may conduct an investigation under Section 51.185 as necessary to make a determination on the application. The commissioner has sole discretion to declare a person a good faith claimant, and a person is not otherwise entitled to a declaration of good faith claimant status. A declaration of the commissioner under this subsection is not a final order and may not be appealed, except as provided by Section 51.187.]~~

~~[(d) A declaration of good faith claimant status grants a preferential right to the claimant to purchase or lease the land as provided by this subchapter. The declaration does not confer any other rights.~~

~~[Sec. 51.179. IDENTIFICATION OF AND NOTICE TO NECESSARY PARTIES. (a) The applicant shall identify each necessary party by the name and last known address of each owner or claimant of land or any interest in land or of a lease on, adjoining, overlapping, or including the land claimed to be vacant as can be determined from the records of the land office and the county clerk's office.~~

~~[(b) The applicant shall provide each necessary party with the notice of the commissioner's acceptance of the application, a copy of the application, and a continuance for future notices form not later than the 90th day after the date the applicant receives the notice of the commissioner's acceptance of the application.~~

~~[(c) Except as provided by this subsection, a necessary party is not entitled to subsequent notices required by this subchapter unless the party requests subsequent notices. The commissioner shall notify a necessary party of a final order issued under Section 51.186.~~

~~[(d) Not later than the 30th day after the date the notices are mailed under Subsection (b), the applicant must publish the notice of the commissioner's acceptance of the application in each newspaper of general circulation in the county and the general area in which the land is located for a period determined by the commissioner. The published notice must contain a description of the land claimed to be vacant.]~~

Sec. 51.178 [51.180]. DEPOSIT. (a) The commissioner may recover from the applicant state funds expended in evaluating and investigating the application, providing notice, preparing a survey, appointing an attorney ad litem, [the investigation] and conducting hearings [conducted] under this subchapter.

(b) The [Not later than the 30th day after the date notice is published as required by Section 51.179, the] commissioner shall [may] require the applicant to submit a deposit[-. If required, the applicant must make a deposit] in an amount sufficient to pay the reasonable costs [of any survey and investigation required] under Subsection (a) [this subchapter] not later than the 30th day after the application commencement date [the commissioner notifies the applicant].

(c) If the amount deposited is insufficient, the commissioner shall require [may make a written request for] a reasonably necessary supplemental deposit. If a supplemental deposit is required, the applicant must make the deposit not later than the 30th day after the date the commissioner requests the supplemental deposit.

(d) [The commissioner and applicant may agree to alternative payment methods to recover state funds expended in the investigation and hearings conducted under this subchapter.

~~[(e)]~~ An applicant may not challenge or appeal the amount of the required deposits, and the applicant's refusal or failure to make the required deposits in the period prescribed by this section terminates the application without prejudice.

Sec. 51.179 ~~[51.181]~~. DISPOSITION OF DEPOSITS. (a) The commissioner shall deposit all initial and supplemental deposits received under this subchapter to the credit of a separate trust account in the state treasury. The comptroller, on the commissioner's order, shall make disbursements from that account for purposes authorized by this subchapter.

(b) After proceedings on a vacancy ~~[an]~~ application are concluded and all expenditures authorized under this subchapter are paid, the commissioner shall provide to the applicant a complete statement of all deposits and expenditures and shall remit to the applicant any balance remaining from the deposit or supplemental deposits made by the applicant.

Sec. 51.180. ATTORNEY AD LITEM. (a) The applicant must provide evidence to the commissioner to establish the applicant's ownership of all interests in the land surrounding the land claimed to be vacant.

(b) If the applicant fails to provide sufficient evidence, as determined by the commissioner, the commissioner shall, not later than the 30th day after the application commencement date, appoint an attorney ad litem to:

(1) identify all necessary parties; and

(2) represent the interests of any necessary party identified under Section 51.176(a)(3) that has not been located.

Sec. 51.181. NOTICE TO NECESSARY PARTIES. (a) Not later than the 30th day after the application commencement date, the commissioner shall provide to each necessary party a written notice that:

(1) informs the necessary party that a vacancy application has been filed;

(2) states the application commencement date; and

(3) includes:

(A) a copy of the vacancy application and any attachments; and

(B) a form for requesting subsequent notices regarding the application.

(b) If the attorney ad litem is unable to identify each necessary party, notice required under this section may be provided to unidentified necessary parties by publication in the same manner as service of citation by publication as in other civil cases. Notice by publication under this subsection shall be:

(1) addressed to "All Whom It May Concern"; and

(2) published one time in a newspaper of general circulation in the county in which the land claimed to be vacant is located.

(c) Except as provided by Subsection (d), a necessary party is not entitled to notices subsequent to the notice provided under Subsection (a) unless the party requests subsequent notices.

(d) The commissioner shall notify each necessary party of a final order issued under Section 51.188.

Sec. 51.182. FILING OF EXCEPTIONS TO APPLICATION. (a) Not later than the 60th day after the date of the commissioner's notice under Section 51.181(a), a necessary party may file an exception to the vacancy application, any documentation attached to the application, or any other documents or public records that may be used by the commissioner to make a determination.

(b) A necessary party must:

(1) file an exception with the land office; and

(2) provide a copy of the filing to each necessary party that requested subsequent notice as provided by Section 51.181.

Sec. 51.183. INVESTIGATION. (a) The commissioner shall conduct an investigation of the vacancy application.

(b) The investigation shall include:

(1) an evaluation of the vacancy application;

(2) a determination that the vacancy application was filed as provided by Section 51.176; and

(3) a review of public records at the land office relating to the land claimed to be vacant.

(c) The investigation may include a review of:

(1) any survey conducted by a licensed state land surveyor or by the county surveyor of a county in which all or part of the land claimed to be vacant is located; or

(2) any documents or public records necessary to determine whether a vacancy exists, including a review of public records relating to the land claimed to be vacant at:

(A) the state archives; or

(B) any county in which all or part of the land claimed to be vacant is located.

(d) An investigation may include a survey requested by the commissioner under Section 51.184 or a surveyor's report as provided by Section 51.185.

(e) The commissioner shall record the names of the persons consulted, the documents and surveys reviewed, and the relevant law and other materials used in the investigation.

Sec. 51.184 [51.182]. COMMISSIONER'S SURVEY. (a) To investigate a vacancy application under Section 51.183, the commissioner may require a survey. If the commissioner requires a survey, the [The] commissioner shall [may] appoint a licensed state land surveyor who is not associated with the vacancy application to prepare a report as provided by Section 51.185[~~, or the county surveyor of the county in which the land claimed to be vacant or part of that land is located, to investigate the applicant's claim~~]. The commissioner may limit the scope of the work performed by the surveyor.

(b) A necessary party may observe a survey conducted under this section. A survey will not be delayed to accommodate a necessary party who provides notice to the commissioner that the party intends to observe the surveyor conducting the survey.

(c) The commissioner shall mail a notice of intention to survey to each necessary party not later than the 30th day before the date the surveyor begins work. The notice must contain:

(1) the proposed starting date of the survey;

(2) [and] the name, address, and telephone number of the surveyor; and

(3) a statement informing the necessary party that any necessary party may observe the field work of the surveyor conducting the survey.

(d) [↔] The fees and expenses paid for the survey are the same as those provided by law. If the fees and expenses are not provided by law, the commissioner shall contract for fees and expenses reasonably necessary for the scope of the required work. Contracts under this subsection:

(1) must include hourly rates, categories of reimbursable expenses, and an estimated completion date; and

(2) may include other expenses the commissioner considers reasonable.

(e) The commissioner shall adopt rules regarding the removal of an appointed surveyor on the grounds of bias, prejudice, or conflict. The rules must permit the commissioner to remove an appointed surveyor on the commissioner's own motion or on the motion of a necessary party ~~(d) The appointment of a surveyor is not required. The commissioner may rely on:~~

~~(1) any survey conducted by a licensed state land surveyor or a county surveyor of the county in which the land claimed to be vacant or a part of that land is located; and~~

~~(2) any documents or public records required to determine whether a vacancy exists].~~

Sec. 51.185 ~~[51.183]~~. SURVEYOR'S REPORT. (a) Not later than the 120th day after the date a surveyor is appointed under Section 51.184 ~~[51.182]~~, the surveyor shall file a written report of the survey, the field notes describing the land and the lines and corners surveyed, a plat depicting the results of the survey, and any other information required by the commissioner. The commissioner may extend the time for filing the report as reasonably necessary.

(b) The survey report must also contain:

(1) the name and last known mailing [post office] address of:

(A) each person who has possession of the land described in the vacancy application; and

(B) [of] each person determined by the surveyor to have an [a present legal] interest in the land; and

(2) all abstract numbers associated with surveys of land adjoining the land claimed to be vacant.

Sec. 51.186 ~~[51.184]~~. COMPLETION OF SURVEY. (a) The commissioner shall serve a true copy of the survey report filed by the surveyor on each necessary party, including those named in the survey report, by certified mail, return receipt requested, not later than the 30th ~~[40th]~~ business day after the date the survey report is filed with the land office.

(b) Any necessary party may file exceptions to the surveyor's report not later than the 30th day after the date the survey report is mailed to the necessary party by the commissioner ~~[notice of completion is received. If the commissioner does not appoint a surveyor, a necessary party may file exceptions to a survey report filed by the applicant during a period established by the commissioner]~~. Any exceptions must be filed with the land office and a copy must be sent by the party filing the exception to each necessary party who has requested subsequent notice under Section 51.181.

Sec. 51.187 ~~[51.185]~~. HEARING ~~[INVESTIGATION]~~. (a) If the commissioner has not issued a final order with a finding of "Not Vacant Land" on or before the first anniversary of the application commencement date, the [The] commissioner shall order [conduct an investigation of the applicant's claim that a vacancy exists. The commissioner may conduct] a hearing to determine if a vacancy exists. A hearing under this subchapter:



(1) shall be held not later than the 60th day after the date the hearing is ordered;

(2) shall be conducted as [is not] a contested case hearing [and is not] subject to Chapter 2001, Government Code; and

(3) may be waived by written agreement of all necessary parties and the commissioner. [The commissioner is not required to grant any hearings under this subchapter.]

(b) Not later than the 30th day after the date a hearing is ordered under Subsection (a), [The commissioner shall determine the scope of any hearings to investigate an application for good faith claimant status and an application to purchase or lease vacant land. If the commissioner grants a hearing,] the commissioner shall provide [timely] notice of the [time and place of the] hearing date to [necessary parties and shall provide] each necessary party [an opportunity to be heard. Any other procedural rights, including the right to examine or cross examine witnesses, may be granted in the sole discretion of the commissioner].

(c) Not later than the 60th day after the date of the hearing, the commissioner shall enter a final order as provided by Section 51.188. [The commissioner may consult with any land office employee, including the chief surveyor, or a relevant expert during the investigation.

[(d) The commissioner shall record the names of the persons consulted, the documents and surveys reviewed, and the relevant law and other materials used in the investigation.]

Sec. 51.188 [51.186]. COMMISSIONER'S FINAL ORDER. (a) At any time during or after an investigation of or hearing regarding a vacancy application, the commissioner may determine that land claimed to be vacant is not vacant and issue a final order with a finding of "Not Vacant Land."

(b) After a hearing conducted under Section 51.187, the commissioner shall issue a final order with a finding of "Not Vacant Land" or issue an order finding [If the commissioner concludes that the land claimed to be vacant is not in conflict with land previously titled, awarded, or sold by the state, the commissioner may determine that] a vacancy exists. Not later than the 15th day after the date the final order is issued, the [The] commissioner shall notify each necessary party of the final order by providing [mailing] each party a copy of the [vacancy determination. The vacancy determination is a] final order [of the commissioner and may be appealed as provided by Section 51.187].

(c) [(b)] A final order finding a vacancy exists [determination order] must contain:

(1) a finding by the commissioner that the land claimed to be vacant is unsurveyed public school land that is not in conflict with land previously titled, awarded, or sold by the state as established by:

(A) clear and convincing proof for an application to which an exception has been filed as provided by Section 51.182; or

(B) a preponderance of the evidence for an application to which no exceptions have been filed as provided by Section 51.182;

(2) the [a] field note description used to determine the vacancy, which must be [of the land determined to be vacant that is] sufficient to locate the land on the ground;

(3) [(2)] an accurate plat of the land that is:

(A) consistent with the field notes; and

(B) prepared by a [county surveyor or] licensed state land surveyor or a county surveyor of the county in which a majority of vacant land is located; and

(4) [(3)] any other matters required by law or as the commissioner considers appropriate.

(d) [(e)] In determining the boundaries and size of a vacancy, the commissioner is not restricted to a description of the land claimed to be vacant that is provided by the applicant, the surveyor, or any other person. The commissioner shall adopt the description of a vacancy that best describes the land found to be vacant [vacancy] and that is consistent with the investigation under this subchapter.

(e) The commissioner shall attach to the commissioner's final order a document entitled "Notice of Claim of Vacancy." The commissioner shall prescribe the contents of the notice. The commissioner shall file the notice with the county clerk and any county surveyor of each county in which all or part of the vacancy is located [(d) If the commissioner determines that the land claimed to be vacant is not vacant, the commissioner shall endorse the file with the finding "Not Vacant Land" and shall notify each necessary party of the determination. A finding of "Not Vacant Land" is conclusive with respect to land described in the application. A finding of "Not Vacant Land" under this subsection is a final order of the commissioner and may be appealed as provided by Section 51.187].

Sec. 51.189 [51.187]. APPEAL. (a) A final order with a finding of "Not Vacant Land" under Section 51.188 may not be appealed. The final order is conclusive regarding the land described in the vacancy application or the land investigated by the commissioner as a result of the vacancy application.

(b) A final order finding a vacancy exists is subject to appeal by a necessary party that has standing to appeal under Section 51.192. The district court in the county in which a majority of the vacant land is located has jurisdiction of an appeal under this subchapter. A necessary party [person] must file an appeal not later than the 30th [90th] day after the date the commissioner's final order is issued [under Section 51.186]. All necessary parties must be provided notice of an appeal under this section by the party filing the appeal.

(c) A person whose predecessor in title was bound by the outcome of an appeal is bound to the same extent the predecessor in title would be bound if the predecessor in title continued to hold title. [(b) The district court, in its discretion, may allow an interested person who did not receive notice of a proceeding under this subchapter to file an appeal after the expiration of the 90 day period prescribed by Subsection (a).

[(e) If the commissioner has not issued a final order under Section 51.186 on or before the first anniversary of the date the application was accepted under Section 51.177(b), the applicant may file an action in district court to determine whether a vacancy exists. The filing of an action under this subsection terminates the application with the land office.]

Sec. 51.190 [~~51.188~~]. SCOPE OF REVIEW. In an appeal of [The district court shall conduct a de novo review of] the commissioner's final order determining that a vacancy exists, the district court shall conduct a trial de novo [does or does not exist].

Sec. 51.191 [~~51.189~~]. ISSUES REVIEWABLE. The court may review the commissioner's declaration of good-faith-claimant status only in conjunction with a review of a final order determining that a vacancy exists.

Sec. 51.192 [~~51.190~~]. STANDING TO APPEAL. A person may appeal the commissioner's final order determining that a vacancy exists if the person:

- (1) is a necessary party [~~an applicant~~];
- (2) has a present legal interest in the surface or mineral estate at the time a vacancy [~~an~~] application is filed; or
- (3) acquires a legal interest before the date of the commissioner's final order.

Sec. 51.193. APPLICATION FOR AND DETERMINATION OF GOOD-FAITH-CLAIMANT STATUS. (a) A necessary party may apply for good-faith-claimant status not later than the 90th day after the date the commissioner issues a final order finding that a vacancy exists.

(b) The application must include certified copies of the applicable county records supporting the good-faith claimant's status.

(c) Not later than the 120th day after the date the commissioner issues a final order finding that a vacancy exists, the commissioner shall declare whether a necessary party is a good-faith claimant.

(d) A person who is denied good-faith-claimant status may:

- (1) request a hearing by the commissioner; or
- (2) appeal the denial as part of any appeal of a final order finding that a vacancy exists.

(e) If the commissioner grants a hearing, the commissioner shall:

- (1) determine the scope of the hearing;
- (2) provide timely notice of the time and place of the hearing to each necessary party; and
- (3) provide each necessary party an opportunity to be heard.

(f) A declaration of good-faith-claimant status grants a preferential right to the claimant to purchase or lease the land or an interest in the land as provided by Section 51.194. The declaration does not confer any other rights.

Sec. 51.194 [~~51.194~~]. PREFERENTIAL RIGHT OF GOOD-FAITH CLAIMANT. (a) A good-faith claimant who has been notified by the commissioner that a vacancy exists under this subchapter has a preferential right to purchase or lease the interest claimed in the land before the land was declared vacant [~~vacancy~~]. The preferential right may be exercised after a final judicial determination or after the commissioner's final order and the period for filing an appeal has expired. If a [~~the~~] good-faith claimant does not apply to purchase or lease the interest [~~land~~] before the later of the 121st day after the date the commissioner's order becomes final or the 60th day after the date of the final judicial determination of an appeal under this subchapter [the preferential right may be exercised], then the good-faith claimant's preferential right expires.

(b) A [The] good-faith claimant may purchase or lease the vacancy by submitting a written application to the board.

(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.

Sec. 51.195 [~~51.192~~]. PURCHASE OR LEASE BY APPLICANT. (a) If no good-faith claimant exists or if no good-faith claimant exercises a preferential right within the applicable period, the applicant has a preferential right to purchase or lease the land determined to be vacant on or before the 60th day [for 30 days] after the date:

(1) the commissioner determines [a determination] that no good-faith claimant exists; or

(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.

(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.]~~

SECTION 2. (a) Except as provided by Subsection (b) of this section, Subchapter E, Chapter 51, Natural Resources Code, as amended by this Act, applies only to a vacancy application filed on or after the effective date of this Act. A vacancy application filed before the effective date of this Act is governed by the law in effect when the vacancy application was filed, and the former law continues in effect for that purpose.

(b) Section 51.188, Natural Resources Code, as renumbered from Section 51.186, Natural Resources Code, and amended by this Act, applies to a vacancy application filed before the effective date of this Act and for which no appeal has been filed as of the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Eltife moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1103** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Eltife, Chair; Armbrister, Staples, Lindsay, and Madla.

### **SENATE BILL 1670 WITH HOUSE AMENDMENTS**

Senator Staples called **SB 1670** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### **Amendment**

Amend **SB 1670** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to a motor vehicle financial responsibility verification program; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 601, Transportation Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. FINANCIAL RESPONSIBILITY

VERIFICATION PROGRAM

Sec. 601.451. DEFINITION. In this subchapter, "implementing agencies" means:

- (1) the Texas Department of Transportation;
- (2) the Texas Department of Insurance; and
- (3) the Department of Information Resources.

Sec. 601.452. IMPLEMENTATION OF PROGRAM; RULES. (a) The Texas Department of Transportation in consultation with the other implementing agencies shall establish a program for verification of whether owners of motor vehicles have established financial responsibility. The program established must be:

- (1) the program most likely to:
  - (A) reduce the number of uninsured motorists in this state;
  - (B) operate reliably;
  - (C) be cost-effective;
  - (D) sufficiently protect the privacy of the motor vehicle owners;
  - (E) sufficiently safeguard the security and integrity of information provided by insurance companies;
  - (F) identify and employ a method of compliance that improves public convenience; and
  - (G) provide information that is accurate and current; and
- (2) capable of being audited by an independent auditor.

(b) The implementing agencies shall jointly adopt rules to administer this subchapter.

(c) The implementing agencies shall convene a working group to facilitate the implementation of the program, assist in the development of rules, and coordinate a testing phase and necessary changes identified in the testing phase. The working group must consist of representatives of the implementing agencies and the insurance industry and technical experts with the skills and knowledge, including knowledge of privacy laws, required to create and maintain the program.

Sec. 601.453. AGENT. (a) The Texas Department of Transportation in consultation with the other implementing agencies, under a competitive bidding procedure, shall select an agent to develop, implement, operate, and maintain the program.

(b) The implementing agencies shall jointly enter into a contract with the selected agent.

(c) A contract under this section may not have a term of more than 10 years.

Sec. 601.454. INFORMATION PROVIDED BY INSURANCE COMPANY; PRIVACY. (a) Each insurance company providing motor vehicle liability insurance policies in this state shall provide necessary information for those policies to allow the agent to carry out this subchapter, subject to the agent's contract with the implementing agencies and rules adopted under this subchapter.

(b) The agent is entitled only to information that is at that time available from the insurance company and that is determined by the implementing agencies to be necessary to carry out this subchapter.

(c) Information obtained under this subchapter is confidential. The agent may use the information only for a purpose authorized under this subchapter and may not use the information for a commercial purpose.

(d) A person commits an offense if the person knowingly uses information obtained under this subchapter for any purpose not authorized under this subchapter. An offense under this subsection is a Class B misdemeanor.

SECTION 2. Sections 502.1715(c) and (d), Transportation Code, are amended to read as follows:

(c) Fees [~~On or after August 31, 2005, fees~~] collected under this section shall be deposited to the credit of the state highway fund. Subject to appropriation, the money may be used by [~~the Department of Public Safety,~~] the Texas Department of Insurance, the Department of Information Resources, and the department to carry out Subchapter N, Chapter 601.

(d) The [~~Department of Public Safety and the~~] Texas Department of Insurance, the Department of Information Resources, and the department shall jointly adopt rules and develop forms necessary to administer this section.

SECTION 3. Section 502.1715(b), Transportation Code, is repealed.

SECTION 4. The Texas Department of Transportation shall select an agent required by Section 601.453, Transportation Code, as added by this Act, before December 31, 2005. The agencies responsible for implementing Subchapter N, Chapter 601, Transportation Code, as added by this Act, shall require full implementation of the financial responsibility verification program under that subchapter for noncommercial vehicles before December 31, 2006, and implementation of that program for commercial vehicles when the implementing agencies determine that implementation for commercial vehicles is feasible.

SECTION 5. This Act takes effect September 1, 2005.

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

Amend **CSSB 1670** in SECTION 1 of the bill, in added Section 601.453(c), Transportation Code (House committee printing, page 2, line 26), by striking "10" and substituting "two".

### **Floor Amendment No. 2**

Amend **CSSB 1670** (House committee printing) as follows:

(1) In SECTION 1 of the bill, in added Subsection (a), Section 601.453, Transportation Code, between "agent" and "to" (page 2, line 22), insert "or state agency".

(2) In SECTION 1 of the bill, in added Subsection (b), Section 601.453, Transportation Code, between "agent" and the underlined period (page 2, line 24), insert "or state agency".

(3) In SECTION 1 of the bill, in added Subsection (a), Section 601.454, Transportation Code, between "agent" and "to" (page 3, line 3), insert "or state agency".

(4) In SECTION 1 of the bill, in added Subsection (a), Section 601.454, Transportation Code, between "agent's" and "contract" (on page 3, line 4), insert "or state agency's".

(5) In SECTION 1 of the bill, in added Subsection (b), Section 601.454, Transportation Code, between "agent" and "is" (page 3, line 6), insert "or state agency".

(6) In SECTION 1 of the bill, in added Subsection (c), Section 601.454, Transportation Code, between "agent" and "may" (page 3, line 11), insert "or state agency".

### **Floor Amendment No. 3**

Amend **CSSB 1670** by striking SECTION 4 of the bill and substituting the following:

SECTION 4. The Texas Department of Transportation shall select an agent required by Section 601.453, Transportation Code, as added by this Act, before December 31, 2005. The agencies responsible for implementing Subchapter N, Chapter 601, Transportation Code, as added by this Act, shall adopt rules and establish and publish a user guide clearly specifying requirements and procedures for providing information under the verification program under that subchapter not later than four months before the full implementation of the program. Those implementing agencies shall require full implementation of the financial responsibility verification program for vehicles covered under a personal automobile insurance policy before December 31, 2006, and implementation of that program for vehicles covered under a commercial insurance policy when the implementing agencies determine that implementation for vehicles covered under a commercial insurance policy is feasible.

### **Floor Amendment No. 4**

Amend **CSSB 1670** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 501.153(h), Transportation Code, is amended to read as follows:

(h) This section does not prevent a person from registering a motor vehicle by mail or through an electronic submission, provided the mail or electronic submission includes submission of evidence of financial responsibility as provided by this section.

SECTION \_\_\_\_\_. Section 501.153(j), Transportation Code, is repealed.

SECTION \_\_\_\_\_. Section 521.143(a), Transportation Code, is amended to read as follows:

(a) An application for an original driver's license or for renewal of a driver's license must be accompanied by evidence of financial responsibility or a statement that the applicant does not own a motor vehicle for which evidence of financial responsibility is required under Chapter 601. [~~The department may require an application for a renewal of a driver's license to be accompanied by evidence of financial responsibility or a statement that the applicant does not own a motor vehicle for which evidence of financial responsibility is required under Chapter 601.~~]



The amendments were read.

Senator Staples moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1670** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Staples, Chair; Ellis, Madla, Lindsay, and Wentworth.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1351 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 1351** at this time on its second reading:

**CSSB 1351**, Relating to the appeal of certain ad valorem tax determinations through binding arbitration.

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

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

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1351 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 1351** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 859 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 859** at this time on its second reading:

**CSSB 859**, Relating to a motor vehicle passing a bicyclist; providing penalties.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 1251 ON SECOND READING**

On motion of Senator Brimer and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1251** at this time on its second reading:

**CSSB 1251**, Relating to the acquisition, construction, maintenance, operation, and provision of toll facilities and a transit system by a regional mobility authority, and the transfer to a regional mobility authority of the toll facilities, transit system, and related assets of a regional tollway authority or transit provider or of certain counties; providing criminal penalties; authorizing a tax.

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

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

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1251 ON THIRD READING**

Senator Brimer moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1251** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1503 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 1503** at this time on its second reading:

**CSSB 1503**, Relating to the creation of the Institute on Race, Crime, and Justice at the University of North Texas at Dallas to examine certain information regarding racial profiling and to provide training regarding issues related to law enforcement and certain underrepresented racial or ethnic groups; providing a penalty.

The motion prevailed by the following vote: Yeas 18, Nays 9.

Yeas: Armbrister, Barrientos, Brimer, Carona, Deuell, Ellis, Estes, Gallegos, Harris, Hinojosa, Janek, Lindsay, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Nays: Eltife, Fraser, Jackson, Nelson, Ogden, Shapiro, Staples, Wentworth, Williams.

Absent: Averitt, Duncan, Seliger.

Absent-excused: Lucio.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1503** as follows:

- (1) On page 7, line 7-4 of committee report, strike "a race, crime, and justice" and replace with "civil justice".
- (2) On page 7, line 7-23 of committee report, strike "a race, crime, and justice" and replace with "civil justice".
- (3) On page 7, line 7-42 of committee report, strike "a race, crime, and justice" and replace with "civil justice".
- (4) On page 7, line 7-4 of committee report, strike "a race, crime, and justice" and replace with "civil justice".

The amendment to **CSSB 1503** was read and was adopted by a viva voce vote.

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

Absent-excused: Lucio.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 1503** (Senate committee printing) as follows:

- (1) Strike SECTION 1 of the bill (page 1, line 17, through page 2, line 41).
- (2) In SECTION 3 of the bill, in amended Article 2.133(b)(1)(B), Code of Criminal Procedure (page 3, lines 44-47), strike "[~~as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability~~]" and substitute ", as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability".
- (3) Strike SECTION 4 of the bill (page 4, line 7, through page 5, line 4) and substitute the following:

SECTION \_\_\_\_ . Articles 2.134(b), (c), (d), and (e), Code of Criminal Procedure, are amended to read as follows:

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than February 15 [~~March 1~~] of each year, each [~~local~~] law enforcement agency shall submit a report containing the incident-based data [~~information~~] compiled during the previous calendar year to the bureau of identification and records of the Department of Public Safety and, if the agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency [~~in a manner approved by the agency~~].

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of motor vehicle [~~traffic and pedestrian~~] stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic or pedestrian~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling [~~and reporting~~] information as required by this article.

(4) In SECTION 7 of the bill, in the recital (page 5, line 25), strike "Articles 2.1385 and 2.1386" and substitute "Article 2.1385".

(5) In SECTION 7 of the bill, strike added Article 2.1386, Code of Criminal Procedure (page 5, line 39, through page 6, line 14).

(6) In SECTION 8 of the bill, in the heading to added Article 102.022, Code of Criminal Procedure (page 6, lines 17-18), strike "INSTITUTE ON" and substitute "STATEWIDE REPOSITORY FOR DATA RELATED TO".

(7) In SECTION 8 of the bill, in added Article 102.022(b), Code of Criminal Procedure (page 6, line 26), strike "25" and substitute "15".

(8) In SECTION 9 of the bill, in added Section 102.061(5-a), Government Code (page 7, line 5), between the ellipsis and the semicolon, strike "\$0.25" and substitute "\$0.15".

(9) In SECTION 10 of the bill, in added Section 102.081(6), Government Code (page 7, line 24), between the ellipsis and the semicolon, strike "\$0.25" and substitute "\$0.15".

(10) In SECTION 11 of the bill, in added Section 102.101(5-a), Government Code (page 7, line 43), between the ellipsis and the semicolon, strike "\$0.25" and substitute "\$0.15".

(11) In SECTION 12 of the bill, in added Section 102.121(6), Government Code (page 7, line 65), between the ellipsis and the semicolon, strike "\$0.25" and substitute "\$0.15".

(12) Strike added Section 14(b) of the bill (page 8, line 9, through page 8, line 12) and reletter Subsection (c) (page 8, line 13) as Subsection (b).

(13) Add the following appropriately numbered SECTION to the bill:

SECTION \_\_\_\_ . Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.052 to read as follows:

Sec. 411.052. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The department, through its bureau of identification and records, shall collect and maintain the incident-based data submitted to the department under Article 2.134, Code of Criminal Procedure, including the incident-based data compiled by the department based on the reports received by the department under Article 2.133 of that code. The department, the Commission on Law Enforcement Officer Standards and Education, the Bill

Blackwood Law Enforcement Management Institute of Texas, and the University of North Texas System Center at Dallas shall develop guidelines for submitting in a standard format the report containing the incident-based data as required by Article 2.134, Code of Criminal Procedure.

(14) Renumber existing SECTIONS of the bill accordingly.

The amendment was read.

Senator West offered the following amendment to Floor Amendment No. 2:

### **Floor Amendment No. 3**

Amend Floor Amendment No. 2 to **CSSB 1503** as follows:

(1) On page 2, on line 24, strike item (6), lines 24-27, and replace with new (6) as follows: In SECTION 8 of the bill, in the heading to added Article 102.022, Code of Criminal Procedure (page 6, lines 17-18), strike "INSTITUTE ON RACE, CRIME, AND JUSTICE" and substitute "STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE".

(2) On page 3, line 28, strike "System Center at Dallas".

The amendment to Floor Amendment No. 2 to **CSSB 1503** 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. 3 except as follows:

Absent-excused: Lucio.

Question recurring on the adoption of Floor Amendment No. 2 to **CSSB 1503**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Lucio.

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

**CSSB 1503** 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: Eltife, Fraser, Jackson, Janek, Nelson, Ogden, Shapiro, Staples, Wentworth, Williams.

Absent-excused: Lucio.

### **COMMITTEE SUBSTITUTE SENATE BILL 1605 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1605** at this time on its second reading:

**CSSB 1605**, Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

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

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

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1605 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1605** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1606 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1606** at this time on its second reading:

**CSSB 1606**, Relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

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

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

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1606 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1606** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**SENATE BILL 1839 ON SECOND READING**

On motion of Senator Jackson, on behalf of Senator Lucio, and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1839** at this time on its second reading:

**SB 1839**, Relating to the creation of the Kleberg County Groundwater Conservation District; providing authority to impose a tax and issue bonds and granting the power of eminent domain.

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

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

Absent-excused: Lucio.

**SENATE BILL 1839 ON THIRD READING**

Senator Jackson, on behalf of 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 1839** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE****HOUSE BILL 1540 ON SECOND READING**

Senator Williams moved to suspend the regular order of business to take up for consideration **CSHB 1540** at this time on its second reading:

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

The motion prevailed.

Senator Brimer 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 third reading by a viva voce vote.

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

Nays: Brimer.

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1540 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 **CSHB 1540** be placed on its third reading and final passage.

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

Nays: Brimer.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1924 ON SECOND READING**

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **CSHB 1924** at this time on its second reading:

**CSHB 1924**, Relating to the certification of certain health organizations by the Texas State Board of Medical Examiners.

The motion prevailed.

Senators Estes, Harris, 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 Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1924** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 162.001, Occupations Code, is amended by adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(c-1) The board shall certify a health organization to contract with or employ physicians licensed by the board if the organization:

(1) is a hospital district:

(A) recognized by a federal agency as a public entity eligible to receive a grant related to a community or federally qualified health center described by Subdivision (2); and

(B) located in a county that, according to the most recent federal decennial census, has a population of 650,000 or more and that borders the United Mexican States; and

(2) is organized and operated as:

(A) a migrant, community, or homeless health center under the authority of and in compliance with 42 U.S.C. Section 254b or 254c; or

(B) a federally qualified health center under 42 U.S.C. Section 1396d(l)(2)(B).



(c-2) This section applies to a hospital district described by Subsection (c-1) only in relation to the hospital district's operations as a community or federally qualified health center described by Subsection (c-1)(2).

(c-3) This subsection, Subsection (c-1), and Subsection (c-2) expire September 1, 2007.

SECTION 2. This Act takes effect September 1, 2005.

The amendment to **CSHB 1924** 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: Wentworth.

Absent-excused: Lucio.

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

**CSHB 1924** as amended was passed to third reading by a viva voce vote.

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

Nays: Estes, Harris, Nelson, Wentworth.

Absent-excused: Lucio.

### **COMMITTEE SUBSTITUTE HOUSE BILL 1924 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1924** be placed on its third reading and final passage.

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

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

Nays: Estes, Harris, Nelson, Wentworth.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 4. (Same as previous roll call)

### **PERMISSION TO INTRODUCE BILL**

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 bill: **SB 19**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 773 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 773** at this time on its second reading:

**CSHB 773**, Relating to certain purchases by the Railroad Commission of Texas.

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

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

Absent-excused: Lucio.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 773 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 773** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**SENATE BILL AND RESOLUTIONS ON FIRST READING**

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

**SB 19** by Hinojosa

Relating to the authority of certain development corporations to undertake projects for sewage or solid waste facilities, recycling facilities, or air or water pollution control facilities.

To Committee on Business and Commerce.

**SCR 37** by Staples

Supporting Texas' application for a Mental Health Transformation State Incentive Grant from the U.S. Department of Health and Human Services.

To Committee on Health and Human Services.

**SR 880** by Janek

Directing the Texas Education Agency and the State Board of Education to facilitate the offering of high school elective courses on the Bible in Texas public schools.

To Committee on Education.

**HOUSE BILLS ON FIRST READING**

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

**HB 51** to Committee on Criminal Justice.

**HB 211** to Committee on Business and Commerce.

**HB 251** to Committee on State Affairs.  
**HB 295** to Committee on Education.  
**HB 867** to Committee on Criminal Justice.  
**HB 1037** to Committee on Criminal Justice.  
**HB 1111** to Committee on Education.  
**HB 1232** to Committee on Intergovernmental Relations.  
**HB 1270** to Committee on State Affairs.  
**HB 1330** to Committee on Government Organization.  
**HB 1462** to Committee on Natural Resources.  
**HB 1763** to Committee on Natural Resources.  
**HB 1765** to Committee on Business and Commerce.  
**HB 1795** to Committee on State Affairs.  
**HB 1823** to Committee on Business and Commerce.  
**HB 1826** to Committee on Education.  
**HB 1854** to Committee on Business and Commerce.  
**HB 2026** to Committee on Natural Resources.  
**HB 2099** to Committee on Health and Human Services.  
**HB 2139** to Committee on Transportation and Homeland Security.  
**HB 2201** to Committee on Natural Resources.  
**HB 2233** to Committee on Finance.  
**HB 2330** to Committee on Education.  
**HB 2339** to Committee on State Affairs.  
**HB 2420** to Committee on International Relations and Trade.  
**HB 2492** to Committee on Intergovernmental Relations.  
**HB 2630** to Committee on Criminal Justice.  
**HB 2639** to Committee on Natural Resources.  
**HB 2702** to Committee on Transportation and Homeland Security.  
**HB 2716** to Committee on Business and Commerce.  
**HB 2842** to Committee on Criminal Justice.  
**HB 2866** to Committee on Intergovernmental Relations.  
**HB 2876** to Committee on Natural Resources.  
**HB 2933** to Committee on State Affairs.  
**HB 2941** to Committee on Business and Commerce.  
**HB 2945** to Committee on State Affairs.  
**HB 2959** to Committee on Business and Commerce.  
**HB 2984** to Committee on Natural Resources.  
**HB 2988** to Committee on State Affairs.  
**HB 3047** to Committee on Government Organization.  
**HB 3048** to Committee on Business and Commerce.  
**HB 3071** to Committee on Intergovernmental Relations.  
**HB 3318** to Committee on Business and Commerce.  
**HB 3333** to Committee on Intergovernmental Relations.  
**HB 3468** to Committee on Education.  
**HB 3514** to Committee on Intergovernmental Relations.

**COMMITTEE SUBSTITUTE  
SENATE BILL 603 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 603** at this time on its second reading:

**CSSB 603**, Relating to the right of a foreign national to contact a foreign consular official.

The motion prevailed.

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

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 603** (committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 1701.253, Occupations Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on handling the arrest and detention of a foreign national in a manner consistent with the procedures of the Texas Department of Public Safety. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 2. Section 1701.402, Occupations Code, is amended by adding Subsection (g) to read as follows:

(g) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on the requirements for handling the arrest of a foreign national that are established by the commission under Section 1701.253(j).

SECTION 3. (a) Not later than January 1, 2006, the Commission on Law Enforcement Officer Standards and Education shall establish the curriculum for a comprehensive education and training program for peace officers as required by Subsection (j), Section 1701.253, and Subsection (g), Section 1701.402, Occupations Code, as added by this Act.

(b) A person who, on September 1, 2005, holds an intermediate proficiency certificate issued under Section 1701.402, Occupations Code, or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for more than two years shall complete an educational training program on the requirements for handling the arrest of a foreign national that are established under Subsection (j), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2007.

SECTION 4. This Act takes effect September 1, 2005.

The amendment to **CSSB 603** was read and was adopted by a viva voce vote.

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

Absent-excused: Lucio.

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

**CSSB 603** 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: Shapiro.

Absent-excused: Lucio.

### **COMMITTEE SUBSTITUTE SENATE BILL 603 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 603** be placed on its third reading and final passage.

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

Nays: Shapiro.

Absent-excused: Lucio.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

### **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:

**HB 972, HB 1116, HB 1283, HB 1535, HB 2025, HB 2048, HB 2378, HB 2473, HB 2856, HB 3147, HB 3269, HB 1116.**

### **SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)**

On motion of Senator Harris and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate is meeting tomorrow during the Local and Uncontested Calendar Session.

### **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 RULE 11.18(a) SUSPENDED  
(Public Hearings)**

On motion of Senator Carona and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Subcommittee on Emerging Technologies and Economic Development might consider **HB 2755** today.

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

On motion of Senator Harris and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Administration might meet at 1:55 p.m. today.

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Estes and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Natural Resources might meet and consider **SB 1897** today.

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Madla and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider the following bill and resolution today: **SB 1898, SJR 12**.

**SENATE RULE 11.18(a) SUSPENDED  
(Public Hearings)**

On motion of Senator West and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Subcommittee on Higher Education might consider **HB 2041** 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 **HB 2702** today.

**MOTION TO ADJOURN**

On motion of Senator Whitmire and by unanimous consent, the Senate at 1:43 p.m. agreed to adjourn, in memory of Loyda Smith, the aunt of Senator Williams, upon conclusion of the Local and Uncontested Calendar Session, until 11:00 a.m. tomorrow.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 892** by Wentworth, In memory of Edgar Collins of Kingsbury.

**SR 904** by Deuell, In memory of William Freeman Simmons of Irving.

**SR 908** by Armbrister, In memory of Carol "Casey" Korenek of Austin.

**HCR 89** (Brimer), In memory of President Ronald Wilson Reagan.

### **Congratulatory Resolutions**

**SR 891** by Carona, Deuell, Harris, Shapiro, and West, Congratulating William T. Solomon of Dallas for receiving the Linz Award.

**SR 893** by Wentworth, Recognizing Yolanda Uresti on the occasion of her 40th birthday.

**SR 894** by Wentworth, Recognizing Deborah DeAnn Luper on the occasion of her retirement.

**SR 896** by Jackson, Congratulating Corby and Erin Brooks on the birth of their son, William Carter Brooks.

**SR 897** by Jackson, Congratulating Kerron Clement of La Porte for his record-breaking athletic achievements.

**SR 902** by Deuell, Recognizing Blake Ingram, Jr., of Mesquite for being selected as a student ambassador in the People to People Student Ambassador Program.

**SR 903** by Deuell, Commending Bobby Jenkins of the Rowlett Police Department for his heroism.

**SR 905** by Shapleigh, Recognizing Al Velarde as the new executive director of the Child Crisis Center in El Paso.

**SR 906** by Shapleigh, Recognizing students, teachers, and alumni of Mesita Elementary School in El Paso.

**SR 907** by West, Commending Brant Flanagan of Duncanville for achieving the rank of Eagle Scout.

**SR 910** by West, Congratulating the Children's Medical Center of Dallas for receiving the Level 1 Trauma Center-Pediatric designation by the Committee on Trauma of the American College of Surgeons and the Texas Department of State Health Services.

**SR 911** by Zaffirini, Recognizing Augustine and Adelfa Alaniz Muñoz on the occasion of their 50th wedding anniversary.

**SR 912** by Zaffirini, Recognizing Jorge Sanchez, Sr., for his contributions to preserving Webb County's heritage.

**SR 913** by Zaffirini, Recognizing Luis A. Diaz de Leon for his contributions to preserving Webb County's heritage.

**SR 914** by West, Recognizing Nancy Albert Brembry on the occasion of her retirement.

**SR 915** by West, Recognizing Deloris Rosaya Washington on the occasion of her retirement.

**SR 916** by Ellis, Recognizing Jerry Dunfey on the occasion of his 70th birthday.

**SR 917** by Ellis, Recognizing Monica Lerato Ramasehla on the occasion of her graduation from the University of Pretoria Law School in South Africa.

**SR 918** by Ellis, Recognizing David Yates Graham of Houston for his contributions to the fields of medicine and microbiology.

**SR 919** by Ellis, Recognizing Melissa Rae Duncan on the occasion of her graduation from the University of Houston.

**SR 920** by Ellis, Recognizing Akilah Morenike Mance on the occasion of her graduation from Rice University.

**HCR 147** (Seliger), Honoring Kathryn Patricia Beal, the 2005 Bluebonnet Queen.

**HCR 163** (Seliger), Honoring Charles and Margaret Semple of Midland on the occasion of their 40th anniversary.

**HCR 164** (Seliger), Congratulating Don Hedgpeth of Medina on receiving the 2004 Wrangler Award for Outstanding Art Book from the National Cowboy & Western Heritage Museum.

**HCR 196** (Seliger), Recognizing Beverly Pevehouse of Midland for her contributions to her community.

### RECESS

On motion of Senator Whitmire, the Senate at 1:44 p.m. recessed until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

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## APPENDIX

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### COMMITTEE REPORTS

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

May 16, 2005

EDUCATION — **CSSB 1544, CSHB 126, HB 258, HB 479, HB 492, HB 598, HB 993, HB 1058, CSHB 1170, HB 1331, CSHB 1630, HB 1697, HB 2108, HB 2272**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **CSSB 774, HB 2336, HB 2604, HB 3113, HB 3163**

BUSINESS AND COMMERCE — **CSSB 178, CSSB 542, HB 1235, HB 1458, CSHB 2243, HB 2746**

JURISPRUDENCE — **CSHJR 87, CSHB 1622, CSHB 2518**

EDUCATION — **HB 308** (Amended)

HEALTH AND HUMAN SERVICES — **HB 798, HB 877, HB 1316, HB 1558, HB 1685, CSSB 518**

STATE AFFAIRS — **CSHB 56**



JURISPRUDENCE — **CSHB 182**

CRIMINAL JUSTICE — **CSHB 129, CSHB 544, CSHB 1098, HB 969** (Amended),  
**CSHB 1813, CSHB 840, CSHB 1588**

FINANCE — **CSSB 1863, CSSB 222, CSSB 1325**

INTERGOVERNMENTAL RELATIONS — **CSHB 585, HB 1606** (Amended),  
**CSHB 1599, HB 265** (Amended), **CSSB 1896**

BUSINESS AND COMMERCE — **CSHB 2614, CSHB 629, CSHB 1833,**  
**CSHB 481, CSHB 1567**

NATURAL RESOURCES — **HB 2410, HB 2679, HB 1987, HB 1673, HB 881,**  
**HB 872, HB 578, HB 365, HB 484**

**SENT TO GOVERNOR**

May 16, 2005

**SB 466, SB 602, SB 929, SB 1199, SB 1253, SB 1302, SB 1436, SB 1754, SCR 33**

