

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTY-SECOND DAY

(Tuesday, May 1, 2007)

The Senate met at 11:19 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

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

The Reverend Rick Gray, Calvary Baptist Church, Mexia, offered the invocation as follows:

Father God in heaven, we come today giving thanks. We recognize and acknowledge it is You who has ordained and designed governments to rule over men. We come giving thanks for the freedoms and liberties You have granted to us in this country and in this state. Father, we come with thankful hearts for these men and women, our Senators, their staffs, their advisors, and their willingness to serve the rest of us. We ask You this day to grant to these men and women a special measure of Your wisdom and Your knowledge as they seek to make decisions effecting the welfare and well-being of the people. Father, may the decisions made in this place today be pleasing and honorable in Your sight. May they be according to Your plan and purpose. May the result of these decisions be to Your honor and to Your glory. We ask these things in Jesus' name. Amen.

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

The motion prevailed without objection.

CO-AUTHOR OF SENATE BILL 443

On motion of Senator Hinojosa, Senator West will be shown as Co-author of **SB 443**.

CO-AUTHOR OF SENATE BILL 623

On motion of Senator Janek, Senator Estes will be shown as Co-author of **SB 623**.

CO-AUTHOR OF SENATE BILL 769

On motion of Senator Zaffirini, Senator Van de Putte will be shown as Co-author of **SB 769**.

CO-AUTHOR OF SENATE BILL 2027

On motion of Senator Shapleigh, Senator Hinojosa will be shown as Co-author of **SB 2027**.

CO-AUTHOR OF SENATE BILL 2033

On motion of Senator Williams, Senator Eltife will be shown as Co-author of **SB 2033**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 65

On motion of Senator Williams, Senator Eltife will be shown as Co-author of **SJR 65**.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate members of the First Baptist Church of Rio Grande City.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 1, 2007

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 662, Relating to the coordination and improvement of certain programs and services for the prevention of and early intervention in child abuse and neglect.

HB 1183, Relating to liability of landowners who allow their land to be used for radio control flying and related activities.

HB 2278, Relating to a nonsubstantive revision of statutes relating to business and commerce; including conforming amendments.

HB 3430, Relating to the online availability of information about state expenditures, including the creation of a state database containing information on state expenditures and to certain comptroller reports.

HCR 204, Commemorating the 75th anniversary of the founding of Shannon Medical Center in San Angelo.

HCR 226, In memory of Constable Dale David Geddie of Winona.

HJR 39, Post-ratifying Amendment XXIV to the Constitution of the United States prohibiting the denial or abridgment of the right to vote for failure to pay any poll tax or other tax.

SB 483, Relating to regulation of electric generation capacity ownership in the electric power market.
(Committee Substitute/Amended)

SB 904, Relating to the continuation and functions of the Texas Alcoholic Beverage Commission; providing penalties.

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 430, SB 432, SCR 69.

(Senator Watson in Chair)

PHYSICIAN OF THE DAY

Senator Zaffirini was recognized and presented Dr. Luis Benavides of Laredo as the Physician of the Day.

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

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate seventh-grade students from the First Baptist School in Brownsville, accompanied by their teachers and sponsors.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate students from the six schools of the School of Excellence in Education in San Antonio, accompanied by their principals, teachers, and administrators.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Duncan was recognized and introduced to the Senate representatives of the Shannon Medical Center in San Angelo.

The Senate welcomed its guests.

SENATE RESOLUTION 276

Senator Lucio offered the following resolution:

WHEREAS, The Honorable Gilberto Hinojosa of Brownsville ended his tenure as Cameron County judge in December of 2006, and the conclusion of his 12 years of service as county judge provides an opportunity to pay tribute to him for his many contributions to his community; and

WHEREAS, Born and raised in the Rio Grande Valley, Gilberto Hinojosa graduated from Mission High School in 1970 and earned a bachelor's degree in political science from Pan American University and a law degree from Georgetown University in Washington, D.C.; and

WHEREAS, After returning to Texas, Mr. Hinojosa began his career as an elected official by winning a seat on the Brownsville Independent School District board of trustees in April of 1984 and serving as its vice president; in January of 1985, he assumed the first of several judicial positions by being appointed to the bench of Cameron County Court-at-Law 2 and later winning voter approval to remain on the court; and

WHEREAS, Judge Hinojosa's legal expertise came to the attention of Texas Governor Mark White, and in 1986, the governor appointed him to a seat on the 107th Judicial District Court; he was retained in that position in the 1988 election and then was elected as a justice for the 13th Court of Appeals in 1990; moreover, this accomplished legal scholar was twice chosen to assist the Texas Department of Criminal Justice—he was selected to serve on the Judicial Advisory Council for the Community Justice Assistance Division and was appointed to the Texas Board of Criminal Justice by Governor Ann Richards; and

WHEREAS, Instilled with a deep concern for his South Texas homeland and having extensive knowledge of public affairs, Gilberto Hinojosa turned his attention to county government and was elected to the office of Cameron County judge in November of 1994; an enterprising administrator, he helped to manage the county's robust growth during the late 1990s and early 2000s and played an active part in a number of vital initiatives, including the construction of the Veterans International Bridge at Los Tomates, the establishment of Amador Rodriguez Boot Camp and Education Center for juvenile lawbreakers, and the creation of new park facilities in some of the county's smaller communities; and

WHEREAS, Judge Hinojosa's commitment to effective government and his efforts to improve the quality of life for area residents have had an enduring influence on Cameron County, and he may reflect with justifiable pride on the legacy of achievement that he has established; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby honor Judge Gilberto Hinojosa for his public service and extend to him best wishes for success in his future endeavors; and, be it further

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

SR 276 was again read.

The resolution was previously adopted on Monday, February 19, 2007.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Judge Gilberto Hinojosa, accompanied by his daughters, Xochitl Hinojosa and Gina Hinojosa-Donisi, and his grandson, Matteo Donisi of Brownsville.

The Senate welcomed its guests.

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

The Presiding Officer 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.

CONCLUSION OF MORNING CALL

The Presiding Officer, Senator Watson in Chair, at 11:36 a.m. announced the conclusion of morning call.

**COMMITTEE SUBSTITUTE
SENATE BILL 127 ON SECOND READING**

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **CSSB 127** at this time on its second reading:

CSSB 127, Relating to the Communities In Schools program.

The motion prevailed.

Senator Nichols 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: Nichols.

**COMMITTEE SUBSTITUTE
SENATE BILL 127 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 127** be placed on its third reading and final passage.

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

Nays: Nichols.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 443 ON SECOND READING**

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

CSSB 443, Relating to the authority of a school district board of trustees to create a criminal offense for violation of a district policy.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 443 ON THIRD READING**

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

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

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

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate senior students and their teachers from the Alpha Omega Academy in Huntsville.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 1, 2007

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 CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 76 (145 Yeas, 0 Nays, 1 Present, not voting)

HB 374 (145 Yeas, 0 Nays, 2 Present, not voting)

HB 1379 (140 Yeas, 3 Nays, 2 Present, not voting)

HB 1676 (145 Yeas, 0 Nays, 2 Present, not voting)

HJR 36 (137 Yeas, 0 Nays, 2 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 8 (non-record vote)

House Conferees: Riddle - Chair/Deshotel/Gattis/Madden/Pena

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1317 ON SECOND READING**

Senator Jackson moved to suspend the regular order of business to take up for consideration **CSSB 1317** at this time on its second reading:

CSSB 1317, Relating to prohibiting a municipality from enacting regulations on air pollution that apply outside its corporate limits.

The motion prevailed by the following vote: Yeas 20, Nays 10, Present-not voting 1.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Jackson, Janek, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Ellis, Gallegos, Hinojosa, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Present-not voting: Lucio.

The bill was read second time.

Senator Gallegos was recognized to speak against the bill.

Question — Shall **CSSB 1317** be passed to engrossment?

AT EASE

The President at 1:37 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 2:15 p.m. called the Senate to order as In Legislative Session.

Question — Shall **CSSB 1317** be passed to engrossment?

Senator Gallegos was again recognized to resume his remarks against **CSSB 1317**.

Senator Gallegos yielded the floor.

Question — Shall **CSSB 1317** be passed to engrossment?

CSSB 1317 was passed to engrossment by the following vote: Yeas 20, Nays 11.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Jackson, Janek, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate representatives of FutureGen Alliance, Incorporated: Michael J. Mudd, Chief Executive Officer; Jerry J. Oliver, Senior Vice-president, Project Development; and Chris Winslow, newly appointed Chief Financial Officer.

The Senate welcomed its guests.

NOMINATIONS RETURNED

On motion of Senator Jackson and by unanimous consent, the Senate agreed to grant the request of the Governor to return the following nominations:

Members, Texas Southern University Board of Regents: David Diaz, Nueces County; Earnest Gibson III, Harris County; William E. King, Galveston County.

(Senator Brimer in Chair)

COMMITTEE SUBSTITUTE HOUSE BILL 733 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 733** at this time on its second reading:

CSHB 733, Relating to the sale of certain used trucks; providing penalties.

(President in Chair)

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Harris, Patrick, Uresti, Wentworth.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 733**, in proposed Subsection (o), Section 2301.476, Occupations Code (committee printing page 2, line 12), by striking "2013" and substituting "2023".

The amendment to **CSHB 733** was read and was adopted by the following vote: Yeas 18, Nays 10.

Yeas: Carona, Deuell, Duncan, Eltife, Estes, Hegar, Hinojosa, Jackson, Lucio, Nelson, Nichols, Ogden, Seliger, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Brimer, Fraser, Harris, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Wentworth.

Absent: Ellis, Gallegos, Janek.

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

CSHB 733 as amended was passed to third reading by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Harris, Patrick, Uresti, Wentworth.

**COMMITTEE SUBSTITUTE
HOUSE BILL 733 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 733** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Harris, Patrick, Uresti, Wentworth.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4. (Same as previous roll call)

**SENATE RULE 5.14(a) SUSPENDED
(Intent Calendar)**

Senator Brimer moved to suspend Senate Rule 5.14(a) to extend the deadline for placing bills on the Intent Calendar from 3:00 p.m. to 5:00 p.m. today.

The motion prevailed without objection.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate students from Nimitz Middle School in San Antonio, accompanied by their teachers and sponsors.

The Senate welcomed its guests.

(Senator Brimer in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 798 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 798** at this time on its second reading:

CSSB 798, Relating to the penalty for failure to yield the right-of-way.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 798 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 **CSSB 798** be placed on its third reading and final passage.

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

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

PERMISSION TO INTRODUCE BILL

On motion of Senator Whitmire and by unanimous consent, Senate Rule 7.07(b) was suspended to permit the introduction of the following bill: **SB 2041**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 1, 2007

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 44, Relating to the provision of intervention or counseling services to certain persons who have committed family violence and to a process for accrediting those services.

(Amended)

SB 584, Relating to the issuance or violation of an order for emergency protection on the basis of the offense of sexual assault or aggravated sexual assault.

SB 1315, Relating to a silver alert for missing senior citizens.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
SENATE BILL 1061 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 1061** at this time on its second reading:

CSSB 1061, Relating to the suspension or denial of the driver's license of a person who refuses to submit to the taking of a specimen to test for intoxication.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1061** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, added Section 724.015(2)(B), Transportation Code (page 1, line 33), strike "45" and substitute "90".

(2) In SECTION 2 of the bill, added Section 724.015(2)(B), Transportation Code (page 1, line 35), strike "135" and substitute "90".

(3) In SECTION 2 of the bill, added Section 724.015(2)(B), Transportation Code (page 1, line 36), strike "suspension;" and substitute the following:
suspension, if the person:

(i) applies to the department to have the person's license reinstated after 90 days; and

(ii) presents evidence satisfactory to the department showing that the person has had installed an ignition interlock device on any motor vehicle of which the person is a registered owner;

(4) In SECTION 5 of the bill, added Section 724.033(a)(2), Transportation Code (page 2, line 54), strike "45" and substitute "90".

(5) In SECTION 5 of the bill, added Section 724.033(a)(2)(A), Transportation Code (page 2, line 56), strike "135" and substitute "90".

(6) In SECTION 5 of the bill, added Section 724.033(a)(2)(A), Transportation Code (page 2, line 57), strike "denial; or" and substitute the following:
denial, if the person:

(i) applies to the department to have the person's license reinstated after 90 days; and

(ii) presents evidence satisfactory to the department showing that the person has had installed an ignition interlock device on any motor vehicle of which the person is a registered owner; or

(7) In SECTION 5 of the bill, added Section 724.033(a)(2)(B), Transportation Code (page 2, line 58), strike "one year" and substitute "two years".

(8) In SECTION 5 of the bill, added Section 724.033(a)(2)(B), Transportation Code (page 2, line 62), strike "arrest." and substitute the following:

arrest, if the person:

(i) applies to the department to have the person's license reinstated after 90 days; and

(ii) presents evidence satisfactory to the department showing that the person has had installed an ignition interlock device on any motor vehicle of which the person is a registered owner.

(9) In SECTION 6 of the bill, amended Section 724.034, Transportation Code (page 2, line 67), between the period and "A", insert "(a)".

(10) In SECTION 6 of the bill, added Section 724.034(2)(B), Transportation Code (page 3, line 4), strike "45-day" and substitute "90-day".

(11) In SECTION 6 of the bill, added Section 724.034(2)(B)(i), Transportation Code (page 3, line 6), strike "135-day" and substitute "90-day".

(12) In SECTION 6 of the bill, added Section 724.034(2)(B)(ii), Transportation Code (page 3, line 9), strike "one-year" and substitute "two-year".

(13) In SECTION 6 of the bill, amended Section 724.034, Transportation Code (page 3, between lines 18 and 19), insert the following:

(b) The notice required under Subsection (a) must include instructions detailing the procedures for applying for the 90-day suspension as provided by Subsection (a)(2)(B) with a restriction to the operation of a motor vehicle equipped with an ignition interlock device.

(14) In SECTION 8 of the bill, amended Section 724.035(a)(2), Transportation Code (page 3, line 32), strike "45" and substitute "90".

(15) In SECTION 8 of the bill, amended Section 724.035(a)(2), Transportation Code (page 3, line 33), strike "135" and substitute "90".

(16) In SECTION 8 of the bill, amended Section 724.035(a)(2), Transportation Code (page 3), strike line 35 and substitute the following:

suspension, if the person:

(A) applies to the department to have the person's license reinstated after 90 days; and

(B) presents evidence satisfactory to the department showing that the person has had installed an ignition interlock device on any motor vehicle of which the person is a registered owner.

(17) In SECTION 8 of the bill, amended Section 724.035(b), Transportation Code (page 3, line 45), strike "45" and substitute "90".

(18) In SECTION 8 of the bill, amended Section 724.035(b), Transportation Code (page 3, line 47), strike "one year" and substitute "two years".

(19) In SECTION 8 of the bill, amended Section 724.035(b), Transportation Code (page 3, line 48), strike "denial." and substitute the following:

denial, if the person:

(1) applies to the department to have the person's license reinstated after 90 days; and

(2) presents evidence satisfactory to the department showing that the person has had installed an ignition interlock device on any motor vehicle of which the person is a registered owner.

(20) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION __. Section 724.046, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A license suspended under this chapter may not be reinstated or a new license issued until the person whose license has been suspended:

(1) pays to the department a fee of \$125 in addition to any other fee required by law; and

(2) if the person is required to have installed an ignition interlock device, presents evidence satisfactory to the department showing that the person has had installed the device on any motor vehicle of which the person is a registered owner [A person subject to a denial order issued under this chapter may not obtain a license after the period of denial has ended until the person pays to the department a fee of \$125 in addition to any other fee required by law].

(a-1) A person subject to a denial order issued under this chapter may not obtain a license after the period of denial has ended until the person:

(1) pays to the department a fee of \$125 in addition to any other fee required by law; and

(2) if the person is required to have installed an ignition interlock device, presents evidence satisfactory to the department showing that the person has had installed the device on any motor vehicle of which the person is a registered owner.

The amendment to **CSSB 1061** was read and was adopted by a viva voce vote.

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

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

CSSB 1061 as amended was passed to engrossment by a viva voce vote.

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

COMMITTEE SUBSTITUTE SENATE BILL 1061 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 1061** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE SENATE BILL 1788 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1788** at this time on its second reading:

CSSB 1788, Relating to the creation and operation of a state virtual school network to provide education to students through electronic means.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1788 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1788** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1127 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1127** at this time on its second reading:

CSSB 1127, Relating to the penalty for certain violations of county traffic regulations.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1127 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1127** be placed on its third reading and final passage.

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

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

HOUSE BILL 407 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 407** at this time on its second reading:

HB 407, Relating to the establishment of a home-delivered meal grant program in the Department of Agriculture.

The bill was read second time.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 1

In Section 1 of **HB 407**, on page 2, line 66, add the following: "(l) These funds shall not be considered by the Texas Department of Aging and Disability Services or the Area Agencies on Aging in setting unit rates."

The amendment to **HB 407** was read and was adopted by a viva voce vote.

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

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

HB 407 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.

HOUSE BILL 407 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 407** be placed on its third reading and final passage.

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

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

SENATE BILL 2018 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2018** at this time on its second reading:

SB 2018, Relating to the creation of an additional statutory county court in Hunt County and the administration, operation, and jurisdiction of statutory county courts in that county.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 2018** (Senate committee printing) by striking SECTION 2 of the bill (page 1, line 19, through page 2, line 58) and renumbering subsequent SECTIONS of the bill accordingly.

The amendment to **SB 2018** was read and was adopted by a viva voce vote.

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

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

SB 2018 as amended was passed to engrossment by a viva voce vote.

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

SENATE BILL 2018 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2018** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1746 ON SECOND READING**

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1746** at this time on its second reading:

CSSB 1746, Relating to the authority of certain school districts to enter into property tax abatement agreements in connection with realigned or closed military facilities.

The bill was read second time.

Senator Eltife offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1746** as follows:

(1) In the recital to SECTION 1 of the bill, (committee printing, page 1, line 16), strike "adding Subsection (h)" and substitute "adding Subsections (h) and (i)".

(2) In SECTION 1 of the bill, in proposed Subsection (h), Section 312.002, Tax Code (committee printing, page 1, lines 35 and 36), strike proposed Subdivision (3) and substitute the following:

(3) is located in a county in the Texas-Louisiana border region as defined by Section 2056.002, Government Code.

(3) At the end of SECTION 1 of the bill, in Section 312.002, Tax Code, (committee printing, page 1, between lines 36 and 37), add the following:

(i) Subsection (h) expires September 1, 2017. The expiration of Subsection (h) does not affect the validity of a tax abatement agreement entered into by a school district under Subsection (h) before the expiration of that subsection.

The amendment to **CSSB 1746** was read and was adopted by a viva voce vote.

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

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

CSSB 1746 as amended was passed to engrossment by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1746 ON THIRD READING**

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1746** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1056 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1056** at this time on its second reading:

CSSB 1056, Relating to conversion of a reciprocal or interinsurance exchange to a stock company through creation of a mutual holding company.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1056 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 **CSSB 1056** be placed on its third reading and final passage.

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

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

SENATE JOINT RESOLUTION 64 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **SJR 64** at this time on its second reading:

SJR 64, Proposing a constitutional amendment providing for the issuance of general obligation bonds by the Texas Transportation Commission to provide funding for highway improvement projects.

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

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

SENATE JOINT RESOLUTION 64 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 64** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 899 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 899** at this time on its second reading:

CSHB 899, Relating to the operation and functions of the Texas Board of Professional Engineers and the regulation of the practice of engineering.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 899** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS accordingly:

SECTION ____ . Section 1001.003(c), Occupations Code, is amended to read as follows:

(c) The practice of engineering includes:

(1) consultation, investigation, evaluation, analysis, planning, engineering for program management, providing an expert engineering opinion or testimony, engineering for testing or evaluating materials for construction or other engineering use, and mapping;

(2) design, conceptual design, or [~~conceptual~~] design coordination of engineering works or systems, including buildings and related structures;

(3) development or optimization of plans and specifications for engineering works or systems;

(4) planning the use or alteration of land or water or the design or analysis of works or systems for the use or alteration of land or water;

(5) responsible charge of engineering teaching or the teaching of engineering;

(6) performing an engineering survey or study;

(7) engineering for construction, alteration, or repair of real property;

(8) engineering for preparation of an operating or maintenance manual;

(9) engineering for review of the construction or installation of engineered works to monitor compliance with drawings or specifications;

(10) a service, design, analysis, or other work performed for a public or private entity in connection with a utility, structure, building, machine, equipment, process, system, work, project, or industrial or consumer product or equipment of a mechanical, electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature;

(11) providing an engineering opinion or analysis related to a certificate of merit under Chapter 150, Civil Practice and Remedies Code; or

(12) any other professional service necessary for the planning, progress, or completion of an engineering service.

The amendment to **CSHB 899** was read and was adopted by a viva voce vote.

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

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

CSHB 899 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 899 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 899** be placed on its third reading and final passage.

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

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

SENATE BILL 1245 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1245** at this time on its second reading:

SB 1245, Relating to the creation of Kendall County Water Control and Improvement District No. 2; 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.

SENATE BILL 1245 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 **SB 1245** be placed on its third reading and final passage.

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

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

**HOUSE CONCURRENT RESOLUTION 139
ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HCR 139** at this time on its second reading:

HCR 139, Designating May 1, 2007, as Silver Star Day in Texas in honor of wounded service members.

The resolution was read second time and was adopted by the following vote: Yeas 31, Nays 0.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 769 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 769** at this time on its second reading:

CSSB 769, Relating to contracting issues of state agencies, including ethics issues related to state contracting.

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

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Harris, Nelson, Nichols, Patrick, Williams.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 769**, in SECTION 5 of the bill, by striking "November" in added Section 2262.0015(b), Government Code (Senate committee printing page 2, lines 41), and inserting "May".

The amendment to **CSSB 769** was read and was adopted by a viva voce vote.

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

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

CSSB 769 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: Fraser, Harris, Nelson, Nichols, Patrick, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 769 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 769** be placed on its third reading and final passage.

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

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Harris, Nelson, Nichols, Patrick, Williams.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

SENATE BILL 2027 ON SECOND READING

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **SB 2027** at this time on its second reading:

SB 2027, Relating to a border crossing initiative and issuance of an enhanced driver's license or personal identification certificate by the Department of Public Safety of the State of Texas.

The motion prevailed.

Senator Nichols 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 **SB 2027** in SECTION 1 of the bill, at the end of added Section 521.032, Transportation Code (committee printing page 2, between lines 8 and 9), by inserting the following:

(g) A person may not sell or otherwise disclose biometric information accessed from an enhanced driver's license or any information from an enhanced driver's license radio frequency identification chip or similar technology to another person or an affiliate of the person. This subsection does not apply to a financial institution described by Section 521.126(e).

The amendment to **SB 2027** was read and was adopted by a viva voce vote.

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

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

SB 2027 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: Nichols.

SENATE BILL 2027 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2027** be placed on its third reading and final passage.

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

Nays: Nichols.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

SENATE BILL 2030 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2030** at this time on its second reading:

SB 2030, Relating to an additional filing fee for civil cases filed in Hays County.

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

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

SENATE BILL 2030 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 **SB 2030** be placed on its third reading and final passage.

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

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

SENATE BILL 483 WITH HOUSE AMENDMENTS

Senator Fraser called **SB 483** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 483** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to regulation of electric generation capacity ownership in the electric power market.

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

SECTION 1. Section 39.152, Utilities Code, is amended by amending Subsections (a) and (d) and adding Subsection (a-1) to read as follows:

(a) The commission shall certify a power region if:

(1) a sufficient number of interconnected utilities in the power region fall under the operational control of an independent organization as described by Section 39.151;

(2) the power region has a generally applicable tariff that guarantees open and nondiscriminatory access for all users to transmission and distribution facilities in the power region as provided by Section 39.203; and

(3) no person owns, controls, or owns and controls in any combination more than 20 percent of the installed generation capacity located in or capable of delivering electricity to a power region, as determined according to Section 39.154.

(a-1) Notwithstanding Subsection (a)(3), the commission may certify a power region in which a person owns, controls, or owns and controls in any combination more than 20 percent of the installed generation capacity located in or capable of delivering electricity to the power region, as determined according to Section 39.154, if:

(1) the person has entered into an agreement with the wholesale electric market monitor to mitigate the potential for market power abuse under Section 39.156; and

(2) the commission has approved the agreement.

(d) For a power region outside of ERCOT, a power generation company that is affiliated with an electric utility may elect to demonstrate that it meets the requirements of Subsection (a)(3) by showing that it does not own, control, or own and control in any combination more than 20 percent of the installed generation capacity in a geographic market that includes the power region, using the guidelines, standards, and methods adopted by the Federal Energy Regulatory Commission.

SECTION 2. Section 39.153, Utilities Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsections (e) and (f) to read as follows:

(a-1) Not later than September 30, 2008, each electric utility or power generation company subject to this section shall sell at auction or otherwise divest additional entitlements to the utility's or company's Texas jurisdictional installed generation capacity to ensure that a utility or power generation company does not own, control, or own and control in any combination more than 20 percent of the installed generation capacity in ERCOT.

(a-2) Subsection (a-1) does not apply to an electric utility or power generation company if:

(1) the utility or company has entered into an agreement with the wholesale electric market monitor to mitigate the potential for market power abuse under Section 39.156; and

(2) the commission has approved the agreement.

(e) The commission shall adopt rules by December 31, 2000, that define the scope of the initial capacity entitlements to be auctioned. Not later than December 31, 2007, the commission shall adopt additional rules that define the scope of the auctions necessary to comply with Subsection (a-1). Entitlements may be auctioned in blocks of less than 15 percent. The rules shall state the minimum amount of capacity that can be sold at auction as an entitlement. At a minimum, the rules shall provide that the entitlements:

(1) may be sold and purchased in periods of not less than one month nor more than four years;

(2) may be resold to any lawful purchaser, except for a retail electric provider affiliated with the electric utility or power generation company that originally auctioned the entitlement;

(3) include no possessory interest in the unit from which the power is produced;

(4) include no obligations of a possessory owner of an interest in the unit from which the power is produced; and

(5) give the purchaser the right to designate the dispatch of the entitlement, subject to planned outages, outages beyond the control of the utility or company operating the unit, and other considerations subject to the oversight of the applicable independent organization.

(f) The commission shall adopt rules by December 31, 2000, that prescribe the procedure for the auction of the entitlements as required by Subsection (a). The commission by rule may adopt procedures for the auction of the entitlements under Subsection (a-1) as necessary. The rules shall include:

(1) a process for conducting the auction or auctions, including who shall conduct it, how often it shall be conducted, and how winning bidders shall be determined;

(2) a process for the electric utility or power generation company to designate which generation units or combination of units are offered for auction;

(3) a provision for the utility or company to establish an opening bid price based on the electric utility's or power generation company's expected cost, with the commission prescribing the means for determining the opening bid price, which may not include return on equity; and

(4) a provision that allows a bidder to specify the magnitude and term of the entitlement, subject to the conditions established in Subsection (e).

SECTION 3. Section 39.154, Utilities Code, is amended by amending Subsections (a) and (c) and adding Subsection (a-1) to read as follows:

(a) Beginning on the date of introduction of customer choice, a power generation company may not own, control, or own and control in any combination more than 20 percent of the installed generation capacity located in, or capable of delivering electricity to, a power region.

(a-1) Subsection (a) does not apply to a power generation company if:

(1) the power generation company has entered into an agreement with the wholesale electric market monitor to mitigate the potential for market power abuse under Section 39.156; and

(2) the commission has approved the agreement.

(c) In determining the percentage shares of installed generation capacity under this section, the commission shall combine capacity owned or [and] controlled by a power generation company and any entity that is affiliated with that power generation company within the power region, reduced by the installed generation capacity of those facilities that are made subject to capacity auctions under Sections 39.153(a), (a-1), and (d).

SECTION 4. Section 39.155(a), Utilities Code, is amended to read as follows:

(a) Each person, municipally owned utility, electric cooperative, and river authority that owns or controls generation facilities and offers electricity for sale in this state shall report to the commission its installed generation capacity, the total amount of capacity available for sale to others, the total amount of capacity under contract to others, the total amount of capacity dedicated to its own use, its annual wholesale power sales in the state, its annual retail power sales in the state, and any other information necessary for the commission to assess market power or the development of a competitive retail market in the state. The commission shall by rule prescribe the nature and detail of the reporting requirements and shall administer those reporting requirements in a manner that ensures the confidentiality of competitively sensitive information.

SECTION 5. Sections 39.156(a), (b), (f), and (g), Utilities Code, are amended to read as follows:

(a) In this section, "market power mitigation plan" or "plan" means:

(1) a written proposal by an electric utility or a power generation company for reducing its ownership or ~~and~~ control of installed generation capacity as required by Section 39.154; or

(2) a proposal to the wholesale electric market monitor to mitigate the potential for market power abuse.

(b) An electric utility or power generation company that owns, controls, or owns and controls in any combination ~~owning and controlling~~ more than 20 percent of the generation capacity located in, or capable of delivering electricity to, a power region, not later than the 90th day after the date the utility's or company's generation capacity exceeds the 20 percent limitation prescribed by this subsection, shall:

(1) file a market power mitigation plan with the commission if the utility or company intends to divest generation capacity; or

(2) enter into an agreement to mitigate the potential for market power abuse with the wholesale electric market monitor if the utility or company wants to continue owning or controlling the generation capacity [not later than December 1, 2000].

(f) The commission shall approve, modify, or reject a plan within 180 days after the date of a filing under Subsection (b)(1) or after the date the wholesale electric market monitor files with the commission a market power mitigation plan entered into under Subsection (b)(2) [(b)]. The commission may not modify a plan to require divestiture by the electric utility or the power generation company.

(g) In reaching its determination under Subsection (f), the commission shall consider:

(1) the degree to which the electric utility's or power generation company's stranded costs, if any, are minimized;

(2) whether on disposition of the generation assets the reasonable value is likely to be received;

(3) the effect of the plan on the electric utility's or power generation company's federal income taxes;

(4) the effect of the plan on current and potential competitors in the generation market; ~~and~~

(5) whether the plan is consistent with the public interest;

(6) the control of generation through the use of contracts between affiliated retail electric providers and independent power producers; and

(7) the emissions credits owned or controlled in a nonattainment area for national ambient air quality standards.

SECTION 6. Section 39.157, Utilities Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (j) to read as follows:

(a) The commission shall monitor market power associated with the generation, transmission, distribution, and sale of electricity in this state. On a finding that market power abuses or other violations of this section are occurring, the commission shall require reasonable mitigation of the market power by ordering the construction of additional transmission or distribution facilities, by seeking an injunction or civil penalties as necessary to eliminate or to remedy the market power abuse or violation as authorized by Chapter 15, by requiring refunds or disgorgement of revenues received as a result of market power abuses, by ordering the auction of entitlements to generating capacity, by imposing an administrative penalty as authorized by Chapter 15, or by suspending, revoking, or amending a certificate or registration as authorized by Section 39.356. Section 15.024(c) does not apply to an administrative penalty imposed under this section. For purposes of this subchapter, market power abuses are practices by persons possessing market power that are unreasonably discriminatory or tend to unreasonably restrict, impair, or reduce the level of competition, including practices that tie unregulated products or services to regulated products or services or unreasonably discriminate in the provision of regulated services. For purposes of this section, "market power abuses" include predatory pricing, withholding of production, precluding entry, and collusion. A violation of the code of conduct provided by Subsection (d) that materially impairs the ability of a person to compete in a competitive market shall be deemed to be an abuse of market power. The possession of a high market share in a market open to competition may not, of itself, be deemed to be an abuse of market power; however, this sentence shall not affect the application of state and federal antitrust laws.

(b) Beginning on the date of introduction of customer choice, a person that owns or controls generation facilities may not own transmission or distribution facilities in this state except for those facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under Section 31.002. However, nothing in this chapter shall prohibit a power generation company affiliated with a transmission and distribution utility from owning or controlling generation facilities.

(d) Not later than January 10, 2000, the commission shall adopt rules and enforcement procedures to govern transactions or activities between a transmission and distribution utility and its competitive affiliates to avoid potential market power abuses and cross-subsidizations between regulated and competitive activities both during the transition to and after the introduction of competition. Nothing in this subsection is intended to affect or modify the obligations or duties relating to any rules or standards of conduct that may apply to a utility or the utility's affiliates under orders or regulations of the Federal Energy Regulatory Commission or the Securities and Exchange Commission. A utility that is subject to statutes or regulations in other

states that conflict with a provision of this section may petition the commission for a waiver of the conflicting provision on a showing of good cause. The rules adopted under this section shall ensure that:

(1) a utility makes any products and services, other than corporate support services, that it provides to a competitive affiliate available, contemporaneously and in the same manner, to the competitive affiliate's competitors and applies its tariffs, prices, terms, conditions, and discounts for those products and services in the same manner to all similarly situated entities;

(2) a utility does not:

(A) give a competitive affiliate or a competitive affiliate's customers any preferential advantage, access, or treatment regarding services other than corporate support services; or

(B) act in a manner that is discriminatory or anticompetitive with respect to a nonaffiliated competitor of a competitive affiliate;

(3) a utility providing electric transmission or distribution services:

(A) provides those services on nondiscriminatory terms and conditions;

(B) does not establish as a condition for the provision of those services the purchase of other goods or services from the utility or the competitive affiliate; ~~and~~

(C) does not provide competitive affiliates preferential access to the utility's transmission and distribution systems or to information about those systems; and

(D) does not act in a manner that in any way suggests or implies that reliability of electric service, or restoration of service to a customer following an outage, is dependent on a customer receiving service from a competitive affiliate of a utility;

(4) a utility does not release any proprietary customer information to a competitive affiliate or any other entity, other than an independent organization as defined by Section 39.151 or a provider of corporate support services for the purposes of providing the services, without obtaining prior verifiable authorization, as determined from the commission, from the customer;

(5) a utility does not:

(A) communicate with a current or potential customer about products or services offered by a competitive affiliate in a manner that favors a competitive affiliate; or

(B) allow a competitive affiliate, before September 1, 2005, to use the utility's corporate name, trademark, brand, or logo unless the competitive affiliate includes on employee business cards and in its advertisements of specific services to existing or potential residential or small commercial customers locating within the utility's certificated service area a disclaimer that states, "(Name of competitive affiliate) is not the same company as (name of utility) and is not regulated by the Public Utility Commission of Texas, and you do not have to buy (name of competitive affiliate)'s products to continue to receive quality regulated services from (name of utility).";

(6) a utility does not conduct joint advertising or promotional activities with a competitive affiliate [~~in a manner that favors the competitive affiliate~~];

(7) a utility is a separate, independent entity from any competitive affiliates and, except as provided by Subdivisions (8) and (9), does not share employees, facilities, information, or other resources, other than permissible corporate support services, with those competitive affiliates unless the utility can prove to the commission that the sharing will not compromise the public interest;

(8) a utility's office space is physically separated from the office space of the utility's competitive affiliates by being located in separate buildings or, if within the same building, by a method such as having the offices on separate floors or with separate access, unless otherwise approved by the commission;

(9) a utility and a competitive affiliate:

(A) may, to the extent the utility implements adequate safeguards precluding employees of a competitive affiliate from gaining access to information in a manner inconsistent with Subsection (g) or (i), share common officers and directors, property, equipment, offices to the extent consistent with Subdivision (8), credit, investment, or financing arrangements to the extent consistent with Subdivision (17), computer systems, information systems, and corporate support services; and

(B) are not required to enter into prior written contracts or competitive solicitations for non-tariffed transactions between the utility and the competitive affiliate, except that the commission by rule may require the utility and the competitive affiliate to enter into prior written contracts or competitive solicitations for certain classes of transactions, other than corporate support services, that have a per unit value of more than \$75,000 or that total more than \$1 million;

(10) a utility does not temporarily assign, for less than three years [~~one year~~], employees engaged in transmission or distribution system operations to a competitive affiliate [~~unless the employee does not have knowledge of information that is intended to be protected under this section~~];

(11) a utility does not subsidize the business activities of an affiliate with revenues from a regulated service;

(12) a utility and its affiliates fully allocate costs for any shared services, corporate support services, and other items described by Subdivisions (8) and (9);

(13) a utility and its affiliates keep separate books of accounts and records and the commission may review records relating to a transaction between a utility and an affiliate;

(14) assets transferred or services provided between a utility and an affiliate, other than transfers that facilitate unbundling under Section 39.051 or asset valuation under Section 39.262, are priced at a level that is fair and reasonable to the customers of the utility and reflects the market value of the assets or services or the utility's fully allocated cost to provide those assets or services;

(15) regulated services that a utility provides on a routine or recurring basis are included in a tariff that is subject to commission approval;

(16) each transaction between a utility and a competitive affiliate is conducted at arm's length; and

(17) a utility does not allow an affiliate to obtain credit under an arrangement that would include a specific pledge of assets in the rate base of the utility or a pledge of cash reasonably necessary for utility operations.

(j) After January 1, 2008, a competitive affiliate may not use the utility's corporate name, trademark, brand, or logo or any portion of the utility's corporate name, trademark, brand, or logo if the commission determines that the use may be misleading to a customer.

SECTION 7. Section 39.407(a), Utilities Code, is amended to read as follows:

(a) If an electric utility chooses on or after January 1, 2007, to participate in customer choice, the commission may not authorize customer choice until the applicable power region has been certified as a qualifying power region under Section 39.152(a). Except as otherwise provided by this subsection, the commission shall certify that the requirements of Section 39.152(a)(3) are met for electric utilities subject to this subchapter only upon a finding that the total capacity owned, controlled, or owned and controlled in any combination by each such electric utility and its affiliates does not exceed 20 percent of the total installed generation capacity within the constrained geographic region served by each such electric utility plus the total available transmission capacity capable of delivering firm power and energy to that constrained geographic region. Not later than May 1, 2002, each electric utility subject to this subchapter shall submit to the electric utility restructuring legislative oversight committee an analysis of the needed transmission facilities necessary to make the electric utility's service area transmission capability comparable to areas within the ERCOT power region. On or after September 1, 2003, each electric utility subject to this subchapter shall file the utility's plans to develop the utility's transmission interconnections with the utility's power region or other adjacent power regions. The commission shall review the plan and not later than the 180th day after the date the plan is filed, determine the additional transmission facilities necessary to provide access to power and energy that is comparable to the access provided in areas within the ERCOT power region; provided, however, that if a hearing is requested by any party to the proceeding, the 180-day deadline will be extended one day for each day of hearings. The commission shall, as a part of the commission's approval of the plan, approve a rate rider mechanism for the recovery of the incremental costs of those facilities after the facilities are completed and in-service. A finding of need under this subsection shall meet the requirements of Sections 37.056(c)(1), (2), and (4)(E). The commission may certify that the requirements of Section 39.152(a)(3) are met for electric utilities subject to this subchapter if the commission finds that:

(1) each such utility has sufficient transmission facilities to provide customers access to power and energy from capacity controlled by suppliers not affiliated with the incumbent utility that is comparable to the access to power and energy from capacity controlled by suppliers not affiliated with the incumbent utilities in areas of the ERCOT power region; and

(2) the total capacity owned, controlled, or owned and controlled in any combination by each such electric utility and its affiliates does not exceed 20 percent of the total installed generation capacity within the power region.

SECTION 8. Section 39.453(b), Utilities Code, is amended to read as follows:

(b) The commission shall certify that the requirement of Section 39.152(a)(3) is met for an electric utility subject to this subchapter only if the commission finds that the total capacity owned, controlled, or owned and controlled in any combination by the electric utility and the utility's affiliates does not exceed 20 percent of the total installed generation capacity within the power region of that utility.

SECTION 9. Sections 39.153(b) and 39.154(e), Utilities Code, are repealed.

SECTION 10. 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, 2007.

Floor Amendment No. 1

Amend **CSSB 483** (House committee report) as follows:

(1) In SECTION 1 of the bill, added Section 39.152(a-1)(2), Utilities Code (page 2, line 4), strike "the commission has approved the agreement" and substitute "the person has submitted the agreement under Subdivision (1) to the commission for approval and the agreement is approved as the person's market power mitigation plan in accordance with Section 39.156(f) or (f-4)".

(2) In SECTION 2 of the bill, added Section 39.153(a-2)(2), Utilities Code (page 3, line 1), strike "the commission has approved the agreement" and substitute "the utility or company has submitted the agreement under Subdivision (1) to the commission for approval and the agreement is approved as the utility's or company's market power mitigation plan in accordance with Section 39.156(f) or (f-4)".

(3) In the recital to SECTION 3 of the bill (page 4, line 19), strike "(a) and (c)" and substitute "(a), (c), and (e)".

(4) In SECTION 3 of the bill, added Section 39.154(a-1)(2), Utilities Code (page 5, line 4), strike "the commission has approved the agreement" and substitute "the power generation company has submitted the agreement under Subdivision (1) to the commission for approval and the agreement is approved as the company's market power mitigation plan in accordance with Section 39.156(f) or (f-4)".

(5) In SECTION 3 of the bill, in amended Section 39.154, Utilities Code (page 5, between lines 12 and 13), insert the following:

(e) In determining the percentage shares of installed generation capacity owned, controlled, or owned and controlled in any combination by a power generation company under this section and Section 39.156, the commission shall, for purposes of calculating the numerator, reduce the installed generation capacity owned, controlled, or owned and controlled in any combination by that power generation company by the installed generation capacity from wind generation renewable energy technologies built or acquired by ~~[of any "grandfathered facility" within an ozone nonattainment area as of September 1, 1999, for which]~~ that power generation company after January 1, 2006 ~~[has commenced complying or made a binding commitment to comply with Section 39.264. This subsection applies only to a power generation company that is affiliated with an electric utility that owned and controlled more than 27 percent of the installed generation capacity in the power region on January 1, 1999].~~

(6) In SECTION 5 of the bill (page 6, lines 2 and 3), strike "Sections 39.156(a), (b), (f), and (g), Utilities Code, are amended" and substitute "Section 39.156, Utilities Code, is amended by amending Subsections (a), (b), (f), and (g) and adding Subsections (f-1), (f-2), (f-3), and (f-4)".

(7) In SECTION 5 of the bill, strike added Section 39.156(a)(2), Utilities Code (page 6, lines 10 and 11), and substitute the following:

(2) an agreement with the wholesale electric market monitor to mitigate the potential for market power abuse.

(8) In SECTION 5 of the bill, in amended Section 39.156(b), Utilities Code (page 6, lines 16 and 17), strike "utility's or company's" and substitute "utility or company knew or should have known that its".

(9) In SECTION 5 of the bill, in amended Section 39.156(b)(1), Utilities Code (page 6, line 19), between "mitigation plan" and "with the", insert "described by Subsection (a)(1)".

(10) In SECTION 5 of the bill, in amended Section 39.156(b)(2), Utilities Code (page 6, lines 22 and 23), strike "enter into an agreement to mitigate the potential for market power abuse with the wholesale electric power monitor" and substitute "file a market power mitigation plan described by Subsection (a)(2) with the commission".

(11) In SECTION 5 of the bill, strike amended Section 39.156(f), Utilities Code (page 6, line 26 through page 7, line 5), and substitute the following:

(f) The commission shall approve~~[-, modify,]~~ or reject a plan within 90 ~~[+80]~~ days after the date ~~[of]~~ a utility or company files a plan ~~[filing]~~ under Subsection (b)(1) or (2) ~~[(b)]~~.

(f-1) In determining whether to approve or reject a plan under Subsection (f), the commission shall give substantial deference to a plan described by Subsection (a)(2), and may reject that plan only if the commission finds by clear and convincing evidence that the plan does not reduce the utility's or company's ability to influence prices.

(f-2) If the commission rejects a plan under Subsection (f), the commission shall issue an order that includes specific findings identifying all changes to the plan that would be required for commission approval, provided that the [The] commission may not [modify a plan to] require divestiture or auction of generation capacity by the electric utility or the power generation company if the divestiture or auction was not included in the plan filed by the utility or company.

(f-3) An electric utility or power generation company does not violate this chapter if the utility or company operates in accordance with a plan described by Subsection (a)(2) that is subsequently rejected by the commission if the utility or company ceases to operate in accordance with the plan not later than the 45th day after the date the commission issues an order rejecting the plan.

(f-4) If the commission does not approve or reject a plan within 90 days after the date the plan is filed with the commission, the plan is considered to be approved.

(12) In SECTION 6 of the bill, in amended Section 39.157(a), Utilities Code (page 8, line 8), between "disbursement of" and "revenues received" insert "excess".

(13) In SECTION 6 of the bill, in amended Section 39.157(a), Utilities Code (page 8, line 10), between "capacity" and "; by imposing" insert "if the person does not agree to a market power mitigation plan under Section 39.156(b)".

(14) In SECTION 6 of the bill, in added Section 39.157(j), Utilities Code (page 14, line 6), between "competitive affiliate" and "may not" insert "and a utility".

(15) In SECTION 6 of the bill, in added Section 39.157(j), Utilities Code (page 14, line 7), strike "utility's corporate" and substitute "same".

(16) In SECTION 6 of the bill, in added Section 39.157(j), Utilities Code (page 14, line 8), strike "utility's corporate" and substitute "same".

(17) On page 16, lines 16 and 17, strike all of SECTION 9 and substitute "SECTION 9. Section 39.153(b), Utilities Code, is repealed."

(18) Add the following appropriately numbered SECTIONS to read as follows:

SECTION _____. Chapter 31, Utilities Code, is amended by adding Section 31.006 to read as follows:

Sec. 31.006. **ELECTRIC ENERGY AND ENVIRONMENTAL IMPACT TASK FORCE.** (a) In this section, "task force" means the electric energy and environmental impact task force.

(b) The task force shall meet quarterly to:

(1) study the state's long-term demand for electric generation capacity and the infrastructure and technology available and necessary for meeting that demand;

(2) study the environmental effects of existing and proposed electric generating facilities;

(3) inventory all existing electric generating facilities operating in this state;
and

(4) review changes to state statutes, administrative rules and regulations, judicial decisions, and executive branch policies regarding electric energy generation.

(c) The task force is composed of:

(1) a member of the commission appointed by the chairman of the commission;

(2) a member of the Texas Commission on Environmental Quality appointed by the chairman of the Texas Commission on Environmental Quality; and

(3) the president and chief executive officer of ERCOT.

(d) The members of the task force shall elect a presiding officer from among the members and shall adopt rules governing the operation of the task force.

(e) All meetings of the task force shall be conducted in accordance with Chapter 551, Government Code.

SECTION _____. Not later than October 1, 2007, the electric energy and environmental impact task force established under Section 31.006, Utilities Code, as added by this Act, shall conduct an organizational meeting.

SECTION _____. Section 37.057, Utilities Code, is amended to read as follows:

Sec. 37.057. **DEADLINE FOR APPLICATION FOR NEW TRANSMISSION FACILITY.** (a) Except as provided by Section 37.0575, the [The] commission must approve or deny an application for a certificate for a new transmission facility not later than the first anniversary of the date the application is filed. If the commission does not approve or deny the application on or before that date, a party may seek a writ of mandamus in a district court of Travis County to compel the commission to decide on the application.

SECTION _____. Subchapter B, Chapter 37, Utilities Code, is amended by adding Section 37.0575 to read as follows:

Sec. 37.0575. FACILITIES THAT ARE CRITICAL FOR RESOURCE ADEQUACY. (a) The commission may designate certain transmission facility projects as projects critical for resource adequacy if the project seeks to connect to ERCOT electric generation facilities in this state that were in operation on January 1, 2007. In determining whether the commission should designate a project as a project critical for resource adequacy, the commission shall consider:

(1) the estimates of future electric reserve margins published by the ERCOT independent system operator;

(2) the amount of electricity the proposed project could potentially add to the reserve margins in ERCOT; and

(3) how quickly the proposed transmission facility project can be constructed to add that electricity to the ERCOT market.

(b) The commission must approve or deny an application for a certificate of convenience and necessity for a transmission facility project the commission designates as a project critical for resource adequacy not later than the 180th day after the date a complete application is filed unless good cause is shown for extending that deadline. If the commission does not approve or deny the application on or before that date, a party may seek a writ of mandamus in a district court of Travis County to compel the commission to decide on the application.

(c) This section expires September 1, 2009.

SECTION _____. (a) The legislature finds that:

(1) the "filed rate" doctrine is at odds with the intent of the state legislature to restructure the electric industry in this state;

(2) the "filed rate" doctrine in a private right of action for a violation of Section 39.157, Utilities Code, or of Sections 15.01 through 15.26, Business & Commerce Code, is abolished; and

(3) the deregulated wholesale and retail markets in ERCOT are the relevant markets for the purposes of determining standing to sue and the existence of market power abuses under Section 39.157, Utilities Code.

(b) Section 39.157, Utilities Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) To prevent market power abuses or other violations of this section, the [The] commission shall monitor market power associated with the generation, transmission, distribution, and sale of electricity in this state. On a finding that market power abuses or other violations of this section are occurring, the commission shall require reasonable mitigation of the market power by ordering the construction of additional transmission or distribution facilities, by seeking an injunction or civil penalties as necessary to eliminate or to remedy the market power abuse or violation as authorized by Chapter 15, by imposing an administrative penalty as authorized by Chapter 15, or by suspending, revoking, or amending a certificate or registration as authorized by Section 39.356. Section 15.024(c) does not apply to an administrative penalty imposed under this section. For purposes of this subchapter, market power abuses are practices by persons possessing market power that are unreasonably discriminatory or tend to unreasonably restrict, impair, or reduce the level of competition, including practices that tie unregulated products or services to regulated products or services or unreasonably discriminate in the provision of regulated services. For purposes of this

section, "market power abuses" include predatory pricing, withholding of production, precluding entry, and collusion. A violation of the code of conduct provided by Subsection (d) that materially impairs the ability of a person to compete in a competitive market shall be deemed to be an abuse of market power. The possession of a high market share in a market open to competition may not, of itself, be deemed to be an abuse of market power; however, this sentence shall not affect the application of state and federal antitrust laws.

(a-1) Notwithstanding any other law, a qualifying person may pursue a private right of action under Section 39.158(b) or under Sections 15.01 through 15.26, Business & Commerce Code, based on a violation of this section, for damages or for injunctive relief, against a power generation company, a power marketer, a retail electric provider, or any other supplier of wholesale or retail electricity, other than a transmission and distribution utility, operating in ERCOT. A qualifying person is not required to bring an administrative action before pursuing a private right of action. In this subsection, "qualifying person" means a retail electric provider that meets the requirements for standing to sue for market power abuses under Sections 15.01 through 15.26, Business & Commerce Code.

(19) Renumber SECTIONS of the bill accordingly.

Floor Amendment No. 4

Amend Amendment No. 1 by P. King to **CSSB 483** (House committee printing) by striking the text of the amendment after page 1, line 2, and substituting the following:

(1) Add the following appropriately numbered items to read as follows:

() In the recital to SECTION 1 of the bill (page 1, line 6), strike "adding Subsection (a-1)" and substitute "adding Subsections (a-1) and (a-2)".

() In Section 39.152(a)(2), Utilities Code, as amended by SECTION 1 of the bill (page 1, line 15), strike "and" and substitute "[~~and~~]".

() In Section 39.152(a)(3), Utilities Code, as amended by SECTION 1 of the bill (page 1, line 19), strike the period and substitute the following:

; and

(4) no person owns, controls, or owns and controls in any combination more than 40 percent of the installed generation capacity located in an ERCOT zone as provided by Subsection (a-2) and as determined according to Section 39.154(a)(2).

() In Section 39.152, Utilities Code, as amended by SECTION 1 of the bill (page 2, between lines 4 and 5), insert the following:

(a-2) For purposes of Subsection (a)(4), the ERCOT zones are the congestion zones determined by the ERCOT independent organization and in effect as of January 1, 2007. This zonal restriction expires on the later of the first anniversary of the date of the implementation of the ERCOT nodal market or December 31, 2009. In determining the percentage of installed generation capacity owned or controlled by a person under Subsection (a)(4), the commission shall, for purposes of calculating the numerator and notwithstanding any other provision of this chapter, exclude capacity:

(1) from a generating facility that uses nuclear energy to generate electricity for sale and that is constructed after January 1, 2007;

(2) from a coal-fired generating facility that uses integrated gasification combined cycle technology or undiluted high-flame temperature oxygen combustion technology that excludes air; or

(3) from a generating facility that uses a renewable energy technology, as that term is defined by Section 39.904(d), and that is not dispatchable;

(4) from a generating facility owned by a municipally owned utility or electric cooperative, provided that if the facility is owned only partly by the municipally owned utility or electric cooperative, the commission shall exclude only the proportion of that capacity that is equal to the proportion the municipality's or electric cooperative's ownership bears to the total ownership;

(5) in an amount equivalent to the sum of firm bilateral energy or capacity sales for delivery in the relevant ERCOT zone that are not indexed to real time energy clearing prices and that are for a term of, or consecutive or overlapping terms adding up to, 12 months or longer by the power generation company or through its marketing affiliate to unaffiliated third parties as reduced by firm bilateral energy or capacity purchases for delivery in the same ERCOT zone that are not indexed to real time energy clearing prices for a term of, or consecutive or overlapping terms adding up to, 12 months or longer, provided that the power generation company and marketing affiliate shall certify to the commission each month the amounts excluded under this subdivision; and

(6) from generating facilities that were mothballed as of January 1, 2007, and remain mothballed.

() In Section 39.152(a-1), Utilities Code, as added by SECTION 1 of the bill (page 1, lines 20-24), strike "Notwithstanding Subsection (a)(3), the commission may certify a power region in which a person owns, controls, or owns and controls in any combination more than 20 percent of the installed generation capacity located in or capable of delivering electricity to the power region" and substitute "Notwithstanding Subsections (a)(3) and (4), the commission may certify a power region in which a person owns, controls, or owns and controls in any combination more than 20 percent of the total installed generation capacity located in or capable of delivering electricity to the power region".

(2) On page 1 of the amendment, strike lines 15 and 16 and substitute the following:

(3) In the recital to SECTION 3 of the bill (page 4, line 19), strike "Subsections (a) and (c) and adding Subsection (a-1)" and substitute "Subsections (a), (c), and (e), and adding Subsections (a-1) and (a-2)".

(3) Add the following appropriately numbered items and renumber subsequent items accordingly:

() In Section 39.154(a), Utilities Code, as amended by SECTION 3 of the bill (page 4, lines 23-25), strike "control in any combination more than 20 percent of the installed generation capacity located in, or capable of delivering electricity to, a power region." and substitute:

control in any combination more than:

(1) 20 percent of the installed generation capacity located in, or capable of delivering electricity to, a power region; or

(2) 40 percent of the installed generation capacity located in an ERCOT zone as provided by Subsection (a-2).

() In Section 39.154, Utilities Code, as amended by SECTION 3 of the bill (page 5, between lines 4 and 5), insert the following:

(a-2) For purposes of Subsection (a)(2), the ERCOT zones are the congestion zones determined by the ERCOT independent organization and in effect as of January 1, 2007. This zonal restriction expires on the later of the first anniversary of the date of the implementation of the ERCOT nodal market or December 31, 2009. In determining the percentage of total installed generation capacity owned or controlled by a power generation company under Subsection (a)(2), the commission shall, for purposes of calculating the numerator and notwithstanding any other provision of this chapter, exclude capacity:

(1) from a generating facility that uses nuclear energy to generate electricity for sale and that is constructed after January 1, 2007;

(2) from a coal-fired generating facility that uses integrated gasification combined cycle technology;

(3) from a generating facility that uses a renewable energy technology, as that term is defined by Section 39.904(d), and that is not dispatchable;

(4) from a generating facility owned by a municipally owned utility or electric cooperative, provided that if the facility is owned only partly by the municipally owned utility or electric cooperative, the commission shall exclude only the proportion of that capacity that is equal to the proportion the municipality's or electric cooperative's ownership bears to the total ownership;

(5) in an amount equivalent to the sum of firm bilateral energy or capacity sales for delivery in the relevant ERCOT zone that are not indexed to real time energy clearing prices and that are for a term of, or consecutive or overlapping terms adding up to, 12 months or longer by the power generation company or through its marketing affiliate to unaffiliated third parties as reduced by firm bilateral energy or capacity purchases for delivery in the same ERCOT zone that are not indexed to real time energy clearing prices for a term of, or consecutive or overlapping terms adding up to, 12 months or longer, provided that the power generation company and marketing affiliate shall certify to the commission each month the amounts excluded under this subdivision; and

(6) from generating facilities that were mothballed as of January 1, 2007, and remain mothballed.

() In Section 39.154(c), Utilities Code, as amended by SECTION 3 of the bill (page 5, line 9), between "power region" and ", reduced", insert "or the ERCOT zone".

(4) On page 2, line 18 of the amendment, between "Subsections" and "(f-1)", insert "(b-1)".

(5) On page 3 of the amendment, strike lines 2-5 and substitute the following: "enter into an agreement to mitigate the potential for market power abuse with the wholesale electric market monitor" and substitute "file a market power mitigation plan described by Subsection (a)(2) with the commission, which shall apply to generation capacity offered into any market operated by the independent organization and must be designed to provide recovery for incremental costs, including operational and

start-up costs, provided that this subsection does not restrict a person subject to a mitigation plan from receiving the market clearing price for services offered in any market operated by the independent organization."

(6) Add the following appropriately numbered item to read as follows and renumber subsequent items accordingly:

() In Section 39.156, Utilities Code, as amended by SECTION 5 of the bill (page 6, between lines 25 and 26), insert the following:

(b-1) An electric utility or power generation company that owns, controls, or owns and controls in any combination more than 40 percent of the total installed generation capacity located in an ERCOT zone, as defined by Section 39.154(a)(2), not later than the 90th day after the date the utility or company knew or should have known that its generation capacity exceeds the 40 percent limitation prescribed by this subsection, shall file a market power mitigation plan described by Subsection (b)(2). Subsections (f), (f-1), (f-2), (f-3), and (f-4) apply to the filing. The commission may not require divestiture or auction of installed generation capacity described by this subsection or take any action under this section that prohibits an electric utility or power generation company from constructing additional generating facilities. For purposes of this subsection, the ERCOT zones are the congestion zones determined by the ERCOT independent organization and in effect as of January 1, 2007. This zonal restriction expires on the later of the first anniversary of the date of the implementation of the ERCOT nodal market or December 31, 2009. In determining the percentage of total installed generation capacity owned or controlled by a power generation company under this subsection, the commission shall, for purposes of calculating the numerator and notwithstanding any other provision of this chapter, exclude capacity:

(1) from a generating facility that uses nuclear energy to generate electricity for sale and that is constructed after January 1, 2007;

(2) from a coal-fired generating facility that uses integrated gasification combined cycle technology;

(3) from a generating facility that uses a renewable energy technology, as that term is defined by Section 39.904(d), and that is not dispatchable;

(4) from a generating facility owned by a municipally owned utility or electric cooperative, provided that if the facility is owned only partly by the municipally owned utility or electric cooperative, the commission shall exclude only the proportion of that capacity that is equal to the proportion the municipality's or electric cooperative's ownership bears to the total ownership;

(5) in an amount equivalent to the sum of firm bilateral energy or capacity sales for delivery in the relevant ERCOT zone that are not indexed to real time energy clearing prices and that are for a term of, or consecutive or overlapping terms adding up to, 12 months or longer by the power generation company or through its marketing affiliate to unaffiliated third parties as reduced by firm bilateral energy or capacity purchases for delivery in the same ERCOT zone that are not indexed to real time energy clearing prices for a term of, or consecutive or overlapping terms adding up to, 12 months or longer, provided that the power generation company and marketing affiliate shall certify to the commission each month the amounts excluded under this subdivision; and

(6) from generating facilities that were mothballed as of January 1, 2007, and remain mothballed.

Floor Amendment No. 5

Amend proposed Amendment No. 1 by P. King to **CSSB 483** (House committee printing) as follows:

(1) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

Sec. _____ . CONSIDERATION AND APPROVAL OF CERTAIN TRANSACTIONS. (a) To protect retail customers in this state, notwithstanding any other provision of this title, an electric utility or transmission and distribution utility must report to and obtain approval of the commission before closing any transaction in which:

(1) the electric utility or transmission and distribution utility will be merged or consolidated with another electric utility or transmission and distribution utility;

(2) at least 50 percent of the stock of the electric utility or transmission and distribution utility will be transferred or sold; or

(3) a controlling interest or operational control of the electric utility or transmission and distribution utility will be transferred.

(b) The commission shall approve a transaction under Subsection (a) if the commission finds that the transaction is in the public interest. In making its determination, the commission shall consider whether the transaction will adversely affect the reliability of service, availability of service, or cost of service of the electric utility or transmission and distribution utility. The commission shall make the determination concerning a transaction under this subsection not later than the 180th day after the date the commission receives the relevant report. If the commission has not made a determination before the 181st day after that date, the transaction is considered approved.

(c) Subsections (a) and (b) do not apply to a transaction described by Subsection (a) for which a definitive agreement was executed before April 1, 2007, if an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility made a filing for review of the transaction under Section 14.101 before May 1, 2007, and the resulting proceeding was not withdrawn.

(d) If an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility files with the commission a stipulation, representation, or commitment in advance of or as part of a filing under this section or under Section 14.101, the commission may enforce the stipulation, representation, or commitment to the extent that the stipulation, representation, or commitment is consistent with the standards provided by this section and Section 14.101. The commission may reasonably interpret and enforce conditions adopted pursuant to this subsection.

Floor Amendment No. 6

Amend Amendment No. 1 by P. King to **CSSB 483** (House committee printing), by striking page 4, line 26, through page 5, line 27 of the amendment.

Floor Amendment No. 7

Amend **CSSB 483** as follows:

(1) On page 4, line 19, strike "Subsection (a-1)" and substitute "Subsections (a-1), (e), (f), and (g)".

(2) On page 5, between lines 12 and 13, insert the following:

"(e) All new electric generating units permitted to emit nitrogen oxides, sulfur dioxide, and mercury shall have each emission offset by equivalent reductions of each emission equal to 115 percent of the actual annual values. The reductions required by this subsection:

(1) must be made within the confines of the Non-Attainment Impact Region;

(2) shall be achieved by the end of the second full year of commercial operation of the new electric generating unit; and

(3) may be achieved from other electric generating units or from any other stationary sources with certified and operating continuous emission monitoring systems.

(f) Subsection (e) applies only to:

(1) new solid fuel electric generating units located within the Non-Attainment Impact Region for which an air permit application is:

(A) filed after January 1, 2007; or

(B) filed before January 1, 2007, and voluntarily suspended before April 1, 2007; and

(2) new electric generating units located in the Non-Attainment Impact Region that:

(A) begin commercial operation after September 1, 2007;

(B) use lignite as its primary fuel source; and

(C) are owned by a power generation company that upon commercial operation, has more than 1200 megawatts of owned electric generating capacity in Texas.

(g) As used in this section:

(1) "Lignite" has the meaning assigned by Section 12.3(32), Title 16, Texas Administrative Code and ASTM standard D 388-77.

(2) "Non-Attainment Impact Region" means the counties in the area bounded by and included within:

(A) the Texas-Oklahoma border to the north;

(B) the Texas-Louisiana border to the east;

(C) the Gulf Coast to the southeast;

(D) the counties of Clay, Jack, Palo Pinto, Erath, Hamilton, Lampasas, Burnet, Blanco, and Comal to the west; and

(E) the counties of Guadalupe, Gonzales, Lavaca, Colorado, Wharton, and Matagorda to the south.

Floor Amendment No. 8

Amend Amendment No. 7 by Dunnam to **CSSB 483** as follows:

Between lines 33 and 34, insert subsection (g) to read as follows:

(g) This section does not apply to the federal project sponsored by the U.S. Department of Energy commonly referred to as FutureGen.

On line 34, strike "(g)" and substitute "(h)".

Floor Amendment No. 9

Amend Amendment No. 7 by Dunnam and Coleman to **CSSB 483**, on page 1, line 32, by striking "1200" and substituting "1,950".

Floor Amendment No. 11

Amend **CSSB 483** (House committee printing) by adding the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 35, Utilities Code, is amended by adding Section 35.009 to read as follows:

Sec. 35.009. BILLING DEMAND FOR RETAIL SEASONAL AGRICULTURAL CUSTOMERS. (a) In this section, "retail seasonal agricultural customer" means a retail customer that is an establishment primarily engaged in producing crops or performing services on harvested crops with the intent of preparing or storing the crops for market or further processing, including cotton ginneries, rice dryers, and grain dryers. The term also includes an electric service identifier used for irrigating agricultural products.

(b) Notwithstanding any other provision of this code, a transmission and distribution utility shall exclude retail seasonal agricultural customers from the application of any ratchet provision contained in a tariff relating to distribution service.

(c) The commission shall adopt rules as necessary to implement this section.

Floor Amendment No. 12

Amend **CSSB 483** (House committee printing) as follows:

(1) In the recital to SECTION 6 of the bill (page 7, line 24), strike "Subsection (j)" and substitute "Subsections (a-1) and (j)".

(2) In SECTION 6 of the bill, in amended Section 39.157(a), Utilities Code (page 8, line 3), between "shall require" and "reasonable mitigation", insert ", to the extent feasible, refunds to retail customers, disgorgement of revenues received as a result of market power abuses, and"".

(3) In SECTION 6 of the bill, in amended Section 39.157, Utilities Code (page 9, between lines 1 and 2), insert the following:

(a-1) Instead of seeking a civil penalty to eliminate or to remedy the market power abuse or violation under Subsection (a), the commission may require that a person who has been found by the commission to have engaged in market power abuse pay equivalent funds directly to an existing emergency bill payment assistance program operated by local assistance agencies that are supported by the Texas Department of Housing and Community Affairs.

Floor Amendment No. 13

Amend **CSSB 483** (House committee printing) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.1514 to read as follows:

Sec. 39.1514. APPLICATION OF SUNSET PROVISION. An independent organization certified under Section 39.151 is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if the organization were a state agency subject to review under that chapter, but the organization is not abolished under that chapter. The review shall be conducted as if the independent organization was scheduled to be abolished September 1, 2009. The independent organization shall pay the cost of the review as determined by the Sunset Advisory Commission.

Floor Amendment No. 14

Amend **CSSB 483** by adding the following SECTION to the bill, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 36.062, Utilities Code, is amended to read as follows:

Sec. 36.062. CONSIDERATION OF CERTAIN EXPENSES. The regulatory authority may not consider for ratemaking purposes:

(1) an expenditure for legislative advocacy, made directly or indirectly, including legislative advocacy expenses included in trade association dues;

(2) a payment made to cover costs of an accident, equipment failure, or negligence at a utility facility owned by a person or governmental entity not selling power in this state, other than a payment made under an insurance or risk-sharing arrangement executed before the date of loss;

(3) an expenditure for costs of processing a refund or credit under Section 36.110; ~~or~~

(4) an expenditure in satisfaction of an administrative penalty imposed for market power abuse or other violations under Section 39.157; or

(5) any other expenditure, including an executive salary, advertising expense, legal expense, or civil penalty or fine, the regulatory authority finds to be unreasonable, unnecessary, or not in the public interest.

(b) Section 36.062, Utilities Code, as amended by this Act, applies to an administrative penalty imposed for market power abuse or other violations under Section 39.157, Utilities Code, regardless of the date the penalty was imposed.

Floor Amendment No. 15

Amend **CSSB 483** by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION _____. Chapter 39, Utilities Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. STATUS OF COMPETITION IN CERTAIN NON-ERCOT
AREAS

Sec. 39.501. APPLICABILITY. (a) This subchapter applies to an investor-owned electric utility:

(1) that is operating solely outside of ERCOT in areas of this state that were included in the Southwest Power Pool on January 1, 2004;

(2) that was not affiliated with the Southeastern Electric Reliability Council on January 1, 2004; and

(3) to which Subchapter I does not apply.

(b) The legislature finds that circumstances exist that require that areas served by an electric utility described by Subsection (a) not be transitioned to full retail customer choice at this time.

Sec. 39.502. REGULATION OF UTILITY AND TRANSITION TO COMPETITION. (a) Until the later of January 1, 2015, or the date on which an electric utility subject to this subchapter is authorized by the commission to implement customer choice, the rates of the electric utility shall be regulated under traditional cost of service regulation and the electric utility is subject to all applicable regulatory authority prescribed by this subtitle and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter do not apply to that electric utility, other than this subchapter, Sections 39.904 and 39.905, and the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions from an electric generating facility.

(b) On or after January 1, 2015, the commission may require an electric utility subject to this subchapter to file a transition to competition plan with the commission. The transition to competition plan must identify how electric utilities subject to this subchapter intend to achieve full customer choice, including an evaluation of the transmission facilities, an explanation of how certification of the power region under Section 39.152 will be achieved, auctioning rights to generation capacity, or any other measure that is consistent with the public interest. The utility must also include in the transition to competition plan a provision to establish a price to beat for residential customers and commercial customers having a peak load of 1,000 kilowatts or less. The commission may prescribe additional information or provisions that must be included in the plan. The commission shall approve, modify, or reject a plan within 180 days after the date of a filing under this section unless a hearing is requested by any party to the proceeding. If a hearing is requested, the 180-day deadline will be extended one day for each day of the hearing. The transition to competition plan may be updated or amended, subject to commission approval, until the applicable power region is certified as a qualifying power region under Section 39.152 and the plan is approved.

(c) On implementation of customer choice, an electric utility subject to this subchapter is subject to the provisions of this subtitle and Subtitle A to the same extent as other electric utilities, including the provisions of Chapter 37 concerning certificates of convenience and necessity.

Sec. 39.503. CUSTOMER CHOICE AND RELEVANT MARKET AND RELATED MATTERS. The commission may not authorize customer choice until the later of January 1, 2015, or the date the applicable power region has been certified as a qualifying power region under Section 39.152.

Sec. 39.504. EXISTING RIGHTS AND OBLIGATIONS. This subchapter may not be construed to:

(1) interfere with or abrogate the rights or obligations of any party, including a retail or wholesale customer, to a contract with an investor-owned electric utility, federal power marketer, federal power marketing agency, river authority, municipally owned utility, or electric cooperative;

(2) interfere with or abrogate the rights or obligations of a party under a contract or agreement concerning certificated utility service areas; or

(3) result in a change in wholesale power costs to wholesale customers in this state purchasing electricity under wholesale power contracts the pricing provisions of which are based on formulary rates, fuel adjustments, or average system costs.

Floor Amendment No. 16

Amend **CSSB 483** by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 39.904(a) and (c), Utilities Code, are amended to read as follows:

(a) It is the intent of the legislature that by January 1, 2015, an additional 5,000 megawatts of generating capacity from renewable energy technologies will have been installed in this state. The cumulative installed renewable capacity in this state shall total 5,880 megawatts by January 1, 2015, and the commission shall establish a target of 10,000 megawatts of installed renewable capacity by January 1, 2025. The cumulative installed renewable capacity in this state shall total 2,280 megawatts by January 1, 2007, 3,272 megawatts by January 1, 2009, 4,264 megawatts by January 1, 2011, 5,256 megawatts by January 1, 2013, and 5,880 megawatts by January 1, 2015. Of the cumulative renewable energy technology generating capacity installed to meet the goal of this subsection after September 1, 2007 [2005], a total of [the commission shall establish a target of having] at least 500 megawatts of capacity from [a] renewable energy technologies [technology] other than [a source using] wind energy technologies shall be installed by January 1, 2015.

(c) The [Not later than January 1, 2000, the] commission shall adopt rules necessary to administer and enforce this section. At a minimum, the rules shall:

(1) establish the minimum annual renewable energy requirement, including a minimum annual requirement for the installation of generating capacity from renewable energy technologies other than wind energy technologies, for each retail electric provider, municipally owned utility, and electric cooperative operating in this state in a manner reasonably calculated by the commission to produce, on a statewide basis, compliance with the requirement prescribed by Subsection (a); and

(2) specify reasonable performance standards that all renewable capacity additions must meet to count against the requirement prescribed by Subsection (a) and that:

(A) are designed and operated so as to maximize the energy output from the capacity additions in accordance with then-current industry standards; and

(B) encourage the development, construction, and operation of new renewable energy projects at those sites in this state that have the greatest economic potential for capture and development of this state's environmentally beneficial renewable resources.

Floor Amendment No. 17

Amend Amendment No. 16 by Christian to **CSSB 483** on page 1 by striking lines 2 and 3 and substituting:

numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 36.203, Utilities Code, is amended by adding Subsection (g) to read as follows:

(g) The commission by rule shall consider the costs of renewable energy credits associated with complying with Section 39.904 as fuel costs subject to reconciliation if an investor-owned electric utility:

(1) is subject to the requirements of Section 39.904; and

(2) has not been authorized by the commission to implement retail competition.

Floor Amendment No. 18

Amend **CSSB 483** (House committee report) by adding the following SECTION to the bill, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 39.904, Utilities Code, is amended by adding Subsections (a-1) and (c-1) to read as follows:

(a-1) The cumulative renewable energy technology generating capacity installed to meet the goal under Subsection (a) may include capacity from an existing fossil-fueled generating plant that:

(1) has a capacity of less than 150 megawatts; and

(2) is repowered to use a renewable energy technology other than wind energy technology.

(c-1) In addition to the rules adopted by the commission under Subsection (c), the commission shall adopt rules that ensure an existing fossil-fueled generating plant is eligible to produce renewable energy credits under Subsection (b) if the generating plant:

(1) has a capacity of less than 150 megawatts; and

(2) is repowered to use a renewable energy technology other than wind energy technology.

Floor Amendment No. 19

Amend **CSSB 483** (House committee printing) by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) In this section, "commission" means the Public Utility Commission of Texas.

(b) The commission shall conduct a study on the potential of electric energy storage devices to benefit the operation of transmission and distribution systems. In conducting the study, the commission shall consider any relevant issues, including:

- (1) the effect of the devices on system reliability;
- (2) the advantages and disadvantages of transmission and distribution utilities owning and operating those devices as transmission and distribution facilities;
- (3) the manner in which the devices may be integrated into the ERCOT operating system, if applicable;
- (4) the manner in which the devices may benefit power generation companies, retail electric providers, electric utilities, and transmission and distribution utilities; and
- (5) the appropriate methods to bill and account for any costs and revenue associated with the electric energy that is used to charge, and that is later discharged from, a device.

(c) The commission shall prepare a report on the results of the study required by this section. The report must include the commission's conclusions on the potential of electric energy storage devices and, as appropriate, recommendations to the legislature on legislation or other action necessary to realize that potential. The commission shall include the report in the electric market scope of competition report required by Section 31.003, Utilities Code, that the commission submits to the 81st Legislature. The commission shall conduct the study and prepare the report as required by this section:

- (1) with input from the ERCOT independent system operator; and
 - (2) after requesting comments and input from all interested parties.
- (d) The commission may authorize one or more electric utilities or transmission or distribution utilities to operate demonstration projects that involve facilities capable of not more than two megawatts of electric energy storage for the purpose of obtaining a better understanding of the facilities':
- (1) cost;
 - (2) value; and
 - (3) operational characteristics, including the efficient use of the transmission system and the facilities' effect on removing transmission constraints.

(e) The operation of a demonstration project under Subsection (d) of this section does not prejudice the study required by this section or any future determination relating to the appropriateness of an electric utility or transmission and distribution utility owning and operating electric energy storage facilities. This subsection and Subsection (d) of this section may not be interpreted to require an electric utility or transmission and distribution utility to install an electric energy storage facility.

Floor Amendment No. 20

Amend **CSSB 483** (House committee printing) as follows:

(1) Add the following SECTION to the substitute:

SECTION 1. Section 39.105, Utilities Code, is amended by adding Subsection (c) to read:

(c) An affiliated power generation company may not provide or make available electric service to a consuming facility located in an area in which an electric cooperative is providing electric service.

(2) Renumber subsequent sections of the substitute accordingly.

Floor Amendment No. 21

Amend **CSSB 483** (House committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter A, Chapter 39, Utilities Code, is amended by adding Section 39.0015 to read as follows:

Sec. 39.0015. DELAY OF RETAIL COMPETITION. Notwithstanding any other provision of this chapter, the commission may not implement or consider the implementation of retail electric competition in an area in this state that is not currently engaged in retail electric competition unless a law enacted after the effective date of this section requires that action.

(b) Not later than the 180th day after the effective date of this Act, an electric utility operating in this state that is subject to traditional cost of service rate regulation and that on the effective date of this Act has a transition to competition plan on file with the Public Utility Commission of Texas shall:

- (1) withdraw the plan from the commission;
- (2) cease all activities related to the plan; and
- (3) file with the commission an application for recovery of any costs incurred as a result of the preparation, filing, and implementation of the plan.

(c) An electric utility described by Section 39.0015, Utilities Code, as added by this section, is entitled to recover the costs described by Subsection (b)(3) of this section.

Floor Amendment No. 22

Amend **CSSB 483** as follows:

SECTION _____. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9032 to read as follows:

Sec. 39.9032. INTERCONNECTION OF DISTRIBUTED RENEWABLE GENERATION. (a) In this section:

(1) "Distributed renewable generation" means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology, as defined by Section 39.904, that is installed on a retail electric customer's side of the meter.

(2) "Distributed renewable generation owner" means the owner of distributed renewable generation.

(3) "Interconnection" means the right of a distributed renewable generation owner to physically connect distributed renewable generation to an electricity distribution system, and the technical requirements, rules, or processes for the connection.

(b) A transmission and distribution utility or electric utility shall allow interconnection if:

(1) the distributed renewable generation to be interconnected has a five-year warranty against breakdown or undue degradation; and

(2) the rated capacity of the distributed renewable generation does not exceed the service entrance capacity.

(c) A customer may request interconnection by filing an application for interconnection with the transmission and distribution utility or electric utility. Procedures of a transmission and distribution utility or electric utility for the submission and processing of a customer's application for interconnection shall be consistent with rules adopted by the commission regarding interconnection.

(d) The commission by rule shall establish safety, technical, and performance standards for distributed renewable generation that may be interconnected. In adopting the rules, the commission shall consider standards published by the Underwriters Laboratories, the National Electric Code, the National Electric Safety Code, and the Institute of Electrical and Electronics Engineers.

(e) A transmission and distribution utility, electric utility, or retail electric provider may not require a distributed renewable generation owner whose distributed renewable generation meets the standards established by rule under Subsection (d) to purchase an amount, type, or classification of liability insurance the distributed renewable generation owner would not have in the absence of the distributed renewable generation.

(f) A transmission and distribution utility shall make available to a distributed renewable generation owner for purposes of this section metering required for services provided under this section, including separate meters that measure the load and generator output or a single meter capable of measuring separately in-flow and out-flow at the point of common coupling meter point. The distributed renewable generation owner must pay the differential cost of the metering unless the meters are provided at no additional cost. Except as provided by this section, Section 39.107 applies to metering under this section.

(g) A renewable energy credit that is earned by a distributed renewable generation owner through the interconnection of a renewable electric system is the sole property of the distributed renewable generation owner unless the distributed renewable generation owner engages in a transaction to sell or trade the credit under Section 39.904.

(h) A transmission and distribution utility, an electric utility or retail electric provider shall provide for net metering and may contract with a distributed renewable generation owner so that:

(1) surplus electricity produced by distributed renewable generation is made available for sale to the transmission grid and distribution system; and

(2) the net value of that surplus electricity is credited to the distributed renewable generation owner.

(j) For distributed renewable generation owners in areas in which customer choice has been introduced, the distributed renewable generation owner must sell the owner's surplus electricity produced to the retail electric provider that serves the distributed renewable generation owner's load at a value agreed to between the distributed renewable generation owner and the provider that serves the owner's load. Without limiting any mutually agreed commercial arrangement, the agreed value may

be based on the clearing price of energy at the time of day that the electricity is made available to the grid or may be a credit applied to an account during a billing period that may be carried over to subsequent billing periods until the credit has been redeemed. The independent organization identified in Section 39.151 shall develop procedures so that the amount of electricity purchased from a distributed renewable generation owner under this section is accounted for in settling the total load served by the provider that serves that owner's load by January 1, 2009. A distributed renewable generation owner requesting net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements.

SECTION _____. (a) This Act takes effect September 1, 2007.

(b) Section 39.9032, Utilities Code, as added by this Act, takes effect January 1, 2009.

Floor Amendment No. 23

Amend Floor Amendment No. 22 by Swinford to **CSSB 483** as follows:

(1) Add to the amendment the following item, numbered appropriately:

(____) Add the following SECTION, numbered appropriately:

SECTION _____. (a) The lieutenant governor and the speaker of the house of representatives shall appoint a study group that has expertise necessary to develop plans by which this state may:

(1) meet a goal of having 25 percent of all energy consumption in this state by January 1, 2025, be from renewable energy technology sources, as defined by Section 39.904, Utilities Code;

(2) provide incentives to build facilities for renewable energy storage or for conversion to hydrogen energy sources; and

(3) provide support for recovery of costs of building electric transmission infrastructure to facilitate exportation of electric power generated in this state by renewable energy technologies.

(b) The study group shall issue a report on the plans to the legislature not later than January 1, 2008.

(2) Renumber subsequent items of the amendment accordingly.

Floor Amendment No. 24

Amend Floor Amendment No. 22 by Swinford to **CSSB 483** as follows:

(1) Add to the amendment the following item, numbered appropriately:

(_) Add the following SECTION, numbered appropriately:

SECTION _____. Section 39.904(b), Utilities Code, is amended to read as follows:

(b) The commission shall establish a renewable energy credits trading program. Any retail electric provider, municipally owned utility, or electric cooperative that does not satisfy the requirements of Subsection (a) by directly owning or purchasing capacity using renewable energy technologies shall purchase sufficient renewable energy credits to satisfy the requirements by holding renewable energy credits in lieu of capacity from renewable energy technologies. As part of the program, the commission by rule shall allow the renewable energy portion of the electric generating capacity of a generating technology that uses a hybrid of fossil fuels and renewable

technology to be counted toward meeting the installed renewable energy technology goals established under Subsection (a). To be eligible to count for meeting the goals established under Subsection (a), the fossil-fueled portion of the hybrid technology must contribute not more than 25 percent of the capacity.

(2) Renumber subsequent items of the amendment accordingly.

Floor Amendment No. 25

Amend **CSSB 483** by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter A, Chapter 35, Utilities Code, is amended by adding Section 35.009 to read as follows:

Sec. 35.009. BILLING DEMAND FOR CERTAIN UTILITY CUSTOMERS.

(a) Notwithstanding any other provision of this code, a transmission and distribution utility shall exclude from the application of any ratchet provision contained in a tariff relating to distribution service any competition field and associated facility of public and private schools and nonprofit athletic and sports associations to the extent that electric service to the field and facilities can be separately accounted for.

(b) The commission shall adopt rules as necessary to implement this section.

(c) This section does not apply to an electric cooperative.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 483** on third reading by adding the following SECTIONS, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 39.904, Utilities Code, is amended by amending Subsection (m) and adding Subsections (m-1), (m-2), and (m-3) to read as follows:

(m) A renewable energy credit retired for purposes other than to meet the requirements of Subsection (c)(1) may not affect the minimum annual renewable energy requirement under Subsection (c)(1) for a retail electric provider, municipally owned utility, or electric cooperative.

(m-1) As provided by this subsection, the commission shall reduce the requirement under Subsection (c)(1) for a retail electric provider, municipally owned utility, or electric cooperative that is subject to a renewable energy requirement under this section and that serves a customer receiving electric service at transmission-level voltage if, before any year for which the commission calculates renewable energy requirements under Subsection (c)(1), the customer notifies the commission in writing that the customer chooses not to support the goal for renewable energy generation under this section for that year. The commission shall exclude from the calculation of a retail electric provider's, municipally owned utility's, or electric cooperative's requirement under Subsection (c)(1) energy sold by the retail electric provider, municipally owned utility, or electric cooperative at transmission-level voltage to customers who have submitted the notice to the commission under this subsection for the applicable year.

(m-2) The commission shall determine the reporting requirements and schedule necessary to implement Subsections (m) and (m-1).

(m-3) Subsections (m), (m-1), and (m-2) do not alter the renewable energy goals or targets established in Subsection (a) or reduce the minimum statewide renewable energy requirements of Subsection (c)(1) [Notwithstanding any other provision of law, the commission shall ensure that all renewable capacity installed in this state and all renewable energy credits awarded, produced, procured, or sold from renewable capacity in this state are counted toward the goal in Subsection (a)].

SECTION _____. (a) The Public Utility Commission of Texas shall conduct a study of the effect that Section 39.904, Utilities Code, has had on:

(1) market power in this state; and

(2) the rates paid for electricity by residential customers in this state.

(b) Not later than January 1, 2009, the Public Utility Commission of Texas shall prepare and present to the governor, lieutenant governor, and speaker of the house of representatives a report describing the results of the study that specifies any changes in market power and any costs to or savings for residential customers because of the implementation of Section 39.904, Utilities Code.

Floor Amendment No. 2 on Third Reading

Amend **CSSB 483** on third reading as follows:

1) Strike all references to "Sec. 39.9032" in Subchapter Z, Chapter 39, Utilities Code and replace with "Sec. 39.911";

2) In 39.911(b)(2), by striking Subsection (b)(2) as drafted and inserting the following: "(2) the rated capacity of the distributed renewable generation does not exceed the transmission and distribution utility or electric utility service capacity."

3) In Sec. 39.911 by striking subsection (f) and inserting a new subsection (f) to read as follows: "(f) A transmission and distribution utility or electric utility shall make available to a distributed renewable generation owner for purposes of this section metering required for services provided under this section, including separate meters that measure the load and generator output or a single meter capable of measuring in-flow and out-flow at the point of common coupling meter point. The distributed renewable generation owner must pay the differential cost of the metering unless the meters are provided at no additional cost. Except as provided by this section, Section 39.107 applies to metering under this section."

4) In 39.911, Subsection (g) after the period following "39.904." by inserting the following: "For electric utilities, the commission shall address the ownership of renewable energy credits associated with power sold to the utility."

5) By striking 39.911 Subsection (h) and inserting a new Subsection (h) to read as follows: "(h) An electric utility or retail electric provider may contract with a distributed renewable generation owner so that:

(1) surplus electricity produced by distributed renewable generation is made available for sale to the transmission grid and distribution system; and

(2) the net value of that surplus electricity is credited to the distributed renewable generation owner."

6) By striking 39.911, Subsection (j) and inserting a new subsection (i) to read as follows: "(i) For distributed renewable generation owners in areas in which customer choice has been introduced, the distributed renewable generation owner must sell the owner's surplus electricity produced to the retail electric provider that serves the distributed renewable generation owner's load at a value agreed to between the

distributed renewable generation owner and the provider that serves the owner's load which may include, but is not limited to, an agreed value based on the clearing price of energy at the time of day that the electricity is made available to the grid or it may be a credit applied to an account during a billing period that may be carried over to subsequent billing periods until the credit has been redeemed. The independent organization identified in Section 39.151 shall develop procedures so that the amount of electricity purchased from a distributed renewable generation owner under this section is accounted for in settling the total load served by the provider that serves that owner's load by January 1, 2009. A distributed renewable generation owner requesting net metering services for purposes of this section must have metering devices capable of providing measurements consistent with the independent organization's settlement requirements."

Floor Amendment No. 3 on Third Reading

Amend **CSSB 483** on third reading as follows:

(1) Strike Section 39.154(a-2)(2), Utilities Code, as added by Floor Amendment No. 4 by T. Smith to Floor Amendment No. 1 by P. King (page 4, lines 22 and 23 of the Smith Amendment) and substitute the following:

(2) from a coal-fired generating facility that uses integrated gasification combined cycle technology or undiluted high-flame temperature oxygen combustion technology that excludes air;

(2) Strike Section 39.156(b-1)(2), Utilities Code, as added by Floor Amendment No. 4 by T. Smith to Floor Amendment No. 1 by P. King (page 7, lines 6 and 7 of the Smith Amendment) and substitute the following:

(2) from a coal-fired generating facility that uses integrated gasification combined cycle technology or undiluted high-flame temperature oxygen combustion technology that excludes air;

Floor Amendment No. 4 on Third Reading

Amend **CSSB 483** on third reading by striking the SECTION of the bill with the heading "CONSIDERATION AND APPROVAL OF CERTAIN TRANSACTIONS" as added by the Floor Amendment No. 5 by Geren to Floor Amendment No. 1 by P. King (page 1, line 5 through page 2, line 21 of the Geren Amendment) and substituting the following SECTION of the bill appropriately numbered:

SECTION _____. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.159 to read as follows:

Sec. 39.159. CONSIDERATION AND APPROVAL OF CERTAIN TRANSACTIONS. (a) To protect retail customers in this state, notwithstanding any other provision of this title, an electric utility or transmission and distribution utility must report to and obtain approval of the commission before closing any transaction in which:

(1) the electric utility or transmission and distribution utility will be merged or consolidated with another electric utility or transmission and distribution utility;

(2) at least 50 percent of the stock of the electric utility or transmission and distribution utility will be transferred or sold; or

(3) a controlling interest or operational control of the electric utility or transmission and distribution utility will be transferred.

(b) The commission shall approve a transaction under Subsection (a) if the commission finds that the transaction is in the public interest. In making its determination, the commission shall consider whether the transaction will adversely affect the reliability of service, availability of service, or cost of service of the electric utility or transmission and distribution utility. The commission shall make the determination concerning a transaction under this subsection not later than the 180th day after the date the commission receives the relevant report. If the commission has not made a determination before the 181st day after that date, the transaction is considered approved.

(c) Subsections (a) and (b) do not apply to:

(1) a transaction described by Subsection (a) for which a definitive agreement was executed before April 1, 2007, if an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility made a filing for review of the transaction under Section 14.101 before May 1, 2007, and the resulting proceeding was not withdrawn;
or

(2) the jurisdictional separation of an electric utility subject to Subchapter J.

(d) If an electric utility or transmission and distribution utility or a person seeking to acquire or merge with an electric utility or transmission and distribution utility files with the commission a stipulation, representation, or commitment in advance of or as part of a filing under this section or under Section 14.101, the commission may enforce the stipulation, representation, or commitment to the extent that the stipulation, representation, or commitment is consistent with the standards provided by this section and Section 14.101. The commission may reasonably interpret and enforce conditions adopted pursuant to this subsection.

The amendments were read.

Senator Fraser 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 President asked if there were any motions to instruct the conference committee on **SB 483** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Fraser, Chair; Harris, Eltife, Janek, and Averitt.

SENATE BILL 1834 ON SECOND READING

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1834** at this time on its second reading:

SB 1834, Relating to treatment of pharmaceutical services provided through specialty and mail order pharmacy services operated under contracts between governmental entities and pharmacy benefit managers.

The bill was read second time.

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

Floor Amendment No. 1

Amend **SB 1834** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in the recital, strike "531.0747, and 531.0748" (page 1, line 13) and substitute "531.0747, 531.0748, and 531.0749".

(2) In SECTION 1 of the bill, after added Section 531.0748, Government Code, insert the following (page 2, between lines 12 and 13):

Sec. 531.0749. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In this section, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to any mail order or specialty pharmacy services program under the jurisdiction of the commission must provide that the commission, using an auditor selected by the commission, may audit:

(1) the program's pharmacy benefit claims;

(2) the pharmacy benefit manager's contracts with pharmaceutical manufacturers and labelers;

(3) the pharmacy benefit manager's utilization management clinical criteria;

and

(4) mail service purchasing invoices related to benefits provided under the program.

(c) This section does not affect the state auditor's authority to access information or conduct an audit.

(3) In SECTION 2 of the bill, in the recital, strike "1001.082, and 1001.083" (page 2, lines 14 and 15) and substitute "1001.082, 1001.083, and 1001.084".

(4) In SECTION 2 of the bill, after added Section 1001.083, Health and Safety Code, insert the following (page 3, between lines 8 and 9):

Sec. 1001.084. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In this section, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to any mail order or specialty pharmacy services program under the jurisdiction of the department must provide that the department, using an auditor selected by the department, may audit:

(1) the program's pharmacy benefit claims;

(2) the pharmacy benefit manager's contracts with pharmaceutical manufacturers and labelers;

(3) the pharmacy benefit manager's utilization management clinical criteria;

and

(4) mail service purchasing invoices related to benefits provided under the program.

(c) This section does not affect the state auditor's authority to access information or conduct an audit.

(5) In SECTION 3 of the bill, in the recital, strike "1551.074, and 1551.075" (page 3, line 10) and substitute "1551.074, 1551.075, and 1551.076".

(6) In SECTION 3 of the bill, after added Section 1551.075, Insurance Code, insert the following (page 4, between lines 9 and 10):

Sec. 1551.076. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In this section, "pharmacy benefit manager" means an administering firm or other person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to any mail order or specialty pharmacy services program under the jurisdiction of the board of trustees, using an auditor selected by the board of trustees, may audit:

(1) the program's pharmacy benefit claims;

(2) the pharmacy benefit manager's contracts with pharmaceutical manufacturers and labelers;

(3) the pharmacy benefit manager's utilization management clinical criteria;
and

(4) mail service purchasing invoices related to benefits provided under the program.

(c) This section does not affect the state auditor's authority to access information or conduct an audit.

(7) In SECTION 4 of the bill, in the recital, strike "1575.063, and 1575.064" (page 4, line 11) and substitute "1575.063, 1575.064, and 1575.065".

(8) In SECTION 4 of the bill, after added Section 1575.064, Insurance Code, insert the following (page 5, between lines 8 and 9):

Sec. 1575.065. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In this section, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to any mail order or specialty pharmacy services program under the jurisdiction of the trustee must provide that the trustee, using an auditor selected by the trustee, may audit:

(1) the program's pharmacy benefit claims;

(2) the pharmacy benefit manager's contracts with pharmaceutical manufacturers and labelers;

(3) the pharmacy benefit manager's utilization management clinical criteria;
and

(4) mail service purchasing invoices related to benefits provided under the program.

(c) This section does not affect the state auditor's authority to access information or conduct an audit.

(9) In SECTION 5 of the bill, in the recital, strike "1579.062, and 1579.063" (page 5, line 10) and substitute "1579.062, 1579.063, and 1579.064".

(10) In SECTION 5 of the bill, after added Section 1579.063, Insurance Code, insert the following (page 6, between lines 7 and 8):

Sec. 1579.064. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In this section, "pharmacy benefit manager" means an administering firm or other person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to any mail order or specialty pharmacy services program under the jurisdiction of the trustee must provide that the trustee, using an auditor selected by the trustee, may audit:

(1) the program's pharmacy benefit claims;

(2) the pharmacy benefit manager's contracts with pharmaceutical manufacturers and labelers;

(3) the pharmacy benefit manager's utilization management clinical criteria;
and

(4) mail service purchasing invoices related to benefits provided under the program.

(c) This section does not affect the state auditor's authority to access information or conduct an audit.

The amendment to **SB 1834** was read and was adopted by a viva voce vote.

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

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

SB 1834 as amended was passed to engrossment by a viva voce vote.

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

SENATE BILL 1834 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1834** be placed on its third reading and final passage.

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

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

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

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

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

The President asked if there were requests to sever nominees.

Senator Shapleigh requested that the following nominee be severed:

Executive Commissioner, Health and Human Services Commission: Albert Hawkins III, Travis County.

The request was granted.

NOMINEES CONFIRMED

The following nominees, not severed and reported yesterday by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Member, Board of Pardons and Paroles: Conrith W. Davis, Fort Bend County.

Director, Camino Real Regional Mobility Authority Board of Directors: John Richard Broaddus, El Paso County.

Criminal District Attorney, Comal County: Geoffrey I. Barr, Comal County.

Members, Department of Information Resources Governing Board: Charles Edward Bacarisse, Harris County; Rosemary R. Martinez, Cameron County; Debra McCartt, Potter County; Robert E. Pickering, Jr., Harris County.

Members, Family and Protective Services Council: Gigi Edwards Bryant, Travis County; Debbie Epperson, Travis County; Theodore Paul Furukawa, Bexar County; Linda Bell Robinson, Harris County; Mamie Salazar-Harper, El Paso County; Cristina Ommy Strauch, Bexar County.

Director, Grayson County Regional Mobility Authority Board of Directors: Raymond Jerdy Gary, Grayson County.

Director, Hidalgo County Regional Mobility Authority Board of Directors: Dennis Burleson, Hidalgo County.

Director, Northeast Texas Regional Mobility Authority Board of Directors: Jeff Austin III, Smith County.

Members, Polygraph Examiners Board: Gory Loveday, Smith County; Donald Kevin Schutte, Bowie County.

Members, Prepaid Higher Education Tuition Board: Theresa W. Chang, Harris County; Zan S. Statham, Parker County.

Members, State Health Services Council: Beverly Barron, Ector County; Graciela A. Cigarroa, Bexar County; Jaime A. Davidson, Dallas County; Jacinto P. Juarez, Ph.D., Webb County; Jeffrey A. Ross, D.P.M., Harris County; James G. Springfield, Cameron County.

Members, Texas County and District Retirement System Board of Trustees: H. C. "Chuck" Cazalas, Nueces County; Eddie J. Miles, Jr., Bexar County; Gerald "Buddy" Winn, Brazos County.

Commissioner of Insurance: Michael Scott Geeslin, Travis County.

Members, Texas Medical Board: Lawrence LaZelle Anderson, Smith County; Michael Arambula, M.D., Pharm.D., Bexar County; Julie K. Attebury, Potter County; Jose Manuel Benavides, M.D., Bexar County; Patricia S. Blackwell, Midland County; Manuel G. Guajardo, M.D., Cameron County; Melinda C. McMichael, M.D., Travis

County; Margaret Carter McNeese, M.D., Harris County; Charles Edward Oswalt III, M.D., McLennan County; Paulette Barker "Tessa" Southard, Jim Wells County; Timothy Webb, Harris County; Irvin E. Zeitler, Jr., D.O., Tom Green County.

Members, Texas Municipal Retirement System Board of Directors: Pat Hernandez, Hale County; April Nixon, Tarrant County; Roel Rodriguez, Cameron County.

Members, Texas State University System Board of Regents: Ken Luce, Dallas County; Trisha S. Pollard, Harris County; Robert Greg Wilkinson, Dallas County.

Members, Texas Veterans Commission: Terrence P. O'Mahoney, Dallas County; Ezell Ware, Jr., Travis County.

Members, Texas Woman's University Board of Regents: P. Mike McCullough, Dallas County; George R. Schrader, Collin County.

Member, Veterans' Land Board: Alan L. Johnson, Cameron County.

NOMINEE CONFIRMED

The following severed nominee, reported yesterday by the Committee on Nominations, was confirmed by the following vote: Yeas 24, Nays 7.

Yeas: Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Harris, Hegar, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Eltife, Gallegos, Hinojosa, Shapleigh, Uresti, Van de Putte.

Executive Commissioner, Health and Human Services Commission: Albert Hawkins III, Travis County.

COMMITTEE SUBSTITUTE SENATE BILL 966 ON THIRD READING

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 966** at this time on its third reading and final passage:

CSSB 966, Relating to a qualified privilege of a journalist not to testify.

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

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Lucio, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Jackson, Janek, Nelson, Williams.

The bill was read third time.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSSB 966** on third reading as follows:

PART ONE: Amend Section 22.021(2)(B)(i), Civil Practice & Remedies Code, by striking "or is on a professional track to earn".

PART TWO: Amend new Section 22.021(6), Civil Practice & Remedies Code, as amended on second reading by striking sec. 22.021(6) and replacing it with:

(6) "Violent offense" has the meaning assigned by Article 17.032(a), Code of Criminal Procedure and also includes those crimes found in Penal Code sec. 22.07, 43.25, 43.26(e), and 71.022.

PART THREE: In SECTION 1 of the bill, strike the heading of Section 22.024, Civil Practice & Remedies Code (page 2, lines 40-41) and replace with Sec. 22.024. LIMITED DISCLOSURE: DISCLOSURE OTHER THAN IN CERTAIN CRIMINAL CIRCUMSTANCES.

PART FOUR: In SECTION 1 of the bill, strike the heading of Section 22.025, Civil Practice & Remedies Code (page 3, line 7) and replace with Sec. 22.025. LIMITED DISCLOSURE: DISCLOSURE IN CERTAIN CRIMINAL CIRCUMSTANCES.

PART FIVE: In SECTION 1 of the bill, strike proposed Subsection (b), Section 22.025, Civil Practices and Remedies Code (page 3, lines 22-24) and substitute with the following:

(b) If the alleged criminal conduct is the act of communicating, receiving, or possessing the information, document, or item and the information does not relate to conduct contained in Section 22.021(6), this section does not apply, and Section 22.024 governs the act.

The amendment to **CSSB 966** was read and was adopted by a viva voce vote.

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

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

CSSB 966 as again amended was finally passed by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Lucio, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Janek, Nelson, Williams.

STATEMENT OF LEGISLATIVE INTENT

Senator Wentworth submitted the following statement of legislative intent for **CSSB 966**:

Senator Ellis, I would like to have the opportunity to discuss some of the concerns expressed at the hearing before this committee and how those concerns are addressed in the committee substitute before the committee for a vote today. First, this legislation is not meant to undermine existing laws, such as those protecting trade secrets or medical and financial information. The court is free to consider those and other applicable laws as well as the constitutional rights of parties, the right to a full and fair trial, as well as all arguments presented by the parties when applying the balancing test set forth in the statute. Second, there was some concern expressed about Section 22.024(2) and the purpose of that provision. The purpose is simply that

when a subpoena is sought for the purpose of verifying the accuracy of published information, the subpoena should be so limited. This section should be considered within the context of the rest of the Act, which is a qualified privilege for information, documents, and items and the source of any information, documents, or items. If the issue is the identity of the source or a party's desire to get back its information, documents, or items, this limitation would not be appropriate. Third, last session there was some concern about how this legislation would apply to "bloggers," and, as you can see, this session the definition of "journalist" has been modified to address this very concern. "Bloggers" will not be covered unless they meet the definition of "journalist" in the legislation, which includes acting in the capacity of somebody who is gathering information who gains a substantial portion of their livelihood and is disseminating that information by a news medium or a communications service provider.

WENTWORTH

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 all committees permission to meet while the Senate was meeting today.

SENATE BILL 1012 WITH HOUSE AMENDMENT

Senator Williams called **SB 1012** 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 1012** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
 AN ACT

relating to the establishment of regional participation agreements between certain municipalities and districts; authorizing the issuance of bonds.

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

SECTION 1. Subchapter D, Chapter 43, Local Government Code, is amended by adding Section 43.0754 to read as follows:

Sec. 43.0754. REGIONAL PARTICIPATION AGREEMENTS. (a) In this section:

(1) "District" means a political subdivision created by general or special law that has the powers of a municipal management district under Chapter 375 and a conservation and reclamation district under Chapters 49 and 54, Water Code, a majority by area of the territory of which is located within a planned community and within the extraterritorial jurisdiction of one or more municipalities.

(2) "Eligible municipality" means a municipality:

(A) that has a population of 1.5 million or more and that includes in its extraterritorial jurisdiction at least 90 percent by area of the territory of a district; or

(B) that includes in its extraterritorial jurisdiction not more than 10 percent of the territory of a district that has entered into a regional participation agreement with another eligible municipality under this section.

(3) "Party" means a district, eligible municipality, or person that is a party to a regional participation agreement approved and entered into under this section.

(4) "Planned community" means a planned community of 20 square miles or more with a population of 50,000 or more that is subject in whole or in part to a restrictive covenant that contains an ad valorem-based assessment on real property used or to be used, in any part, to fund governmental or quasi-governmental services and facilities within and for the planned community.

(5) "Regional participation agreement" means a contract or agreement entered into under this section or in anticipation of the enactment of this section and any amendment, modification, supplement, addition, renewal, or extension to or of the contract or agreement or any proceeding relating to the contract or agreement.

(b) Notwithstanding any contrary law or municipal charter provision, the governing body of an eligible municipality, the governing body of a district, and, if applicable, a person may approve and authorize execution and performance of a regional participation agreement to further regional participation in the funding of eligible programs or projects. A regional participation agreement must include as parties at least one eligible municipality and one district and may include as parties other eligible municipalities, districts, or persons.

(c) A regional participation agreement may provide or allow for:

(1) the establishment, administration, use, investment, and application of a regional participation fund, which shall be a special fund or escrow account to be used solely for funding the costs and expenses of eligible programs or projects;

(2) payments to be made by a party into the regional participation fund for application, currently or in the future, toward eligible programs or projects;

(3) the methods and procedures by which eligible programs or projects are prioritized, identified, and selected for implementation and are planned, designed, bid, constructed, administered, inspected, and completed;

(4) the methods and procedures for accounting for amounts on deposit in, to the credit of, or expended from the regional participation fund, as well as any related investment income or amounts due and owing to or from any party to the fund;

(5) credits against payments otherwise due by any party under the agreement resulting from taxes, charges, fees, assessments, tolls, or other payments in support of or related to the usage or costs of eligible programs or projects that are levied or imposed upon, assessed against, or made applicable to a party or its citizens, ratepayers, taxpayers, or constituents after the effective date of the agreement;

(6) any type of annexation of any part of the territory of a district to be deferred by an eligible municipality that is a party for a mutually agreeable period;

(7) the release of all or part of the territory of a district from the extraterritorial jurisdiction of an eligible municipality that is a party at a specified time or upon the occurrence of specified events;

(8) the consent of an eligible municipality that is a party to the incorporation of, or the adoption of an alternate form of government by, all or part of the territory of a district at a specified time or upon the occurrence of specified events;

(9) remedies for breach of the agreement;

(10) the modification, amendment, renewal, extension, or termination of the agreement;

(11) other districts, eligible municipalities, or persons to join the agreement as a party at any time;

(12) third-party beneficiaries to be specifically designated and conferred rights or remedies under the agreement;

(13) the duration of the agreement, including an unlimited term;

(14) the creation and administration of a nonprofit corporation, joint powers agency, local government corporation, or other agency for the purpose of administration and management of a regional participation fund, program, or project under the agreement; and

(15) any other provision or term to which the parties agree.

(d) A regional participation agreement may provide for the funding of any program or project, whether individual, intermittent, or continuing and whether located or conducted within or outside the boundaries of a party, for the planning, design, construction, acquisition, lease, rental, installment purchase, improvement, provision of furnishings or equipment, rehabilitation, repair, reconstruction, relocation, preservation, beautification, use, execution, administration, management, operation, or maintenance of any works, improvements, or facilities, or for providing any functions or services, whether provided to, for, by, or on behalf of a party, that provide a material benefit to each party in the accomplishment of the purposes of each party, related to:

(1) mobility or transportation, including mass transportation, traffic circulation, or ground, air, rail, water, or other means of transportation or movement of people, freight, goods, or materials;

(2) health care treatment, research, teaching, or education facilities or infrastructure;

(3) parks or recreation, open space, and scenic, wildlife, wetlands, or wilderness areas;

(4) public assembly or shelter, including halls, arenas, stadiums or similar facilities for sporting events, exhibitions, conventions, or other mass assembly purposes;

(5) environmental preservation or enhancement, including air or water quality protection, improvement, preservation, or enhancement, and noise abatement;

(6) the supply, conservation, transportation, treatment, disposal, or reuse of water or wastewater;

(7) drainage, stormwater management or detention, and flood control or prevention;

(8) solid waste collection, transfer, processing, reuse, resale, disposal, and management; or

(9) public safety and security, including law enforcement, firefighting and fire prevention, emergency services and facilities, and homeland security.

(e) A regional participation agreement must be:

(1) in writing;

(2) approved by the governing body of each eligible municipality or district that is or that becomes a party to the agreement; and

(3) must be recorded in the deed records of any county in which is located any territory of a district that is or that becomes a party to the agreement.

(f) A district, eligible municipality, or person may join or become a party to a regional participation agreement in the manner authorized in the agreement.

(g) A regional participation agreement is not required to describe the land contained within the boundaries of a district that is a party to the agreement.

(h) A regional participation agreement binds each party to the agreement for the term specified in the agreement and each owner and future owner of land that is subject to the agreement during any annexation deferral period established in the agreement. If a party, land, or landowner is excluded or removed from an agreement, the removal or exclusion is effective on the recordation of the amendment, supplement, modification, or restatement of the agreement implementing the removal or exclusion.

(i) A regional participation agreement may not require a district to make payments from any funds that are restricted, encumbered, or pledged for the payment of contractual obligations or indebtedness of the district. Otherwise, any party may commit or pledge or may issue bonds payable from or secured by a pledge of any available source of funds, including unencumbered sales and use taxes, to make payments due or to become due under an agreement.

(j) Notwithstanding any other law, a program or project to be funded and any bonds to be issued by a district to make payments under a regional participation agreement are not subject to review or approval by the Texas Commission on Environmental Quality.

(k) A regional participation agreement and any action taken under the agreement are not subject to any method of approval or appeal under the Water Code.

(l) After due authorization, execution, delivery, and recordation as provided by this section, a regional participation agreement, including any related amendment, supplement, modification, or restatement, and a pledge of funds to make payments under an agreement shall be final and incontestable in any court of this state.

(m) Notwithstanding any defect, ambiguity, discrepancy, invalidity, or unenforceability of a regional participation agreement that has been voluntarily entered into and fully executed by the parties, or any contrary law, common law doctrine, or municipal charter provision, and for the duration of any annexation deferral period established in the agreement during which a district continues to perform its obligations under the agreement:

(1) Section 42.023 and any other law or municipal charter provision relating to the reduction of the extraterritorial jurisdiction of an eligible municipality that is a party do not apply, and Sections 42.041(b)-(e) do not apply to any land or owner of land within a district that is a party;

(2) the governing body of an eligible municipality that is a party may not initiate or continue an annexation proceeding relating to that area but may include the area covered by the agreement in a municipal annexation plan; and

(3) any area of a district that is a party to be released from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement, or that is to be incorporated or included within an alternate form of government with the consent of a municipality that is a party under an agreement, shall, by operation of law and without further action by a party or its governing body, be released from the extraterritorial jurisdiction, or consent of the municipality to the incorporation or adoption of an alternate form of government by the district shall be deemed to have been given, as appropriate under the agreement, at the time or upon the occurrence of the events specified in the agreement.

(n) Notwithstanding the provisions of any municipal charter or other law, a district or an eligible municipality is not required to hold an election to authorize a regional participation agreement. As long as such funds remain restricted for use under an agreement, payments to or income from a regional participation fund shall not be deemed revenues to an eligible municipality for purposes of any law or municipal charter provision relating to revenue or property tax caps or limits.

(o) This section is cumulative of all other authority to make, enter into, and perform a regional participation agreement. In case of any conflict or ambiguity between this section and any other law or municipal charter provision, this section shall prevail and control.

(p) This section shall be liberally construed so as to give effect to its legislative purposes and to sustain the validity of a regional participation agreement if the agreement was entered into under or in anticipation of enactment of this section.

SECTION 2. The legislature finds and determines that the financial burdens of implementing essential economic development programs and related regional public improvement projects, including programs and projects located inside or outside municipal boundaries that are of substantial benefit to areas within a municipality and its extraterritorial jurisdiction, or to the state as a whole, often are borne by large municipalities in the state; that there exists insufficient legislative authority to promote and facilitate regional participation in the funding and implementation of such programs and projects; that annexation of adjacent areas by large municipalities in many instances does not provide a satisfactory means of apportioning such financial burdens and may create or exacerbate public service delivery and financial burdens of municipalities; that financial participation in such programs or projects by populous, defined communities in close proximity to large municipalities by mutual agreement provides an equitable, material, and effective alternative means of addressing such circumstances without resort to municipal annexation; that to prevent the fragmentation of, or nonuniform allocation of costs to, participating defined communities, provision should also be made for similar agreements with other municipalities with extraterritorial jurisdiction over insubstantial portions of such defined communities; and that implementation of the provisions of this Act will be of substantial benefit to participating communities and municipalities, to the regions of the state that include such participants, and to the state as a whole as a program for promoting and facilitating regional governmental cooperation and the funding of essential economic development and public improvement projects under Section 52-a, Article III, Texas Constitution, thereby accomplishing the public purposes of promoting and advancing employment and economic diversification and development

and stimulating business within the state, conserving and preserving the natural resources of the state, permitting the improvement of traffic circulation, the movement of people, freight, goods, and materials, mass transportation, and health care facilities and infrastructure within the state, promoting the enhancement and improvement of air and water quality and noise abatement measures within the state, promoting the development of parks, recreational facilities, and public assembly facilities within the state, and encouraging the preservation and protection of scenic, wildlife, wetlands, and wilderness areas in the state, and other purposes beneficial to the state.

SECTION 3. The provisions of this Act are severable. If any word, phrase, clause, sentence, section, provision, or part of this Act is held invalid or unconstitutional, it shall not affect the validity of the remaining portions, and it is declared to be the legislative intent that this Act would have been passed as to the remaining portions regardless of the invalidity of any part.

SECTION 4. A regional participation agreement entered into in anticipation of this Act is not invalid because of the agreement's authorization, execution, or delivery before the effective date of this Act.

SECTION 5 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, 2007.

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 1012**.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 1, 2007

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 75, Relating to administrative and judicial review of certain decisions about public assistance benefits.

HB 155, Relating to correcting errors in the distribution of benefits by a public retirement system.

HB 312, Relating to the burden of proof in a community supervision revocation hearing regarding a defendant's ability to make certain court-ordered payments.

HB 323, Relating to three-point seat belts on buses that transport schoolchildren.

- HB 429**, Relating to a study of the expenses of health care for certain elderly inmates.
- HB 462**, Relating to the authority of certain municipalities to collect an infrastructure fee from certain governmental entities.
- HB 567**, Relating to the time requirements for registering with the state registry of paternity.
- HB 568**, Relating to the requirements for an affidavit of voluntary relinquishment of parental rights.
- HB 755**, Relating to disciplinary action taken against a person required to file a death certificate.
- HB 772**, Relating to social studies conducted in certain suits affecting the parent-child relationship.
- HB 1086**, Relating to the discharge of an alternate juror in a criminal case.
- HB 1090**, Relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electric energy with certain types of agricultural residues, waste, debris, or crops.
- HB 1473**, Relating to the waiver of sovereign immunity of a political subdivision for claims brought by certain employees.
- HB 1572**, Relating to an exception from civil discovery for certain records of a law enforcement agency.
- HB 1586**, Relating to the creation of the offense of illumination of an aircraft by intense light.
- HB 1657**, Relating to the protection and use of intellectual property by the executive administrator of the Texas Water Development Board.
- HB 1910**, Relating to the seizure of personal property for the payment of ad valorem taxes.
- HB 1988**, Relating to the issuance of a protective order for a victim of the offense of sexual assault or aggravated sexual assault.
- HB 2108**, Relating to the deadline for the Parks and Wildlife Department, the Texas Commission on Environmental Quality, and the Texas Water Development Board to complete priority instream flow studies of the state's rivers and streams.
- HB 2115**, Relating to a defendant's eligibility for deferred adjudication of certain intoxication offenses.
- HB 2950**, Relating to the punishment of the offense of burglary committed by entering a building with intent to commit a theft involving an automated teller machine or safe.
- HB 3678**, Relating to voluntary student expression of religious viewpoints in public schools.
- HB 3698**, Relating to temporary housing and emergency shelters provided by a political subdivision for disaster victims.

HB 3900, Relating to the Texas tomorrow fund II prepaid tuition unit undergraduate education program.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

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

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Education might meet today at her desk.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet and consider **SB 1143** today.

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

On motion of Senator Averitt and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Natural Resources might meet today at his desk.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 5:46 p.m. agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, until 11:00 a.m. tomorrow.

SENATE BILLS AND RESOLUTION ON FIRST READING

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

SB 2041 by Uresti

Relating to immunity from civil and criminal liability for area agencies on aging and employees and volunteers of those agencies when conducting certain elections.
To Committee on State Affairs.

SB 2042 by Watson

Relating to the authority of the New Sweden Municipal Utility District No. 1 and municipalities with extraterritorial jurisdiction in the district to enter into annexation and tax allocation agreements.
To Committee on Intergovernmental Relations.

SB 2043 by Watson

Relating to the authority of the New Sweden Municipal Utility District No. 2 and municipalities with extraterritorial jurisdiction in the district to enter into annexation and tax allocation agreements.

To Committee on Intergovernmental Relations.

SB 2044 by Gallegos

Relating to the creation of the Harris County Improvement District No. 9; providing authority to impose a tax and issue bonds.

To Committee on Intergovernmental Relations.

SB 2045 by Estes

Relating to the creation of the Gunter Municipal Utility District No. 2; providing authority to impose taxes and issue bonds.

To Committee on Intergovernmental Relations.

SB 2046 by Estes

Relating to the creation of the Gunter Municipal Utility District No. 1; providing authority to impose taxes and issue bonds.

To Committee on Intergovernmental Relations.

SCR 68 by Seliger

Granting Jimmy Glen Reimer, Richard Coon, Jr., June Meetze Coon Trust, Johnson Borger Ranch Partnership, and W. R. Edwards, Jr., permission to sue the State of Texas and the General Land Office.

To Committee on State Affairs.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

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

HB 317 to Subcommittee on Higher Education.

HB 401 to Committee on Criminal Justice.

HB 461 to Subcommittee on Agriculture, Rural Affairs, and Coastal Resources.

HB 521 to Committee on Natural Resources.

HB 522 to Committee on State Affairs.

HB 530 to Committee on Criminal Justice.

HB 551 to Committee on Finance.

HB 610 to Committee on Intergovernmental Relations.

HB 647 to Committee on State Affairs.

HB 782 to Committee on Jurisprudence.

HB 814 to Committee on Criminal Justice.

HB 872 to Committee on Criminal Justice.

HB 913 to Committee on Finance.

HB 946 to Committee on Criminal Justice.

HB 957 to Committee on Government Organization.

HB 1005 to Committee on State Affairs.

HB 1196 to Subcommittee on Emerging Technologies and Economic Development.

HB 1248 to Committee on Business and Commerce.

HB 1250 to Subcommittee on Higher Education.

HB 1268 to Committee on State Affairs.
HB 1297 to Committee on Government Organization.
HB 1365 to Committee on Business and Commerce.
HB 1386 to Committee on Business and Commerce.
HB 1460 to Committee on Business and Commerce.
HB 1470 to Committee on Finance.
HB 1472 to Committee on Intergovernmental Relations.
HB 1519 to Committee on State Affairs.
HB 1526 to Committee on Natural Resources.
HB 1579 to Committee on Health and Human Services.
HB 1678 to Committee on Criminal Justice.
HB 1767 to Committee on Criminal Justice.
HB 1804 to Committee on Criminal Justice.
HB 1871 to Committee on Business and Commerce.
HB 1886 to Committee on Intergovernmental Relations.
HB 1921 to Committee on State Affairs.
HB 2010 to Committee on Finance.
HB 2120 to Committee on Business and Commerce.
HB 2136 to Committee on Education.
HB 2138 to Committee on Jurisprudence.
HB 2233 to Committee on Government Organization.
HB 2265 to Committee on State Affairs.
HB 2308 to Subcommittee on Emerging Technologies and Economic Development.
HB 2341 to Committee on Education.
HB 2439 to Committee on Health and Human Services.
HB 2445 to Committee on Criminal Justice.
HB 2462 to Committee on State Affairs.
HB 2482 to Committee on Natural Resources.
HB 2491 to Committee on State Affairs.
HB 2534 to Committee on Transportation and Homeland Security.
HB 2605 to Committee on Business and Commerce.
HB 2641 to Committee on Intergovernmental Relations.
HB 2655 to Committee on Natural Resources.
HB 2713 to Committee on Natural Resources.
HB 2735 to Committee on State Affairs.
HB 2738 to Committee on Jurisprudence.
HB 2770 to Committee on Jurisprudence.
HB 2814 to Committee on Education.
HB 2823 to Committee on State Affairs.
HB 2910 to Committee on Natural Resources.
HB 2978 to Subcommittee on Higher Education.
HB 3011 to Committee on Natural Resources.

HB 3060 to Committee on Jurisprudence.
HB 3063 to Committee on Jurisprudence.
HB 3132 to Committee on Intergovernmental Relations.
HB 3158 to Committee on Natural Resources.
HB 3249 to Committee on Administration.
HB 3322 to Committee on State Affairs.
HB 3350 to Committee on State Affairs.
HB 3410 to Committee on Intergovernmental Relations.
HB 3446 to Committee on Business and Commerce.
HB 3517 to Committee on Intergovernmental Relations.
HB 3694 to Subcommittee on Emerging Technologies and Economic Development.
HB 3732 to Committee on Natural Resources.
HB 3765 to Subcommittee on Agriculture, Rural Affairs, and Coastal Resources.
HB 4062 to Committee on Health and Human Services.
HB 4094 to Committee on Jurisprudence.
HCR 96 to Committee on Criminal Justice.
HCR 97 to Committee on Education.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 934 by Ellis, In memory of Jonathan Michael Bailey.
SR 939 by West, In memory of Lillian M. Cooper of Dallas.
HCR 226 (Eltife), In memory of Constable Dale David Geddie of Winona.

Congratulatory Resolutions

SR 935 by Ellis, Recognizing Donald Wayne Haynes on the occasion of his retirement from the Houston Fire Department.
SR 936 by Ellis, Recognizing Pascual Lazaro Herrera and Constance Lee Toler-Herrera on the occasion of their 50th wedding anniversary.
SR 937 by Lucio, Recognizing Diana Castaneda Castillo for her 30 years of service to Lincoln Park High School in Brownsville.
SR 938 by Brimer, Commending Russell K. Tolman for his service to Cook Children's Health Care System.
SR 940 by Lucio, Recognizing Kautsch True Value Hardware and Lumber in Alamo on the occasion of its 75th anniversary.
HCR 204 (Duncan), Commemorating the 75th anniversary of the founding of Shannon Medical Center in San Angelo.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 6:08 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

May 1, 2007

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 154**

ADMINISTRATION — **CSHJR 19**

GOVERNMENT ORGANIZATION — **SB 933, SCR 38, HCR 15, HCR 30, HB 119, HB 1449, HB 2054**

FINANCE — **CSSB 2031**

BUSINESS AND COMMERCE — **SCR 60**

NATURAL RESOURCES — **CSSB 1341**

STATE AFFAIRS — **CSHB 218**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 1929**

GOVERNMENT ORGANIZATION — **CSHB 66**

SENT TO GOVERNOR

May 1, 2007

SB 430, SB 432, SCR 69