

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRTY-SIXTH DAY
(Tuesday, April 14, 2009)

The Senate met at 11:14 a.m. pursuant to adjournment and was called to order by the President.

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

Absent-excused: Harris.

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

The Reverend Chris Osborne, Central Baptist Church, Georgetown, offered the invocation as follows:

Father, I thank You for the quality of men and women elected to these offices. You have blessed the state with these, and I thank You. They face, as always, momentous decisions for our state that impact today and years to come. You promised in Your word wisdom when we ask, and that is what I do today. Grant them Your wisdom and blessing in all they decide and deliberate upon. In Jesus' name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Thursday, April 9, 2009, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Harris was granted leave of absence for today on account of illness.

CO-AUTHORS OF SENATE BILL 89

On motion of Senator Van de Putte, Senators Gallegos and Hinojosa will be shown as Co-authors of **SB 89**.

CO-AUTHOR OF SENATE BILL 116

On motion of Senator Ellis, Senator Zaffirini will be shown as Co-author of **SB 116**.

CO-AUTHOR OF SENATE BILL 564

On motion of Senator Jackson, Senator Deuell will be shown as Co-author of **SB 564**.

CO-AUTHORS OF SENATE BILL 896

On motion of Senator Shapleigh, Senators Carona and Ellis will be shown as Co-authors of **SB 896**.

CO-AUTHOR OF SENATE BILL 1331

On motion of Senator Nelson, Senator West will be shown as Co-author of **SB 1331**.

CO-AUTHORS OF SENATE BILL 1380

On motion of Senator Shapiro, Senators Davis and Hinojosa will be shown as Co-authors of **SB 1380**.

CO-AUTHORS OF SENATE BILL 1381

On motion of Senator Shapiro, Senators Davis and Hinojosa will be shown as Co-authors of **SB 1381**.

CO-AUTHOR OF SENATE BILL 1732

On motion of Senator West, Senator Van de Putte will be shown as Co-author of **SB 1732**.

CO-AUTHOR OF SENATE BILL 1810

On motion of Senator Duncan, Senator Carona will be shown as Co-author of **SB 1810**.

CO-AUTHORS OF SENATE BILL 1854

On motion of Senator West, Senators Hinojosa, Uresti, and Van de Putte will be shown as Co-authors of **SB 1854**.

CO-AUTHOR OF SENATE BILL 1999

On motion of Senator Lucio, Senator Wentworth will be shown as Co-author of **SB 1999**.

CO-AUTHOR OF SENATE BILL 2014

On motion of Senator Duncan, Senator Van de Putte will be shown as Co-author of **SB 2014**.

CO-AUTHOR OF SENATE BILL 2041

On motion of Senator Ellis, Senator Shapiro will be shown as Co-author of **SB 2041**.

CO-AUTHOR OF SENATE BILL 2268

On motion of Senator Gallegos, Senator Lucio will be shown as Co-author of **SB 2268**.

CO-AUTHOR OF SENATE BILL 2456

On motion of Senator Hinojosa, Senator Zaffirini will be shown as Co-author of **SB 2456**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 14, 2009

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 161, Relating to block grant funding for certain workforce training and employment programs and functions by the Texas Workforce Commission.

HB 205, Relating to the applicability of certain city requirements affecting the restraint of certain dogs on annexed or otherwise acquired property used for agricultural operations.

HB 374, Relating to school bus emergency evacuation training.

HB 396, Relating to expunction of a notice of lis pendens.

HB 401, Relating to the authority of certain political subdivisions to change the date of their general elections.

HB 536, Relating to the voter registration of a person who submits a federal postcard application to vote in an election.

HB 559, Relating to the nondisclosure of certain personal information in voter registration records, concealed handgun license records, and tax appraisal records that relates to a justice of the peace.

HB 602, Relating to designation of Midwestern State University as a public liberal arts university.

HB 651, Relating to compensation of certain persons by a domestic insurance company.

HB 652, Relating to licensing of escrow officers.

HB 675, Relating to a retired status license for an optometrist or therapeutic optometrist practicing voluntary charity care.

HB 763, Relating to the recusal or disqualification of a statutory probate court judge and subsequent assignment of another judge.

HB 962, Relating to the purchase of library goods and services by public junior colleges.

HB 1145, Relating to the appointment of election judges.

HB 1178, Relating to the creation of the Starr County Drainage District.

HB 1213, Relating to the promulgation by the commissioner of the General Land Office of rules authorizing the use on a public beach of a golf cart for the transportation of a person with a physical disability.

HB 1215, Relating to the collection of administrative fees by the commissioners courts of certain counties.

HB 1232, Relating to establishing a local behavioral health intervention pilot project.

HB 1265, Relating to the information about certain candidates required to be filed with the secretary of state.

HB 1300, Relating to the creation of the Kennedale TownCenter Development District; providing authority to impose a tax and issue bonds.

HB 1345, Relating to titles by which certain officers of a defense base development authority may be known.

HB 1363, Relating to the diabetes mellitus registry pilot program.

HB 1382, Relating to assessment of certain charges by a commercial landlord that is a governmental entity.

HB 1406, Relating to practices and professions regulated by the Texas Real Estate Commission.

HB 1409, Relating to the minimum patient age for administration of an influenza vaccination by a pharmacist.

HB 1530, Relating to the licensing and regulation of health-related pest control by the Department of Agriculture.

HB 1622, Relating to a grant program to provide children at risk of hunger or obesity with increased access to nutritious foods.

HB 1759, Relating to health benefit plan coverage for certain orally administered anticancer medications.

HB 1785, Relating to the licensing of occupational therapists.

HB 1786, Relating to notice of proposed increases in fees charged by the Parks and Wildlife Department for certain permits.

HB 1805, Relating to the use of laser sighting devices by hunters who have certain documented disabilities.

HB 1809, Relating to proceedings in a statutory probate court during the judge's absence.

HB 1908, Relating to the safety of the fresh fruit and vegetables produced in this state.

HB 1974, Relating to distilled spirits samplings by the holder of a distiller's and rectifier's permit.

HB 2055, Relating to the Chronic Kidney Disease Task Force.

HB 2101, Relating to the place for the convening of a county convention.

HB 2102, Relating to the powers and duties of the Harris County Municipal Utility District No. 403; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

HB 2104, Relating to the statute of limitations for an action under the Beer Industry Fair Dealing Law.

HB 2169, Relating to the establishment of additional job incentive programs by the Texas Workforce Commission using the skills development fund.

HB 2196, Relating to the establishment of a workgroup to study and make recommendations on the integration of health and behavioral health services.

HB 2238, Relating to the regulation of manufactured housing.

HB 2263, Relating to extending the high school innovation grant initiative to middle and junior high schools.

HB 2310, Relating to the powers and duties of the Texas Department of Licensing and Regulation, including the power to issue emergency orders and temporary and emergency licenses.

HB 2330, Relating to laboratory tests measuring kidney function.

HB 2449, Relating to requirements for county mutual insurance companies.

HB 2457, Relating to the duty of the General Land Office to clean, maintain, and clear debris from a public beach affected by a declared disaster.

HB 2483, Relating to the repeal of the authority for the establishment and administration of the Border Health Institute in the city of El Paso.

HB 2509, Relating to the payment of a lottery prize awarded to a minor.

HB 2512, Relating to authorization to make an audio recording of a meeting or proceeding arising from a grievance reported by a public school employee.

HB 2594, Relating to the hours for the wholesale delivery or sale of alcoholic beverages.

HB 2752, Relating to independent audits of insurer financial statements and insurer internal controls.

HB 2763, Relating to the regulation of industrialized housing and buildings.

HB 2765, Relating to the authority of a veterinarian to fill certain prescriptions in an emergency.

HCR 53, Designating the American quarter horse as the official State Horse of Texas.

HCR 79, Memorializing Congress to refine Department of Homeland Security policy to consider risk levels as well as population size in assessing the financial needs of first responders in border communities along the international boundary created by the Rio Grande.

HCR 94, Proclaiming April 2009 as Jazz Appreciation Month in Texas.

HCR 140, In memory of Sarah Helen Stewart Coker of Paris, Texas.

HCR 141, Congratulating Stacie George of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 142, Congratulating Cathy Pope of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 143, Congratulating Jennifer McGrew of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 144, Congratulating Mitzi Jo Hopper Ziegner of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 145, Congratulating Christina Esperat of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 146, Congratulating Sally Kipyego of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 147, Congratulating Melinda Corwin of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

SCR 56, Granting the legislature permission to adjourn for more than three days during the period beginning on Thursday, April 9, 2009, and ending on Tuesday, April 14, 2009.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 123, HCR 138, HCR 163.**

MESSAGES FROM THE GOVERNOR

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

Austin, Texas
April 9, 2009

TO THE SENATE OF THE EIGHTY-FIRST LEGISLATURE, REGULAR SESSION:

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

To be a member of the Board of Pardons and Paroles for a term to expire February 1, 2013:

Thomas A. Leeper
Huntsville, Texas

(Mr. Leeper is replacing Barbara Lorraine of Angleton who resigned)

To be a member of the Judicial Compensation Commission for a term to expire February 1, 2015:

Cruz G. Hernandez
Burlleson, Texas

(Mr. Hernandez is replacing Ramiro Galindo of Bryan whose term expired)

Respectfully submitted,

/s/Rick Perry
Governor

Austin, Texas
April 9, 2009

TO THE SENATE OF THE EIGHTY-FIRST LEGISLATURE, REGULAR SESSION:

On February 24, 2009, I submitted the name of Donald Ray Counts for appointment to the Texas State Board of Acupuncture Examiners for a term to expire January 31, 2015.

Because he resigned, I hereby withdraw his nomination and request that the Senate return the appointment to me.

Respectfully submitted,

/s/Rick Perry
Governor

PHYSICIAN OF THE DAY

Senator Deuell was recognized and presented Dr. Paul Guttuso of Mabank as the Physician of the Day.

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

PERMISSION TO INTRODUCE BILL AND RESOLUTION

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

SB 2516, SCR 57.

SENATE RESOLUTION 607

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Zonta Club of Brownsville for its 50 years of dedication to community service and the advancement of women leaders in Brownsville; and

WHEREAS, A member of Zonta International, the Zonta Club of Brownsville was chartered in November of 1959 and was composed of women who were recognized as leaders in their businesses and professions; and

WHEREAS, The mission of Zonta International is to improve the legal, political, economic, educational, and professional status of women; Zonta service clubs strive to carry out this mission and to foster high ethical standards and implement local service programs that benefit their communities; and

WHEREAS, The Zonta Club of Brownsville hosts fund-raisers and participates in numerous charitable causes; in the early days, the club financed a scholarship fund to help young girls obtain a nursing degree and held tea and style shows that became an annual public relations event; in the 1980s, the club began its tradition of selecting a Woman of the Year; and

WHEREAS, In 1990, stamping out illiteracy was the theme of the Brownsville Zontians, and since then, great progress has been made in that area; during the 1990s, the club began serving one meal a month to the needy at the Good Neighbor Settlement House; the club was also instrumental in the creation of a shelter for battered women and children; and

WHEREAS, The club's fund-raisers include golf tournaments and the annual, well-attended Christmas Tour of Homes; the club has awarded scholarships to high school students and gives service awards to organizations that pursue goals that further the club's mission; in October of 2009, the club is hosting the 62nd Annual District 10 Conference, an event that attracts 200 to 300 Zontians from the club's five-state district; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the Zonta Club of Brownsville on its valuable contributions to the Brownsville community and on its loyal work on behalf of Zonta International and extend congratulations to its members on the club's 50th anniversary; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of the Zonta Club of Brownsville.

SR 607 was read and was adopted without objection.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate members of the Zonta Club of Brownsville: Danita Utsman, Rosalie Gutierrez, Lee Ann Green, Brenda Perez, Brunilda Villarreal, and Minnie Lucio, wife of Senator Lucio, accompanied by a delegation of other Zonta Club members.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Averitt was recognized and introduced to the Senate senior team members of the Midway High School girls basketball team: Cokie Reed, Delisa Gross, Krissica Harper, Jessica Zwernemann, and Crystal Patterson, accompanied by their Head Coach Teri Morrison, Principal Dr. Chris Allen, Superintendent Brad Lancaster, and the remaining team members.

The Senate welcomed its guests.

SENATE RESOLUTION 568

Senator Wentworth offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Dr. Neil Carman for his many years of outstanding work on environmental air-quality issues in our state; and

WHEREAS, Dr. Carman is the Clean Air Program Director of the Lone Star Chapter of the Sierra Club, and he has played an important role in many actions that have resulted in cleaner air for our state; and

WHEREAS, He previously worked for the Texas Air Control Board, now a part of the Texas Commission on Environmental Quality; from 1980 to 1992, he performed numerous samplings of pollutants throughout the Texas Air Control Board's Air Quality Control Region 6, based in Odessa; his expert testimony in cases filed by the Texas attorney general led to permanent injunctive relief for many Texans affected by air pollution; and

WHEREAS, Since coming to the Sierra Club in 1992, Dr. Carman has worked with citizens throughout the state to hold corporations accountable for violations of the Clean Air Act; he has also worked to train Texas communities in performing their own ambient air monitoring; and

WHEREAS, Dr. Carman has made a difference in the lives of many Texans through his efforts to ensure that our environmental laws are properly carried out; he is truly deserving of recognition for his hard work and his commitment to a cleaner environment; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Dr. Neil Carman on his years of service to our state in the field of environmental protection and extend to him best wishes for continued success in all his future endeavors; and, be it further

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

SR 568 was again read.

The resolution was previously adopted on Wednesday, April 8, 2009.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate Dr. Neil Carman; his wife, Elizabeth Carman; his brother, Dr. Gary Carman; Donna Hoffman; and Ken Kramer.

The Senate welcomed its guests.

SENATE BILLS AND RESOLUTION ON FIRST READING

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

SB 2511 by Williams

Relating to the creation of Chambers County Improvement District No. 2; providing authority to levy an assessment, impose a tax, and issue bonds; granting a limited power of eminent domain.

To Committee on Intergovernmental Relations.

SB 2512 by Williams

Relating to the creation of the Chambers County Improvement District No. 3; granting road powers; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Committee on Intergovernmental Relations.

SB 2513 by Averitt

Relating to the name and confirmation of, and to certain fees imposed by, the McLennan County Groundwater Conservation District.

To Committee on Natural Resources.

SB 2514 by Hegar

Relating to the powers of the North Fort Bend Water Authority.

To Committee on Natural Resources.

SB 2516 by Fraser

Relating to the authority of the Comanche County Consolidated Hospital District to employ physicians and other health care providers.

To Committee on Intergovernmental Relations.

SB 2517 by Duncan

Relating to the dissolution of the Ballinger Memorial Hospital District and the North Runnels County Hospital District and the creation of the Runnels County Hospital District; granting the authority to impose a tax and issue bonds; granting the power of eminent domain.

To Committee on Intergovernmental Relations.

SB 2518 by Nichols

Relating to the creation of the Somerset Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Committee on Intergovernmental Relations.

SB 2519 by Estes

Relating to the Clear Creek Watershed Authority.

To Committee on Natural Resources.

SB 2520 by Duncan

Relating to election and qualifications of members of the board of directors of the Santa Rita Underground Water Conservation District.

To Committee on Natural Resources.

SB 2521 by Jackson

Relating to the creation of the Brazoria County Municipal Utility District No. 63; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Committee on Intergovernmental Relations.

SCR 57 by West

Directing the Health and Human Services Commission to pursue federal funding for the support of kinship caregivers.

To Committee on Health and Human Services.

HOUSE BILLS ON FIRST READING

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

HB 602 to Committee on Higher Education.

HB 1759 to Committee on State Affairs.

HB 2594 to Committee on Business and Commerce.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate Dallas County Constable Jaime Cortes and members of his Constable office: Kenneth Hines, Richard Talamantez, Rene Lozano, and Nosheska Garcia.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

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

**COMMITTEE SUBSTITUTE
SENATE BILL 16 ON THIRD READING**

Senator Averitt moved to suspend the regular order of business to take up for consideration **CSSB 16** at this time on its third reading and final passage:

CSSB 16, Relating to the enhancement of air quality, including the capture and storage of carbon dioxide and development of a greenhouse gas registry, the development of emissions reduction technologies, and the improvement of energy efficiency in buildings, vehicles, and appliances; providing civil penalties.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Lucio, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Huffman, Jackson, Nelson, Nichols, Patrick, Shapiro.

Absent-excused: Harris.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 8. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 855 ON THIRD READING**

Senator Carona moved to suspend the regular order of business to take up for consideration **CSSB 855** at this time on its third reading and final passage:

CSSB 855, Relating to local options regarding mobility improvement projects in certain counties and municipalities; providing authority to impose a tax, issue bonds, and impose penalties.

The motion prevailed by the following vote: Yeas 21, Nays 9.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hinojosa, Lucio, Nichols, Seliger, Shapiro, Shapleigh, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Hegar, Huffman, Jackson, Nelson, Ogden, Patrick, Uresti, Van de Putte.

Absent-excused: Harris.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 9. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1392 ON THIRD READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 1392** at this time on its third reading and final passage:

CSSB 1392, Relating to toll collection and enforcement.

The motion prevailed.

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

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

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

Nays: Estes, Nelson.

Absent-excused: Harris.

**COMMITTEE SUBSTITUTE
SENATE BILL 1771 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1771** at this time on its second reading:

CSSB 1771, Relating to the availability and continuation of certain health benefit plan coverage.

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

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

Absent-excused: Harris.

**COMMITTEE SUBSTITUTE
SENATE BILL 1771 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1771** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Harris.

Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1771**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1771** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

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

Absent-excused: Harris.

(Senator Eltife in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1356 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1356** at this time on its second reading:

CSSB 1356, Relating to a fee associated with the assignment of a vehicle identification number by the Texas Department of Transportation.

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

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

Absent-excused: Harris.

**COMMITTEE SUBSTITUTE
SENATE BILL 1356 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1356** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Harris.

Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1356**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1356** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

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

Absent-excused: Harris.

SENATE BILL 1048 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1048** at this time on its second reading:

SB 1048, Relating to requiring dental support for a child subject to a child support order.

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

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

Absent-excused: Harris.

SENATE BILL 1048 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1048** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Harris.

Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 1048**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 1048** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

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

Absent-excused: Harris.

**COMMITTEE SUBSTITUTE
SENATE BILL 28 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 28** at this time on its second reading:

CSSB 28, Relating to the use of a computer for an unauthorized purpose; providing a civil penalty.

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

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

Absent-excused: Harris.

**COMMITTEE SUBSTITUTE
SENATE BILL 28 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 28** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Harris.

Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 28**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 28** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

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

Absent-excused: Harris.

COMMITTEE SUBSTITUTE SENATE BILL 727 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 727** at this time on its second reading:

CSSB 727, Relating to the creation of DNA records for the DNA database system.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 727** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **CSSB 727** was read and was adopted by a viva voce vote.

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

Absent-excused: Harris.

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

CSSB 727 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:

Absent-excused: Harris.

**COMMITTEE SUBSTITUTE
SENATE BILL 727 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 727** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Harris.

Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 727**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 727** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

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

Absent-excused: Harris.

**SENATE CONCURRENT RESOLUTION 33
ON SECOND READING**

Senator Jackson moved to suspend the regular order of business to take up for consideration **SCR 33** at this time on its second reading:

SCR 33, Granting Betty Bardwell permission to sue the State of Texas, The University of Texas Medical Branch at Galveston, and the Office of the Attorney General.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Averitt, Carona, Davis, Deuell, Ellis, Estes, Gallegos, Hegar, Hinojosa, Jackson, Lucio, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Duncan, Eltife, Huffman, Nelson, Nichols, Ogden, Patrick, Shapiro, Williams.

Absent: Fraser.

Absent-excused: Harris.

The resolution was read second time.

Senator Jackson moved to postpone further consideration of the resolution to a time certain of 12:00 noon tomorrow.

The motion prevailed.

Question — Shall **SCR 33** be adopted?

(President in Chair)

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator West and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider the following bills today: **SB 2503**, **SB 2504**.

SENATE RULE 11.18(a) SUSPENDED

(Public Hearings)

On motion of Senator Watson, on behalf of Senator Carona, and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on Transportation and Homeland Security might consider **SB 2295** tomorrow.

SENATE RULE 11.10(a) SUSPENDED

(Public Notice of Committee Meetings)

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

SENATE RULE 11.18(a) SUSPENDED

(Public Hearings)

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on Higher Education might consider **SB 2376** tomorrow.

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

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

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

On motion of Senator Fraser and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on Business and Commerce might consider **HB 2594** today.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 619 by Ellis, In memory of Lenzell Coby, Sr., of Longview.

Congratulatory Resolutions

SR 605 by Whitmire, Commending Paul Hansen for achieving the rank of Eagle Scout.

SR 606 by Whitmire, Recognizing the rededication of the Houston Community College Town and Country Campus as the Spring Branch Campus.

SR 608 by Gallegos, Recognizing Frank Medina on the occasion of his 80th birthday.

SR 609 by Gallegos, Recognizing Shirley J. Williamson for her contributions to the field of education.

SR 610 by Shapiro, Recognizing the volunteers of Collin County for their contributions to their community.

SR 611 by Lucio, Commending Victor Garza for his contributions to the City of San Benito.

SR 612 by Lucio, Recognizing the City of Pharr on the occasion of its 100th anniversary.

SR 613 by Lucio, Congratulating Aurora De La Garza for being selected for a Distinguished Citizen Award by the Boy Scouts of America.

SR 614 by Lucio, Congratulating Joe G. Rivera for being selected for a Distinguished Citizen Award by the Boy Scouts of America.

SR 616 by Uresti, Commending Daniel T. Robles for his service to Cameron County.

SR 617 by Ellis, Recognizing Qatar Airways Company on the occasion of its inaugural flight to Houston.

SR 618 by Ellis, Recognizing the Omicron Gamma Zeta Chapter of Zeta Phi Beta Sorority, Incorporated, on the occasion of its 80th Southern Regional Conference and Youth Retreat.

SR 620 by Ellis, Recognizing the Houston chapter of Top Ladies of Distinction, Incorporated, on the occasion of its 44th Annual Founders' Day Observance.

SR 621 by Ellis, Recognizing the Harris County Hospital District–Health Care for the Homeless Program on the occasion of Nurses Week.

SR 622 by Uresti, Recognizing the VA Heart of Texas Health Care Network on the occasion of the 20th anniversary of the Department of Veterans Affairs.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:48 p.m. adjourned, in memory of Captain James Arthur Harlow, Sr., of Pasadena, firefighter Damion Jon Hobbs of Alvin, and William "Bill" Peisen, 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:

April 14, 2009

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 1967, CSSB 2058**

JURISPRUDENCE — **SB 1166, SB 1599, SB 1811, SB 1838, SB 2197, SB 2201, SB 2325**

CRIMINAL JUSTICE — **CSSB 743**

JURISPRUDENCE — **SB 1754**

STATE AFFAIRS — **SB 908, SB 1628, SB 1867, SB 1930, SB 2072, SB 2074**

HEALTH AND HUMAN SERVICES — **CSSB 59, SB 592, SB 750, CSSB 911, CSSB 983, CSSB 1054, CSSB 1124, SB 1171, SB 1432, SB 1520**

FINANCE — **SB 254, SB 402, CSSB 469, SB 475, CSSB 629, CSSB 873, SB 947, SB 1591**

INTERNATIONAL RELATIONS AND TRADE — **SB 1997, CSSB 2043, CSSB 2288, CSSB 2292, SB 2480**

CRIMINAL JUSTICE — **CSSB 787, CSSB 912, CSSB 920, CSSB 937, CSSB 1256, CSSB 1424, CSSB 1505, CSSB 1529, CSSB 1662, CSSB 1832**

JURISPRUDENCE — **CSSB 58, CSSB 62, CSSB 666, CSSB 1661, CSSB 1710, CSSB 1777, CSSB 1820, CSSB 2027, CSSB 2065**

BUSINESS AND COMMERCE — **CSSB 546, CSSB 881, CSSB 1427, CSSB 1647, CSSB 1702, CSSB 1715**

TRANSPORTATION AND HOMELAND SECURITY — **HB 1871, SJR 25, CSSB 11, CSSB 12, CSSB 686, CSSB 1741, CSSB 1759, CSSB 2096, CSSB 2378**

HIGHER EDUCATION — **CSSB 1141, SB 1796, SB 1798, SB 2025**

NATURAL RESOURCES — CSSB 1826, SB 1736, CSSB 1694, CSSB 1748, SB 2108, SB 2092, SB 2019, CSSB 2306, CSSB 2329, CSSB 2445, SB 2462, SB 2474, CSSB 1241, CSSB 1203, CSSB 913, CSSB 902, CSSB 752, SB 598, CSSB 1846, SB 719

BUSINESS AND COMMERCE — CSSB 1587

BILLS ENGROSSED

April 8, 2009

SB 6, SB 66, SB 98, SB 184, SB 238, SB 240, SB 241, SB 361, SB 375, SB 567, SB 669, SB 684, SB 794, SB 839, SB 961, SB 1208, SB 1238, SB 1389, SB 1654, SB 1711

RESOLUTIONS ENROLLED

April 8, 2009

SR 568, SR 574, SR 599, SR 600, SR 601, SR 602, SR 604

BILLS ENGROSSED

April 9, 2009

SB 76, SB 78, SB 79, SB 95, SB 129, SB 161, SB 205, SB 283, SB 338, SB 344, SB 359, SB 493, SB 521, SB 522, SB 534, SB 562, SB 571, SB 575, SB 707, SB 709, SB 724, SB 729, SB 762, SB 768, SB 778, SB 779, SB 790, SB 791, SB 792, SB 808, SB 821, SB 862, SB 866, SB 874, SB 887, SB 888, SB 891, SB 898, SB 904, SB 926, SB 939, SB 940, SB 957, SB 963, SB 964, SB 965, SB 968, SB 969, SB 971, SB 972, SB 997, SB 1034, SB 1036, SB 1040, SB 1051, SB 1055, SB 1056, SB 1059, SB 1080, SB 1082, SB 1083, SB 1085, SB 1091, SB 1107, SB 1111, SB 1121, SB 1122, SB 1129, SB 1138, SB 1199, SB 1206, SB 1209, SB 1218, SB 1219, SB 1235, SB 1253, SB 1259, SB 1260, SB 1270, SB 1310, SB 1357, SB 1368, SB 1369, SB 1373, SB 1398, SB 1403, SB 1408, SB 1409, SB 1426, SB 1442, SB 1473, SB 1495, SB 1522, SB 1537, SB 1539, SB 1541, SB 1575, SB 1614, SB 1650, SB 1651, SB 1658, SB 1670, SB 1755, SB 1773, SB 1827, SB 1847, SB 1850, SB 1864, SB 1948

