

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FORTIETH DAY

(Wednesday, April 11, 2007)

The Senate met at 11:12 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, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Gallegos.

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

The Reverend John Selle, Faith Lutheran Church, Georgetown, sang the invocation as follows:

O Lord, our God, most righteous one, to whom we bend the knee, give ear, we pray, to our requests. O hear our humble plea. Most gracious Lord, please bless our land and its inhabitants, grant wisdom to our leaders, all, with heaven-sent common sense. Do bless this day our labors, too, with Your divine supply, strengthen our hands and guard each step with Your all-seeing eye. We praise You for the life You've given and talents spread around. O grace us in the work at hand on this historic ground. God Father, Son, and Holy Ghost, eternal trinity, in Jesus' name, our savior king, may we find liberty. 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.

LEAVE OF ABSENCE

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

CO-AUTHOR OF SENATE BILL 46

On motion of Senator Nelson, Senator Lucio will be shown as Co-author of **SB 46**.

CO-AUTHOR OF SENATE BILL 183

On motion of Senator Estes, Senator Uresti will be shown as Co-author of **SB 183**.

CO-AUTHOR OF SENATE BILL 536

On motion of Senator West, Senator Whitmire will be shown as Co-author of **SB 536**.

CO-AUTHOR OF SENATE BILL 807

On motion of Senator Whitmire, Senator Eltife will be shown as Co-author of **SB 807**.

CO-AUTHOR OF SENATE BILL 883

On motion of Senator Deuell, Senator Van de Putte will be shown as Co-author of **SB 883**.

CO-AUTHOR OF SENATE BILL 934

On motion of Senator Jackson, Senator Whitmire will be shown as Co-author of **SB 934**.

CO-AUTHOR OF SENATE BILL 1039

On motion of Senator Lucio, Senator Eltife will be shown as Co-author of **SB 1039**.

CO-AUTHORS OF SENATE BILL 1049

On motion of Senator Zaffirini, Senators Lucio and Van de Putte will be shown as Co-authors of **SB 1049**.

CO-AUTHOR OF SENATE BILL 1058

On motion of Senator West, Senator Hinojosa will be shown as Co-author of **SB 1058**.

CO-AUTHORS OF SENATE BILL 1170

On motion of Senator Hinojosa, Senators Carona, Deuell, Lucio, Seliger, Uresti, Wentworth, and Zaffirini will be shown as Co-authors of **SB 1170**.

CO-AUTHORS OF SENATE BILL 1176

On motion of Senator Ellis, Senators Wentworth and Whitmire will be shown as Co-authors of **SB 1176**.

CO-AUTHOR OF SENATE BILL 1292

On motion of Senator Nelson, Senator Van de Putte will be shown as Co-author of **SB 1292**.

CO-AUTHORS OF SENATE BILL 1490

On motion of Senator Watson, Senators Lucio and Van de Putte will be shown as Co-authors of **SB 1490**.

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 135, SB 330, SB 332, SCR 36.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 11, 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:

HCR 189, Recognizing April 10, 2007, as Upshur County Day at the State Capitol.

HJR 35, Proposing a constitutional amendment authorizing the legislature to exempt from ad valorem taxation rent-to-own property not held by the lessee primarily to produce income and to prescribe the method to be used to depreciate taxable rent-to-own property for tax appraisal purposes.

Respectfully,

/s/Robert Haney, Chief Clerk

House of Representatives

PHYSICIAN OF THE DAY

Senator Watson was recognized and presented Dr. Mark Chassay of Austin as the Physician of the Day.

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

GUESTS PRESENTED

Senator Hegar was recognized and introduced to the Senate seventh-grade students from Saint Philip Catholic School in El Campo, accompanied by their teachers and parents.

The Senate welcomed its guests.

SENATE RESOLUTION 663

Senator Harris offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the members of Leadership Flower Mound and the members of its Class of 2007 on the occasion of their visit to the State Capitol on April 10 and 11; and

WHEREAS, Sponsored by the Flower Mound Chamber of Commerce, Leadership Flower Mound provides a unique educational experience that enables its class participants to develop leadership skills and to acquire a working knowledge of the community; the goal of the program is to identify and encourage future leaders; and

WHEREAS, Anyone who works or resides in the greater Flower Mound area is eligible to apply for admission to the program; the class of 20 to 30 members is chosen without regard to race, gender, age, education, or personal or employment affiliations; and

WHEREAS, The town of Flower Mound is named for an actual spot in North Texas where the cross timbers meet the long prairie and where wildflowers sprout after the brush fires of dry summer months; it is a thriving town of about 59,000 citizens in southern Denton County and is a wonderful place in which to live, work, and raise a family; and

WHEREAS, The goal of Leadership Flower Mound is to have its participants learn about the inner workings of private and public institutions and how and where one might make contributions to the community; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Leadership Flower Mound for its innovative and thorough approach to preparing citizens for prominent roles in their community and extend best wishes for the future to the members of the Class of 2007; and, be it further

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

HARRIS
NELSON

SR 663 was read and was adopted without objection.

GUESTS PRESENTED

Senator Harris, joined by Senator Nelson, was recognized and introduced to the Senate members of Leadership Flower Mound Class of 2007.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate a delegation from San Antonio representing Blue Ribbon Task Force Day at the Capitol.

The Senate welcomed its guests.

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

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

There was no objection.

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.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

Judge, 3rd Judicial District Court, Anderson, Henderson, and Houston Counties: Mark Alan Calhoon, Anderson County.

Judge, 430th Judicial District Court, Hidalgo County: Thomas P. Wingate, Hidalgo County.

Members, Advisory Board of Athletic Trainers: David R. Schmidt, Bexar County; Rebecca Spurlock, Tarrant County; Michael Alan Waters, Angelina County; David J. Weir, Brazos County.

Members, Board of Pilot Commissioners for Galveston County Ports: Vandy Anderson, Galveston County; Edgar A. Bircher, Galveston County; Elizabeth A. Iles, Galveston County; Edward A. "Eddie" Janek, Galveston County; Diane Hemmig Kerkhove, Galveston County.

Members, State Commission on Judicial Conduct: Ernie Houdashell, Randall County; Thomas Lawrence, Harris County.

Members, Texas Commission of Licensing and Regulation: Mike Arismendez, Jr., Lubbock County; Lewis J. Benavides, Denton County; Frank S. Denton, Montgomery County; Lilian Norman-Keeney, Harris County.

Members, Texas Council on Autism and Pervasive Developmental Disorders: Margaret Hasse Cowen, Bexar County; Richard E. Garnett, Ph.D., Tarrant County; Donna Nelson Geiger, Williamson County; Anna Penn Hundley, Dallas County; Opal Irvin, Lee County; Frank Christian McCamant, Travis County; Manuel Macedonio Vela, Cameron County.

Members, Texas Guaranteed Student Loan Corporation Board of Directors: Iván Arturo Andarza, Travis County; Yvonne Batts, Taylor County; Frank Houston "Skip" Landis, Brazos County; Connie Sue Sitterly, Ed.D., Tarrant County; Phil W. Worley, Webb County.

Members, Texas State Board of Podiatric Medical Examiners: Doris A. Couch, Johnson County; Travis A. Motley, Tarrant County; Ana Urukalo, Travis County.

Members, Upper Guadalupe River Authority Board of Directors: Lana M. Edwards, Kerr County; Mike Boyd McKenzie, Kerr County; Karol A. Schreiner, Kerr County.

CONCLUSION OF MORNING CALL

The President at 11:28 a.m. announced the conclusion of morning call.

SENATE BILL 285 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 285** at this time on its second reading:

SB 285, Relating to the imposition of certain fees on students enrolled at The University of Texas at Dallas.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 285** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 54.5311, Education Code (page 1, lines 23-28), strike added Subsection (b) and substitute the following:

(b) The fee may not be imposed unless approved by a majority vote of the students of the university who participate in a general student election held for that purpose.

(c) The amount of the fee may not be increased to an amount that exceeds by 10 percent or more the total amount of the fee as last approved by a student vote under Subsection (b) or this subsection unless the increase has been approved by a majority vote of the students enrolled at the university who participate in a general student election held for that purpose.

(2) Reletter the existing subsections of added Section 54.5311 accordingly.

(3) In SECTION 1 of the bill, in added Section 54.5312, Education Code (page 1, lines 57-62), strike added Subsection (c) and substitute the following:

(c) The fee may not be imposed unless approved by a majority vote of the students of the university who participate in a general student election held for that purpose.

(d) The amount of the fee may not be increased to an amount that exceeds by 10 percent or more the total amount of the fee as last approved by a student vote under Subsection (c) or this subsection unless the increase has been approved by a majority vote of the students enrolled at the university who participate in a general student election held for that purpose.

(4) Reletter the existing subsections of added Section 54.5312 accordingly.

(5) In SECTION 1 of the bill, in added Section 54.5313, Education Code (page 2, lines 20-29), strike added Subsections (b) and (c) and substitute the following:

(b) The fee may not be imposed unless approved by a majority vote of the students of the university who participate in a general student election held for that purpose.

(c) The amount of the fee may not be increased to an amount that exceeds by 10 percent or more the total amount of the fee as last approved by a student vote under Subsection (b) or this subsection unless the increase has been approved by a majority vote of the students enrolled at the university who participate in a general student election held for that purpose.

The amendment to **SB 285** 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: Gallegos.

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

SB 285 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: Gallegos.

SENATE BILL 285 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 **SB 285** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Gallegos.

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 285**, 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 285** 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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 529 ON SECOND READING**

Senator Watson moved to suspend the regular order of business to take up for consideration **CSSB 529** at this time on its second reading:

CSSB 529, Relating to the clean school bus program.

The motion prevailed by the following vote: Yeas 27, Nays 3.

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

Nays: Harris, Jackson, Patrick.

Absent-excused: Gallegos.

The bill was read second time and was passed to engrossment by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 529 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 **CSSB 529** be placed on its third reading and final passage.

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

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

Nays: Harris, Jackson, Patrick, Wentworth.

Absent-excused: Gallegos.

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 529**, 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 529** 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 27, Nays 3.

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

Nays: Harris, Jackson, Patrick.

Absent-excused: Gallegos.

SENATE BILL 844 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 844** at this time on its second reading:

SB 844, Relating to longevity pay for assistant prosecutors.

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: Gallegos.

SENATE BILL 844 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 **SB 844** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Gallegos.

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 844**, 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 844** 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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 273 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 273** at this time on its second reading:

CSSB 273, Relating to a student fitness and recreational fee at Texas Woman's University.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 273** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Subsection (c), Section 54.5251, Education Code (page 1, line 27), strike "approved by a student vote".

(2) In SECTION 1 of the bill, in added Subsection (c), Section 54.5251, Education Code (page 1, line 28), strike "by more than 10 percent" and substitute "to an amount that exceeds by 10 percent or more the total amount of the fee as last approved by a student vote under Subsection (b) or this subsection".

(3) In SECTION 1 of the bill, in added Section 54.5251, Education Code (page 1, between lines 22 and 23), add the following new Subsection (b) and reletter the existing subsections of added Section 54.5251 accordingly:

(b) The fee may not be imposed unless approved by a majority vote of the students of the university who participate in a general student election held for that purpose.

The amendment to **CSSB 273** 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: Gallegos.

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

CSSB 273 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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 273 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 273** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Gallegos.

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 273**, 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 273** 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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 3 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSJR 3** at this time on its second reading:

CSSJR 3, Proposing a constitutional amendment requiring a two-thirds record vote of the membership of each house to enact a law granting the power of eminent domain.

The resolution was read second time.

Senator Duncan offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **CSSJR 3** as follows:

- (1) On page 1, line 15, delete "2007" and replace it with "2008";
 - (2) On page 1, delete subsection (b) from lines 19-22 and renumber accordingly;
- and
- (3) On page 1, line 28, delete "2007" and replace it with "2008".

The amendment to **CSSJR 3** 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: Gallegos.

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

CSSJR 3 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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 3 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 **CSSJR 3** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Gallegos.

Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSJR 3**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSJR 3** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed.

Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

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

Absent-excused: Gallegos.

GUESTS PRESENTED

Senator Jackson was recognized and introduced to the Senate members of Leadership Mainland from La Marque and Texas City.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE SENATE BILL 1067 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 1067** at this time on its second reading:

CSSB 1067, Relating to the placement by public schools of students who are registered sex offenders and the notification requirements concerning certain offenses committed by students.

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: Gallegos.

COMMITTEE SUBSTITUTE SENATE BILL 1067 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 1067** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Gallegos.

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 1067**, 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 1067** 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: Gallegos.

SENATE BILL 1153 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1153** at this time on its second reading:

SB 1153, Relating to the use of title insurance to insure certain interests in personal property.

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: Gallegos.

SENATE BILL 1153 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 **SB 1153** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Gallegos.

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 1153**, 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 1153** 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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 1457 ON SECOND READING**

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1457** at this time on its second reading:

CSSB 1457, Relating to the establishment of a strategy for reducing child abuse and neglect and improving child welfare.

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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 1457 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 **CSSB 1457** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Gallegos.

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 1457**, 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 1457** 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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 668 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 668** at this time on its second reading:

CSSB 668, Relating to the operation, powers, and duties of a toll project entity.

The bill was read second time.

Senator Nichols offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 668** (Senate committee printing) in SECTION 1 of the bill, in added Section 371.103, Transportation Code (page 2, between lines 35 and 36), by inserting the following:

(c) A regional mobility authority that is located within an area served by two metropolitan planning organizations is not subject to Subsections (a)(3), (4), and (5) or Subsection (b).

The amendment to **CSSB 668** 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: Gallegos.

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

CSSB 668 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: Harris, Ogden.

Absent-excused: Gallegos.

COMMITTEE SUBSTITUTE
SENATE BILL 668 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 **CSSB 668** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

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

Nays: Harris, Ogden, Wentworth.

Absent-excused: Gallegos.

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 668**, 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 668** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

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

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

Nays: Harris, Ogden.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 663 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 663** at this time on its second reading:

CSSB 663, Relating to the production and taxation of renewable diesel fuel.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 663** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 162.001, Tax Code, is amended by amending Subdivisions (7) and (19) and adding Subdivision (53-a) to read as follows:

(7) "Biodiesel fuel" has the meaning assigned to "biodiesel" by Section 16.001, Agriculture Code ~~[means any motor fuel or mixture of motor fuels that is: (A) derived wholly or partly from agricultural products, vegetable oils, recycled greases, or animal fats, or the wastes of those products or fats; and (B) advertised, offered for sale, suitable for use, or used as a motor fuel in an internal combustion engine].~~

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, that is suitable for or used for the propulsion of diesel-powered motor vehicles. The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, renewable diesel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include gasoline, aviation gasoline, or liquefied gas.

(53-a) "Renewable diesel" has the meaning assigned by Section 16.001, Agriculture Code.

SECTION 2. Subsection (a), Section 162.204, Tax Code, is amended to read as follows:

(a) The tax imposed by this subchapter does not apply to:

(1) diesel fuel sold to the United States for its exclusive use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that:

(A) for diesel fuel in a situation described by Subsection (d), the bill of lading indicates the destination state and the supplier collects the destination state tax; or

(B) for diesel fuel in a situation described by Subsection (e), the bill of lading indicates the destination state, the diesel fuel is subsequently exported, and the exporter is licensed in the destination state to pay that state's tax and has an exporter's license issued under this subchapter;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) diesel fuel exported to a foreign country if the bill of lading indicates the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;

(9) the volume of water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use; or

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section 548.001, Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule.

SECTION 3. The heading to Chapter 16, Agriculture Code, is amended to read as follows:

CHAPTER 16. FUEL ETHANOL, ~~AND~~ BIODIESEL, AND RENEWABLE DIESEL PRODUCTION INCENTIVE PROGRAM

SECTION 4. Section 16.001, Agriculture Code, is amended by amending Subdivisions (1), (3), and (6) and adding Subdivision (7) to read as follows:

(1) "Account" means the fuel ethanol, ~~and~~ biodiesel, and renewable diesel production account.

(3) "Biodiesel" means a motor fuel that:

(A) meets the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under Section 211 of the federal Clean Air Act (42 U.S.C. Section 7545);

(B) is mono-alkyl esters of long chain fatty acids derived from vegetable oils and animal fats;

(C) meets the requirements of ASTM specification D-6751;

(D) is intended for use in engines that are designed to run on conventional, petroleum-derived diesel fuel; and

(E) is derived from agricultural products, vegetable oils, recycled greases, biomass, or animal fats or the wastes of those products or fats ~~[a monoalkyl ester that:~~

~~[(A) is derived from vegetable oils, rendered animal fats, or renewable lipids or a combination of those ingredients; and~~

~~[(B) meets the requirements of ASTM PS 121, the provisional specification for biodiesel].~~

(6) "Producer" means a person who operates a fuel ethanol, ~~or~~ biodiesel, or renewable diesel plant in this state.

(7) "Renewable diesel" means a motor fuel that:

(A) meets the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under Section 211 of the federal Clean Air Act (42 U.S.C. Section 7545);

(B) is a hydrocarbon;

(C) meets the requirements of ASTM specification D-975;

(D) is intended for use in engines that are designed to run on conventional, petroleum-derived diesel fuel; and

(E) is derived from agricultural products, vegetable oils, recycled greases, biomass, or animal fats or the wastes of those products or fats.

SECTION 5. Subsections (a) and (b), Section 16.002, Agriculture Code, are amended to read as follows:

(a) To be eligible for a grant for fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced in a plant, a producer must apply to the office for the registration of the plant. A producer may apply for the registration of more than one plant.

(b) An application for the registration of a plant must show to the satisfaction of the office that:

(1) the plant is capable of producing fuel ethanol, ~~or~~ biodiesel, or renewable diesel;

(2) the producer has made a substantial investment of resources in this state in connection with the plant; and

(3) the plant constitutes a permanent fixture in this state.

SECTION 6. Subsection (a), Section 16.003, Agriculture Code, is amended to read as follows:

(a) On or before the fifth day of each month, a producer shall report to the office on:

(1) the number of gallons of fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel produced at each registered plant operated by the producer during the preceding month;

(2) the number of gallons of fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel imported into this state by the producer during the preceding month;

(3) the number of gallons of fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel sold or blended with motor fuels by the producer during the preceding month; and

(4) the total value of agricultural products consumed in each registered plant operated by the producer during the preceding month.

SECTION 7. The heading to Section 16.004, Agriculture Code, is amended to read as follows:

Sec. 16.004. FUEL ETHANOL, ~~[AND]~~ BIODIESEL, AND RENEWABLE DIESEL PRODUCTION ACCOUNT.

SECTION 8. Subsection (a), Section 16.004, Agriculture Code, is amended to read as follows:

(a) The fuel ethanol, ~~[and]~~ biodiesel, and renewable diesel production account is an account in the general revenue fund that may be appropriated only to the office for the purposes of this chapter, including the making of grants under this chapter.

SECTION 9. The heading to Section 16.005, Agriculture Code, is amended to read as follows:

Sec. 16.005. FEE ON FUEL ETHANOL, ~~[AND]~~ BIODIESEL, AND RENEWABLE DIESEL PRODUCTION.

SECTION 10. Subsections (a), (b), and (d), Section 16.005, Agriculture Code, are amended to read as follows:

(a) The office shall impose a fee on each producer in an amount equal to 3.2 cents for each gallon of fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel produced in each registered plant operated by the producer.

(b) For each fiscal year, the office may not impose fees on a producer for more than 18 million gallons of fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel produced at any one registered plant.

(d) The office may not impose fees on a producer for fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel produced at a registered plant after the 10th anniversary of the date production from the plant begins.

SECTION 11. The heading to Section 16.006, Agriculture Code, is amended to read as follows:

Sec. 16.006. FUEL ETHANOL, ~~[AND]~~ BIODIESEL, AND RENEWABLE DIESEL GRANTS.

SECTION 12. Subsections (a), (b), (c), and (e), Section 16.006, Agriculture Code, are amended to read as follows:

(a) The office, after consultation with the department, shall make grants to producers as an incentive for the development of the fuel ethanol, ~~[and]~~ biodiesel, and renewable diesel industry and agricultural production in this state.

(b) A producer is entitled to receive from the account 20 cents for each gallon of fuel ethanol, ~~[or]~~ biodiesel, or renewable diesel produced in each registered plant operated by the producer until the 10th anniversary of the date production from the plant begins.

(c) For each fiscal year a producer may not receive grants for more than 18 million gallons of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced at any one registered plant.

(e) If the office determines that the amount of money credited to the account is not sufficient to distribute the full amount of grant funds to eligible producers as provided by this chapter for a fiscal year, the office shall proportionately reduce the amount of each grant for each gallon of fuel ethanol, ~~or~~ biodiesel, or renewable diesel produced as necessary to continue the incentive program during the remainder of the fiscal year.

SECTION 13. The change in law made by Section 2 of this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 14. The change in law made by this Act to Chapter 16, Agriculture Code, applies only to a fee that is imposed on or after the effective date of this Act. A fee that is imposed before the effective date of this Act is governed by the law in effect when the fee was imposed, and that law is continued in effect for that purpose.

SECTION 15. 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 to **CSSB 663** 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: Gallegos.

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

CSSB 663 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: Gallegos.

COMMITTEE SUBSTITUTE SENATE BILL 663 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 663** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Gallegos.

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 663**, 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 663** 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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 530 ON SECOND READING**

Senator Nelson moved to suspend the regular order of business to take up for consideration **CSSB 530** at this time on its second reading:

CSSB 530, Relating to physical activity requirements and physical fitness assessment for certain public school students.

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

Nays: Williams.

Absent-excused: Gallegos.

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

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

Nays: Williams.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 530 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 530** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

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

Nays: Wentworth, Williams.

Absent-excused: Gallegos.

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 530**, 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 530** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

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

Nays: Williams.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 757 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 757** at this time on its second reading:

CSSB 757, Relating to the planning and management of state telecommunications services by the Department of Information Resources.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 757** by striking SECTIONS 9 and 10 of the bill (committee printing, page 3, line 59 through page 4, line 6) and renumbering the subsequent SECTIONS of the bill accordingly.

The amendment to **CSSB 757** 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: Gallegos.

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

CSSB 757 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: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 757 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 757** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Gallegos.

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 757**, 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 757** 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: Gallegos.

SENATE BILL 742 ON SECOND READING

Senator Eltife moved to suspend the regular order of business to take up for consideration **SB 742** at this time on its second reading:

SB 742, Relating to the authority of a gas utility to receive an interim adjustment for certain infrastructure projects.

The motion prevailed.

Senator Duncan asked to be recorded as "Present-not voting" on suspension of the regular order of business.

The bill was read second time.

Senator Eltife offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 742** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 104.301, Utilities Code, is amended to read as follows:

Sec. 104.301. INTERIM ADJUSTMENT FOR ELIGIBLE INFRASTRUCTURE INVESTMENTS [~~CHANGES IN INVESTMENT~~]. (a) The purpose of this subchapter is to provide an incentive to gas utilities to promptly replace aging portions of the gas delivery system, to encourage investment, and to enhance reliability, public safety, and service without triggering the need for a ratemaking proceeding to recover the utility's return on, and associated increases in, invested capital.

(b) In this section, "eligible infrastructure investment" means the difference between the value of the invested capital of a gas utility for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. The value of the invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment. The term does not include:

(1) changes in invested capital resulting from allocations of invested capital to the utility from an affiliate or an operating division of the utility not subject to this title other than allocations of net investment in computer equipment, software, communications, and metering; or

(2) classifications of investment that were not included in the utility's invested capital in the utility's most recent ratemaking proceeding.

(c) A gas utility that has filed a rate case under Subchapter C within the preceding two years may file with each [~~the~~] regulatory authority an application for a tariff or rate schedule that provides for an interim adjustment in the utility's monthly customer charge or initial block rate to recover the cost of an eligible infrastructure investment [~~changes in the investment in service for gas utility services~~]. The adjustment, if granted, shall be allocated among the gas utility's classes of customers

in the same manner as the cost of service was allocated among classes of customers in the utility's latest effective rates for the area in which the tariff or rate schedule is implemented.

(d) The gas utility shall file the application for the tariff, ~~or~~ rate schedule, or interim ~~[the annual]~~ adjustment ~~[under Subsection (c),]~~ with each ~~[the]~~ regulatory authority for the area in which the tariff or rate schedule will be implemented at least 60 days before the proposed implementation date of the tariff, rate schedule, or interim ~~[annual]~~ adjustment. The gas utility shall provide notice of the application for the tariff, rate schedule, or interim ~~[annual]~~ adjustment to affected customers by bill insert or direct mail not later than the 45th day after the date the utility files the application for the tariff, rate schedule, or interim ~~[annual]~~ adjustment with the regulatory authorities ~~[authority]~~.

(e) During the 60-day period, the regulatory authorities ~~[authority]~~ may act to suspend the implementation of the tariff, rate schedule, or interim ~~[annual]~~ adjustment for up to 45 days. The regulatory authority may approve, approve in part, or deny the application for the tariff, rate schedule, or interim adjustment filed by the gas utility with the regulatory authority. An approval, approval in part, or denial of a tariff, rate schedule, or interim adjustment by a municipality in its capacity as a regulatory authority may be appealed by the gas utility to the railroad commission as provided by Section 102.001(b). In deciding to approve, approve in part, or deny an application, the commission shall consider comments submitted by a regulatory authority. After the issuance of a final order or decision by the ~~[a]~~ regulatory authorities ~~[authority]~~ in a rate case that is filed after the implementation of a tariff or rate schedule under this section, any change in investment that has been included in an interim adjustment in accordance with the tariff or rate schedule under this section shall no longer be subject to subsequent review for reasonableness or prudence. Until the issuance of a final order or decision by a regulatory authority in a rate case that is filed after the implementation of a tariff or rate schedule under this section, all amounts collected under the tariff or rate schedule before the filing of the rate case are subject to refund. The gas utility shall maintain complete records in accordance with commission rules sufficient to identify the specific items and amounts included in the interim adjustment and to support the inclusion of those items and amounts in the interim adjustment.

(f) ~~(b)~~ The amount the gas utility shall adjust the utility's rates upward or downward under the tariff or rate schedule each calendar year is based on the difference between the value of the invested capital for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. The value of the invested capital is equal to the original cost of the investment at the time the investment was first dedicated to public use minus the accumulated depreciation related to that investment.

~~(e)~~ The interim adjustment shall be recalculated on an annual basis ~~[in accordance with the requirements of Subsection (b)].~~ The gas utility may file a request with a ~~[the]~~ regulatory authority to suspend the operation of the tariff or rate schedule for any year. The request must be in writing and state the reasons why the suspension is justified. The regulatory authority may grant the suspension on a showing by the utility of reasonable justification.

(g) ~~[(+)]~~ A gas utility may only adjust the utility's rates under the tariff or rate schedule for the return on investment, depreciation expense, ad valorem taxes, revenue related taxes, and incremental federal income taxes related to the eligible infrastructure investment ~~[difference in the value of the invested capital]~~ as determined under Subsection (b). The return on investment, depreciation, and incremental federal income tax factors used in the computation must be the same as the factors reflected in the final order issued by or settlement agreement approved by the regulatory authorities ~~[authority]~~ establishing the gas utility's latest effective rates for the area in which the tariff or rate schedule is implemented.

(h) ~~[(+)]~~ A gas utility that implements a tariff or rate schedule under this section shall file with the regulatory authorities ~~[authority]~~ an annual report describing the elements of each eligible infrastructure investment ~~[projects]~~ completed and placed in service during the preceding calendar year and the investments retired or abandoned during the preceding calendar year. The annual report shall also state the cost, need, and customers benefited by each eligible infrastructure ~~[the change in]~~ investment.

(i) ~~[(+)]~~ In addition to the report required under Subsection (h) ~~[(+)]~~, the gas utility shall file with the regulatory authorities ~~[authority]~~ an annual earnings monitoring report in a form established by the railroad commission and demonstrating the utility's earnings during the preceding calendar year.

(j) ~~[(+)]~~ If the gas utility is earning a return on invested capital, as demonstrated by the report filed under Subsection (i) ~~[(+)]~~, of more than 75 basis points above the return established in the latest effective rates approved by a regulatory authority for the area in which the tariff or rate schedule is implemented under this section, the gas utility shall file a statement with that report stating the reasons why the rates are not unreasonable or in violation of law.

(k) ~~[(+)]~~ If a gas utility that implements a tariff or rate schedule under this section does not file a rate case under Subchapter C before the fifth anniversary of the date on which the tariff or rate schedule takes effect, the gas utility shall file a rate case under that subchapter not later than the 180th day after that anniversary in relation to any rates subject to the tariff or rate schedule.

(l) ~~[(+)]~~ This section does not limit the power of ~~[a]~~ regulatory authorities otherwise provided by this code ~~[authority under Section 104.151].~~

(m) ~~[(+)]~~ A gas utility implementing a tariff or rate schedule under this section shall reimburse the railroad commission the utility's proportionate share of the railroad commission's costs related to the administration of the interim rate adjustment mechanism provided by this section.

(n) A gas utility implementing a tariff or rate schedule under this section shall reimburse a municipality or coalition of municipalities for the municipality's or coalition's reasonable costs of consultants, accountants, auditors, attorneys, and engineers engaged to review the interim rate adjustment. The amount that a utility is obligated to reimburse a municipality or a coalition of municipalities under this subsection may not exceed an amount equal to two percent of the expected annual increase in revenue that the utility will derive from the interim rate adjustment in the area subject to the original jurisdiction of the municipality or, with respect to a coalition of municipalities, the area subject to the original jurisdiction of the municipalities participating in the coalition.

(o) The exclusion of a portion of the gas utility's invested capital under Subsection (b) does not preclude the utility from requesting that amount in its invested capital in a general rate case brought under Subchapter C.

SECTION 2. This Act applies only to an application for a tariff or rate schedule in relation to which a regulatory authority has not issued a final order on the effective date of this Act. An application in relation to which a regulatory authority has issued a final order before the effective date of this Act is governed by the law in effect on the date the final order is issued, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2007.

The amendment to **SB 742** 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:

Present-not voting: Duncan.

Absent-excused: Gallegos.

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

SB 742 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:

Present-not voting: Duncan.

Absent-excused: Gallegos.

SENATE BILL 742 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 **SB 742** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

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

Nays: Wentworth.

Present-not voting: Duncan.

Absent-excused: Gallegos.

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 742**, 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 742** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Duncan.

Absent-excused: Gallegos.

PERMISSION TO INTRODUCE BILLS

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

SB 2006, SB 2012, SB 2013, SB 2015, SB 2017.

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 and during the Local and Uncontested Calendar Session tomorrow.

BILL ADDED TO LOCAL AND UNCONTESTED CALENDAR

On motion of Senator Brimer and by unanimous consent, **SB 502** was added to the Local and Uncontested Calendar.

NOTICE GIVEN FOR LOCAL AND UNCONTESTED CALENDAR

Senator Brimer announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 8:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Government Organization might meet and consider the following bills today: **SB 72, SB 750.**

MOTION TO RECESS AND ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 1:11 p.m. agreed to recess, upon completion of the introduction of bills and resolutions on first reading, until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

The Senate further agreed to adjourn, in memory of Marcos Paredes, Sr., of Brownsville, upon conclusion of the Local and Uncontested Calendar Session, until 10:00 a.m. tomorrow.

SENATE BILLS ON FIRST READING

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

SB 1979 by Ellis, Eltife

Relating to use of money in the Texas Enterprise Fund to retain or expand certain businesses located in this state.

To Subcommittee on Emerging Technologies and Economic Development.

SB 1980 by West

Relating to the reemployment of certain persons called to training or duty in the state military forces.

To Committee on State Affairs.

SB 2001 by Averitt

Relating to the construction and operation of reservoirs, including the assessment of a fee on the sale or lease of water impounded in a reservoir to compensate the owners of property in the reservoir site and the protection of the rights of owners or former owners of property in a reservoir site.

To Committee on Natural Resources.

SB 2005 by Williams

Relating to the calculation of certain taxes following the annexation of property by certain municipalities.

To Committee on Intergovernmental Relations.

SB 2006 by Ellis

Relating to admissions to public law schools in this state.

To Subcommittee on Higher Education.

SB 2007 by Hinojosa

Relating to the creation of the Heart's Delight Groundwater Conservation District; providing conditional authority to impose a tax and issue bonds.

To Committee on Natural Resources.

SB 2008 by Wentworth

Relating to the creation of the Comal County Special Improvement District No. 1; providing authority to impose a tax and issue bonds.

To Committee on Intergovernmental Relations.

SB 2009 by Hinojosa

Relating to the creation of municipal courts of record in the city of Corpus Christi.
To Committee on Jurisprudence.

SB 2010 by Estes

Relating to the creation, administration, powers, duties, functions, operations, and financing of the Fort Griffin Special Utility District.
To Committee on Intergovernmental Relations.

SB 2011 by Estes

Relating to the creation of the Morning Star Ranch Municipal Utility Districts Nos. 1 and 2 of Parker County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
To Committee on Intergovernmental Relations.

SB 2012 by Ellis

Relating to the imposition of a fee on conviction of a criminal offense and on the filing of a civil case to support indigent defendant programs.
To Committee on Criminal Justice.

SB 2013 by Ogden

Relating to technical changes to the revised franchise tax.
To Committee on Finance.

SB 2014 by Nichols

Relating to the creation of the Magnolia Woods Municipal Utility District No. 1 of Montgomery, Waller, and Grimes Counties; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
To Committee on Intergovernmental Relations.

SB 2015 by Duncan

Relating to the consummation of sales for purposes of the computation of local sales and use taxes.
To Committee on Finance.

SB 2016 by Eltife

Relating to the compensation paid to a statutory county court judge in Gregg County.
To Committee on Jurisprudence.

SB 2017 by Uresti

Relating to preserving the rural character of the Hill Country; authorizing the imposition of an impact fee.
To Committee on Natural Resources.

HOUSE BILLS AND RESOLUTION ON FIRST READING

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

HB 54 to Committee on Business and Commerce.

HB 73 to Committee on Business and Commerce.

HB 85 to Committee on Business and Commerce.

HB 90 to Committee on Transportation and Homeland Security.

HB 109 to Committee on Finance.
HB 126 to Committee on Criminal Justice.
HB 177 to Committee on Business and Commerce.
HB 233 to Committee on Veteran Affairs and Military Installations.
HB 239 to Committee on Intergovernmental Relations.
HB 308 to Committee on Natural Resources.
HB 310 to Committee on Transportation and Homeland Security.
HB 421 to Committee on Jurisprudence.
HB 425 to Committee on Criminal Justice.
HB 473 to Committee on State Affairs.
HB 519 to Committee on Jurisprudence.
HB 570 to Committee on Transportation and Homeland Security.
HB 581 to Committee on Business and Commerce.
HB 590 to Committee on State Affairs.
HB 604 to Committee on Natural Resources.
HB 621 to Committee on Finance.
HB 638 to Committee on Criminal Justice.
HB 688 to Committee on Finance.
HB 716 to Committee on Business and Commerce.
HB 732 to Committee on Jurisprudence.
HB 764 to Committee on Jurisprudence.
HB 776 to Committee on Jurisprudence.
HB 842 to Committee on State Affairs.
HB 953 to Committee on Criminal Justice.
HB 959 to Committee on Criminal Justice.
HB 964 to Committee on Criminal Justice.
HB 967 to Subcommittee on Agriculture, Rural Affairs, and Coastal Resources.
HB 968 to Committee on Transportation and Homeland Security.
HB 1044 to Committee on State Affairs.
HB 1045 to Committee on Government Organization.
HB 1093 to Committee on Criminal Justice.
HB 1164 to Committee on Government Organization.
HB 1235 to Committee on Natural Resources.
HB 1254 to Committee on Natural Resources.
HB 1342 to Committee on Jurisprudence.
HB 1343 to Committee on Jurisprudence.
HB 1346 to Committee on Jurisprudence.
HB 1390 to Committee on Intergovernmental Relations.
HB 1446 to Committee on State Affairs.
HB 1449 to Committee on Government Organization.
HB 1505 to Committee on Education.
HB 1554 to Committee on Jurisprudence.
HB 1560 to Committee on State Affairs.
HB 1565 to Committee on Natural Resources.
HB 1594 to Committee on State Affairs.
HB 1618 to Committee on Finance.

HB 1622 to Committee on Education.
HB 1631 to Subcommittee on Agriculture, Rural Affairs, and Coastal Resources.
HB 1682 to Committee on Transportation and Homeland Security.
HB 1710 to Committee on Jurisprudence.
HB 1717 to Committee on Intergovernmental Relations.
HB 1766 to Committee on Criminal Justice.
HB 1820 to Committee on Intergovernmental Relations.
HB 1841 to Committee on Natural Resources.
HB 1852 to Committee on Veteran Affairs and Military Installations.
HB 1887 to Committee on Criminal Justice.
HB 1899 to Committee on Intergovernmental Relations.
HB 1947 to Committee on Intergovernmental Relations.
HB 2005 to Committee on State Affairs.
HB 2024 to Committee on Government Organization.
HB 2252 to Committee on State Affairs.
HB 2282 to Committee on Transportation and Homeland Security.
HB 2288 to Committee on Jurisprudence.
HB 2296 to Committee on Transportation and Homeland Security.
HB 2322 to Committee on International Relations and Trade.
HB 2352 to Committee on Jurisprudence.
HB 2507 to Committee on Jurisprudence.
HJR 69 to Subcommittee on Agriculture, Rural Affairs, and Coastal Resources.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 668 by Zaffirini, In memory of J. C. "Pepe" Treviño, Jr., of Laredo.

SR 675 by Ogden, In memory of Joe G. Goodson of Lee County.

Congratulatory Resolutions

SR 667 by Shapiro, Congratulating Kyle Freas of Plano for being named one of Texas' top youth volunteers for 2007 by the Prudential Spirit of Community Awards program.

SR 670 by Ellis, Commending Hospital Corpsman Julie Zachariah for her service to her country.

SR 671 by Hegar, Ellis, and Janek, Recognizing the Sugar Land Regional Airport for being named the 2007 Reliever Airport of the Year by the Texas Department of Transportation.

SR 672 by Deuell, Commending Chuck Fairbanks for his service to the Royal Rangers program.

SR 673 by Deuell, Commending Karis Burke, Londyn Bull, Olivia Latham, and Rachel Weible of Rockwall for becoming Honor Stars.

SR 674 by Deuell, Commending Michael Hurtt of DeSoto for his contributions to the City of DeSoto and the Metroplex area.

SR 676 by Estes, Commending Martha Hughes for her service to the Decatur community.

SR 677 by Carona, Congratulating recipients of the Builders of Science Award from Research!America.

SR 678 by Brimer, Recognizing Fort Worth Spinks Airport for receiving the Most Improved Airport of the Year Award.

Official Designation Resolution

SCR 53 by Seliger, Proclaiming April 15 through 22, 2007, Days of Remembrance in memory of the victims of the Holocaust.

RECESS

Pursuant to a previously adopted motion, the Senate at 1:43 p.m. recessed until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

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

April 11, 2007

INTERGOVERNMENTAL RELATIONS — **CSSB 968, CSSB 976, SB 1104, SB 1165, SB 1236, CSSB 1271, CSSB 1405, CSSB 1463, SB 1501, SB 1502, SB 1575, SB 1618, SB 1752, CSSB 1535**

EDUCATION — **CSSB 1679, CSSB 603, CSSB 649, CSSB 1046, CSSB 1232, SB 1418, CSSB 1713, CSSB 1871**

NATURAL RESOURCES — **CSSB 847, CSSB 975, CSSB 1816, CSSB 1604**

BUSINESS AND COMMERCE — **SB 1735, SB 1402, SB 658**

NATURAL RESOURCES — **SB 1343, SB 1179, SB 1178, HB 1967, SB 1526**

INTERGOVERNMENTAL RELATIONS — **SB 671, SB 1205**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 59, CSSB 1688**

INTERGOVERNMENTAL RELATIONS — **CSSB 1765**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 1794**

SENT TO GOVERNOR

April 11, 2007

SB 300

