

NINETEENTH DAY

THURSDAY, FEBRUARY 17, 2005

PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by President Pro Tempore Shapiro.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Jackson, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Harris, Hinojosa, Janek, Williams.

The Presiding Officer announced that a quorum of the Senate was present.

The Lord's Prayer was sung by Sam Cook, Associate Professor, Abilene Christian University, Abilene.

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.

LEAVES OF ABSENCE

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

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

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

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

MESSAGES FROM THE GOVERNOR

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

Austin, Texas
February 17, 2005

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

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

To be members of the Board of Nurse Examiners for terms to expire January 31, 2011:

Linda R. Rounds
Galveston, Texas

(Ms. Rounds will continue to serve as chair)

Deborah H. Bell
Tuscola, Texas

Blanca Rosa Garcia, Ph.D.
Corpus Christi, Texas

Beverly Jean Nutall
Bryan, Texas

(All the above are being reappointed)

To be members of the Lower Colorado River Authority for terms to expire February 1, 2011:

Ida A. Carter
Marble Falls, Texas

(Ms. Carter is being reappointed)

Woodrow Francis McCasland
Horseshoe Bay, Texas

(replacing Robert Lambert of Horseshoe Bay whose term expired)

Linda Clapp Raun
El Campo, Texas

(replacing Rosemary Rust of Wharton whose term expired)

B. R. "Skipper" Wallace
Lampasas, Texas

(replacing F. Scott LaGrone of Georgetown whose term expired)

To be members of the State Office of Risk Management for terms to expire as indicated:

To Expire February 1, 2009:

Ernest C. Garcia
Austin, Texas

(replacing Tom Pace of Odessa whose term expired)

To Expire February 1, 2011:

Ronald James Walenta
Dallas, Texas

(replacing Micaela Alvarez of McAllen whose term expired)

Respectfully submitted,

/s/Rick Perry
Governor

GUESTS PRESENTED

Senator Staples was recognized and introduced to the Senate representatives of the Nacogdoches County Chamber of Commerce and its President, Bruce Partain;

Nacogdoches Mayor Bob Dunn; the 2005 Leadership Nacogdoches Class; Lufkin/Angelina County Chamber of Commerce representatives and its President, Jerry Huffman; Lufkin Mayor Louis Bronaugh; the 2005 Leadership Lufkin Class; Baker Pattillo, Vice-president of University Affairs, Stephen F. Austin State University; and Roland Smith, Vice-president of Business Affairs, Stephen F. Austin State University; accompanied by members of the SFA Alumni Association and the SFA Student Government Association.

The Senate welcomed its guests.

SENATE RESOLUTION 141

Senator Ogden offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Sheriffs' Association of Texas and to proclaim February 17, 2005, Sheriffs' Association of Texas Day at the Capitol; and

WHEREAS, The Sheriffs' Association of Texas is one of the nation's oldest law enforcement organizations; the first meeting of the group took place at the Navarro County Courthouse in Corsicana on August 14, 1874; the meeting was called to order by Sul Ross, the sheriff of McLennan County who later became an important historical figure in Texas; and

WHEREAS, At the meeting, association members adopted their preamble; the document called for sheriffs to assist one another in the execution of laws, in the discharge of their duties against criminals, and in the protection of the citizens in their respective counties and throughout the state; the group has continued to follow the dictates of this mission; and

WHEREAS, The Texas Constitution created our state's office of sheriff; legislation requires that a sheriff function as a peace officer who conserves peace and enforces the criminal laws of the state; moreover, the sheriff is responsible for the county jail, bail bonds, civil process, and the security of the courts; in some smaller counties, the sheriff may also act as the tax collector; and

WHEREAS, The office of sheriff is one of the oldest forms of law enforcement; sheriffs in our state's 254 counties are elected to four-year terms, and each sheriff is a member of the Sheriffs' Association of Texas; in addition, 2,768 individuals are active members of the group, and another 46,520 individuals are associate members; and

WHEREAS, The Sheriffs' Association of Texas ensures that officers carry out their duties skillfully and professionally by frequently offering training programs and by conducting an annual training conference; the annual conference is considered the largest composite gathering of law enforcement officers in Texas; it is attended by sheriffs, members of other federal and state law enforcement agencies, and major industry security personnel; and

WHEREAS, The association also offers scholarships to eligible students pursuing degrees at a college or university and to Texas peace officers pursuing academic degrees; the association's training programs and scholarships help to ensure the safety of our citizens and the security of communities across our state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the Sheriffs' Association of Texas for its many contributions to our state and extend best wishes to its members on the occasion of Sheriffs' Association of Texas Day at the Capitol; and, be it further

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

SR 141 was read and was adopted without objection.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate Gillespie County Sheriff Milton Jung and Brazos County Sheriff Chris Kirk, accompanied by members of the Sheriffs' Association of Texas.

The Senate welcomed its guests.

SENATE RESOLUTION 145

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize February 17, 2005, as Bee County Day at the Capitol and to welcome the citizens of Bee County who have traveled to Austin for this occasion; and

WHEREAS, Bee County covers over 800 square miles in the Rio Grande Plain of South Central Texas, an area known for its great people, its prime farmlands, its subtropical climate, its mild winters and warm summers; and

WHEREAS, Bee County was created by an act of the Texas Legislature on December 8, 1857, from portions of San Patricio, Refugio, Goliad, Karnes and Live Oak Counties; it was named for Colonel Bernard E. Bee, Sr., the father of then speaker of the House of Representatives General Hamilton P. Bee; and

WHEREAS, Beautiful Bee County offers its proud citizens a well-rounded community life, outstanding public schools, a number of natural and cultural resources and historical sites, and actively promotes a climate for progress and achievement; Bee County is the home of Coastal Bend College, a two-year state college established in 1965 that provides vocational and academic courses leading to higher degrees with off-campus extension programs in three area counties; Bee County is also the home of Christus Spohn Hospital, a state-of-the-art health care institution with emergency services and intensive care, physical therapy and complete surgical services; and

WHEREAS, Bee County Day at the Texas State Capitol provides an opportunity for friends and families to honor Bee County's history and to celebrate its assets and accomplishments, which are enjoyed today by residents and visitors; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby join citizens of this historic and vital region in paying tribute to Bee County and extend to them best wishes for an enjoyable Bee County Day at the Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the residents of Bee County as a memento of this event.

SR 145 was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Bee County Judge Jimmy Martinez, Beeville Mayor Kenneth Chesshir, Coastal Bend College President John Brockman, Beeville Independent School District Board President Nick Cardenas, Bee County Sheriff Carlos Carrizales, and Bee County Commissioners Carlos Salazar, Jr., Susan Stasny, Eloy Rodríguez, and Ronnie Oliváres, accompanied by a delegation of citizens from Bee County.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Lucio was recognized and introduced to the Senate Nick Pisena, an intern in Senator Lucio's office and a graduate of Stephen F. Austin State University.

The Senate welcomed its guest.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate a group of students, teachers, and sponsors from the Yvonne Ewell Townview Center in Dallas.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate a group of students from Grayson County College in Denison.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Ellis was recognized and introduced to the Senate Charles Miller, Chair of The University of Texas System Board of Regents.

The Senate welcomed its guest.

PHYSICIAN OF THE DAY

Senator Armbrister was recognized and presented Dr. Harold High of Cuero as the Physician of the Day.

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

(Senator Whitmire in Chair)

SENATE RESOLUTION 144

Senator Shapiro offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize February 17, 2005, as Community College Student Day at the Capitol and extend a warm welcome to community college students today; and

WHEREAS, Community colleges provide affordable, quality higher education and play an essential role in educational opportunities and economic development across Texas; and

WHEREAS, Participants in Community College Student Day include: President Cal Pifer of Kingwood College and other leaders of the Texas Junior College Student Government Association; students from Texas community college honors programs; representatives of the Texas Gulf Coast Consortium of Community Colleges; and members of the Texas Community College Teachers Association and the Texas Association of Community Colleges; and

WHEREAS, Community colleges constitute the largest segment of higher education enrollment in Texas, and their enrollment increases every year, including a 15 percent increase last year; community colleges accommodate nontraditional students and offer affordable educational alternatives for students to pursue higher education degrees; and

WHEREAS, Community colleges play a vital role in the higher education system of this state, and they are indeed worthy of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend our state's community colleges for the many contributions they make to their communities and to Texas and extend best wishes to them on this important day; and, be it further

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

SR 144 was read and was adopted without objection.

GUESTS PRESENTED

Senator Shapiro was recognized and introduced to the Senate Cal Pifer, President, Texas Junior College Student Government Association, and David Daniel, President, Texas Association of Community Colleges, accompanied by a delegation of community college students.

The Senate welcomed its guests.

(Senator Shapiro in Chair)

SENATE RESOLUTION 187

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Abelardo E. Bru on the occasion of his retirement from PepsiCo, Incorporated; and

WHEREAS, In October of 1999, after serving PepsiCo for 27 years, Al Bru became president and chief executive officer for Frito-Lay North America, PepsiCo's largest and most profitable division; in 2003, he was also appointed chair to the division; and

WHEREAS, Mr. Bru joined PepsiCo in 1976 and has held numerous leadership positions with the company in Mexico, the United States, and the Middle East; in 1992, he was named president and general manager of PepsiCo's Sabritas snack unit in Mexico, the company's most profitable international business; and

WHEREAS, Mr. Bru is a highly regarded business executive who participates in the community as the chair of the Advisory Board of the National Council of La Raza; he also serves on the boards of other business and civic organizations; and

WHEREAS, Al Bru has earned the high regard of his colleagues at PepsiCo for his effective leadership, and his expertise, energy, and wise counsel at the company will be greatly missed; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Abelardo E. Bru for his many accomplishments with PepsiCo, Incorporated, and extend to him best wishes for the retirement years ahead; 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 187 was read and was adopted without objection.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Abelardo E. Bru, Jose Longoria, and Iffy Perez.

The Senate welcomed its guests.

GUEST PRESENTED

Senator West was recognized and introduced to the Senate Neoshia Taylor of Dallas, 2004 Youth of the Year.

The Senate welcomed its guest.

SENATE RESOLUTION 170

Senator Ogden offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Boys & Girls Clubs of America in Texas for the valuable contributions they make to the young people of our state; and

WHEREAS, Boys & Girls Clubs provide services to over 375,000 school-age young people in 125 cities in Texas; they endeavor to inspire young people, especially those from disadvantaged backgrounds, to realize their full potential as productive, responsible, and caring citizens; and

WHEREAS, Offering time-tested programs, leaders of the Boys & Girls Clubs stress character and leadership development, education and career advancement, and health and life skills; they also encourage an appreciation for the arts and provide programs in sports, fitness, and recreation; and

WHEREAS, These development programs promote positive self-images, academic growth, and social, emotional, and cultural awareness while encouraging community involvement, strong moral values, and enhanced life management skills; and

WHEREAS, On February 17, 2005, one of eight finalists from Texas will be chosen as Texas State Youth of the Year to represent the State of Texas in the National Youth of the Year contest for Boys & Girls Clubs of America; and

WHEREAS, Over the years, Boys & Girls Clubs of America have encouraged young people to aspire to the highest level of personal development and to become good citizens who are involved in their communities; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Boys & Girls Clubs of America for the outstanding services they provide in Texas to young people and their families; and, be it further

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

SR 170 was read and was adopted without objection.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate Boys & Girls Clubs Youth of the Year finalists from Texas: Rosalind Evans, Dyess Air Force Base; Jacqueline Padron, Edinburg; Jessica Rivas, Houston; and Branden Price, Bryan.

The Senate welcomed its guests.

RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled resolutions in the presence of the Senate: **SCR 3**, **SCR 4**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

February 17, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 60, Honoring Gail Platt of Lubbock for her 20 years of service to the Texas Community College Teachers Association.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 177 by Shapleigh, In memory of George M. Shuffer, Jr., of El Paso.

SR 188 by Zaffirini, In memory of Asher Maxwell Mohrer of San Antonio.

Congratulatory Resolutions

SR 171 by West, Recognizing Mrs. Flercy Edwards Turner of Dallas on the occasion of her 100th birthday.

SR 172 by Armbrister, Recognizing Minorities for Equality in Employment, Education, Liberty and Justice, Incorporated, on the occasion of its official public opening.

SR 178 by Shapleigh, Recognizing Ted Bender of El Paso on the occasion of his 80th birthday.

SR 180 by Hinojosa, Congratulating Michael Fossum for receiving the 2005 Rio Grande Council Good Scout Award.

SR 185 by Barrientos, Recognizing the recipients of the 2005 Texas Exes Awards for Outstanding Teachers.

SR 186 by Lucio, Congratulating the Foundation for Brownsville Sports for its designation as a Community Olympic Development Program.

SR 189 by West, Recognizing the KNRB "BJ in the Morning" crew on the occasion of its first anniversary.

Official Designation Resolutions

SR 155 by Staples, Recognizing February 16 and 17, 2005, as Angelina County Days.

SR 156 by Staples, Recognizing February 16 and 17, 2005, as Nacogdoches County Days at the State Capitol.

SR 157 by Staples, Recognizing February 16 and 17, 2005, as SFA Student Government Association and SFA Alumni Association Days at the Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 11:01 a.m. adjourned, in honor of Josefa "Josie" Lucio of Brownsville, Senator Lucio's mother, on her 80th birthday, and in memory of Asher Maxwell Mohrer of San Antonio, Marcy Ridgeway of Tarrant County, and Glenn Box of Dallas, until 1:30 p.m. Monday, February 21, 2005.

APPENDIX

COMMITTEE REPORTS

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

February 17, 2005

BUSINESS AND COMMERCE — **CSSJR 7**

JURISPRUDENCE — **SB 234, SB 235, SB 321**

SENT TO SECRETARY OF STATEFebruary 17, 2005**SCR 4****SENT TO GOVERNOR**February 17, 2005**SCR 3**