

TWENTY-SEVENTH DAY

THURSDAY, MARCH 3, 2005

PROCEEDINGS

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

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

Absent-excused: West.

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

The Reverend Dr. G. V. Clark, Mount Zion Baptist Church, Austin, offered the invocation as follows:

Almighty and merciful God, toward whose everlasting blessedness we ascend by the strong desire of our soul and by patient, continuous well-doing, lead us by Thy inspiration to seek Thy light and Thy peace. Set us free from the bondage of self-will and passion, that we might willingly focus on the desires and needs of others. We are grateful for Your continuing presence and Your faithfulness to us all. We pray for forgiveness. We thank You for this day, another day. Grant wisdom and knowledge to this body of legislators and others who serve. Strengthen and guide them in the heavy and often wearisome challenges before them, that their work will result in betterment for our state and for our nation. We thank You, our God, for our state. We thank You for this nation. We ask special favor upon each of the elected officials and others who will serve here today. Lord, bless them, make Your face to shine upon them. May, at the day's end, fulfillment be felt and successes experienced. Hear and grant our requests and needs, our Father, as it is Your will. 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 West was granted leave of absence for today on account of an illness in the family.

CO-AUTHOR OF SENATE BILL 59

On motion of Senator Averitt, Senator Armbrister will be shown as Co-author of **SB 59**.

CO-AUTHOR OF SENATE BILL 138

On motion of Senator Nelson, Senator Carona will be shown as Co-author of **SB 138**.

CO-AUTHOR OF SENATE BILL 649

On motion of Senator Hinojosa, Senator Wentworth will be shown as Co-author of **SB 649**.

CO-AUTHORS OF SENATE BILL 734

On motion of Senator Williams, Senators Eltife and Seliger will be shown as Co-authors of **SB 734**.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate students from the Sandra Day O'Connor High School Political Club of the Northside Independent School District, accompanied by sponsors Wendy Seeliger and Stuart Williams and President Eric Williams.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Staples was recognized and introduced to the Senate a delegation of citizens from Shelby County and members of the Shelby County Chamber of Commerce 2005 Leadership Class.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

March 3, 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 86, Congratulating "Jesse" James Leija of San Antonio on his remarkable career as a boxer and commending him for his ongoing contributions to the city of San Antonio.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Carona was recognized and introduced to the Senate members of The University of Texas at Dallas Government Honors Program.

The Senate welcomed its guests.

SENATE RESOLUTION 292

Senator Deuell offered the following resolution:

WHEREAS, The year 2005 marks the 100th birthday anniversary of Lone Star musical pioneer Bob Wills, and the Texas Senate is pleased to recognize March 3, 2005, as Bob Wills Day at the Capitol in celebration of the life and cultural contributions of this true Texas original; and

WHEREAS, Born in Limestone County on March 6, 1905, James Robert Wills was the eldest of 10 children and a musical prodigy who found his calling at a young age, making his professional debut at the age of 10; the undisputed King of Western Swing, he continued his lifelong love affair with music until his passing in May 1975, at the age of 70, in Fort Worth; and

WHEREAS, A member of the Country Music Hall of Fame, Mr. Wills cut his musical teeth playing fiddle at square dances, traveling with a medicine show, and performing with the Wills Fiddle Band, Aladdin's Laddies, and the Light Crust Doughboys, one of the era's most successful bands; and

WHEREAS, Following an acrimonious split with manager W. Lee "Pappy" O'Daniel, Mr. Wills and several erstwhile Doughboys reformed as Bob Wills and His Texas Playboys; the group broke new musical ground by combining traditional country music with the popular big band style, and this visionary fusion redefined American musical tastes and propelled Bob Wills and His Texas Playboys to national prominence; and

WHEREAS, Mr. Wills and his world-renowned band produced several major hit records during their extraordinary career, including "New San Antonio Rose," "Ida Red Likes the Boogie," "Faded Love," and the band's biggest hit, "New Spanish Two Step," which topped the charts for 16 weeks; and

WHEREAS, Bob Wills left an indelible mark on the landscape of popular music, inspiring future generations of musicians to explore the boundaries of the musical terrain, and his contributions will undoubtedly continue to have a positive and lasting effect for years to come; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby recognize March 3, 2005, as Bob Wills Day at the Capitol and pay tribute to the memory of this iconic Texas musician.

DEUELL
ARMBRISTER
AVERITT
BARRIENTOS
BRIMER
CARONA
DUNCAN
ELLIS

GALLEGOS
HARRIS
HINOJOSA
JACKSON
JANEK
LINDSAY
LUCIO
MADLA

SELIGER
SHAPIRO
SHAPLEIGH
STAPLES
VAN DE PUTTE
WENTWORTH
WEST
WHITMIRE

ELTIFE
ESTES
FRASER

NELSON
OGDEN

WILLIAMS
ZAFFIRINI

SR 292 was read and was adopted without objection.

GUEST PRESENTED

Senator Deuell was recognized and introduced to the Senate Ray Benson of the band Asleep at the Wheel.

The Senate welcomed its guest.

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 19, HCR 21, HCR 41, HCR 75, HCR 76.**

SENATE RESOLUTION 293

Senator Deuell offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to pay tribute to musician Butch Miles, an Austin resident whose accomplishments as a drummer continue to attract worldwide attention; and

WHEREAS, Butch was born in Ironton, Ohio, on July 4, 1944; he grew up in West Virginia and earned a bachelor's degree from West Virginia State College; he started playing the snare drum in his school band at the age of nine and became interested in playing the drumset at 14; he was soon playing with dance bands, and his first big break came in 1971 when he started playing with Mel Torme's band; and

WHEREAS, Currently touring with the legendary Count Basie Orchestra, Butch has played at every major jazz festival around the world, including the Newport Jazz Festival in New York, the Grande Parade du Jazz in Nice, and the Bern Jazz Festival; he has recorded over 100 albums and has played on three Grammy Award winning albums; and

WHEREAS, Butch has performed with many prominent jazz artists and luminaries, such as Frank Sinatra, Dave Brubeck, Ella Fitzgerald, and Benny Goodman; he has appeared on "The Tonight Show," "The Merv Griffin Show," and the Jerry Lewis Muscular Dystrophy Telethon and in a number of films; and

WHEREAS, Butch honed his skills listening to his first drum idol, Gene Krupa; he cites Count Basie drummer Sonny Payne as a major influence on his style, which combines technical mastery with creative finesse and blends the maturity of experience with youthful imagination and limitless energy; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Butch Miles for his accomplishments as a drummer and extend to him best wishes for continued success; 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 293 was read and was adopted without objection.

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate Butch and Linda Miles, Laura and Michael Mordecai, and Philip Marshall.

The Senate welcomed its guests.

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 Tuesday, March 1, 2005, by Senator Lindsay.

Senator Lindsay moved confirmation of the nominees reported Tuesday 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: West.

Members, Public Safety Commission: Ernest Angelo, Jr., Midland County; Carlos H. Cascos, Cameron County; Colleen McHugh, Nueces County.

Members, Commission on Law Enforcement Officer Standards and Education: Romulo Chavez, Harris County; Charles R. Hall, Midland County; Betty Harper Murphy, Gillespie County; Gary M. Swindle, Smith County.

Members, Texas Youth Commission Governing Board: Donald R. Bethel, Dawson County; Gloria "Gogi" Dickson, Bexar County; William Mahomes, Jr., Collin County.

Judge, 234th Judicial District Court, Harris County: Mauricio "Reece" Rondon, Harris County.

Members, Texas Commission on the Arts: Nelson H. Balido, Bexar County; Dorothy E. Farrington Caram, Ed.D., Harris County; William W. Collins, Jr., Tarrant County; Susan Howard-Chrane, Kendall County; Jacoba-Jetske S. "Cobie" Russell, Dallas County; George R. Snead, El Paso County; Mary Hardie Teeple, Travis County.

Members, Commission on State Emergency Communications: John L. deNoyelles, Smith County; Heberto Gutierrez, Bexar County.

Member, Office of Rural Community Affairs Executive Committee: Michael Cooper Waters, Taylor County.

Members, State Bar of Texas Board of Directors: Fred E. Aurbach, D.D.S., Dallas County; Lance R. Byrd, Dallas County; Mickey Randall Redwine, Van Zandt County.

Members, Risk Management Board: Ernest C. Garcia, Travis County; Ronald James Walenta, Dallas County.

CONCLUSION OF MORNING CALL

The President at 10:49 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 6 ON THIRD READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 6** at this time on its third reading and final passage:

CSSB 6, Relating to protective services; providing penalties.

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

Absent-excused: West.

COMMITTEE SUBSTITUTE SENATE JOINT RESOLUTION 7 ON SECOND READING

Senator Carona moved that Senate Rule 7.13; Section 5, Article III, of the Texas Constitution; and the regular order of business be suspended and that **CSSJR 7** be taken up for consideration at this time:

CSSJR 7, Proposing a constitutional amendment authorizing line-of-credit advances under a reverse mortgage.

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

Absent-excused: West.

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

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

Absent-excused: West.

COMMITTEE SUBSTITUTE SENATE JOINT RESOLUTION 7 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 **CSSJR 7** be placed on its third reading and final passage.

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

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

Nays: Eltife, Seliger, Wentworth.

Absent-excused: West.

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

Absent-excused: West.

BIRTHDAY GREETINGS EXTENDED

Senator Jackson was recognized and, on behalf of the Senate, extended birthday greetings to Senator Brimer, whose birthday is Saturday, March 5, 2005.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SR 289 by Van de Putte and Gallegos, Congratulating Ernest A. "Buddy" Mass of San Antonio for being named Vice-president Emeritus by the International Association of Fire Fighters.

SR 294 by Whitmire, Recognizing Jerlene Rhodes-Burleson of Houston on the occasion of her 80th birthday.

SR 296 by Staples, Congratulating Joanna Blackwell of Center for her selection as the 40th Miss Rodeo USA.

Official Designation Resolution

SR 295 by Staples, Recognizing March 3, 2005, as Shelby County Day at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 11:16 a.m. adjourned, in memory of Edgar Moran, who attended Lake Travis High School, and Paul Mathews of Greenville, until 1:30 p.m. Monday, March 7, 2005.

APPENDIX

COMMITTEE REPORTS

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

March 3, 2005

HEALTH AND HUMAN SERVICES — **CSSB 44, CSSB 48, SB 196, CSSB 239, CSSB 316, SB 376**

INTERGOVERNMENTAL RELATIONS — **SB 264**

