

THIRTY-EIGHTH DAY

WEDNESDAY, MARCH 23, 2005

PROCEEDINGS

The Senate met at 11:00 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, West, Whitmire, Williams, Zaffirini.

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

The Reverend Jimmy G. Cobb, University Christian Church, Austin, offered the invocation as follows:

Creative and compassionate God, we pray Your blessing upon this assembly of women and men whose responsibility and privilege it is to represent the people of Texas. Free them from self-interest and special interest so that their focus is upon the good of all the people of this great state. Remind each of us that the real value of what we do today is not ultimately about us and those from whom we benefit, but it's about those who are disenfranchised and who look to us for the most basic necessities of life. Considering the relatively lavish lifestyles which most of us enjoy, save us from the hypocrisy of being conservative with our compassion toward those who are less fortunate than we. Give these Senators the courage to do what is necessary to make this state as great, in fact, as it is in our bragging. In all the difficult issues facing them, such as education, health care, social services, and taxation, use them as Your touch on this land. And at the end of the day, may it be clear that wisdom and integrity have characterized their deliberations. Amen.

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

The motion prevailed without objection.

CO-AUTHORS OF SENATE BILL 59

On motion of Senator Averitt, Senators Lucio and Van de Putte will be shown as Co-authors of **SB 59**.

CO-AUTHOR OF SENATE BILL 87

On motion of Senator Ellis, Senator West will be shown as Co-author of **SB 87**.

CO-AUTHOR OF SENATE BILL 107

On motion of Senator Estes, Senator Van de Putte will be shown as Co-author of **SB 107**.

CO-AUTHOR OF SENATE BILL 108

On motion of Senator Estes, Senator Van de Putte will be shown as Co-author of **SB 108**.

CO-AUTHOR OF SENATE BILL 109

On motion of Senator Estes, Senator Van de Putte will be shown as Co-author of **SB 109**.

CO-AUTHOR OF SENATE BILL 110

On motion of Senator Estes, Senator Van de Putte will be shown as Co-author of **SB 110**.

CO-AUTHOR OF SENATE BILL 112

On motion of Senator Van de Putte, Senator Estes will be shown as Co-author of **SB 112**.

CO-AUTHOR OF SENATE BILL 271

On motion of Senator Zaffirini, Senator Lucio will be shown as Co-author of **SB 271**.

CO-AUTHORS OF SENATE BILL 1150

On motion of Senator Harris, Senators Lucio and Nelson will be shown as Co-authors of **SB 1150**.

CO-AUTHOR OF SENATE BILL 1381

On motion of Senator Shapiro, Senator Lucio will be shown as Co-author of **SB 1381**.

CO-AUTHORS OF SENATE BILL 1577

On motion of Senator Williams, Senators Armbrister, Carona, and Lucio will be shown as Co-authors of **SB 1577**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
March 23, 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:

HB 68, Relating to public nuisance actions involving criminal street gangs.

HB 225, Relating to the expiration of a renewed license to carry a concealed handgun.

HB 282, Relating to the funding of alternative dispute resolution systems.

HB 404, Relating to the membership of the Family and Protective Services Council.

HB 423, Relating to the online availability of certain state publications.

HB 1077, Relating to the composition of certain courts of appeals districts and to the assignment and transfer of cases in certain courts of appeals districts.

HB 1286, Relating to the regulation of service contract providers and administrators.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Averitt was recognized and introduced to the Senate a delegation of citizens from the City of Waco.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate a delegation of members representing the Texas Nurses Association.

The Senate welcomed its guests.

PHYSICIAN OF THE DAY

Senator Brimer was recognized and presented Dr. Samuel T. Coleridge of Fort Worth as the Physician of the Day.

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

SENATE RESOLUTION 460

Senator Staples offered the following resolution:

WHEREAS, On March 23, 2005, the Texas Forestry Association is sponsoring a seedling giveaway near the south steps of the State Capitol in order to promote public awareness of forestry and the importance of the state's timber resources; and

WHEREAS, Every year, to meet their goal of maintaining sustainable forests for future Texans, the forest industry and family forest owners replenish the state's forest lands by planting more than 100 million seedlings; and

WHEREAS, Forests cover more than 12 million acres of Texas land and provide more than 91,000 jobs, a payroll of more than \$2.3 billion, and a total economic impact of more than \$22 billion, making timber the third most valuable agricultural crop statewide; in East Texas, where 43 counties compose the forest heartland of the state, timber is the number-one-ranking agricultural commodity; and

WHEREAS, The Texas Forestry Association strives to ensure that abundant forests will continue to be a dependable resource for the citizens of Texas, and its work has contributed immeasurably to the economic vitality of the Lone Star State; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby recognize the Texas Forestry Association on the occasion of its March 23, 2005, seedling giveaway at the State Capitol and commend its president, Joy Purfurst, and the members of the association for their excellent stewardship of one of the state's greatest natural resources; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the Texas Forestry Association as an expression of high regard from the Texas Senate.

SR 460 was read and was adopted without objection.

GUESTS PRESENTED

Senator Staples was recognized and introduced to the Senate Joy Porfurst, President, Texas Forestry Association, accompanied by a delegation of members.

The Senate welcomed its guests.

SENATE RESOLUTION 459

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize March 23, 2005, as Keppel AmFELS Day at the Capitol; and

WHEREAS, A subsidiary of Singapore-based Keppel Offshore & Marine, Keppel AmFELS, Incorporated, is located on the Brownsville Navigation Ship Channel; established in 1990, the company has a sheltered waterfront, a drydock capable of docking the largest drilling units, and a skilled workforce ready to deliver quality products to its growing worldwide clientele; and

WHEREAS, The largest private employer in Cameron County, the company is creating 150 new jobs in Brownsville due to a recent job training grant from the state's Skills Development Fund; the company will use a comprehensive training program developed by The University of Texas at Brownsville for the new workers and for its existing employees; and

WHEREAS, Keppel AmFELS, Incorporated, has proven capabilities in the design, construction, and repair of mobile and floating offshore drilling units and specialized vessels, and the company is noted for its commitment to customer satisfaction, technological leadership, and the timely delivery of quality products; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Keppel AmFELS, Incorporated, on its superior service and its many contributions to Brownsville and the State of Texas; and, be it further

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

SR 459 was read and was adopted without objection.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate C. Y. Ho, G. S. Tan, Gilbert Elizondo, Tom McCoy, and C. H. Tong, executives of Keppel AmFELS, Incorporated, and a delegation of representatives.

The Senate welcomed its guests.

SENATE RESOLUTION 452

Senator Seliger offered the following resolution:

WHEREAS, Railroad transportation has long played an important role in the development of the Lone Star State, providing important links between the rural and urban areas of our state as well as between Texas and the rest of the country and the continent; and

WHEREAS, Communities, regardless of size, depend on viable transportation options to ship and receive raw materials, manufactured goods, and agricultural products, thereby supporting area businesses, industries, development efforts, and jobs; and

WHEREAS, Businesses and industries require dependable and competitive local rail service when considering new locations; the growth of international commerce from the North American Free Trade Agreement and the increasing trade beyond the borders of North America place additional demands on our state's transportation network, requiring that transportation options reach across regions, state lines, and international borders; and

WHEREAS, It is in the interest of all citizens of the state that existing rail systems be maintained and enhanced for the most efficient and economical movement of essential agricultural and manufactured products to and from areas of production in local, national, and international markets; and

WHEREAS, Texas communities of all sizes must act to ensure that this increased commercial traffic benefits their local areas, that jobs are created and maintained to support and take advantage of the state's rail service, and that rail service is a benefit to all sectors of their community and not a burden; and

WHEREAS, To that end, the Texas Legislature enables county governments to create Rural Rail Transportation Districts that allow local communities to address rail transportation concerns with local input, local control, and local accountability; and

WHEREAS, Activities by the Rural Rail Transportation Districts have resulted in saving hundreds of miles of rail likely to be abandoned, planning new rail lines to relocate rail traffic out of congested metropolitan areas in order to safeguard the health and safety of Texans, and initiating projects to benefit existing local industry and to recruit new industry; working together in regional efforts to develop and utilize rail transportation assets owned by the people of the State of Texas, the districts also work closely with the Texas Department of Transportation and other state agencies; moreover, they have planned vital new rail connections between our state and Mexico and established important ties with counterpart agencies and states in Mexico; and

WHEREAS, With initiatives that assist local economic development efforts, build new infrastructure and industrial facilities, recruit new industry, create new jobs, and alleviate rail problems, the Rural Rail Transportation Districts are striving to meet their important mission of enhancing mobility and commerce in our state both now and in the future; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby commend the locally created and controlled Rural Rail Transportation Districts for the vital role that they play in developing, maintaining, and improving rail transportation assets in our state and encourage those districts to continue to pursue their worthy efforts.

SR 452 was read and was adopted without objection.

GUESTS PRESENTED

Senator Seliger, joined by Senator Zaffirini, was recognized and introduced to the Senate La Entrada al Pacifico Rural Rail Transportation District President Buddy Sipes, Midland County, and Secretary Betsy Triplett Hurt, Ector County; Pecos County Rural Rail Transportation District President Ross Jones and Secretary Doug May; and Webb County Rural Rail Transportation District President Carlos Villarreal.

The Senate welcomed its guests.

SENATE RESOLUTION 451

Senator Janek offered the following resolution:

WHEREAS, The University of Texas Dental Branch at Houston, a longtime leader in dental health education and research and in the provision of dental services to the residents of Southeast Texas, is celebrating its 100th anniversary in 2005; and

WHEREAS, The first dental school to be established in the state, the Dental Branch was founded as Texas Dental College by a group of dentists, physicians, and businessmen on February 11, 1905; the school remained a proprietary institution until 1943, when it became The University of Texas School of Dentistry; renamed The University of Texas Dental Branch in 1958, it became a part of The University of Texas Health Science Center at Houston in 1972; and

WHEREAS, Providing the full spectrum of dental education, the Dental Branch offers a doctor of dental surgery program, two graduate primary care programs, eight graduate specialty programs, and a dental hygiene program; students enrolled in graduate dental programs may also enroll jointly in an M.S. or Ph.D. program offered by The University of Texas Graduate School of Biomedical Sciences; in addition, the Dental Branch offers three combined-degree programs: doctor of dental surgery/doctor of philosophy, doctor of dental surgery/master of public health, and doctor of medicine/oral and maxillofacial surgery; and

WHEREAS, Over the entire course of its history, the school has trained approximately 5,600 dentists, and, since 1943, a total of nearly 9,000 dental professionals; in 2004, the Dental Branch also provided continuing education to almost 3,000 practicing dentists; and

WHEREAS, Individuals affiliated with the Dental Branch continue to undertake important new research, and in fiscal year 2004, they secured almost \$2.8 million in research grants; the Dental Branch also boasts the largest comprehensive research training grant ever received by a component of the health science center from the National Institutes of Health; and

WHEREAS, In addition, the Dental Branch operates an in-house clinic, as well as offering treatment at outreach facilities and associated hospitals; in 2004, the Dental Branch recorded more than 90,000 patient visits and provided, at no charge or at a discounted rate, dental care valued at some \$1.2 million; and

WHEREAS, The University of Texas Dental Branch, located in the world-renowned Texas Medical Center, contributes immeasurably to the health of Texas citizens and to the advancement of dental science, and it commits itself to changing the landscape of oral health in the years to come through excellence in education, discovery, and community service; as alumni, faculty, staff, and friends of the Dental Branch celebrate its centennial, it is indeed a pleasure to join in commemorating this momentous milestone in the school's distinguished history; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby honor The University of Texas Dental Branch at Houston on the occasion of its 100th anniversary and extend to all those associated with the school sincere best wishes for continued success.

SR 451 was read and was adopted without objection.

GUESTS PRESENTED

Senator Janek was recognized and introduced to the Senate Dr. James Willerson, President, The University of Texas Health Science Center at Houston; Dr. Catherine Flaitz, Dean, The University of Texas Dental Branch at Houston; Dr. Jerry Long, President, The University of Texas Dental Branch Alumni Association; and students, The University of Texas Dental Branch Class of 2005, Dr. Sylvester Gonzales and Dr. Gretchen Price; accompanied by a group of faculty and students.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Eltife was recognized and introduced to the Senate a delegation of citizens representing Marshall Day at the State Capitol.

The Senate welcomed its guests.

SENATE RESOLUTION 443

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join the citizens of Live Oak County in recognizing March 23, 2005, as Live Oak County Day at the Capitol; and

WHEREAS, Established in 1856, Live Oak County is located midway between San Antonio and Corpus Christi; crossed by three major highways, the county is known as the "Crossroads of South Texas"; and

WHEREAS, In Live Oak County, oil and gas production and farming and ranching play a significant role in the local economy; and

WHEREAS, Live Oak County is the birthplace of J. Frank Dobie, noted author, folklorist and storyteller, and storytelling remains an admired pastime; the town of George West is the "Storytelling Capital of Texas" and has a Storyfest every November; and

WHEREAS, Recreation and outdoor sports are a large part of the fabric of life in Live Oak County; Choke Canyon Reservoir and Lake Corpus Christi provide numerous recreational opportunities; and

WHEREAS, The county hosts an annual county fair, and Three Rivers, located at the convergence of the Nueces, Frio and Atascosa Rivers, hosts a Salsa Fest every first weekend in April; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the citizens of Live Oak County for their many contributions to our state and welcome them to the Capitol in celebration of Live Oak County Day; and, be it further

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

SR 443 was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Live Oak County Judge Jim Huff, County Commissioner Jim Bassett, Tax Assessor-Collector Virginia Horton, Sheriff Larry Busby, and Miss Live Oak County Kyndra Gaither, accompanied by a delegation of citizens from Live Oak County.

The Senate welcomed its guests.

SENATE RESOLUTION 444

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas takes great pride in honoring the legacy of J. Frank Dobie, who was a renowned Texas teacher, storyteller, folklorist, historian and author; and

WHEREAS, Born in 1888 in Live Oak County, he developed an early love of language and literature; he graduated from Southwestern University in Georgetown, where he had become captivated by the English romantic poets and by Bertha McKee, who soon became his wife; after receiving his master's degree from Columbia University in New York, he returned to Texas; and

WHEREAS, Joining the English Department at The University of Texas in 1914, he became editor for the Texas Folklore Society; he published his first book, *A Vaquero of the Brush Country*, in 1929, which established him as a spokesman for the culture and traditions of Southwest Texas; many other books were to follow with his last book, *Cow People*, being published before his death in 1964; he left an unfinished manuscript for *Rattlesnakes*, which Bertha Dobie later edited and published in 1965; and

WHEREAS, In 1964, President Lyndon B. Johnson presented him with the Presidential Medal of Freedom, the highest civilian award the nation offers; and

WHEREAS, J. Frank Dobie set the bar to which Texas writers continue to aspire; with the Community of George West restoring the soon-to-be J. Frank Dobie Performing Arts Theater, his impact and influence will undoubtedly endure; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby honor the life and achievements of J. Frank Dobie; and, be it further

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

SR 444 was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate family members of J. Frank Dobie: Pauline Dobie Word, Roberta Dobie, and Virginia Horton, accompanied by Mary Ann Pawlik, Co-chair of the J. Frank Dobie Performing Arts Theater project.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Ellis was recognized and introduced to the Senate President of the University of Saint Thomas in Houston, Dr. Robert Ivany.

The Senate welcomed its guest.

SENATE RESOLUTION 447

Senator Hinojosa offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize R. D. "Bobby" Guerra, who served as chairman of the Hidalgo County Democratic Party from 2000 to 2004; and

WHEREAS, Bobby Guerra was born in Edinburg into a family whose ancestors had been South Texas ranchers since the 1700s; he earned a bachelor's degree in biology and chemistry from Pan American University in 1977 and worked as a television reporter and news anchor before attending Texas Southern University School of Law in Houston and graduating with honors in 1985; and

WHEREAS, He practiced with law firms in Edinburg and McAllen and opened his own practice in 1991; he was director of the Hidalgo Bar Association for several years before serving as its president for the 1993-1994 year; and

WHEREAS, Bobby was elected by his peers to serve for three years as director of District 12 of the State Bar of Texas, which includes 17 counties in the South Texas area; and

WHEREAS, An active member of his community, he was a member of the board of directors of the Edinburg Lions Club that was instrumental in acquiring funding for the Evins Regional Juvenile Center; and

WHEREAS, A man of unique talents, loyalty, and skills, Bobby Guerra was a source of strength to other members of the Hidalgo County Democratic Party, and his leadership will be greatly missed; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend R. D. Guerra for his many accomplishments during his tenure as chair of the Hidalgo County Democratic Party; and, be it further

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

SR 447 was read and was adopted without objection.

GUESTS PRESENTED

Senator Hinojosa was recognized and introduced to the Senate R. D. "Bobby" Guerra and his family: Cameron Guerra, Justin Guerra, Tessa Guerra, and Leslie Guerra.

The Senate welcomed its guests.

SENATE RESOLUTION 432

Senator West offered the following resolution:

WHEREAS, The Senate of the State of Texas welcomes representatives of the Texas AIDS Advocacy Coalition who have come to the State Capitol today and recognize March 23, 2005, as Texas AIDS Advocacy Coalition Day; and

WHEREAS, AIDS remains a major global health problem, yet because of the availability of improved treatments and the efforts of organizations such as the Texas AIDS Advocacy Coalition, more Texans than ever before are living and working with HIV/AIDS; and

WHEREAS, A statewide volunteer coalition of individuals who either have HIV/AIDS or know someone affected by HIV/AIDS, the Texas AIDS Advocacy Coalition seeks to empower individuals infected or affected by HIV/AIDS by serving as a unified voice in matters related to legislation, appropriations, education, prevention, treatment, and service delivery on the local, state, and national levels; and

WHEREAS, Members of the Texas AIDS Advocacy Coalition have dedicated themselves to disseminating messages that promote early testing and early treatment and improving access to appropriate prevention services and health care options; the coalition also encourages the reduction of behavior that has a high risk of leading to contracting the disease; and

WHEREAS, Despite the dramatic decline of AIDS-related deaths and an overall decrease in the number of new AIDS cases diagnosed, much remains to be done in the battle to find a cure for this terrible disease; HIV/AIDS is a health concern that affects all Texans, either directly or indirectly, and it is in the best interest of the citizens of this state to recognize the issues associated with HIV/AIDS; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby designate March 23, 2005, as Texas AIDS Advocacy Coalition Day at the Capitol and extend a warm welcome to members of the coalition; and, be it further

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

SR 432 was read and was adopted without objection.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate a delegation representing Texas AIDS Advocacy Coalition Day at the Capitol.

The Senate welcomed its guests.

SENATE RESOLUTION 450

Senator Hinojosa offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize John Garamendi, the Insurance Commissioner of California, who is renowned for his work to reform the automobile and homeowner insurance industries in that state; and

WHEREAS, John Garamendi is a graduate of the University of California at Berkeley, and holds a master's degree from Harvard Business School; he was elected to the California State Assembly in 1974; after serving a two-year term, he was elected to the state senate, where he served as senate majority leader and held numerous committee leadership roles; and

WHEREAS, In 1991, John Garamendi became California's first elected insurance commissioner; he was appointed by President Bill Clinton in 1995 to the office of deputy secretary of the United States Department of the Interior, where his efforts led to major environmental improvements for the nation; and

WHEREAS, Since being elected to a second term as insurance commissioner, he has worked collaboratively with business, labor, and legislative leaders to effect major improvements to the California workers' compensation insurance system; and

WHEREAS, John Garamendi is a visionary and effective leader, and his accomplishments reflect his dedication and commitment to his fellow man; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend California Insurance Commissioner John Garamendi for his exemplary public service and extend to him a warm welcome to the Texas State Capitol; and, be it further

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

The resolution was read.

(Senator Carona in Chair)

SENATE RESOLUTION 457

Senator Hinojosa offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Eric P. Serna, the Superintendent of Insurance for the State of New Mexico, who has distinguished himself as one of our country's leading advocates for improving the lives of our disadvantaged citizens and communities; and

WHEREAS, A University of New Mexico graduate, Eric Serna earned a law degree from Catholic University in Washington, D.C.; while in law school, he worked for the United States Equal Employment Opportunity Commission, rising in rank from intern to special assistant to the chairman; and

WHEREAS, After graduating from law school, he was special administrative assistant to United States Senator Joseph M. Montoya until 1977, when he returned to New Mexico to serve as deputy director of the state's Employment Security Department; and

WHEREAS, He was elected to the New Mexico State Corporation Commission in 1981 and served for 17 years, including 14 years as chairman; he was appointed by President Bill Clinton in 1998 to serve as regional director of the United States Department of Agriculture for the states of Arizona, New Mexico, and Colorado; and

WHEREAS, Since his appointment as the New Mexico Superintendent of Insurance by the New Mexico Public Regulation Commission in 2001, Superintendent Serna has worked tirelessly to ensure that all New Mexican citizens have access to basic health care; and

WHEREAS, Mr. Serna is active in state, national, and Hispanic bar associations and has served on the boards of professional and cultural organizations; he has been widely recognized for his dedication to improving the lives of the citizens of New Mexico's underprivileged communities; his most recent achievement was the creation of Con Alma Health Foundation, Incorporated, which seeks to improve the health of all New Mexicans by providing resources to meet the basic health needs of the disadvantaged; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Superintendent Eric P. Serna for his outstanding public service and leadership and extend to him a warm welcome to the Texas State Capitol; and, be it further

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

The resolution was read.

SR 450 and **SR 457** were adopted without objection.

GUESTS PRESENTED

Senator Hinojosa was recognized and introduced to the Senate California Insurance Commissioner John Garamendi and New Mexico Superintendent of Insurance Eric P. Serna.

The Senate welcomed its guests.

SENATE RESOLUTION 461

Senator Wentworth offered the following resolution:

SR 461, In memory of Juan M. Martinez, Jr.

The resolution was read.

On motion of Senator Wentworth, **SR 461** was adopted by a rising vote of the Senate.

In honor of the memory of Juan M. Martinez, Jr., the text of the resolution is printed at the end of today's *Senate Journal*.

MESSAGES FROM THE GOVERNOR

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

Austin, Texas
March 22, 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 Lower Neches Valley Authority Board of Directors for terms to expire as indicated:

To Expire July 28, 2007:

Steven M. McReynolds
Port Neches, Texas

(replacing Lila Pond of Port Neches who resigned)

To Expire July 28, 2009:

Jimmie Ruth Cooley
Woodville, Texas

(replacing Lois Henderson of Warren whose term expired)

Kathleen Thea Jackson
Beaumont, Texas

(replacing William Neild of Beaumont whose term expired)

Sue Cleveland
Kountze, Texas

(replacing John Robinson of Silsbee whose term expired)

Respectfully submitted,

/s/Rick Perry
Governor

Austin, Texas
March 23, 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 Texas Board of Architectural Examiners for terms to expire January 31, 2011:

James S. Walker II
Houston, Texas

(replacing Nolen Willis of Bellaire whose term expired)

Rosemary A. Gammon
Plano, Texas

(replacing Anthony Trevino, Jr., of Laredo whose term expired)

Peggy Lewene Vassberg
Lyford, Texas

(replacing Alan Lauck of Dallas whose term expired)

To be members of the Texas Board of Professional Geoscientists for terms to expire February 1, 2011:

Kimberly Robinson Phillips
Houston, Texas

(Ms. Phillips is being reappointed)

Yale Lynn Clark
Dallas, Texas

(replacing Kevin Coleman whose term expired)

Glenn R. Lowenstein
Houston, Texas

(replacing Edward Miller whose term expired)

To be members of the Texas Woman's University Board of Regents for terms to expire February 1, 2011:

Virginia Chandler Dykes
Dallas, Texas

(replacing Linda Hughes of Dallas whose term expired)

Sharon Venable
Dallas, Texas

(replacing Delia Reyes of Dallas whose term expired)

Lou Halsell Rodenberger
Baird, Texas

(replacing Jerry L. Brownlee of Hica whose term expired)

Respectfully submitted,

/s/Rick Perry

Governor

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The Presiding Officer, Senator Carona in Chair, 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.

SENATE BILL 1276 REREFERRED

Senator Harris submitted a Motion In Writing requesting that **SB 1276** be withdrawn from the Committee on State Affairs and rereferred to the Committee on Administration.

The Motion In Writing prevailed without objection.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The Presiding Officer 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 Lindsay.

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

The Presiding Officer 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 31, Nays 0.

Members, Teacher Retirement System of Texas Board of Trustees: John Graham, Jr., Gillespie County; John "Mark" Henry, Harris County; Dory A. Wiley, Dallas County.

Commissioner, Texas Animal Health Commission: Rita Esther Baca, El Paso County.

Members, Credit Union Commission: Thomas Felton Butler, Harris County; Mary Ann Grant, Harris County; Gary Lynn Janacek, Bell County; Barbara K. Sheffield, Fort Bend County; Henry E. "Pete" Snow, Bowie County.

Members, Upper Guadalupe River Authority Board of Directors: Stan R. Kubenka, Kerr County; Jaime Quintanilla, M.D., Kerr County; Walter Schellhase, Kerr County.

Members, Guadalupe-Blanco River Authority Board of Directors: Margaret M. "Meg" Grier, Kendall County; Clifton L. Thomas, Jr., Victoria County.

Members, Department of Information Resources Governing Board: Phillip "Keith" Morrow, Tarrant County; William Michael "Bill" Wachel, Dallas County.

Members, Texas Board of Professional Land Surveying: Kelley Sue Neumann, Bexar County; Stephen Titus "Ty" Runyan, Travis County; William C. Wilson, Jr., Tom Green County.

Member, Texas Commission of Licensing and Regulation: LuAnn Roberts Morgan, Midland County.

Member, Upper Neches River Municipal Water Authority Board of Directors: Jesse D. Hickman, Anderson County.

Members, Texas Board of Physical Therapy Examiners: Manoranjan Mahadeva, Montgomery County; Joseph J. Spano, Wharton County.

Members, Texas Real Estate Commission: Mary Frances Burluson, Denton County; William H. Flores, Fort Bend County; Elizabeth Leal, El Paso County.

Members, Sabine River Authority Board of Directors: Connie Wade, Gregg County; Constance M. "Connie" Ware, Harrison County.

Members, Sulphur River Basin Authority Board of Directors: Mike Kennedy, Bowie County; Mickey McKenzie, Hopkins County; Mike E. Russell, Lamar County; Jim F. Thompson, Cass County.

Members, Board of Tax Professional Examiners: James E. "Jim" Childers, Randall County; Linda Ann Lowes Hatchel, McLennan County.

Members, Texas Private Security Board: Stella Caldera, Harris County; Howard H. Johnsen, Dallas County.

**COMMITTEE SUBSTITUTE
SENATE BILL 541 ON SECOND READING**

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 541** at this time on its second reading:

CSSB 541, Relating to the confidentiality of information regarding certain residential property held by an appraisal district.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 541** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 25, Tax Code, is amended by adding Section 25.027 to read as follows:

Sec. 25.027. INFORMATION REGARDING CERTAIN RESIDENTIAL PROPERTY. (a) Information in appraisal records may not be posted on the Internet if the information is a photograph, sketch, or floor plan of an improvement to real property that is designed primarily for use as a human residence.

(b) This section does not apply to an aerial photograph that depicts five or more separately owned buildings.

SECTION 2. This Act takes effect September 1, 2005.

The amendment to **CSSB 541** was read and was adopted by a viva voce vote.

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

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

CSSB 541 as amended was passed to engrossment by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 541 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 541** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 541**, 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 541** 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 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
March 23, 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 113, Designating March 23, 2005, as Texas Girl Scout Legislative Day at the State Capitol.

HCR 119, Recognizing March 23, 2005, as Marshall Day at the State Capitol.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
SENATE BILL 311 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 311** at this time on its second reading:

CSSB 311, Relating to the regulation of academic language teachers and therapists; imposing penalties.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 311** by striking everything below the enacting clause and substituting:

SECTION 1. The heading to Subtitle G, Title 3, Occupations Code, is amended to read as follows:

SUBTITLE G. PROFESSIONS RELATED TO HEARING,
LANGUAGE, AND SPEECH

SECTION 2. Subtitle G, Title 3, Occupations Code, is amended by adding Chapter 403 to read as follows:

CHAPTER 403. ACADEMIC LANGUAGE TEACHERS AND THERAPISTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 403.001. DEFINITIONS. In this chapter:

(1) "Academic language" means the treatment of dyslexia or related disorders.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "License holder" means a person who holds a license issued under this chapter.

Sec. 403.002. ADMINISTRATION BY DEPARTMENT OF LICENSING AND REGULATION. The department shall administer this chapter.

[Sections 403.003-403.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 403.051. ADVISORY COMMITTEE. The department may appoint an advisory committee to advise the department in administering this chapter.

Sec. 403.052. RULES. The commission shall adopt rules necessary to administer and enforce this chapter, including rules that establish standards of ethical practice.

[Sections 403.053-403.100 reserved for expansion]

SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 403.101. LICENSE REQUIRED. A person may not use the title "academic language teacher" or "academic language therapist" in this state unless the person holds the appropriate license under this chapter.

Sec. 403.102. ISSUANCE OF LICENSE. The department shall issue an academic language teaching or therapy license to an applicant who meets the requirements of this chapter.

Sec. 403.103. LICENSE APPLICATION. (a) A license applicant must apply to the department on a form and in the manner the department prescribes.

(b) The application must be accompanied by a nonrefundable application fee.

Sec. 403.104. ELIGIBILITY FOR ACADEMIC LANGUAGE TEACHER LICENSE. (a) To be eligible for an academic language teacher license, an applicant must have:

(1) successfully completed at least 45 hours in courses related to academic language, including training in multisensory structured language training; and

(2) completed at least 90 hours of practice of supervised clinical experience related to academic language, including at least five conferences with clients observed by the supervisor.

(b) Clinical experience required under Subsection (a)(2) must be obtained under:

(1) the supervision of a license holder; and

(2) guidelines approved by the department.

Sec. 403.105. ELIGIBILITY FOR ACADEMIC LANGUAGE THERAPIST LICENSE. (a) To be eligible for an academic language therapist license, an applicant must have:

(1) successfully completed at least 200 hours in courses related to academic language, including training in multisensory structured language training; and

(2) completed at least 700 hours of practice of supervised clinical experience related to academic language, including at least 10 conferences with clients observed by the supervisor.

(b) Clinical experience required under Subsection (a)(2) must be obtained under:

(1) the supervision of a person holding an academic language therapy license; and

(2) guidelines approved by the department.

Sec. 403.106. EXAMINATION; RULES. (a) To obtain a license, an applicant must:

(1) pass an examination approved by the department; and

(2) pay fees set by the commission.

(b) The department shall:

(1) administer an examination at least twice each year;

(2) determine standards for acceptable performance on the examination; and

(3) maintain a record of all examination scores for at least two years after

the date of examination.

(c) The commission by rule may:

- (1) establish procedures for the administration of the examination; and
- (2) require a written or oral examination, or both.

Sec. 403.107. REEXAMINATION. (a) A person who fails the examination may take a later examination on payment of a nonrefundable fee for the examination.

(b) An applicant who fails two examinations may not be reexamined until the person:

- (1) submits a new application accompanied by a nonrefundable application fee; and
- (2) presents evidence acceptable to the department of additional study in the area for which a license is sought.

Sec. 403.108. WAIVER OF EXAMINATION REQUIREMENT. The department may waive the examination requirement and issue a license to an applicant who holds an appropriate certificate or other accreditation from a national organization recognized by the department.

Sec. 403.109. PROVISIONAL LICENSE. (a) The department may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who:

- (1) has been licensed in good standing as an academic language teacher or therapist for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;
- (2) has passed a national or other examination recognized by the department relating to the practice of academic language; and
- (3) is sponsored by a person licensed by the department under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The department may waive the requirement of Subsection (a)(3) for an applicant if the department determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional license is valid until the date the department approves or denies the provisional license holder's application for a license.

(d) The department shall issue a license under this chapter to the provisional license holder if:

- (1) the provisional license holder is eligible to be licensed under Section 51.404 or the provisional license holder passes the part of the examination under Section 403.106 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of academic language in this state;
- (2) the department verifies that the provisional license holder meets the academic and experience requirements for a license under this chapter; and
- (3) the provisional license holder satisfies any other licensing requirements under this chapter.

(e) The department must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

Sec. 403.110. TEMPORARY LICENSE; RULES. The commission by rule may provide for the issuance of a temporary license.

Sec. 403.111. INACTIVE STATUS; RULES. (a) The commission by rule may provide for a license holder to be placed on inactive status.

(b) Rules adopted under this section must include a time limit for a license holder to remain on inactive status.

[Sections 403.112-403.150 reserved for expansion]

SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

Sec. 403.151. CONTINUING EDUCATION. (a) A license holder may not renew the person's license unless the person meets the continuing education requirements established by the commission under Section 51.405.

(b) The commission shall establish the continuing education requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

(c) The department shall:

(1) provide to a license applicant, with the application form on which the person is to apply for a license, information describing the continuing education requirements; and

(2) notify each license holder of any change in the continuing education requirements at least one year before the date the change takes effect.

[Sections 403.152-403.200 reserved for expansion]

SUBCHAPTER E. LICENSE DENIAL; COMPLAINT AND DISCIPLINARY PROCEDURES

Sec. 403.201. COMPLAINTS. Any person may file a complaint with the department alleging a violation of this chapter or a rule adopted under this chapter.

Sec. 403.202. PROHIBITED ACTIONS. A license holder may not:

(1) obtain a license by means of fraud, misrepresentation, or concealment of a material fact;

(2) sell, barter, or offer to sell or barter a license; or

(3) engage in unprofessional conduct that endangers or is likely to endanger the health, welfare, or safety of the public as defined by commission rule.

Sec. 403.203. MONITORING OF LICENSE HOLDER; RULES. (a) The commission by rule shall develop a system for monitoring a license holder's compliance with this chapter.

(b) Rules adopted under this section must include procedures to:

(1) monitor for compliance a license holder who is ordered by the department to perform certain acts; and

(2) identify and monitor license holders who represent a risk to the public.

Sec. 403.204. LICENSE DENIAL, REVOCATION, OR SUSPENSION FOR CRIMINAL CONVICTION. (a) The commission may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. The commission may take action authorized by this section when:

(1) the time for appeal of the person's conviction has elapsed;
(2) the judgment or conviction has been affirmed on appeal; or
(3) an order granting probation is made suspending the imposition of the person's sentence, without regard to whether a subsequent order:

- (A) allows withdrawal of a plea of guilty;
- (B) sets aside a verdict of guilty; or
- (C) dismisses an information or indictment.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction for purposes of this section.

Sec. 403.205. SCHEDULE OF SANCTIONS; RULES. The commission shall use the schedule of sanctions adopted by commission rule for any sanction imposed as the result of a hearing conducted by the department.

Sec. 403.206. REINSTATEMENT. (a) A person may apply for reinstatement of a revoked license on or after the first anniversary of the date of revocation.

(b) The department may:

- (1) accept or reject the application; and
- (2) require an examination as a condition for reinstatement of the license.

Sec. 403.207. REPRIMAND; CONTINUING EDUCATION. (a) In addition to other disciplinary action authorized by this subchapter, the commission may:

(1) issue a written reprimand to a license holder who violates this chapter;
or
(2) require that a license holder who violates this chapter attend continuing education programs.

(b) The commission may specify the number of hours of continuing education that must be completed by a license holder to fulfill the requirement of Subsection (a)(2).

Sec. 403.208. EMERGENCY SUSPENSION. (a) The commission or a three-member committee of members designated by the commission shall temporarily suspend the license of a license holder if the commission or committee determines from the evidence or information presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.

(b) A license may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the State Office of Administrative Hearings simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension.

[Sections 403.209-403.250 reserved for expansion]
SUBCHAPTER F. PENALTIES AND OTHER
ENFORCEMENT PROCEDURES

Sec. 403.251. DECEPTIVE TRADE PRACTICE. A violation of Section 403.101 is a deceptive trade practice.

Sec. 403.252. CRIMINAL OFFENSE. (a) A person commits an offense if the person violates Section 403.101.

(b) An offense under this section is a Class B misdemeanor.

SECTION 3. Section 51.301, Occupations Code, applies only to a violation of Chapter 403, Occupations Code, as added by this Act, that occurs on or after February 1, 2006.

SECTION 4. (a) Except as required by Subsection (b), this Act takes effect September 1, 2005.

(b) Section 403.101 and Subchapters E and F, Chapter 403, Occupations Code, as added by this Act, take effect February 1, 2006.

The amendment was read.

Senator Deuell offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSSB 311** by adding a new Subsection 403.003, Occupations Code (page 1, line 21) to read as follows:

Sec. 403.003. EXEMPTION; EDUCATORS. This chapter does not apply to a person who is required to hold a certificate issued under Subchapter B, Chapter 21, Education Code.

The amendment to Floor Amendment No. 1 to **CSSB 311** 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. 2.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 311**, the amendment as amended was adopted by a viva voce vote.

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

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

CSSB 311 as amended was passed to engrossment by a viva voce vote.

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

COMMITTEE SUBSTITUTE
SENATE BILL 311 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 311** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 311**, 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 311** 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 31, Nays 0.

(President in Chair)

SENATE BILL 241 ON THIRD READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 241** at this time on its third reading and final passage:

SB 241, Relating to the creation of an appellate judicial system for the Third Court of Appeals District.

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

COMMITTEE SUBSTITUTE

SENATE BILL 1 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1** at this time on its second reading:

CSSB 1, General Appropriations Bill.

The bill was read second time.

(Senator Seliger in Chair)
(President in Chair)
(Senator Armbrister in Chair)
(President in Chair)
(Senator Brimer in Chair)
(President in Chair)

CSSB 1 was passed to engrossment by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 1**, 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 1** 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 31, Nays 0.

REMARKS ORDERED PRINTED

On motion of Senator Barrientos and by unanimous consent, the remarks regarding **CSSB 1** on third reading were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Ogden: Mr. President. Members, I would like to thank the Senators on the Finance Committee for what I believe is an extraordinarily good job. One of the things that I think we can say in our Senate and in our Senate Finance Committee is, we know this budget better than we've ever known one before. And their hard work and cooperation was in the best tradition of this Senate. I'd also like to thank our Lieutenant Governor for his help and advice. It was always constructive and it was always on the mark. I want to particularly recognize his staff, which was very critical to my ability to bring this bill to you. And I'd also like to thank my Senate Finance Committee staff, particularly our Committee Director, Sarah Hicks, for the job that she did. I want to thank the entire Senate for your help and your support.

President: May I add, also, the LBB, John O'Brien, and John Newton who've really done a great job, and we appreciate it.

Senator Ogden: Thank you, Governor. That's another piece of constructive input. The LBB was extraordinary and I want to also add my thanks to you.

Senator Whitmire: Senator Shapleigh, I know you have some serious remarks, but, Mr. President, Members, the Members of Finance were under strict instructions by the Chair not to use any time thanking him or praising him. But on behalf of the entire Senate and the leadership, I would like to publicly tell Senator Ogden, it was a job well done.

Senator Shapleigh: Senator Ogden, I, too, want to join all those who served with you on the Senate Finance Committee. Getting started as early as you did in going through that budget over and over again, I echo your comments. We know that budget better, I think, than we've ever known it. And having the agencies in there in July and then October and then going through it a third time, I think, those of us that served with you recognize your leadership in making sure we know what the money of the taxpayers of this state does. And I'd like to echo the words of Senator Whitmire in how you've made this a team. Every one of us got a chance at this budget. Every one of us got to say what we thought were the needs of this state, and every one of us got to be a part of a process of designing this budget, and now it goes on in the process to conference. But I think the measure of a budget is, does it meet the basic needs of the State of Texas? And the reality and facts are that when you look at Texas, we are either last or next to last in what we spend at the state level, and have been for some time. And my prediction is, after this budget, we'll be last or next to last at what we spend per capita in the State of Texas. The reality is that we have the largest school-age population in the country. And our future will be measured by the investments that we make in those children. And the reality today is that we are 50th, dead last, in graduation rates and 48th in SATs. And if we don't fundamentally make that investment soon in the children of the future in the State of Texas, we will leave a legacy as the first generation to leave the future generation less prosperous than the one we enjoy today. And I hope that as we go forward we remember that Texas children will not be first when Texas budgets are last. And we've got to make the investment in our future if we want to make this the state that we all want to live in and have our kids live in. I appreciate your service in the Senate Finance Committee.

Senator Barrientos: Chairman Ogden, Members, I voted in committee to bring this bill to the floor, and I plan to vote for it on passage today primarily because of the 9.7 percent base pay raise it gives state employees and the \$20 million in additional money it provides to help ensure that 38,000 more children graduate from high school. I strongly believe, however, and I think my good friend Senator Shapleigh would agree, that Texas can and should do more. With respect to state employees, we have indeed provided them with the most significant raise they have received in at least eight years, and if all else were equal, that raise would bring them from 17 percent to 6 percent below market wages. But with the market increasing approximately 3.5 percent a year, you can argue that by 2007, state employee pay will lag the market by 12-14 percent. Further, if you are a state employee, you still have to wait 90 days once you're hired to become eligible for health and retirement benefits. If you are a university employee, in this bill, you get nothing. For the most part, in health and human services, we fund enrollment growth, but growth based on the dramatic \$10 billion budget cuts that were passed last session. For example, we "fully fund" CHIP growth and add some \$70 million to restore basic services such as vision, dental, and mental health care that were cut from the program, but we have not restored eligibility for thousands of children and we still make it cumbersome to renew eligibility every six months. While SB 1 increases funding for community-based services to the mentally retarded, it still leaves thousands who want those services on waiting lists. In fact, the number of people on those waiting lists grows in the second year of the biennium. As Senator Zaffirini points out in her summary to Members on Article II, the percentage of people waiting for in-home and family support services grows by 41 percent. Overall, with respect to current waiting lists, we provided almost \$80 million to reduce pent-up demand across all programs by 5 percent, but disallowed the remaining \$177 million that was requested. I would like to be happy about avoiding a \$15 million shortfall in life-saving HIV medication programs and the restoration of \$44.6 million in community mental health services, but when I recognize the fact that we paid for those services by eliminating the System Benefit Fund that helps the same low-income folks with their utility bills, I can't help but feel like we're robbing Peter to pay Paul. As a matter of fact, it almost becomes a theme when you consider that we cut \$30 million from TEXAS grants in order to preserve funding for the Be-On-time program, which are all but combined in this bill. I can go on about asking retired teachers to shoulder a fourth of the increase in the cost of health insurance to retired teachers, about continuing to bleed money out of preventive family planning care, or about items we have funded fully, such as the feral hog abatement program. But I think it better to conclude by asking that we remain focused on the big picture as we vote on this bill. Overall, we're spending 10 percent more on the services we are charged to provide to all Texans. Ten percent more. As I believe Senator Shapleigh has and will continue to ably point out, 10 percent more doesn't amount to much when you consider where Texas is among the 50 states. If we want, as many of you do, to run this state as a business, I would respectfully remind you that running a business means more than cutting expenses. It means smart reinvestment. The 10 percent increase in the investment we make in this bill is simply not enough.

Senator Ellis: Senator Ogden, Chairman Ogden, you've got a great budget, and I'm proud to be one of the Members that'll vote for it. I'm voting for it for a number of reasons. In part, because it's the only budget on the floor. I've had the privilege of having been in your position once before, and I remember when I was going around polling and asking would people vote for the budget. One Member, who'll remain nameless, told me, Rodney, I'm not crazy about it, but I'm going to vote for it because I think you worked so hard. I'm going to vote for your budget, Mr. Chairman, because you and all of the Members of your Committee worked very hard. But I do want to say, respectfully, what we're doing in this budget, although we only spent about \$113 billion at the beginning of the decade, what we're doing with this budget, slightly past the midpoint of the decade, is essentially putting ourselves back where we were when we walked here in this Chamber at the beginning of it. But we made those choices. We made a choice last session, with a historic shortfall, that we weren't going to raise revenue. You mentioned a couple of times in laying out this bill, we're going to make some choices about what we do to fund education in the next bill, the big bill that comes up. But this is the only budget that's on the floor. Now, Shapleigh put out this little book that I put in my desk. I gave it to one of the presidents of one of my universities earlier in my office and I said, now don't bring it down on the floor, because you're aggravating people, and you're new to the state, and I don't want to get you in trouble right away. It's a good book and it points out a lot of things we don't like to admit about ourselves. But not only are we voting for the only budget that's on the floor, the people we represent voted for us. Truth of the matter is, people in Texas are fairly frugal, some would say cheap. You get what you pay for. And unless we somehow convince the people that sent us here to represent them that it's more important for them to invest in their future than have us brag about being, in the middle of the decade, where we were when we started the decade. That's the very best that we'll get in Texas. So, Mr. Chairman, I salute you for your fine leadership, for your hard work. I wish you well when you go through the process. Our budget's clearly a tad better than our friends across the aisle will be able to come up with. This body tends to be a bit more sensitive or generous on many of the programs that our House colleagues are supportive of, as well. But the harsh reality is, when the prophets give a prediction or give the actual statistics on where Texas stands in the next little ol' aggravation book, Shapleigh, that somebody else puts out on Texas, we are pretty much going to be at the bottom in most of those categories. And I think, Steve Ogden, as I know you think, Texas can do better. Thank you.

Senator Ogden: Senator Ellis, I want to thank you because many of the things I learned about being Chairman, I watched you do, and you did a remarkable job for us two sessions ago. And with respect to your comments and the comments of Senator Barrientos and Senator Shapleigh, there is common ground here. This state budget rises and falls with the economic growth of this state. And the reason that this budget is so much better than the budget of two years ago is because our economy is

recovering. And constitutionally, we are limited by the amount of money that we can spend by the rate of economic growth in this state, and this bill is right at that limit. So I would think, whether you're a Republican or a Democrat, whether you share the views that you addressed or are not quite convinced, the common ground is that to improve our budget, to improve our state we have got to work every day to make sure that our economy grows. And I will be happy to work with you and anyone else to remember there is a direct and close correlation between the kind of state government that we want and the economic growth of the state and the people that have to pay for it.

REMARKS SUBMITTED

Senator Gallegos submitted the following remarks regarding **CSSB 1**:

I would like to thank Chairman Ogden and the Members of the Committee for all of their hard work and long hours that have been put into this budget process. We are in a much different place from where we were last session, and I'm thankful that the Members of this Committee established, as one of their priorities, to restore some of the very painful cuts the legislature made last session. It's been a tough couple of years, and I am relieved we are not in the same place again. When I stood before you last session to speak on this budget, I said that process was one of the hardest in recent history. This session, the Committee was faced with a much different scenario, and we were able to get closer to where we were before last session. Chairman Ogden, it is a great testament to your leadership that the budget looks much different from two years ago. Our revenue outlook was much different, and I thank you for recognizing that we needed to take some very serious steps to restore some of the cuts that were made last session. I see a great many things that I like in this budget. There are pay raises for state employees and state troopers, increased funding for our health and human services programs, restoration of many of the cuts from last session, and new money for education. Because of all of these good things, I'm happy to say, Chairman Ogden, I'm going to vote for this budget. I do so with only a little hesitation. I can't say that this, without a doubt, gets us completely to where we need to be. But without other revenue, I don't know that we could have gotten to a better place than where we are as we consider this bill. I would still like to see the restoration of more of the cuts that we made during the 78th legislative session. Particularly, I would like to see us return to a 12-month, continuous eligibility process for both Medicaid and CHIP. I think this is one of the greatest deterrents to getting more children access to quality health care, and we're going to continue to see a drop in enrollment or significantly slowed enrollment because of this. Texas, according to some experts, leads the nation on the number of uninsured children. I think we can do better, and I know we're going to work toward that goal in the future. The teacher health insurance pass-through is not what it used to be. While I applaud the efforts to restore the pass-through for teachers and other professional staff, we should make that same commitment to our support staff. Teachers and professional staff play a valuable role in our schools, but we cannot forget those employees who need the pass-through as much: the people who sweep the floors, drive the buses, and cook the food. Funds were not appropriated

from the System Benefit Fund for energy assistance to low-income customers. The reason I saw written was so that Medicaid could be restored. I think it's a bit wrong-headed to take from one assistance program for a low-income population to give to that same population. Either way, the low-income population loses access to something very important. I'm sure we could all sit around and talk about the individual elements of this bill that we think still need some work, but it is my hope that as this bill moves through the process, that it gets better. There is definitely room for improvement, but this is a great start. Chairman Ogden, again, I applaud your efforts along with the rest of the Committee Members and workgroup leaders. Your task was a great one. We all are in your debt for your willingness to work so hard. Thank you again.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 4:06 p.m. agreed to adjourn, in memory of Juan M. Martinez, Jr., and in memory of the life of Robert "Bob" "Big Daddy" Johnson, upon completion of the introduction of bills and resolutions on first reading, until 11:00 a.m. Tuesday, March 29, 2005.

(Senator Van de Putte in Chair)

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions, filed on or before March 11, 2005, were introduced, read first time, and referred to the committees indicated:

SB 1530 by Zaffirini

Relating to a statewide strategic plan for the support and promotion of technology research in this state.

To Subcommittee on Emerging Technologies and Economic Development.

SB 1601 by Whitmire

Relating to the entrance requirements and longevity pay in certain municipalities for a police officer who has previous experience as a police officer.

To Committee on Intergovernmental Relations.

SB 1602 by Estes

Relating to surveys accepted by the Commissioner of the Land Office for filing in the official records of the Land Office.

To Committee on Natural Resources.

SB 1603 by Estes

Relating to the recovery of certain costs associated with certain civil suits by the Parks and Wildlife Department.

To Committee on Natural Resources.

SB 1604 by Staples

Relating to the administration, powers, duties, and operations of the Neches and Trinity Valleys Groundwater Conservation District.

To Committee on Natural Resources.

SB 1605 by Ogden

Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

To Committee on Finance.

SB 1606 by Ogden

Relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

To Committee on Finance.

SB 1607 by Ogden

Relating to making supplemental appropriations and reductions in appropriations.

To Committee on Finance.

SB 1608 by Ogden

Relating to statutory authority to reduce appropriations made by the legislature to certain governmental educational entities and to other fiscal matters involving certain governmental educational entities.

To Committee on Finance.

SB 1609 by Ogden

Relating to statutory authority to reduce appropriations made by the legislature to certain governmental entities.

To Committee on Finance.

SB 1610 by Ogden

Relating to statutory authority for certain governmental entities to take certain actions to permit the legislature to reduce appropriations to those agencies.

To Committee on Finance.

SB 1611 by Ogden

Relating to statutory authority to reduce certain appropriations made by the legislature in support of the courts and to certain law library fees.

To Committee on Finance.

SB 1612 by Ogden

Relating to ensuring cost savings in the operation of certain governmental entities that provide criminal justice and public safety services.

To Committee on Finance.

SB 1613 by Ogden

Relating to statutory authority for the legislature to make or reduce appropriations to certain governmental entities.

To Committee on Finance.

SB 1614 by Ogden

Relating to statutory authority for certain governmental entities to take certain actions to permit the legislature to reduce appropriations to those agencies.

To Committee on Finance.

SB 1615 by Ogden

Relating to statutory authority to reduce appropriations made by the legislature to certain regulatory entities.

To Committee on Finance.

SB 1616 by Ogden

Relating to statutory authority for certain governmental entities to take certain actions to permit the legislature to reduce appropriations to those agencies.

To Committee on Finance.

SB 1617 by Ogden

Relating to the powers, duties, and functions of the Legislative Budget Board.

To Committee on Finance.

SB 1618 by Brimer

Relating to premium reserve amounts required for title insurers.

To Committee on Business and Commerce.

SB 1619 by Lucio

Relating to the penalty for permitting an animal to run at large on a highway.

To Committee on Criminal Justice.

SB 1620 by Lucio

Relating to the composition of the judicial districts in Cameron and Willacy Counties.

To Committee on Jurisprudence.

SB 1621 by Lindsay

Relating to the tax rate for emergency services districts located in certain populous counties.

To Committee on Intergovernmental Relations.

SB 1622 by Lindsay

Relating to physician referrals to certain facilities providing speciality services.

To Committee on Health and Human Services.

SB 1623 by Lindsay

Relating to the planning, construction, and operation of toll road projects by certain counties.

To Committee on Transportation and Homeland Security.

SB 1624 by Lindsay

Relating to the creation of freight rail districts; granting authority to issue bonds or other similar obligations to create public debt; granting the power of eminent domain.

To Committee on Transportation and Homeland Security.

SB 1625 by Whitmire

Relating to including within conduct proscribed by various offenses certain conduct involving the discharge of fireworks.

To Committee on Criminal Justice.

SB 1626 by Whitmire

Relating to petition requirements for ordering a local option election to legalize or prohibit the sale of alcoholic beverages.

To Committee on Business and Commerce.

SB 1627 by Whitmire

Relating to the packaging and contents of certain alcoholic beverages.

To Committee on Business and Commerce.

SB 1628 by Whitmire

Relating to the promotional activities of certain alcoholic beverage license or permit holders.

To Committee on Business and Commerce.

SB 1629 by Wentworth

Relating to goals for and certification of groundwater management plans.

To Committee on Natural Resources.

SB 1630 by Wentworth

Relating to certain agreements by the Texas Department of Transportation involving pass-through tolls.

To Committee on Transportation and Homeland Security.

SB 1631 by Carona

Relating to the right of redemption after foreclosure.

To Committee on Intergovernmental Relations.

SB 1632 by Hinojosa

Relating to the sentencing of juveniles in juvenile court and the functions of the Texas Youth Commission.

To Committee on Criminal Justice.

SB 1633 by Seliger

Relating to the provision of certain reports and records requested by the attorney general.

To Committee on Criminal Justice.

SB 1634 by Seliger

Relating to the Texas Energy Education Council; authorizing the imposition of an assessment on producers of oil, gas, and condensate.

To Committee on Natural Resources.

SB 1635 by Duncan

Relating to the Schleicher County Hospital District.

To Committee on Intergovernmental Relations.

SB 1636 by Lucio

Relating to the development of occupational skills training curriculum by the Texas Education Agency.

To Committee on Education.

SB 1637 by Lucio

Relating to housing assistance and other assistance provided by the Texas Department of Housing and Community Affairs.

To Committee on Intergovernmental Relations.

SB 1638 by Nelson

Relating to the prevention of certain gatherings within a municipality.

To Committee on Criminal Justice.

SB 1639 by Nelson

Relating to a project that may be undertaken by a certain development corporation in connection with the promotion or development of new or expanded business enterprises.

To Subcommittee on Emerging Technologies and Economic Development.

SB 1640 by Duncan

Relating to size and weight limitations for certain vehicles transporting agricultural products and equipment.

To Committee on Transportation and Homeland Security.

SB 1641 by Lucio

Relating to the continuation of the law authorizing the issuance of oversize or overweight vehicle permits by certain port authorities.

To Committee on International Relations and Trade.

SB 1642 by Lucio

Relating to the property tax situs and rendition requirements for motor vehicles located at a place of business of a wholesale motor vehicle auction.

To Committee on Finance.

SB 1643 by Hinojosa

Relating to a strategy to ensure that public institutions of higher education employ faculty and staff who reflect the population of Texas.

To Subcommittee on Higher Education.

SB 1644 by Shapleigh

Relating to the TexasOnline project, the TexasOnline Authority, and related powers and fees.

To Committee on Government Organization.

SB 1645 by Shapleigh

Relating to creation of an Internet portal for housing resources.

To Committee on Government Organization.

SB 1648 by Staples

Relating to civil actions.

To Committee on State Affairs.

SB 1649 by Staples

Relating to resumption of service by certain retirees under the Employees Retirement System of Texas and the Teacher Retirement System of Texas.

To Committee on State Affairs.

SB 1650 by Staples

Relating to the state administration of taxation.

To Committee on Finance.

SJR 40 by Eltife

Proposing a constitutional amendment clearing land titles by relinquishing and releasing any state claim to sovereign ownership or title to interest in certain land.

To Committee on Natural Resources.

SJR 41 by Staples, Shapleigh

Proposing a constitutional amendment creating the Texas rail relocation and improvement fund and authorizing grants of money and issuance of obligations for financing the relocation, construction, reconstruction, acquisition, improvement, rehabilitation, and expansion of rail facilities.

To Committee on Transportation and Homeland Security.

SJR 42 by Fraser

Proposing a constitutional amendment relating to the terms of office of justices of the peace.

To Committee on Jurisprudence.

SJR 43 by Ellis

Proposing a constitutional amendment prohibiting the taxation of the sale or use of certain food, drinks, and medicine.

To Committee on Finance.

SJR 44 by Deuell

Proposing a constitutional amendment providing authorization for a county to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area within the county.

To Committee on Intergovernmental Relations.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 463 by Van de Putte, In memory of John Glasrud "Jack" Vaaler of San Antonio.

Welcome and Congratulatory Resolutions

SR 456 by Ellis, Commending Donald R. King II for achieving the rank of Eagle Scout.

SR 462 by Van de Putte, Recognizing the Central and South Texas Minority Business Council on the occasion of its Face Time EXPO 2005.

SR 472 by Hinojosa, Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini, and Dewhurst

Welcoming members of the 1st Battalion, 23rd Marine Regiment, 4th Marine Division home from their deployment in Iraq.

SR 474 by Ellis, Commending the Ibn Sina Foundation for its contributions to community health.

Official Designation Resolutions

SR 435 by Armbrister, Recognizing March 23, 2005, as Firefighters Day at the State Capitol.

SR 464 by Nelson, Proclaiming May 2005 Honor Nursing Faculty Month and March 22 and 23, 2005, Student Nurse Days at the Capitol.

HCR 119 (Eltife), Recognizing March 23, 2005, as Marshall Day at the State Capitol.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 4:28 p.m. adjourned, in memory of Juan M. Martinez, Jr., and in memory of the life of Robert "Bob" "Big Daddy" Johnson, until 11:00 a.m. Tuesday, March 29, 2005.

APPENDIX

COMMITTEE REPORTS

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

March 23, 2005

HEALTH AND HUMAN SERVICES — **SB 873**

CRIMINAL JUSTICE — **SB 87, SB 903, SB 910**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **CSSB 581**

STATE AFFAIRS — **CSSB 506**

INTERGOVERNMENTAL RELATIONS — **SB 461, SB 644, SB 693, SB 718, SB 1014, SB 1088**

HEALTH AND HUMAN SERVICES — **SB 747, CSSB 127, SB 812**

INTERGOVERNMENTAL RELATIONS — **CSSJR 14**

HEALTH AND HUMAN SERVICES — **CSSB 424, CSSB 492, CSSB 568**

CRIMINAL JUSTICE — **CSSB 603**

In Memory
of
Juan M. Martinez, Jr.
Senate Resolution 461

WHEREAS, The Senate of the State of Texas honors and commemorates the life of Juan M. Martinez, Jr., who died January 21, 2005, at the age of 64; and

WHEREAS, Born April 20, 1940, Juan Martinez earned a bachelor's degree in business in 1962 from Texas A&M University, where he was company commander in the Corps of Cadets; he earned a master's degree in business administration from Western International University in 1990; and

WHEREAS, Juan married Minerva Pena, and they were blessed with two beloved children, Valerie Ann and Juan Antonio; and

WHEREAS, He served in the United States Army in Korea as a captain; he learned to fly and served in the United States Army Reserve for over 20 years; and

WHEREAS, In 1977, he married Linda Helms; he was a devoted father to their daughter Kristina Danielle and a loving stepfather to Lori Brook Mills and Timothy Brien Helms; and

WHEREAS, Juan had a successful career in the aviation industry; he served as the division manager for the United States and Latin America for McDonnell Douglas Helicopters for over 20 years; he also owned and operated Gateway Aviation in Laredo and Cherokee Aviation; he served as vice president for the Texas Airport Management Association; and

WHEREAS, Juan Martinez lived his life to the fullest and gave unselfishly to others, and his wisdom, warmth, and valued counsel will not be forgotten by those who knew him; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby extend sincere condolences to the bereaved family of Juan M. Martinez, Jr.; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Juan Martinez, Jr.

WENTWORTH

