

FORTY-THIRD DAY

TUESDAY, APRIL 5, 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 Larry Dickson, Faith Assembly of God, Granbury, offered the invocation as follows:

Our Father, creator of all that is good, we stand in this Chamber today challenged by Paul who enlightened us that we should pray for those who hold the strength and security of our lives in their hands while they govern us. As citizens of this state, we are grateful for these men and women who have chosen the path of public service as their highest good. By their determinations they will set the future of Texas. Poised on the dawning of that future, we face challenges that these leaders must wrestle with, issues that will determine the future course of this state. So it is at this moment that we recognize our need for greater wisdom and guidance. Lead us down the paths that will secure a brighter future for those who follow us, our children as well as our grandchildren, that they may continue to enjoy the wonders of creation and the blessed life that we enjoy in this great state. In the words of King Solomon: May the Lord our God be with us, as He was with our fathers. May He not leave us nor forsake us, that He may incline our hearts to walk in all His ways and to keep His commandments, His statutes, and His judgments, which He commanded our fathers. (I Kings 8:57-58) 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-AUTHOR OF SENATE BILL 1016

On motion of Senator Deuell, Senator Fraser will be shown as Co-author of **SB 1016**.

CO-AUTHORS OF SENATE BILL 1381

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

CO-AUTHORS OF SENATE BILL 1479

On motion of Senator Shapleigh, Senators Estes, Hinojosa, Ogden, Seliger, Van de Putte, and Wentworth will be shown as Co-authors of **SB 1479**.

CO-AUTHORS OF SENATE BILL 1577

On motion of Senator Williams, Senators Deuell, Eltife, and Fraser will be shown as Co-authors of **SB 1577**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 5, 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 224, Relating to the treatment of certain persons younger than 18 years of age admitted for voluntary inpatient mental health services and discharge from that treatment for those persons.

HCR 140, Honoring the medical students, medical schools, residents, and teaching hospitals of Texas for their contributions to the health and well-being of the citizens of Texas and welcoming the medical personnel visiting the State Capitol on April 5, 2005.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 534

Senator Williams offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to congratulate Kym Victoria Jackson for winning the title of Mrs. Texas 2005; and

WHEREAS, The married women of Texas balance marriage, career, family, and volunteer work in their communities, and the Mrs. Texas pageant showcases

these women; as Mrs. Texas 2005, Kym will represent the married women of Texas over the next year; and

WHEREAS, Kym will receive scholarship money and prizes for her participation; she will compete for the national title of Mrs. United America on October 9, 2005, in Austin; and

WHEREAS, While performing her duties as Mrs. Texas 2005, Kym plans to speak out about cancer prevention and awareness; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Kym Victoria Jackson for being named Mrs. Texas 2005 and extend to her best wishes for a rewarding year; and, be it further

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

SR 534 was read and was adopted without objection.

GUESTS PRESENTED

Senator Williams was recognized and introduced to the Senate Kym Victoria Jackson, Mrs. Texas 2005, accompanied by her husband, Willard Jackson.

The Senate welcomed its guests.

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

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

There was no objection.

PHYSICIAN OF THE DAY

Senator Armbrister was recognized and presented Dr. Fred Merian of Victoria as the Physician of the Day.

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

GUESTS PRESENTED

Senator Jackson was recognized and introduced to the Senate a delegation of citizens from the Texas City-La Marque Chamber of Commerce.

The Senate welcomed its guests.

SENATE CONCURRENT RESOLUTION 25

The President laid before the Senate the following resolution:

WHEREAS, The Legislature of the State of Texas is pleased to recognize April 5, 2005, as Texas Medal of Arts Awards Day at the Capitol; and

WHEREAS, The Texas Medal of Arts Awards are presented by the Texas Cultural Trust Council in partnership with the Texas Commission on the Arts and pay tribute to Texans who have made important contributions to a variety of artistic disciplines in the state; and

WHEREAS, The arts enrich, educate, and broaden the lives of citizens in our state, and these awards recognize and encourage the development of the arts through personal achievements or unfailing support; and

WHEREAS, The following individuals and institutions will be presented medals for 2005: Vikki Carr, Lifetime Achievement; Ginger Head-Gearheart, Arts Education; Ben Stevenson, Dance; Raymond D. Nasher, the Nasher Foundation, Foundation Arts Patron; Joe R. and Teresa Lozano Long, Individual Arts Patron; Naomi Shihab Nye, Literary Arts; Lyle Lovett, Music; Phylicia Rashad, Television/Theatre; Robert Wilson, Theatre; and Jose Cisneros, Visual Arts; and

WHEREAS, The arts enhance the quality of life in Texas and add to the rich cultural heritage of the state; the artists and art patrons honored by a Texas Medal of Arts Award help ensure the future of the arts and art education in our state; now, therefore, be it

RESOLVED, That the 79th Legislature of the State of Texas hereby commend the recipients of the 2005 Texas Medal of Arts Awards for their dedication to the advancement of the arts in Texas; and, be it further

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

SHAPIRO

SCR 25 was read.

On motion of Senator Shapiro and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

GUESTS PRESENTED

Senator Shapiro was recognized and introduced to the Senate recipients of the Texas Medal of Arts Award: Ben Stevenson, Houston; Lyle Lovett, Klein; Phylicia Rashad, Houston; Naomi Shihab Nye, San Antonio; Jose Cisneros, El Paso; Robert Wilson, Waco; Ginger Head-Gearheart, Fort Worth; Joe R. and Teresa Lozano Long, Austin; and Raymond D. Nasher, Dallas; Lifetime Achievement Award winner, Vikki Carr; and Texas Cultural Trust Members, Debbie Montford, Hector Gutierrez, Jr., and Aaronetta Pierce.

The Senate welcomed its guests.

MESSAGES FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 5, 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 128, Designating Madisonville the Mushroom Capital of Texas.

SB 252, Relating to a project of a development corporation in connection with a military base or facility.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE CONCURRENT RESOLUTION 140

The President laid before the Senate the following resolution:

HCR 140, Honoring the medical students, medical schools, residents, and teaching hospitals of Texas for their contributions to the health and well-being of the citizens of Texas and welcoming the medical personnel visiting the State Capitol on April 5, 2005.

WEST

The resolution was read.

On motion of Senator West and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate a delegation of medical students and residents and representatives of medical schools and teaching hospitals.

The Senate welcomed its guests.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Lindsay submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed:

Justice, Supreme Court of Texas: Philip W. "Phil" Johnson, Randall County.

Member, Texas Funeral Service Commission: Laurens B. Fish III, Travis County.

Members, Texas Higher Education Coordinating Board: Laurie Bricker, Harris County; Paul Foster, El Paso County; George Louis McWilliams, Bowie County; Nancy R. Neal, Lubbock County; A. W. "Whit" Riter III, Smith County; Robert W. Shepard, Cameron County.

Members, Texas Board of Architectural Examiners: Rosemary A. Gammon, Collin County; Robert Kyle Garner, Randall County; Peter L. Pfeiffer, Travis County; Peggy Lewene "Lew" Vassberg, Willacy County; Alfred Vidaurri, Jr., Tarrant County; James S. Walker II, Harris County.

Member, Texas School for the Blind and Visually Impaired Board: Janet Ardoyno, Taylor County.

Presiding Officer, Executive Council of Physical Therapy and Occupational Therapy Examiners: L. Suzan Kedron, Dallas County.

Members, Texas Board of Professional Geoscientists: Yale Lynn Clark, Dallas County; Glenn R. Lowenstein, Harris County; Kimberly Robinson Phillips, Harris County.

Commissioners, Board of Pilot Commissioners for Jefferson and Orange County: Morris Carter, Jr., Jefferson County; Kevin Michael Williams, Orange County.

Member, Board for Lease of Texas Department of Criminal Justice Lands: Spencer Hayes, Travis County.

Members, Lower Neches Valley Authority Board of Directors: Sue Cleveland, Hardin County; Jimmie R. Cooley, Tyler County; Kathleen Thea Jackson, Jefferson County; Steven M. McReynolds, Jefferson County.

Member, Texas State Board of Examiners of Marriage and Family Therapists: Joe Ann Clack, Fort Bend County.

Members, Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments: Michael R. Arámbula, M.D., R.Ph., Bexar County; John Martin Bradley, Williamson County; Ellen T. Cokinos, Harris County; Joseph Richard Gutheinz, Jr., J.D., Harris County; Christopher C. Kirk, Brazos County; Jan Krockner, Harris County; Eulon Ross Taylor, M.D., Lubbock County; Francis M. "Frank" Webb, Harris County.

Members, Texas Board of Occupational Therapy Examiners: Michael Carreon, El Paso County; Dely De Guia Cruz, Harris County.

Public Counsel for the Office of Public Insurance Counsel: Roderick A. "Rod" Bordelon, Jr., Travis County.

Member, Sabine River Authority Board of Directors: Richard A. "Link" Linkenauger, Hunt County.

Member, Upper Neches River Municipal Water Authority Board of Directors: Robert E. McKelvey, Anderson County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Lindsay gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

CONCLUSION OF MORNING CALL

The President at 11:43 a.m. announced the conclusion of morning call.

SENATE BILL 547 ON THIRD READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 547** at this time on its third reading and final passage:

SB 547, Relating to voter eligibility and registration in El Paso County Water Improvement District No. 1.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5.

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

Nays: Barrientos, Duncan, Ellis, Shapleigh, West.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 60 ON SECOND READING**

Senator Lucio moved to suspend the regular order of business to take up for consideration **CSSB 60** at this time on its second reading:

CSSB 60, Relating to the punishment for a capital offense.

The motion was lost by the following vote: Yeas 19, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Gallegos, Harris, Hinojosa, Janek, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Nays: Eltife, Estes, Fraser, Jackson, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 47 ON SECOND READING**

Senator Nelson moved to suspend the regular order of business to take up for consideration **CSSB 47** at this time on its second reading:

CSSB 47, Relating to the Medicaid fraud reduction pilot program.

The motion prevailed.

Senators Barrientos, Shapleigh, and Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

(Senator Brimer in Chair)

(President in Chair)

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 47** (committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 531.1063(d-1), Government Code (page 1, line 19), strike "15" and substitute "18".

(2) In SECTION 1 of the bill, in added Section 531.1063(d-1), Government Code (page 1, line 20), strike "may" and substitute "shall".

(3) In SECTION 1 of the bill, in added Section 531.1063(h), Government Code (page 1, lines 36-39), strike Subdivision (1) and substitute the following:

(1) a description of the policies and procedures to be tested concerning the handling of lost, forgotten, or stolen cards carrying a fingerprint image or situations in which a fingerprint match cannot be confirmed;

(4) In SECTION 1 of the bill, in added Section 531.1063(h)(3), Government Code (page 1, line 45), strike "biometric" and substitute "fingerprint".

The amendment to **CSSB 47** was read and failed of adoption by the following vote: Yeas 14, Nays 17.

Yeas: Armbrister, Barrientos, Deuell, Ellis, Gallegos, Hinojosa, Lucio, Madla, Nelson, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Nays: Averitt, Brimer, Carona, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams.

CSSB 47 was passed to engrossment by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Van de Putte, Wentworth, Williams.

Nays: Barrientos, Ellis, Gallegos, Shapleigh, West, Whitmire, Zaffirini.

Reason for Vote

Senator Barrientos submitted the following reason for vote on **CSSB 47**:

While I support the goal of reducing fraud in health and human service programs, I am concerned about the increasing intrusion of government in making those who receive such services give highly personal identifying information in exchange for those services. I am particularly concerned over the lack of definition of what constitutes biometric identification and the fact that we are applying it to children and the disabled. The bills allow the Health and Human Services Commission to abandon the project if they find the costs outweigh the benefits, but in the recent past, I have no reason to have confidence in the cost benefit analyses. Therefore I could not vote for **CSSB 47**.

BARRIENTOS

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate students from the government class at Northwest Vista College in San Antonio, accompanied by their professor, Dr. Robert Marbut.

The Senate welcomed its guests.

SENATE BILL 587 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 587** at this time on its second reading:

SB 587, Relating to operation of certain machinery or equipment near high-voltage lines.

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

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

Nays: Barrientos.

SENATE BILL 587 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 587** 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 **SB 587**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 587** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Barrientos.

**COMMITTEE SUBSTITUTE
SENATE BILL 627 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 627** at this time on its second reading:

CSSB 627, Relating to a pilot program for the transfer of money appropriated for certain institutional care for children to provide community-based services to those children.

The motion prevailed.

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

The bill was read second time.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 627** (Senate committee printing) in Section 161.075(e), Human Resources Code, as added in SECTION 1 of the bill (page 1, line 61), between "small" and "ICF-MR" by inserting "and medium".

The amendment to **CSSB 627** was read and was adopted by a viva voce vote.

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

Nays: Estes, Fraser, Nelson, Staples.

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

CSSB 627 as amended was passed to engrossment by a viva voce vote.

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

Nays: Estes, Fraser, Nelson, Staples.

**COMMITTEE SUBSTITUTE
SENATE BILL 627 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 627** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Estes, Fraser, Nelson, Staples, 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 627**, 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 627** 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

(Senator Armbrister in Chair)

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Nelson, Staples.

SENATE BILL 777 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 777** at this time on its second reading:

SB 777, Relating to the powers and duties of the boards of trustees and superintendents of independent school districts.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 777** in SECTION 1 of the bill, by striking added Section 11.051(a-1), Education Code (committee printing, page 1, lines 21-27), and substituting the following:

(a-1) Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. The board of trustees may act only by majority vote of the members present at a meeting held in compliance with Chapter 551, Government Code, at which a quorum of the board is present and voting. The board shall provide an opportunity at the meeting for the superintendent to present an oral or written recommendation to the board on any item that is voted on by the board at the meeting.

The amendment to **SB 777** 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.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 777** as follows:

(1) In SECTION 3 of the bill, in added Section 11.1511(b)(13), Education Code (committee printing, page 2, line 17), strike "and".

(2) In SECTION 3 of the bill, between added Subdivisions (13) and (14), Section 11.1511(b), Education Code (committee printing, page 2, between lines 17 and 18), insert the following new subdivision and renumber the subsequent subdivision accordingly:

(14) make decisions relating to terminating the employment of district employees employed under a contract, including terminating or declining to renew an employment contract; and

(3) In SECTION 4 of the bill, strike amended and redesignated Section 11.163(a), Education Code (committee printing, page 2, line 57, through page 3, line 1), and substitute the following:

(a) The board of trustees of each independent school district shall adopt a policy providing for the employment and duties of district personnel. The employment policy must provide that:

(1) the board employs and evaluates the superintendent;

(2) the superintendent has sole authority to make recommendations to the board regarding the selection of all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent;
[and]

(3) the board has final decision-making authority regarding terminating the employment of district personnel, including the superintendent, including terminating or declining to renew an employment contract under Chapter 21, except to the extent that the board has delegated the final authority for those decisions to the superintendent with respect to district personnel who are not employed under a contract; and

(4) [~~2~~] each principal must approve each teacher or staff appointment to the principal's campus as provided by Section 11.202.

The amendment to **SB 777** 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.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 3

Amend **SB 777** as follows:

(1) In SECTION 4 of the bill, in redesignated Section 11.1513, Education Code (committee printing page 3, between lines 16 and 17), by adding the following new Subsection (d):

(d) If, under the employment policy, the board of trustees delegates to the superintendent the final authority to select district personnel:

(1) the superintendent is a public official for purposes of Chapter 573, Government Code, only with respect to a decision made pursuant to that delegation of authority; and

(2) each member of the board of trustees remains subject to Chapter 573, Government Code, with respect to all district employees.

(2) Add the following appropriately numbered SECTION of the bill and renumber existing SECTIONS accordingly:

SECTION ____. Subchapter A, Chapter 8, Education Code, is amended by adding Section 8.011 to read as follows:

Sec. 8.011. NEPOTISM PROHIBITION. For purposes of all employees of each regional education service center, the executive director and each member of the board of directors are public officials subject to Chapter 573, Government Code.

The amendment to **SB 777** 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. 3.

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

SB 777 as amended was passed to engrossment by a viva voce vote.

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

SENATE BILL 777 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 777** 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 **SB 777**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 777** 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.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator West and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Subcommittee on Higher Education might meet and consider the following bills today:

SB 333, SB 936, SB 132, SB 315, SB 801, SB 1226, SB 1247, SB 1643.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Business and Commerce might meet and consider the following bills today: **SB 836, SB 1075.**

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Carona and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Subcommittee on Emerging Technologies and Economic Development might meet and consider the following bills today:

SB 657, SB 831, SB 920, SB 1096, SB 1142, SB 1318, SB 1321.

MOTION TO ADJOURN

On motion of Senator Shapiro and by unanimous consent, the Senate at 1:25 p.m. agreed to adjourn, in memory of Tony Proffitt, upon completion of the introduction of bills and resolutions on first reading, until 11:00 a.m. tomorrow.

HOUSE BILLS ON FIRST READING

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

- HB 55** to Committee on Transportation and Homeland Security.
- HB 93** to Committee on Criminal Justice.
- HB 129** to Committee on Criminal Justice.
- HB 151** to Committee on Criminal Justice.
- HB 352** to Committee on Intergovernmental Relations.
- HB 366** to Committee on Transportation and Homeland Security.
- HB 372** to Committee on Transportation and Homeland Security.
- HB 373** to Committee on Natural Resources.
- HB 474** to Committee on Natural Resources.
- HB 538** to Committee on Health and Human Services.
- HB 540** to Committee on Transportation and Homeland Security.
- HB 544** to Committee on Criminal Justice.
- HB 554** to Committee on Finance.
- HB 685** to Committee on Criminal Justice.
- HB 762** to Committee on Government Organization.
- HB 789** to Committee on Business and Commerce.
- HB 915** to Committee on Criminal Justice.
- HB 937** to Committee on Intergovernmental Relations.
- HB 951** to Committee on Natural Resources.
- HB 964** to Committee on State Affairs.
- HB 970** to Committee on Criminal Justice.
- HB 1066** to Committee on Criminal Justice.
- HB 1154** to Committee on Business and Commerce.
- HB 1319** to Committee on Business and Commerce.
- HB 1326** to Committee on Criminal Justice.
- HB 1361** to Committee on Natural Resources.
- HB 1362** to Committee on Natural Resources.
- HB 1363** to Committee on Natural Resources.
- HB 1507** to Committee on Business and Commerce.
- HB 1573** to Committee on Business and Commerce.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

HCR 139 (Lucio), In memory of His Holiness Pope John Paul II.

Congratulatory Resolutions

SR 535 by Whitmire, Recognizing Lovenia Posey of Houston on the occasion of her 105th birthday.

SR 545 by Barrientos, Recognizing the Community Action Agencies of Texas for their contributions to our state.

SR 546 by Barrientos, Recognizing Joseph Lewright of Austin for being selected for a Daily Point of Light Award by the Points of Light Foundation.

SR 550 by Ogden, Recognizing Travis B. Bryan, Jr., for being honored by the Texas Bankers Association.

SR 551 by Ogden, Recognizing Jack Hinton for being honored by the Texas Bankers Association.

HCR 74 (Harris), Honoring the 56th Brigade Combat Team of the 36th Infantry Division, Texas National Guard, for its courageous service in Iraq.

Official Designation Resolution

SR 547 by Lucio, Designating April 7, 2005, World Health Day 2005.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 1:28 p.m. adjourned, in memory of Tony Proffitt, until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

April 5, 2005

STATE AFFAIRS — **SB 742, SB 787, SB 1485**

SENT TO GOVERNOR

April 5, 2005

SB 88