

FORTY-FOURTH DAY

WEDNESDAY, APRIL 6, 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 Chris Osborne, Central Baptist Church, College Station, offered the invocation as follows:

I want to thank You for the men and women in this room and the calling they have to serve this great state. I also thank You for their tireless efforts which often go unnoticed and unrewarded. It is a time of daunting issues facing these people, and so I ask for wisdom that they might be the right and best decisions to make. I also ask for courage to implement that decision no matter the argument or obstacle. I ask for this to be granted today, that the ensuing discussions, even this week, will be not wasted but rewarding for both those in this room and we who will live under those decisions. I ask for myself that I will not miss a day in prayer for the leaders in this state. In the name of Christ. 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 99

On motion of Senator Ellis, Senator Van de Putte will be shown as Co-author of **SB 99**.

CO-AUTHOR OF SENATE BILL 100

On motion of Senator Ellis, Senator Van de Putte will be shown as Co-author of **SB 100**.

CO-AUTHOR OF SENATE BILL 943

On motion of Senator Armbrister, Senator Fraser will be shown as Co-author of **SB 943**.

CO-AUTHOR OF SENATE BILL 1381

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

CO-AUTHOR OF SENATE BILL 1695

On motion of Senator Duncan, Senator Lindsay will be shown as Co-author of **SB 1695**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 6, 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 70, Relating to the expedited payment of the lump-sum death benefit for members of the Employees Retirement System of Texas.

HB 752, Relating to the penalty for theft of identifying information.

HB 801, Relating to training for Department of Family and Protective Services personnel receiving reports of child abuse and neglect.

HB 802, Relating to the investigation of certain reports of child abuse and neglect.

HB 976, Relating to allowing the Texas Building and Procurement Commission to deliberate in a closed meeting regarding business and financial considerations of a contract being negotiated.

HB 982, Relating to posting a sign warning restaurant or bar employees against fraudulent use or possession of identifying information; providing a criminal penalty.

HB 1096, Relating to the regulation of dogs in certain municipalities; creating an offense.

HB 1098, Relating to using the Internet to obtain identifying information of another person for a fraudulent purpose; providing penalties.

HB 1114, Relating to contributions by and benefits for certain members and retirees under the Judicial Retirement System of Texas Plan Two.

HB 1161, Relating to the provision of certain information to owners of oil or gas royalty interests by the Railroad Commission of Texas.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Barrientos was recognized and presented Dr. John K. Frederick of Austin as the Physician of the Day.

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

BILL AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bill and resolutions in the presence of the Senate after the caption had been read:

SB 252, HCR 74, HCR 127, HCR 139, HCR 140.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate eighth-grade students from Garner Middle School in San Antonio, accompanied by their teacher.

The Senate welcomed its guests.

SENATE RESOLUTION 539

Senator Van de Putte offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to honor the courageous men who kept themselves and their ideals of freedom alive in the Philippines and survived the infamous Bataan Death March; and

WHEREAS, Three days after the Japanese attacked the United States at Pearl Harbor, Japanese forces invaded the Philippine Islands in Luzon; the American and Filipino forces, with dwindling supplies and a lack of reinforcements, were overwhelmed by the intense assault by the Japanese, and many American and Filipino soldiers became prisoners of war; and

WHEREAS, After the surrender of Bataan, soldiers who were captured were forced to begin the Bataan Death March on April 10, 1942; they marched 55 miles to San Fernando in 140-degree temperature without food or water, and soldiers who later surrendered on Corregidor suffered a similar fate when they were transferred to Bataan; and

WHEREAS, Of the 76,000 prisoners who began the forced march, only 56,000 reached the prison camp alive, and many would later die from malnutrition and disease; some of the survivors of the death march were packed into the holds of cargo ships and sent to work as slave laborers in Japanese industries in Manchuria; and

WHEREAS, In total, 37 percent of all Pacific Theater prisoners of war died; the men who were able to survive the torturous Bataan Death March demonstrated exceptional strength and tenacity, and they have the admiration and respect of their entire nation; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby pay tribute to the courageous soldiers who overcame overwhelming odds and survived the Bataan Death March; and, be it further

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

SR 539 was read and was adopted by a rising vote of the Senate.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate survivors of the Bataan Death March: Clemens A. Kathman, Henry Grady Standley, Menandro Parazo, Joseph O. Lajzer, Louis B. Read, Ben Alpuerto, Abel Ortega, Mar Arradaza, Benjamin Austria, Ramon Villa, and Smith L. Green, joined by their families.

The Senate welcomed its guests.

REMARKS ORDERED PRINTED

On motion of Senator Shapleigh and by unanimous consent, the remarks regarding **SR 539** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Shapleigh: Menandro Parazo, 84, was born in the Philippines. He retired as an Air Defense Artillery instructor in 1971 from Fort Bliss, Texas. He and his wife live in El Paso. At 23, Menandro left the University of the Philippines and entered the United States Army in February, 1941. He was assigned to the 26th Cavalry Regiment, stationed at Fort Stotsenburg, Philippines, the only mounted United States horse cavalry in World War II. While Japanese troops were sweeping into Southeast Asia, seemingly invincible, a determined force of Americans and Filipinos, including the 26th Cavalry Regiment, held out on the island of Corregidor and the Bataan Peninsula. For four months, their efforts to tie down Japanese troops and equipment bought the time needed for the United States to rebuild itself. "The heroes of Bataan and Corregidor," President Roosevelt wrote to Philippine President Quezon, "are effectively assisting the war effort by gaining invaluable time, and time is the vital factor in reinforcing our military strength." However, the fighting continued. Menandro was taken prisoner by the Japanese and forced to join the infamous 65-mile Death March. Stumbling along, the POWs might be clubbed at any moment by a gun butt, beaten by a wrench or bamboo pole, or bayoneted by their Japanese conquerors. Survivors then encountered the hardships of a prisoner of war camp. Menandro escaped the camp and joined the Guerilla Resistance Organization. The guerillas conducted hit-and-run raids on the Japanese. Guerilla duties included constructing tank obstacles, trenches, and gun emplacements, stringing wire, and preparing demolitions. Preparations for sustaining guerilla warfare included large-scale movement of goods, supplies, and weapons in and around jungle areas. Secret caches were established in remote and inaccessible places. In March of 1943, Menandro was recaptured and tortured at the Japanese Military Intelligence Unit in Manila.

Miraculously, he later escaped again from the Japanese and rejoined his guerilla unit. During the liberation of the Philippines, he rejoined the United States Army and participated in the Battle of Manila in 1945. After the liberation, he was sent to Japan with the United States occupation forces. Menandro has received numerous medals and citations for his brave service.

Senator Deuell: Henry Grady Standley, a Georgia country boy, enlisted in the United States Army in March, 1941, because, "The \$21 a month looked pretty good." He arrived in the Philippine Islands in November of that year and was still there when Bataan fell on April 9, 1942. He thinks one of the key points of his survival was the way he was born and raised. He was a country boy; his father died the year he was born. He worked hard on the farm from the time he was a little boy, right on up until he went in the Army. In fact, according to Henry, a good portion of these fellows that got back were small town boys, country boys, that were in good physical condition in the beginning. You had to continually keep in mind that you were going to come back. You could not lose faith. The ones that gave up didn't make it home. For three and a half years, Henry Standley was beaten, starved, and forced to live in animal-like conditions. He truly believes for that reason, he is more thankful for all his blessings. He's especially thankful for good food, good water, and nice clean beds and, oh, to be really free. Time heals a lot of wounds, and Henry has really come a long way since 1945. He really doesn't hold any bitterness that he was put in that situation. He doesn't mind talking about his experiences. As a matter of fact, talking about it has probably helped him. But don't ask him to completely forget, either. Henry's faith tells him that it was not just luck that brought him home; his God wanted him home.

Mar Arradaza was among the first to organize Filipino veterans' fight for full equity. After he retired from the United States Army in 1963, he returned to the Philippines to organize the national Philippine Scouts Association of America, now called the Philippine Scouts Heritage of America, which is still active. During the Death March, Mar's back was severely injured because a Japanese soldier repeatedly struck him with a rifle butt. He escaped the Death March through the help of a Filipino woman refugee. He pretended to be a civilian refugee by carrying the woman's 2-year-old child. He returned the child and ran away when the Japanese soldiers could no longer see them. He was running and hiding, barefoot and without food and water, for almost two weeks before he was reunited with his other comrades. He was captured and imprisoned three times and escaped prison three times. More than 60 years after the Bataan Death March, he still suffers from the back injuries he sustained from punishments given him by his captors. He goes to the Veterans Administration hospital for treatment. At age 81, Mar lives with his wife, Evangeline, in Garland. He had 11 children, 10 of them still alive, and has 22 grandchildren. His living children are all in the United States. He keeps himself busy by tending to his vegetable garden and by keeping track of the debates in the United States Congress on veterans' matters.

Senator Carona: Louis B. Read was born April 30, 1920, at Gorman in Eastland County, Texas. Louis finished high school in 1939 and joined the regular United States Army, having served in the Texas National Guard while in high school. During World War II, Louis was in the 31st Infantry Regiment (U.S.) on Bataan, in the Philippine Islands. He writes, "We fought for four months and the command was

surrendered by General King. After the Bataan Death March, one third of my regiment died in the first six weeks at the first prison camp (O'Donnell). I spent the rest of the war as a prisoner, winding up working for Mitsubishi in an underground mine in northern Japan." After the war, Louis attended Southern Methodist University and earned a B.S. and an M.S. degree, worked for a scientific instrument manufacturer, and retired in 1985. Louis is a past commander of the Dallas Metroplex Chapter of American Ex-Prisoners of War and past commander of the Dallas chapter of the Military Order of the Purple Heart. Louis Read has been married 59 years, has two living children and three grandchildren.

Senator Lucio: Over the years, Senator Van de Putte, I've had a lot of good fortune, and I think one of the greatest things for me as a public official since 1970 is to have the opportunity to meet veterans, veterans of foreign wars, disabled American veterans. As you know, you've heard me say my dad is one, an 88-year-old disabled American veteran, veteran of foreign wars. He fought in North Africa. But he did tell me about the Bataan Death March, and it hurt him a lot because he mentioned some of the folks back home that were in that Death March that had recently passed on. They're not with us any more but their memory is, and the things that they had to endure to be able to survive is indescribable. So I truly understand and appreciate all these men from all over our great country who took part in this Death March, many of whom we have been privileged to meet, and many of whom have been able to share with us the tragedy of war. And we continue to support our men and women in time of war, but we also continue to pray for peace. And of all the people that I've met, of all the people in our state and our country that I've run into that have talked about the war, the wars that have happened, the wars that are, we're presently in, the group that prays for peace the most are veterans, because they know. They've felt it, they have lived it. So to these outstanding Americans on the floor, from the Rio Grande Valley, we salute you. We thank you, and we know that your colleagues that are no longer with us are looking down with big smiles on their faces, that we have an opportunity to acknowledge the outstanding representation to our country that you were involved with. Congratulations and God bless you.

Senator Hinojosa: As a former United States Marine Corps Vietnam veteran, I just want to thank you great Americans for what you did for our country, for our families, in fighting for our way of life. You know, wars are ugly. But I'm always amazed that generation after generation, when our country's threatened, we rise to the occasion. Well we must always be prepared, ready to fight, to defend our great nation. And, so I thank you for your sacrifice and thank your family. May God bless you.

Senator Wentworth: Private Abel F. Ortega was born one of six sons on August 22, 1919, in El Paso. Abel was drafted into the Army in March, 1941. He was sent to Fort Knox, Kentucky, for basic training and became a member of the 753rd Tank Battalion. He was sent to Camp Polk, Louisiana. One day, the commanding officer of the 753rd asked his men if any of them would be interested in doing duty in the Philippines. Abel's love of history and wish to visit the Orient resulted in his being the first man to volunteer. Abel was reassigned to the 192nd Tank Battalion at Camp Polk. He was sent to Angel Island to prepare for overseas duty. The battalion arrived in Manila on Thanksgiving Day. Abel's Thanksgiving dinner was a slice of bread

with gravy on it. During the battle for the Philippines, Abel was the driver for the communications command half-track of Company A. Abel took part in the engagement with the Japanese at the Battle of the Points. It was for Company A's performance during this battle that the 192nd Tank Battalion would receive its Distinguished Unit Citation. Abel was shocked by the way the prisoners were treated during the march. Prisoners who tried to get food or water were shot, bayoneted, or decapitated. If a prisoner fell out of ranks, he was mistreated. Some men were beaten the entire length of the march. If the man fell out again, he was shot or bayoneted. As he marched, Abel saw many bodies of prisoners lying along the sides of the road. On the fifth day of the march, Abel received his first meal, a handful of steamed rice. On the sixth and seventh day of the march, Abel received about half a mess kit full of rice. He estimates that the total amount of food he received during the 12 days it took him to complete the march was the equivalent of three full mess kits. Abel arrived at Camp O'Donnell on April 27, 1942, and watched as a great number of the prisoners died from disease. From there, he was moved and transferred to six other prison camps, where he was made to build runways and witnessed terrible abuse of POWs. Abel was then put on the Japanese freighter, *Hokusen Maru*, bound for Japan. The trip on this "Hellship" was the worst experience Abel had as a POW. Five hundred prisoners were placed in a 45' by 45' hold and fed once or twice a day. Eight or nine men died and a number of other men went insane. Abel's convoy was attacked by United States submarines and a number of the prisoner ships were sunk. After the submarine attack, Abel's ship went to Hong Kong and then on to Formosa where he remained until 1945. Next he worked at Camp Osaka doing stevedore work for the Kamigumi Company. Next was Maibara, where he worked building canals and draining lakes. Today, Abel resides in San Antonio, Texas, and his fishing buddy is Joseph Lajzer, of Company B, who had been a POW with him. Abel also enjoys giving presentations about his experiences as a POW.

Senator Zaffirini: Members, it is my honor to join in introducing Master Sergeant Benjamin Austria, also a World War II veteran who served during the Bataan Death March. Master Sergeant Austria is a native of the Philippines and entered the service there at Fort William McKinley on July 29, 1940. After he was captured by the Japanese forces with his father, the liberation forces entered Manila and he joined the First Cavalry Division. He served on a variety of assignments from 1945 until his retirement in 1971. Master Sergeant Austria has received a number of decorations, including an Army Commendation Medal, the Good Conduct Medal with seven loops, and a World War II Victory Medal. Today, he and his wife and children reside in my senatorial district in San Antonio, Texas. Mr. President and Members, I know that we are all so very, very proud of these wonderful veterans who are with us today, and we are so grateful, not only for their service but particularly for their courage. We owe them so much and feel so much gratitude toward them. And I join Senator Van de Putte, my colleague from San Antonio, in saying thank you for a job well done. We owe you so much. May God bless you and your families always.

Senator Barrientos: Members, may I join my voice with my colleague from San Antonio to briefly say, Gentlemen, there are no words to fully express the gratitude of your service here today. The phrase, the greatest generation, is not an overstatement. There have been many who have fulfilled their duties and many who helped change

the world for the better. But you, you helped to save our country so that we could stand here today and participate in open, free government. Thank you, thank you, thank you, *mil gracias*.

Senator Armbrister: About 1,200 survivors of the Bataan Death March are alive today. Clem runs a Web site that recollects the experiences of such soldiers, who lived the Death March. His experiences are chronicled in his new book. As an octogenarian, he is one of the few who is still here to tell his story, *I Was There, Charley!* Clemens A. Kathman, 88, better known as Clem, is a product of the Great Depression, who worked his way through college, only to have Hitler, Mussolini, and Tojo foul up his best-laid plans. He was drafted in March, 1941, assigned to the 200th Coast Artillery, which was sent to the Philippines in September, 1941. On December 8, 1941, the Japanese bombed Clark Field after earlier destroying Pearl Harbor and Clem was in a shooting war. After Bataan, the Death March, and three and a half years as a POW, he was liberated in September, 1945. Fourteen months hospitalized and almost two years later, in July, 1947, he was discharged, married, and resumed work in the newspaper. Here he moved through the transition from hot metal type printing to digital and photocomposition. Clem retired in 1981 and lost his first two wives to illnesses. Bachelorhood and Masonic fraternity filled his next 10 years. He met his current wife on the Internet and they were married in July, 2002. They live in Brenham, Texas. Both dabble in writing. *I Was There, Charley!* is his first book.

Ramon Villa was captured by the Japanese army in 1942. He had enlisted in the United States Army on April 15, 1941. Ramon's first assignment was to Fort Sam Houston in San Antonio, and from there he was sent to Camp Wallace in Hitchcock, Texas, for 13 weeks of basic training. He spent about three months in El Paso at Fort Bliss, as well. Ramon was sent to the Philippines in September, 1941. The battalion was stationed at Clark Field Air Base with the 200th Coast Artillery. Ramon was on duty there when the Japanese attacked Pearl Harbor and then Clark Field. After that first attack, the field was bombed for about a week. Japanese troops landed on Luzon, and the Americans prepared to retreat. The battalion eventually reached the Bataan Peninsula. After the surrender, Ramon marched to O'Donnell Prison. The brutality was such that many prisoners died. Malaria and dysentery plagued many of the POWs. Ramon was sent to Bilibid Prison in Manila. But the worst prison for Ramon was Cabanatuan. There, Japanese guards would hit prisoners with rifles and stab them with their bayonets. If a prisoner escaped, he was executed by firing squad or beheaded. In October, 1944, some 1,100 prisoners were shipped to Japan. The prisoners were placed in compartments full of coal. Because of the lack of space, many prisoners had to sit atop other prisoners. The trip lasted 19 days. The ship left the POWs on Formosa, where they remained for three months. The prisoners worked in the vegetable fields or the sugar mill. Ramon also spent a year at Las Pinas in the Philippines constructing an airfield. In February, 1945, Ramon was sent to a Japanese prison camp. The trip to the prison camp took about two weeks and the POWs were given only one meal each day. Many of the starving prisoners, including Ramon, stole food from the Japanese guards. When the Japanese discovered the food theft, they did not feed the POWs for three days. One day, the prisoners were on their way to a lake near the camp. The prisoners were greeted by five American soldiers, who informed them that the war was over and that they were free. The POWs went to town and

celebrated all night. The prisoners were sent to Yokohama in September, 1945, then to Manila, and finally to the United States. Ramon had weighed 180 pounds when he enlisted in the Army; by the end of the war, his weight had dropped to 110. Still, he was happy to have survived. March 23, 1946, brought Ramon's final discharge from the military. He had to spend time in hospitals and was isolated because he contracted a tropical disease. Ramon has been married to Ygnacia for almost 60 years. They have four sons and a deceased daughter. Ramon attended the job training program for veterans. In 1953, the Villas moved to Victoria, where he worked for Marshall Construction Company.

Senator Armbrister read the following poem by Jesse Knowles about the Bataan Death March:

Strange things were done under the tropic sun
By the men in Khaki twill
Those tropic nights have seen some sights
That would make your heart stand still
Those mountain trails could spin some tales
That no man would ever like
But the worst of all was after the fall
When we started on that hike

T'was the 7th of December in '41
When they hit Hawaii as the day begun
T'was a Sunday morning and all was calm
When out of nowhere there came the bombs
It didn't last long but the damage was done
America was at war with the rising sun

Now over in the Philippines we heard the news
And it shook every man clean down to his shoes
It seemed like a dream to begin
But soon every soldier was a fighting man
Each branch was ready to do its part
Artillery, infantry, Nichols and Clark

And then they came on that Monday noon
They hit Clark field like a typhoon
That Monday night the moon was clear
They razed Nichols from front to rear
As the days went by more bombers came
And soon only a few P-40's remained

Then the orders came and said retreat
That no man would be seen on the city streets
So across the bay we moved at night
Away from Manila and out of sight
Deep into the jungles of Bataan
Where 15,000 were to make a stand

Here we fought as a soldier should
As the days went by we spilled our blood
Tho' the rumors came and went by night
That convoy never came in sight

April 7th was a fatal day
When the word went around that we couldn't stay
That the front line was due to fall
So the troops moved back one and all

The very next day the surrender came
Then we were men without a name
You may think here's Where the story ends
But actually here's where it begins
Tho' we fought and didn't see victory
The story of that march will go down in history

We marched along in columns of four
Living and seeing the horrors of war
And when a man fell along the way
A cold bayonet would make him pay
For those four months he fought on bataan
Then they'd kill him 'cause he couldn't stand

The tropic sun would sweat us dry
For the pumps were few that we passed by
But on we marched to a place unknown
A place to rest and a place to call home
Home not that you might know
But home to man that suffered a blow

Then to O'Donnell Camp en masse
Some never back thru' those gates to pass
In Nipa huts we lived like beast
Bad rice and camotes were called a feast

Our minds went back to days gone by
When our throats were never dry
Of our wives, our mothers, and friends
Of our by-gone days and our many sins
And about four thousand passed away
And how many more no man can say
For no tomb stone marks the spot
Where thirty to fifty were buried in lot
Piled together as a rubbish heap
The remains of men
Who were forced to retreat

Now I want to state and my words are straight
And I bet you think they're true
That if you gotta die it's better to try
And take them with you too

It's they that took us that fatal day
It's they that made us pay and pay
It's they that counted us morn and night
It's they that again we wanted to fight
It's they that made us as we are
But it's not they that'll win this war
For the men in khaki will come some day
And take us back to the U.S.A.

Senator Nelson, on behalf of Senator Brimer: Smith L. Green was born December 13, 1916. He enlisted in the United States Army in 1935. Smith became a mule leader, wire layer, switchboard operator, and radio operator, in that order. He became a tank radio operator and tank driver. Smith arrived in Manila on October 27, 1939. After the war began, Green's group reached Highway 1 on Manila Bay on April 10, 1942, and began the march northward to San Fernando. The group entered Camp O'Donnell on April 14, 1942. Green was transferred to Cabanatuan No. 1 POW Camp on June 2, 1942. About 1,400-1,500 American POWs had died at Camp O'Donnell by that time. Green was then transferred to Hirohata POW Camp, Honshu Island, Japan, on September 18, 1943. He left Manila on the *Taga Maru* September 20, 1943, and arrived at Hirohata at Moji, Japan, on October 5, 1943. Green worked at Seitetsu Steel Mill until Japan surrendered August 15, 1945 (Japan time). He broke up slag under the furnace, shoveled coal and iron ore on ships and rail cars, and handled pig iron. Green returned to the United States via the Philippines on October 15, 1945. That was six years and 11 days after departing the United States for a two-year tour. He reenlisted in the Infantry after several months' recuperation and was transferred to the United States Army Air Force after reenlistment leave. His first assignment, by choice, was to the Fort Worth Army Airfield (later Carswell Air Force Base) at Fort Worth, Texas, where he was an Airborne Radio Operator on B-29s. He had aspired to such duty after seeing B-29s high overhead in Japan in 1945, where he witnessed them destroying Himeji, a few miles away, on the nights of July 3-4, 1945. What fireworks for Independence Day! Smith's military career continued with success, and he retired from Biggs Air Force Base, El Paso, in 1957. He graduated from Texas Christian University in 1961 with a B.S. in Commerce, magna cum laude. Smith married Marie on December 4, 1964. He retired from the Texas Department of Health as Finance Officer, Bureau of Long Term Care, on December 31, 1983. The Greens moved near Granbury, Texas, in May of 1984, where he cleared land, chopped wood, and gardened until July, 1999, when they moved to their present address.

Senator Van de Putte: Private Joseph O. Lajzer was born in Ohio in 1918. He attended high school for three years but left to support his family. Joseph was originally a member of 753rd Medium Tank Battalion and trained at Fort Knox, Kentucky. He was trained as a tank driver and to work on machine guns. He was sent to Camp Polk, Louisiana, in 1941, where he volunteered to join the 192nd Tank Battalion. The battalion had been selected for overseas duty and needed replacements for men who had been deemed too old to go overseas. Joseph arrived in the Philippines two weeks before the attack on Pearl Harbor. He worked ordnance, ensuring that the tanks had the needed ammunition, food, and gas. One night, Joe was doing his machine gun shift when a sergeant told him of the surrender to Japan. He

finished the shift and left the other men asleep. Not long afterwards, Japanese soldiers came through the clearing, searching for Joe and the others. The Japanese soldiers took the contents of Joe's pockets. Joe took part in the Death March, where the POWs had no food, water, or rest. The prisoners marched well into the night. As they marched, they were unaware that they were marching on the bodies of the dead who had been run over by Japanese trucks. The first camp Joe was held in was Camp O'Donnell. In the Philippines, Joe was imprisoned at Capas, Lipa Batangas, Camp Murphy, and Bilibid Prison. Joe was imprisoned in Bilibid for about a month. He left the Philippines on the "Hellship" *Benju Maru* and spent 38 days in the hold of the ship on the way to Formosa, without going to the washroom for 15 days. The convoy left the Philippines with 15 ships but only three got to Formosa. In Formosa, Joe was assigned to OKA Camp, where he performed slave labor, built runways, and worked on sanitation. Joe was one of 11 Americans held in his camp. Joe and the other prisoners had no idea how the war was going. The first hint that something was happening was when they saw planes over the island. Around September 1, 1945, food was dropped to the POWs. The Japanese gave each POW five cigarettes and a handful of peanuts. The POWs did not have to work that day. On September 6, 1945, the United States Navy came to the island and liberated the POWs. Joseph was returned to the Philippines and then sent by troop ship to San Francisco.

The following poem, by an unknown author, was read by Senator Van de Putte:

Sleep my sons, your duty done . . .
 For freedom's light has come.
 Sleep in the silent depths of the sea
 Or in your bed of hallowed sod.
 Until you hear at dawn
 The low clear reveille of God.

(Senator Shapiro in Chair)

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.

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.

GUESTS PRESENTED

Senator Hinojosa was recognized and introduced to the Senate a group of students from Texas A&M University–Corpus Christi representing women in government.

The Senate welcomed its guests.

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The Presiding Officer 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.

CONCLUSION OF MORNING CALL

The Presiding Officer, Senator Shapiro in Chair, at 12:13 p.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 506 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 506** at this time on its second reading:

CSSB 506, Relating to the sale of life insurance to military personnel; providing an administrative penalty.

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.

COMMITTEE SUBSTITUTE SENATE BILL 506 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 506** 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 506**, 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 506** 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.

**COMMITTEE SUBSTITUTE
SENATE BILL 32 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 32** at this time on its second reading:

CSSB 32, Relating to certain special tuition rates at institutions of higher education.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 32**, Section 2, Subsection (a), Section 54.072, Education Code (single spaced version page 1, lines 24-34), by striking lines 24-34 and substituting the following:

Sec. 54.072. FLAT RATE TUITION [~~PILOT PROJECT~~]. (a) In this section, "flat-rate tuition" means all academic program costs related to enrollment in an academic course or degree program that are charted to a student, including all charges designated as tuition, mandatory fees, and incidental fees. The term does not include voluntary fees.

Amend **CSSB 32**, Section 2, Subsection (d), Section 54.072, Education Code (single spaced version page 2, line 1), by inserting the following as subsection (d):

(d) An institution is permitted to establish a different flat-rate amount for each college or degree program.

Amend **CSSB 32**, Section 2, Subsection (e), Section 54.072, Education Code (single spaced version page 2, line 2), by inserting the following as subsection (e):

(e) Upon receiving approval from the governing board for flat rate tuition amounts as allowed under this section, the institution shall report each flat rate tuition amount to the Texas Higher Education Coordinating Board and provide the calculations used in determining those amounts.

The amendment to **CSSB 32** 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 Janek offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 32** on page 2, line 24, by striking "14" and substituting "15".

The amendment to **CSSB 32** 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.

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

CSSB 32 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 32 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 32** 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 32**, 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 32** 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.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Eltife was granted leave of absence for the remainder of the day on account of important business.

SENATE BILL 851 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 851** at this time on its second reading:

SB 851, Relating to a financial literacy pilot program in public schools.

The bill was read second time.

Senator Shapleigh offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 851** by adding the following to page one, line 20, and renumbering accordingly:

(2) understanding the rights and responsibilities of renting or buying a home;

The committee amendment to **SB 851** was read and was adopted by a viva voce vote.

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

Absent-excused: Eltife.

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

SB 851 as amended was passed to engrossment by a viva voce vote.

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

Absent-excused: Eltife.

SENATE BILL 851 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 851** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Eltife.

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 851**, 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 851** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
 Senator, District 25

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

Absent-excused: Eltife.

**COMMITTEE SUBSTITUTE
 SENATE BILL 187 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 187** at this time on its second reading:

CSSB 187, Relating to permissible uses of money in the comprehensive rehabilitation fund.

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

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

Absent-excused: Eltife.

**COMMITTEE SUBSTITUTE
 SENATE BILL 187 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 187** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Eltife.

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 187**, 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 187** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

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

Absent-excused: Eltife.

COMMITTEE SUBSTITUTE SENATE BILL 47 ON THIRD READING

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

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

The motion prevailed by the following vote: Yeas 24, Nays 6.

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

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

Absent-excused: Eltife.

The bill was read third time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSSB 47** on third reading as follows:

(1) In SECTION 1 of the bill, in added Section 531.1063(h), Government Code, 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;

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

The amendment to **CSSB 47** 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 Third Reading except as follows:

Absent-excused: Eltife.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **CSSB 47** on third reading, in SECTION 1 of the bill, in added Section 531.1063(d-1), Government Code, by striking "15" and substituting "18".

The amendment was read.

On motion of Senator Nelson, Floor Amendment No. 2 on Third Reading to **CSSB 47** was tabled by the following vote: Yeas 20, Nays 10.

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

Nays: Barrientos, Ellis, Gallegos, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent-excused: Eltife.

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

CSSB 47 as again amended was finally passed by the following vote: Yeas 24, Nays 6.

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

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

Absent-excused: Eltife.

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

SENATE BILL 747 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **SB 747** at this time on its second reading:

SB 747, Relating to establishing a demonstration project for women's health care services.

The motion prevailed by the following vote: Yeas 21, Nays 7.

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

Nays: Armbrister, Brimer, Estes, Fraser, Jackson, Janek, Nelson.

Absent: Harris, Staples.

Absent-excused: Eltife.

The bill was read second time.

(President in Chair)

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 747** as follows:

(1) In SECTION 1 of the bill, in added Section 32.0248(a), Human Resources Code, strike Subdivisions (4)-(7) (page 1, lines 30-35, committee printing) and substitute the following:

(4) counseling and education on contraceptive methods, except for counseling and education regarding emergency contraception;

(5) provision of contraceptives, except for the provision of emergency contraception;

(6) risk assessment; and

(7) referral of medical problems to appropriate providers that are entities or organizations that do not perform or promote elective abortions or contract or affiliate with entities that perform or promote elective abortions.

(2) In SECTION 1 of the bill, in added Section 32.0248, Human Resources Code, strike Subsection (h) (page 2, lines 32-35, committee printing) and substitute the following:

(h) The department shall ensure the money spent under the demonstration project, regardless of the funding source, is not used to perform or promote elective abortions. The department, for the purpose of the demonstration project, may not contract with entities that perform or promote elective abortions or are affiliates of entities that perform or promote elective abortions.

The amendment was read.

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

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **SB 747** as follows:

(1) At lines 6-7, strike "except for counseling and education regarding emergency contraception";

(2) At lines 8-9, strike "except for the provision of emergency contraception".

The amendment to the amendment was read.

On motion of Senator Deuell, Floor Amendment No. 2 to Floor Amendment No. 1 to **SB 747** was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Harris, Jackson, Janek, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lindsay, Lucio, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Eltife.

Question recurring on the adoption of Floor Amendment No. 1 to **SB 747**, the amendment was adopted by the following vote: Yeas 20, Nays 10.

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

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Eltife.

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

SB 747 as amended was passed to engrossment by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Estes, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Williams, Zaffirini.

Nays: Ellis, Fraser, Gallegos, Hinojosa, Shapleigh, Van de Putte, Wentworth, West, Whitmire.

Absent: Harris.

Absent-excused: Eltife.

**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 10. (Not receiving two-thirds vote of Members present)

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

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

Absent: Harris.

Absent-excused: Eltife.

**MOTION TO PLACE
SENATE BILL 716 ON SECOND READING**

Senator Gallegos moved to suspend the regular order of business to take up for consideration **SB 716** at this time on its second reading:

SB 716, Relating to payroll deductions for certain employees who are peace officers.

The motion was lost by the following vote: Yeas 19, Nays 9. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Averitt, Barrientos, Brimer, Deuell, Ellis, Estes, Gallegos, Hinojosa, Lindsay, Lucio, Madla, Ogden, Shapleigh, Staples, Van de Putte, West, Whitmire, Zaffirini.

Nays: Carona, Duncan, Fraser, Jackson, Janek, Nelson, Seliger, Shapiro, Wentworth.

Absent: Harris, Williams.

Absent-excused: Eltife.

**COMMITTEE SUBSTITUTE
SENATE BILL 11 ON SECOND READING**

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 11** at this time on its second reading:

CSSB 11, Relating to security in public schools.

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 11** as follows:

(1) Strike SECTION 3 of the bill (committee printing page 2, lines 5-21), and substitute the following:

SECTION 3. Section 37.205, Education Code, is amended to read as follows:

Sec. 37.205. SAFETY TRAINING PROGRAMS. The center shall conduct for school districts a safety training program that includes:

(1) development of a positive school environment and proactive safety measures designed to address local concerns;

(2) school safety courses for law enforcement officials, with a focus on school district police officers and school resource officers;

(3) discussion of school safety issues with parents and community members; and

(4) assistance in developing a multihazard emergency operations plan for adoption under Section 37.108 [~~specialized training for the staff of alternative education programs and juvenile justice alternative education programs~~].

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

SECTION ____ . Section 37.208, Education Code, is amended to read as follows:

Sec. 37.208. ON-SITE ASSISTANCE. On request of a school district, the center may ~~shall~~ provide on-site technical assistance to the district for:

(1) school safety and security audits; and

(2) school safety and security information and presentations.

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

SECTION ____ . Sections 37.206 and 37.213, Education Code, are repealed.

The amendment to **CSSB 11** was read and was adopted by a viva voce vote.

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

Absent: Harris.

Absent-excused: Eltife.

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

CSSB 11 as amended was passed to engrossment by a viva voce vote.

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

Absent: Harris.

Absent-excused: Eltife.

COMMITTEE SUBSTITUTE SENATE BILL 11 ON THIRD READING

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 11** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent: Harris.

Absent-excused: Eltife.

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 11**, 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 11** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent: Harris.

Absent-excused: Eltife.

SENATE BILL 716 ON SECOND READING

Senator Gallegos again moved to suspend the regular order of business to take up for consideration **SB 716** at this time on its second reading:

SB 716, Relating to payroll deductions for certain employees who are peace officers.

The motion to suspend the regular order of business, having been previously incorrectly announced as lost, prevailed by the following vote: Yeas 19, Nays 9.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Deuell, Ellis, Estes, Gallegos, Hinojosa, Lindsay, Lucio, Madla, Ogden, Shapleigh, Staples, Van de Putte, West, Whitmire, Zaffirini.

Nays: Carona, Duncan, Fraser, Jackson, Janek, Nelson, Seliger, Shapiro, Wentworth.

Absent: Harris, Williams.

Absent-excused: Eltife.

The bill was read second time and was passed to engrossment by the following vote: Yeas 17, Nays 11.

Yeas: Armbrister, Averitt, Barrientos, Deuell, Ellis, Estes, Gallegos, Hinojosa, Lucio, Madla, Ogden, Shapleigh, Staples, Van de Putte, West, Whitmire, Zaffirini.

Nays: Brimer, Carona, Duncan, Fraser, Jackson, Janek, Lindsay, Nelson, Seliger, Shapiro, Wentworth.

Absent: Harris, Williams.

Absent-excused: Eltife.

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

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

MOTION TO RECESS AND ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 2:39 p.m. agreed to recess, upon completion of the introduction of bills and resolutions on first reading, until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

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

(Senator Barrientos in Chair)

SENATE BILLS ON FIRST READING

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

SB 1836 by Barrientos

Relating to the creation of Pflugerville Municipal Management District No. 1; providing authority to impose a tax and issue bonds. (Local Bill)

To Committee on Intergovernmental Relations.

SB 1837 by Wentworth

Relating to the composition of the Comal County Juvenile Board. (Local Bill)

To Committee on Jurisprudence.

SB 1838 by Barrientos

Relating to the creation of the Hill Country Heritage and Conservation District; providing authority to impose a tax and issue a bond or similar obligation. (Local Bill)

To Committee on Intergovernmental Relations.

SB 1839 by Lucio

Relating to the creation of the Kleberg County Groundwater Conservation District; providing authority to impose a tax and issue bonds and granting the power of eminent domain. (Local Bill)

To Committee on Natural Resources.

SB 1840 by Lucio

Relating to the Willacy County Drainage District No. 1. (Local Bill)

To Committee on Natural Resources.

HOUSE BILLS ON FIRST READING

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

HB 7 to Committee on State Affairs.

HB 75 to Committee on Jurisprudence.

HB 87 to Committee on Transportation and Homeland Security.

HB 132 to Committee on Intergovernmental Relations.

HB 210 to Committee on Business and Commerce.

HB 224 to Committee on Health and Human Services.

HB 330 to Committee on Jurisprudence.

HB 364 to Committee on Transportation and Homeland Security.

HB 369 to Committee on Criminal Justice.

HB 388 to Committee on Jurisprudence.

HB 389 to Committee on Jurisprudence.

HB 473 to Committee on Natural Resources.

HB 475 to Committee on Natural Resources.

HB 496 to Committee on Jurisprudence.

HB 749 to Committee on Transportation and Homeland Security.

HB 775 to Committee on International Relations and Trade.

HB 874 to Committee on Transportation and Homeland Security.

HB 961 to Committee on Intergovernmental Relations.

HB 965 to Committee on Natural Resources.

HB 1058 to Committee on Education.

HB 1097 to Committee on Natural Resources.

HB 1119 to Committee on Jurisprudence.

HB 1190 to Committee on Jurisprudence.

HB 1236 to Committee on Business and Commerce.

HB 1267 to Committee on Intergovernmental Relations.

HB 1323 to Committee on Criminal Justice.

HB 1393 to Committee on Business and Commerce.

HB 1428 to Committee on State Affairs.

HB 1562 to Committee on State Affairs.

HB 1705 to Committee on Natural Resources.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 553 by Hinojosa, In memory of Jose Luis Perez, Jr., of Corpus Christi.

Congratulatory Resolutions

SCR 26 by Hinojosa, Commending Troy Lowell Luce for his service to his country.

SR 552 by Williams, Recognizing Joseph Denton Harris IV for earning the American Heart Association's 23rd Annual J. C. Crager Award.

SR 554 by Jackson, Recognizing Big League Dreams Sports on the occasion of its grand opening in League City.

SR 556 by Barrientos, Recognizing Lori Cervenak-Renteria and Sabino Pio Renteria on the occasion of their 25th wedding anniversary.

SR 558 by Lucio, Recognizing the International Christian Center/*Centro Cristiano Internacional* in Brownsville and Matamoros for their service.

SR 559 by Lucio, Recognizing Julio Sanchez for his service to his country.

SR 560 by Lucio, Recognizing John Galvan of Harlingen for his participation in the Texas 4000 for Cancer bike tour.

SR 561 by Lucio, Commending Richard Ray Dukes for achieving the rank of Eagle Scout.

SR 562 by Lucio, Recognizing Reynaldo M. Perez on the occasion of his retirement.

Official Designation Resolution

SR 557 by Lucio, Recognizing March 1, 2005, as Community Development Day at the Capitol.

RECESS

Pursuant to a previously adopted motion, the Senate at 2:48 p.m. recessed until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

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

April 6, 2005

BUSINESS AND COMMERCE — SB 314, SB 743, SB 846, SB 1495, SB 1563, SB 1593, CSSB 686, CSSB 1447, CSSB 1494

NATURAL RESOURCES — CSSB 331, CSSB 363, CSSB 485, CSSB 839, CSSB 947, SB 509, SB 1065, SB 1297

INTERGOVERNMENTAL RELATIONS — CSSB 574, CSSB 848, SB 863 (Amended)

NATURAL RESOURCES — CSSB 575, CSSB 480, CSSB 123, SB 1298, SB 1299

HEALTH AND HUMAN SERVICES — SB 995, SB 1524, SB 566, CSSB 1001, CSSB 983

STATE AFFAIRS — **CSSB 51, CSSB 179, CSSB 481, CSSB 500, CSSB 890, CSSB 1224**

HEALTH AND HUMAN SERVICES — **CSSB 1378**

SENT TO GOVERNOR

April 6, 2005

SB 252

