

FORTY-SEVENTH DAY

TUESDAY, APRIL 12, 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 Dr. Jay Horton, First United Methodist Church, Lubbock, offered the invocation as follows:

Most gracious, heavenly Father, on the beginning of this day we are thankful to be alive, to have family and friends, faith and freedom. All things come from Thee, O Lord. Give us a thankful heart. As these legislators gather to help guide the great State of Texas, may Your spirit remind them of the vows that they swore to uphold before You and the people of this state. Give them integrity, compassion, and boldness for making right decisions. Use them as a light for spreading and cultivating peace, justice, mercy, forgiveness, goodness, and hope. May love and respect for one another ring throughout these Chamber halls in regard to political parties, faith and values, ethnic and cultural backgrounds, and variegated opinions. We may be different but we are all Your children, O God. And, now let Your light shine upon our Governor and all these gathered here, and, in turn, let them be a light of good health and prosperity for Texas, America, and the world. In Your almighty name we pray. 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 122

On motion of Senator Hinojosa, Senator Carona will be shown as Co-author of **SB 122**.

CO-AUTHOR OF SENATE BILL 684

On motion of Senator Lucio, Senator Zaffirini will be shown as Co-author of **SB 684**.

CO-AUTHOR OF SENATE BILL 1212

On motion of Senator West, Senator Armbrister will be shown as Co-author of **SB 1212**.

PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. Beverly Nuckols of New Braunfels as the Physician of the Day.

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

SENATE RESOLUTION 579

Senator Duncan offered the following resolution:

WHEREAS, Members of the Texas Tech Alumni Association are visiting the State Capitol on this day, April 12, 2005, and their visit provides an ideal opportunity to take special note of the organization's history and accomplishments; and

WHEREAS, Founded in 1927 by the 26 members of the university's first graduating class, the organization now boasts more than 25,000 alumni who are members of 85 chapters across the United States and 12 chapters in other countries; and

WHEREAS, In addition to offering career service and travel programs, the TTAA supports the Red Raider Camp at Junction, which introduces first-year students to university life; the association also annually provides more than 400 scholarships; and

WHEREAS, Through the years, more than 185,000 individuals have graduated from Texas Tech University, including 17 members of this legislature, and it is a pleasure to commend the association for its worthy goal of cultivating loyalty, tradition, service, and lifelong relationships among the school's alumni; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby recognize April 12, 2005, as Red and Black Day at the State Capitol and extend to all those members of the Texas Tech Alumni Association present here today sincere best wishes for a memorable visit to Austin; and, be it further

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

SR 579 was read and was adopted without objection.

GUESTS PRESENTED

Senator Duncan was recognized and introduced to the Senate members of the Texas Tech Alumni Association.

The Senate welcomed its guests.

SENATE RESOLUTION 555

Senator Carona offered the following resolution:

WHEREAS, Throughout its history the State of Texas has maintained a commitment to the principle of private property rights, and since its creation in 1920, the Texas Association of REALTORS® and its members have supported this vital principle; and

WHEREAS, Each day, REALTORS® provide valuable professional services that enable their fellow Texans to buy, sell, lease, develop, and manage real estate in a knowledgeable and confident manner, while helping to preserve the free enterprise system and the right to own real property; and

WHEREAS, Over the years, Texas REALTORS® have worked diligently within the regulatory process to promote and raise their business practices, and the term "REALTOR®" has come to stand for competence, fairness, and integrity; and

WHEREAS, One of the many things separating REALTORS® from all real estate licensees is their adherence to a strict code of ethics ensuring consumers that they will be treated fairly and professionally; and

WHEREAS, The more than 73,000 members of the Texas Association of REALTORS® have consistently supported responsible government as well as the entrepreneurial spirit that is the backbone of our state's economy, and its members are indeed worthy of special recognition at this time; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby recognize April 12, 2005, as REALTOR® Appreciation Day at the State Capitol and extend a warm welcome to members of the Texas Association of REALTORS® on the occasion of their visit to the State Capitol; and, be it further

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

CARONA
BRIMER
ELTIFE

HARRIS
STAPLES
WENTWORTH

SR 555 was read and was adopted without objection.

GUESTS PRESENTED

Senator Carona was recognized and introduced to the Senate officers of the Texas Association of Realtors: Lance Lacy, Chair; Dennis Patillo, Chair-elect; Avis Wukasch, Secretary-Treasurer; and Dave Dalzell, Immediate Past Chair; accompanied by a delegation of members.

The Senate welcomed its guests.

SENATE RESOLUTION 588

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join the citizens of Pharr, San Juan, and Alamo in recognizing April 12, 2005, as PSJA Day at the Capitol; and

WHEREAS, A Texas Main Street Community, Pharr is the largest of the three cities that make up PSJA; it is the site of the Pharr/Reynosa International Bridge, Smitty's Juke Box Museum, and the Old Clock Museum; and

WHEREAS, The City of San Juan is the home of the Basilica of the National Shrine of Our Lady of San Juan del Valle; the city exhibits its hometown pride by flying the American flag on a 160-foot flagpole, the highest in the Rio Grande Valley; and

WHEREAS, The City of Alamo is known as the "land of two summers" and over 20,000 "winter Texans" dwell in Alamo every year; nature lovers from all over the country visit the nearby Santa Ana National Wildlife Refuge; the Sunderland Cactus Garden and Alamo Central Park are also popular sites for visiting tourists; and

WHEREAS, The Pharr-San Juan-Alamo Independent School District is the largest school district in Hidalgo County; it is a progressive district that offers innovative courses and programs to over 27,000 students; and

WHEREAS, This vital and dynamic area offers small-town charm and robust commercial development; the area also hosts colorful cultural events that capture the spirits of both Texas and Mexico; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the citizens of Pharr, San Juan, and Alamo for the many contributions they have made to our state and extend to them best wishes for a joyful PSJA Day at the Capitol; and, be it further

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

LUCIO
HINOJOSA

SR 588 was read and was adopted without objection.

GUESTS PRESENTED

Senator Lucio, joined by Senator Hinojosa, was recognized and introduced to the Senate representatives of PSJA Day at the Capitol: Leopoldo "Polo" Palacios, Mayor, City of Pharr; Roberto F. Loreda, Mayor, City of San Juan; Rudy Villarreal, Mayor, City of Alamo; and Arturo Guajardo, Superintendent of Pharr-San Juan-Alamo Independent School District; accompanied by a delegation of citizens from Pharr, San Juan, and Alamo.

The Senate welcomed its guests.

(Senator Nelson in Chair)

SENATE RESOLUTION 595

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Dr. Gerald Mann, who is retiring after 26 years of outstanding service as senior pastor of Riverbend Baptist Church in Austin; and

WHEREAS, Well known throughout our state and nation as a minister, humorist, writer, and public speaker, Dr. Gerald Mann has had an impact on the lives of countless Christians and has long been a source of inspiration and joy to his congregation and his many followers; and

WHEREAS, A native of West Columbia, Texas, Dr. Mann holds a bachelor's degree in religion from the University of Corpus Christi; he earned a master's degree in theology and a doctoral degree in philosophy from the Southwestern Baptist Theological Seminary; and

WHEREAS, Upon completing his education, Dr. Mann served as pastor of the First Baptist Church in Hereford; he then moved to Austin to minister at the University Baptist Church, and he has called Austin his home ever since; and

WHEREAS, Soon recognized for his talent, vitality, and quick wit, Dr. Mann was called to fulfill a role that would earn him statewide admiration—he was named chaplain of the Texas Legislature, where his distinctive opening one-line "zinger" prayers earned him a devoted following of legislators and Capitol visitors alike; and

WHEREAS, With a dream, a purpose, and 60 determined members, Dr. Mann established the Riverbend Baptist Church in 1979; through the years, the congregation grew rapidly, and today, more than 8,000 people regularly attend the church to hear his sermons every week; and

WHEREAS, Dr. Mann's services have been televised locally, and in recognition of his unique approach to making faith relevant to everyday life, the Odyssey Network broadcasts "Real Life with Dr. Gerald Mann" nationwide, reaching approximately 80 million homes; and

WHEREAS, Dr. Mann is the author of a number of popular books, including *The Seven Deadly Virtues*, *Common Sense Religion*, and *When One Day at a Time is Too Long*, and has been cited by such respected news sources as *Newsweek* and *The Wall Street Journal*; and

WHEREAS, Dr. Mann is famous as a voice for common sense Christianity and is much beloved and greatly admired by citizens across our state and nation; his presence as senior pastor of Riverbend Baptist Church will be greatly missed by all who attend its services and by his colleagues in the ministry; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Dr. Gerald Mann for his many years of service to his congregation and to the State of Texas and extend to him best wishes for the retirement years ahead; and, be it further

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

SR 595 was read and was adopted without objection.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate Dr. Gerald Mann, his wife, Sandra, and his assistant, Chris Weihl.

The Senate welcomed its guests.

VIDEO RELEASE POLICY WAIVED

On motion of Senator Barrientos and by unanimous consent, the Senate policy that governs the release of videotapes of the Senate proceedings was waived in order to grant the request of Dr. Gerald Mann for a videotape of this day's session.

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate a delegation of citizens from Wichita Falls.

The Senate welcomed its guests.

SENATE BILLS ON FIRST READING

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

SB 1853 by Madla

Relating to the distribution of assessments charged by Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1. (Local Bill)
To Committee on Intergovernmental Relations.

SB 1854 by Lucio

Relating to the boundaries of and prohibited acts in the Nine-Mile Hole State Scientific Area; providing a penalty. (Local Bill)
To Committee on Natural Resources.

HOUSE BILLS AND RESOLUTION ON FIRST READING

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

HB 10 to Committee on Finance.

HB 258 to Subcommittee on Higher Education.

HB 503 to Committee on Veteran Affairs and Military Installations.

HB 598 to Subcommittee on Higher Education.

HB 604 to Committee on State Affairs.

HB 646 to Committee on Criminal Justice.

HB 780 to Committee on Jurisprudence.

HB 993 to Subcommittee on Higher Education.

HB 994 to Subcommittee on Higher Education.

HB 1045 to Committee on Business and Commerce.

HB 1062 to Committee on Jurisprudence.

HB 1063 to Subcommittee on Higher Education.

HB 1142 to Committee on Jurisprudence.

HB 1201 to Committee on Business and Commerce.

HB 1224 to Committee on Natural Resources.

HB 1225 to Committee on Natural Resources.
HB 1339 to Committee on Transportation and Homeland Security.
HB 1350 to Committee on Transportation and Homeland Security.
HB 1412 to Subcommittee on Higher Education.
HB 1470 to Committee on Criminal Justice.
HB 1501 to Committee on Jurisprudence.
HB 1509 to Committee on State Affairs.
HB 1622 to Committee on Jurisprudence.
HB 1657 to Committee on Natural Resources.
HB 2108 to Subcommittee on Higher Education.
HB 2212 to Subcommittee on Higher Education.
HB 2272 to Subcommittee on Higher Education.
HB 2441 to Subcommittee on Higher Education.
HCR 36 to Committee on Administration.

CONCLUSION OF MORNING CALL

The Presiding Officer, Senator Nelson in Chair, at 11:56 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 101 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 **CSSB 101** at this time on its second reading:

CSSB 101, Relating to efficiently administering and electronically monitoring certain veterans' and dependents' tuition exemptions at institutions of higher education.

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 101 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 **CSSB 101** 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 101**, 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 101** 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 BILL 566 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 566** at this time on its second reading:

SB 566, Relating to a Medicaid buy-in program for employed persons with disabilities.

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.

SENATE BILL 566 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 566** 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 566**, 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 566** 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 481 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 481** at this time on its second reading:

CSSB 481, Relating to creating an offense for the unauthorized operation of a recording device in a motion picture theater.

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 1001 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1001** at this time on its second reading:

CSSB 1001, Relating to the provision of health care in medically underserved communities.

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 1001 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1001** 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 1001**, 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 1001** 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 690 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 690** at this time on its second reading:

CSSB 690, Relating to the requirement to post meetings of a governmental body under the open meetings law in certain circumstances.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 690** as follows:

(1) In Section 1 of the bill, at the end of proposed Subsection (a), Section 551.0411, Government Code (committee printing, page 1, line 19), add "If an open meeting is continued to the following regular business day and, on that following day, the governmental body continues the meeting to another day, the governmental body must give written notice as required by this subchapter of the meeting continued to that other day.".

(2) In Section 1 of the bill, at the end of proposed Subsection (b), Section 551.0411, Government Code (committee printing, page 1, line 25), add "If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives written notice of the meeting as required by this subchapter.".

The amendment to **CSSB 690** was read and was adopted by a viva voce vote.

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

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

CSSB 690 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: Seliger.

COMMITTEE SUBSTITUTE SENATE BILL 690 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 690** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

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

Nays: Seliger, 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 690**, 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 690** 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: Seliger.

COMMITTEE SUBSTITUTE
SENATE BILL 691 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 691** at this time on its second reading:

CSSB 691, Relating to the creation and functions of an arthritis control and prevention program.

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 691 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 691** 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 691**, 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 691** 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.

(Senator Williams in Chair)

(President in Chair)

SENATE BILL 872 ON SECOND READING

Senator Nelson moved to suspend the regular order of business to take up for consideration **SB 872** at this time on its second reading:

SB 872, Relating to a study regarding the impact of niche hospitals on other general hospitals and to certain disclosure requirements regarding niche hospitals.

The motion prevailed.

Senator Williams asked to be recorded as "Present-not voting" 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 **SB 872** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill appropriately:

SECTION ____. Subchapter B, Chapter 162, Occupations Code, is amended by adding Section 162.052 to read as follows:

Sec. 162.052. NOTICE OF CERTAIN OWNERSHIP INTERESTS. (a) In this section, "niche hospital" has the meaning assigned by Section 105.002, Occupations Code.

(b) A physician shall notify the Department of State Health Services of any ownership interest held by the physician in a niche hospital.

(c) Subsection (b) does not apply to an ownership interest in publicly available shares of a registered investment company, such as a mutual fund, that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

(d) The board, in consultation with the Department of State Health Services, shall adopt rules governing the form and content of the notice required by Subsection (b).

SECTION ____. Section 108.011, Health and Safety Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1) The council shall use public use data to prepare and issue reports that provide information for review and analysis by the Health and Human Services Commission relating to services that are provided in a niche hospital, as defined by Section 105.002, Occupations Code, and that are provided by a physician with an ownership interest in the niche hospital.

(c-2) Subsection (c-1) does not apply to an ownership interest in publicly available shares of a registered investment company, such as a mutual fund, that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

The amendment to **SB 872** 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: Staples.

Present-not voting: Williams.

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

SB 872 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:

Present-not voting: Williams.

SENATE BILL 872 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 872** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: 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, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Williams.

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 872**, 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 872** 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, Present-not voting 1.

Present-not voting: Williams.

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 30, SB 39, SB 95, SB 448, SB 676, SB 1034, SB 1228, SB 1529, SB 1716.

SENATE RULE 11.10(a) SUSPENDED
(Public Notice of Committee Meetings)

On motion of Senator Lindsay and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Nominations might meet today.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Government Organization might meet and consider **SB 405** today.

SENATE BILL 1850 REREFERRED

Senator Gallegos submitted a Motion In Writing requesting that **SB 1850** be withdrawn from the Committee on Business and Commerce and rereferred to the Committee on Intergovernmental Relations.

The Motion In Writing prevailed without objection.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 567 by Brimer, Honoring the life of Omer Dee Simms.

SR 596 by Van de Putte, In memory of Justo Guajardo of San Antonio.

Congratulatory Resolution

SR 597 by Ellis, Recognizing Tom and Annette Wilmot on the occasion of their 25th wedding anniversary.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:44 p.m. adjourned 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 12, 2005

INTERNATIONAL RELATIONS AND TRADE — **CSSB 827**

FINANCE — **SB 263, SB 1484**

ADMINISTRATION — **SCR 9**

INTERGOVERNMENTAL RELATIONS — **SB 369, SB 854, SB 1421, CSSB 425, CSSB 514, CSSB 515, CSSB 516, CSSB 935, CSSB 1022, CSSB 1137, CSSB 1203, CSSB 1335, CSSB 1417, CSSB 1423, CSSB 1339, CSSB 1434, CSSB 1436**

SENT TO GOVERNOR

April 12, 2005

SB 267