

FIFTY-EIGHTH DAY

THURSDAY, APRIL 28, 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 David Taylor, New Life Christian Center, Lockhart, offered the invocation as follows:

Heavenly Father, in the name of the prince of peace, I ask You to grant these great leaders fresh ideas, concepts, and insight, in order to make decisions this day that will increase our great State of Texas. May Your peace and divine power touch the heart of each Member of this Senate, and I speak health to their bodies. In the name of the great I Am. 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 24

On motion of Senator Zaffirini, Senator Shapleigh will be shown as Co-author of **SB 24**.

CO-AUTHOR OF SENATE BILL 990

On motion of Senator Janek, Senator Zaffirini will be shown as Co-author of **SB 990**.

CO-AUTHOR OF SENATE BILL 1538

On motion of Senator Barrientos, Senator Ellis will be shown as Co-author of **SB 1538**.

CO-AUTHORS OF SENATE BILL 1850

On motion of Senator Gallegos, Senators Brimer, Ellis, Jackson, Lindsay, and Whitmire will be shown as Co-authors of **SB 1850**.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 27

On motion of Senator West, Senator Deuell will be shown as Co-author of **SCR 27**.

CO-SPONSOR OF HOUSE BILL 364

On motion of Senator Brimer and by unanimous consent, Senator Deuell will be shown as Co-sponsor of **HB 364**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 28, 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 316, Relating to a child's failure to attend school.

HB 371, Relating to liquidated damages for violating certain requirements relating to executory contracts for the conveyance of certain real property.

HB 481, Relating to the eligibility for unemployment benefits of certain persons with disabilities.

HB 578, Relating to the inclusion in a regional water plan of information regarding water infrastructure facilities that may be used in an emergency shortage of water.

HB 603, Relating to the suspension, removal, or expulsion of a public school student.

HB 652, Relating to the submission of proposed charter amendments to the voters in a home-rule municipality.

HB 818, Relating to the procedure for rendering certain property for ad valorem taxation if the information contained in the most recently filed rendition statement continues to be accurate.

HB 904, Relating to the sentencing of defendants convicted of multiple counts of intoxication assault, improper photography or visual recording, or possession or promotion of child pornography.

HB 1006, Relating to certain limitations on the ad valorem tax rates of certain taxing units.

HB 1038, Relating to certain reduced fees for a license to carry a concealed handgun.

HB 1059, Relating to the enforcement of certain protective orders.

HB 1229, Relating to the powers, duties, and directors of the Menard County Underground Water District and the directors of the Menard County Water Control and Improvement District No. 1.

HB 1357, Relating to the civil consequences of certain alcohol-related offenses.

HB 1430, Relating to the installation, copying, or use of computer software for unauthorized purposes; providing penalties.

HB 1546, Relating to the administration and use of the Texas rail relocation and improvement fund and the issuance of obligations for financing the relocation, construction, reconstruction, acquisition, improvement, rehabilitation, and expansion of certain rail facilities.

HB 1588, Relating to the qualifications and removal of and continuing education requirements for a constable.

HB 1609, Relating to the allowed wastes and exemptions applicable to certain municipal solid waste landfill units in arid areas.

HB 1701, Relating to the defense of indigent persons accused of a criminal offense.

HB 1737, Relating to the establishment of a dual usage educational complex by a junior college district and other political subdivisions or institutions of higher education.

HB 1747, Relating to the creation of and funding for the Texas Entrepreneurship Network.

HB 1771, Relating to the Medicaid managed care delivery system.

HB 1835, Relating to the apportionment of municipal infrastructure costs in regard to certain property development projects.

HB 1965, Relating to the grounds for a divorce and the division of property in a decree of divorce.

HB 2051, Relating to the adoption of a state scenic byways program.

HB 2161, Relating to the power of the Railroad Commission of Texas to adopt and enforce safety standards and practices applicable to the transportation by pipeline of certain substances and to certain pipeline facilities; imposing an administrative penalty.

HB 2236, Relating to restrictions on the imposition of permit fees by political subdivisions.

HB 2294, Relating to the venue for certain crimes regarding misapplication of property.

HB 2679, Relating to the development of a regional water supply reservoir project at a site known as Lower Bois d'Arc Creek in Fannin County, Texas.

HB 2784, Relating to the authority of a taxing unit to provide an additional exemption from ad valorem taxation for property owned by certain disabled veterans who have been awarded the Purple Heart or their surviving spouses.

HB 2840, Relating to the regulation of dogs; establishing a defense to prosecution; limiting liability.

HB 2930, Relating to an age limitation on children engaged in the performance of duties related to a paper route.

HB 3235, Relating to providing interpreter services to certain recipients of medical assistance or their parents or guardians.

SB 492, Relating to inspection of and drug compounding by a pharmacy and to distribution of compounded and prepackaged drugs to pharmacies under common ownership.

SB 1299, Relating to an exception to the prohibition against commingling used oil with solid waste if the commingling is incident to the dismantling of scrap, used, or obsolete metals.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

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

There was no objection.

PHYSICIAN OF THE DAY

Senator Eltife was recognized and presented Dr. William McCrady of Henderson as the Physician of the Day.

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

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
April 27, 2005

TO THE SENATE OF THE SEVENTY-NINTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

To be Chief Justice of the 7th Court of Appeals of Texas for a term until the next General Election and until his successor shall be duly elected and qualified:

Brian Patrick Quinn

Lubbock, Texas

(Justice Quinn is replacing Justice Philip Johnson who was appointed to the Supreme Court of Texas)

Respectfully submitted,

/s/Rick Perry

Governor

PERMISSION TO INTRODUCE BILL

Senator Whitmire moved to suspend Senate Rule 7.07(b) and Section 5, Article III, of the Texas Constitution to permit the introduction of the following bill:

SB 1883.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE RESOLUTION 709

Senator Staples offered the following resolution:

WHEREAS, The Jacksonville Leadership Institute is a truly laudable program that endeavors to educate and empower the future leaders of this great state; and

WHEREAS, A program of the Jacksonville Chamber of Commerce that familiarizes business leaders with the roles and responsibilities of city, county, and state government, the Jacksonville Leadership Institute is chaired by Dee Williams and Peggy Herring; and

WHEREAS, Participants have undertaken leadership development activities and have toured local facilities, including hospitals and schools; these dedicated Jacksonville residents have also attended school board and city council meetings as part of the program and have visited an array of area businesses; and

WHEREAS, With the 79th legislative session in full swing, the Capitol Complex offers these esteemed Texans an opportunity to view their state government at its dynamic best, and it is a pleasure to recognize all those associated with this fine program at this time; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby welcome the Jacksonville Leadership Institute to the State Capitol and extend best wishes for a memorable visit to the organizers and participants of this noteworthy program; and, be it further

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

SR 709 was read and was adopted without objection.

GUESTS PRESENTED

Senator Staples was recognized and introduced to the Senate a delegation representing the Jacksonville Leadership Institute.

The Senate welcomed its guests.

FORMER MEMBERS INTRODUCED

The Dean of the Senate, Senator Whitmire, was recognized and introduced to the Senate former Members of the Texas Senate: Bill Ratliff, former Lieutenant Governor, Mount Pleasant; former Members: Don Adams, Jasper; Chet Brooks, former Dean, Pasadena; Roy Blake, Nacogdoches; J. E. "Buster" Brown, Lake Jackson; David Cain, Dallas; Kent Caperton, Bryan; Steven A. Carriker, Roby; Michael Galloway, The Woodlands; Bob Gammage, Houston; Robert J. "Bob" Glasgow, Stephenville; Bill Haley, Center; Kent Hance, Lubbock; O. H. "Ike" Harris, Dallas; Jack Hightower, Vernon; Grant Jones, Temple; Don Kennard, Fort Worth; Glenn Kothmann, San Antonio; Ted Lyon, Rockwall; Mike McKinnon, Corpus Christi; Bill Meier, Euless; John T. Montford, Lubbock; Carl A. Parker, Port Arthur; W. N. "Bill" Patman, Ganado; Johnnie B. Rogers, Austin; A. R. "Babe" Schwartz, Galveston; Dan Shelley, Crosby; David Sibley, Waco; W. E. "Pete" Snelson, Midland; Jack Strong, Longview; Carlos F. Truan, former Dean, Corpus Christi; Jim Turner, Crockett; Jim Wallace, Houston; and Nelson Wolff, San Antonio; and Charles Schnabel, the youngest elected and second-longest serving Secretary of the Senate.

The Senate welcomed its guests.

DECEASED FORMER MEMBERS ACKNOWLEDGED

Senator Harris was recognized and read the names of former Members who are deceased and asked that the Senate adjourn today in memory of: the Honorable Searcy Bracewell, the Honorable Charles Ferguson Herring, Sr., the Honorable Robert D. Price, the Honorable Walter H. Richter, the Honorable Preston Earnest Smith, and the Honorable Dee Travis.

AT EASE

The President at 11:54 a.m. announced the Senate would stand At Ease pending the departure of its guests.

IN LEGISLATIVE SESSION

The President at 12:01 p.m. called the Senate to order as In Legislative Session.

BILLS SIGNED

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

SB 187, SB 402, SB 566, SB 877, SB 1014.

CONCLUSION OF MORNING CALL

The President at 12:02 p.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 1189 ON THIRD READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1189** at this time on its third reading and final passage:

CSSB 1189, Relating to the creation, composition, jurisdiction, and procedure of certain judicial districts, to the election of a local administrative district judge for certain counties, to the juvenile board in certain counties, and to the district courts in certain counties.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1239 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1239** at this time on its second reading:

CSSB 1239, Relating to a risk assessment program for Type 2 diabetes and the creation of the Type 2 Diabetes Risk Assessment Program Advisory Committee.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1239** by striking all below the enacting clause and substituting the following:

SECTION 1. The heading to Chapter 95, Health and Safety Code, as added by Chapter 1465, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

CHAPTER 95. RISK ASSESSMENT FOR TYPE 2 DIABETES
[~~ACANTHOSIS NIGRICANS SCREENING~~]

SECTION 2. Sections 95.002, 95.003, and 95.004, Health and Safety Code, as added by Chapter 1465, Acts of the 77th Legislature, Regular Session, 2001, are amended to read as follows:

Sec. 95.002. TYPE 2 DIABETES [~~ACANTHOSIS NIGRICANS~~]
EDUCATION AND RISK ASSESSMENT PROGRAM [~~SCREENING PROJECT~~].

(a) The office shall administer a risk assessment program for Type 2 diabetes [~~an acanthosis nigricans screening program~~] in accordance with this chapter.

(b) The executive council by rule shall coordinate the risk assessment for Type 2 diabetes [~~screening~~] of individuals who attend public or private schools located in Texas Education Agency Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 and in additional regional education service centers as funding is available.

(c) The rules must include procedures necessary to administer the risk assessment program, including procedures that require each school to record and report risk assessment [~~screening~~] activities using:

(1) the Centers for Disease Control and Prevention's Epi Info or similar surveillance software selected by the office; or

(2) an existing database used to administer and track risk assessment data.

(d) The office shall require a risk assessment for Type 2 diabetes [acanthosis nigricans screening] to be performed at the same time hearing and vision screening is performed under Chapter 36 or spinal screening is performed under Chapter 37. The risk assessment for Type 2 diabetes should:

(1) identify students with a body mass index above the normal range; and

(2) further assess students identified under Subdivision (1) for acanthosis nigricans and elevated blood pressure.

(e) The office may:

(1) coordinate the risk assessment for Type 2 diabetes [acanthosis nigricans screening] activities of school districts, private schools, state agencies, volunteer organizations, and other entities so that the efforts of each entity are complementary and not fragmented and duplicative; and

(2) [~~The office may~~] provide technical assistance to those entities in developing risk assessment [screening] programs.

(f) The office shall:

(1) [~~and may~~] provide educational and other material to assist local risk assessment [screening] activities;

(2) [~~(f) The office shall~~] monitor the quality of risk assessment [screening] activities provided under this chapter; and

(3) consult with the Board of Nurse Examiners to determine the training requirements necessary for a nurse or other person to conduct risk assessment activities under this chapter.

(g) The office shall periodically provide information on obesity, Type 2 diabetes, and related conditions to physicians.

Sec. 95.003. COMPLIANCE WITH RISK ASSESSMENT [SCREENING] REQUIREMENTS. (a) Each individual required by rules adopted under this chapter to be assessed [~~screened~~] shall undergo approved risk assessment [screening] for Type 2 diabetes [acanthosis nigricans]. The individual shall comply with the requirements as soon as possible after the individual's admission to a school and as required by rule. The individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian may substitute a professional examination for the risk assessment [screening].

(b) An individual is exempt from risk assessment [screening] if risk assessment [screening] conflicts with the tenets and practices of a recognized church or religious denomination of which the individual is an adherent or a member. To qualify for the exemption, the individual or, if the individual is a minor, the individual's parent, managing conservator, or guardian must submit to the chief administrator of the school on or before the day of the risk assessment process [screening procedure] an affidavit stating the objections to the risk assessment [screening].

(c) The chief administrator of each school shall ensure that each individual admitted to the school complies with the risk assessment [screening] requirements set by the executive council or submits an affidavit of exemption.

Sec. 95.004. RECORDS; REPORTS. (a) The chief administrator of each school shall maintain, on a form prescribed by the executive council, risk assessment [screening] records for each individual in attendance[;] and enter the risk assessment

information for each individual on the Centers for Disease Control and Prevention's Epi Info or similar surveillance software selected by the office. The risk assessment [the] records are open for inspection by the office or the local health department.

(b) The office may, directly or through local health departments, enter a school and inspect records maintained by the school relating to risk assessment [screening] for Type 2 diabetes [acanthosis nigricans].

(c) An individual's risk assessment [screening] records may be transferred among schools without the consent of the individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian.

(d) The person performing the risk assessment [screening] shall send a report indicating that an individual may be at risk for developing Type 2 diabetes [have acanthosis nigricans] to the individual or, if the individual is a minor, the minor's parent, managing conservator, or guardian. The report must include:

(1) an explanation of:

(A) the process for assessing risk for developing Type 2 diabetes;

(B) the body mass index;

(C) the risk factors associated with developing Type 2 diabetes; and

(D) the reasons the individual was identified in the risk assessment process as being at risk for developing Type 2 diabetes [acanthosis nigricans and related conditions];

(2) a statement concerning an individual's or family's need for further evaluation for Type 2 diabetes and related [of] conditions [related to acanthosis nigricans]; and

(3) instructions to help the individual or family receive evaluation by a physician or health care provider [and intervention by the school district].

(e) Each school shall submit to the office an annual report on the risk assessment [screening] status of the individuals in attendance during the reporting year and shall include in the report any other information required by the office.

(f) The report required under Subsection (e) must be on a form prescribed by the executive council and must be submitted according to the executive council's rules.

(g) The office shall analyze and compile a summary of the reports submitted by schools under Subsection (e) and make the summary available to schools and the public on request.

(h) [(f)] Not later than January 15 of each odd-numbered year, the office shall submit to the governor and the legislature a report concerning the effectiveness of the risk assessment program for Type 2 diabetes [acanthosis nigricans screening program] established by this chapter.

SECTION 3. Chapter 95, Health and Safety Code, as added by Chapter 1465, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Section 95.005 to read as follows:

Sec. 95.005. GIFTS AND GRANTS. The office may accept gifts, grants, and donations to support the Type 2 diabetes risk assessment program conducted under this chapter.

SECTION 4. Subdivision (6), Section 95.001, Health and Safety Code, as added by Chapter 1465, Acts of the 77th Legislature, Regular Session, 2001, is repealed.

SECTION 5. This Act takes effect September 1, 2005.

The amendment was read.

Senator Hinojosa withdrew Floor Amendment No. 1.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1239** (Senate committee printing) as follows:

(1) Strike SECTION 2 of the bill, amending Subdivision (2), Section 95.001, Health and Safety Code (page 1, lines 20 through 26), and substitute the following new SECTION 2 to read as follows:

SECTION 2. Chapter 95, Health and Safety Code, as added by Chapter 1465, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Section 95.0011 to read as follows:

Sec. 95.0011. EXPIRATION. This chapter expires September 1, 2007.

(2) In SECTION 3 of the bill, amending Subsection (a), Section 95.002, Health and Safety Code (page 1, line 32), strike "department [office]" and substitute "office".

(3) In SECTION 3 of the bill, amending Subsection (a), Section 95.002, Health and Safety Code (page 1, lines 34 through 40), strike the proposed second sentence of that section.

(4) In SECTION 3 of the bill, amending Subsection (b), Section 95.002, Health and Safety Code (page 1, line 41), strike "department [executive council by rule]" and substitute "executive council by rule".

(5) In SECTION 3 of the bill, amending Subsection (c), Section 95.002, Health and Safety Code (page 1, line 47), strike "department shall establish the [rules must include]" and substitute "rules must include".

(6) In SECTION 3 of the bill, amending Subdivision (1), Subsection (c), Section 95.002, Health and Safety Code (page 1, line 53), strike "department" and substitute "office".

(7) In SECTION 3 of the bill, amending Subsection (d), Section 95.002, Health and Safety Code (page 1, line 56), strike "department [office]" and substitute "office".

(8) In SECTION 3 of the bill, amending Subsection (e), Section 95.002, Health and Safety Code (page 2, line 3), strike "department [office]" and substitute "office".

(9) In SECTION 3 of the bill, adding Subsection (f), Section 95.002, Health and Safety Code (page 2, line 12), strike "department" and substitute "office".

(10) In SECTION 3 of the bill, adding Subsection (g), Section 95.002, Health and Safety Code (page 2, line 21), strike "department" and substitute "office".

(11) In SECTION 3 of the bill, amending Subsection (c), Section 95.003, Health and Safety Code (page 2, lines 45 and 46), strike "department [executive council]" and substitute "executive council".

(12) In SECTION 3 of the bill, amending Subsection (a), Section 95.004, Health and Safety Code (page 2, line 49), strike "department, risk assessment [executive council, screening]" and substitute "executive council, risk assessment [screening]".

(13) In SECTION 3 of the bill, amending Subsection (a), Section 95.004, Health and Safety Code (page 2, line 53), strike "selected by the department" and substitute "selected by the office".

(14) In SECTION 3 of the bill, amending Subsection (a), Section 95.004, Health and Safety Code (page 2, line 54), strike "department [office]" and substitute "office".

(15) In SECTION 3 of the bill, amending Subsection (b), Section 95.004, Health and Safety Code (page 2, line 56), strike "department [office]" and substitute "office".

(16) In SECTION 3 of the bill, amending Subsection (e), Section 95.004, Health and Safety Code (page 3, lines 15 and 19), strike "department [office]" each place it occurs and substitute "office".

(17) In SECTION 3 of the bill, adding Subsection (f), Section 95.004, Health and Safety Code (page 3, lines 22 and 23), strike "department [executive council]" and substitute "executive council ["]".

(18) In SECTION 3 of the bill, adding Subsection (g), Section 95.004, Health and Safety Code (page 3, line 25), strike "department" and substitute "office".

(19) In SECTION 3 of the bill, adding Subsection (g), Section 95.004, Health and Safety Code (page 3, line 26), between "Subsection (e)" and "and", insert ", file a copy of the summary with the Type 2 Diabetes Risk Assessment Program Advisory Committee established under Section 103.0125,".

(20) In SECTION 3 of the bill, adding Subsection (h), Section 95.004, Health and Safety Code (page 3, line 29), strike "department [office]" and substitute "office".

(21) In SECTION 3 of the bill, adding Subsection (h), Section 95.004, Health and Safety Code (page 3, lines 29 and 30), strike "and the legislature" and substitute "and the legislature, and the Type 2 Diabetes Risk Assessment Program Advisory Committee".

(22) In SECTION 4 of the bill, adding Section 95.005, Health and Safety Code (page 3, line 36), strike "department" and substitute "office".

(23) In SECTION 5 of the bill, adding Subsection (a), Section 103.0125, Health and Safety Code (page 3, line 44), strike "department" and substitute "Texas-Mexico Border Health Coordination Office of The University of Texas-Pan American".

(24) In SECTION 5 of the bill, adding Paragraph (D), Subdivision (1), Subsection (b), Section 103.0125, Health and Safety Code (page 3, lines 54 through 56), strike "an institution of higher education involved in Type 2 diabetes research selected by the council" and substitute "The University of Texas-Pan American".

(25) In SECTION 5 of the bill, adding Subdivision (2), Subsection (f), Section 103.0125, Health and Safety Code (page 4, line 19), strike "department" and substitute "Texas-Mexico Border Health Coordination Office of The University of Texas-Pan American".

(26) In SECTION 5 of the bill, adding Subdivision (4), Subsection (f), Section 103.0125, Health and Safety Code (page 4, line 26), strike "department" and substitute "Texas-Mexico Border Health Coordination Office of The University of Texas-Pan American".

(27) In SECTION 6 of the bill, strike proposed Subdivision (8), Subsection (a) (page 4, lines 48 through 50), and substitute the following new Subdivision (8):

(8) The University of Texas-Pan American; and

(28) Strike SECTION 7 of the bill (page 4, lines 59 through 61), and substitute new SECTION 7 to read as follows:

SECTION 7. Subdivision (6), Section 95.001, Health and Safety Code, as added by Chapter 1465, Acts of the 77th Legislature, Regular Session, 2001, is repealed.

The amendment to **CSSB 1239** 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 Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1239 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 1239 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1239** 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 1239**, 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 1239** 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 Armbrister in Chair)
COMMITTEE SUBSTITUTE
SENATE BILL 728 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 728** at this time on its second reading:

CSSB 728, Relating to the liability of certain entities that enter agreements with a metropolitan rapid transit authority.

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 179 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 179** at this time on its second reading:

CSSB 179, Relating to retirement benefits for visiting judges.

The motion prevailed by the following vote: Yeas 24, Nays 4.

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

Nays: Estes, Ogden, Seliger, Staples.

Absent: Averitt, Barrientos, Shapiro.

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

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

Nays: Estes, Ogden, Seliger, Staples.

Absent: Averitt, Barrientos, Shapiro.

**COMMITTEE SUBSTITUTE
SENATE BILL 967 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 967** at this time on its second reading:

CSSB 967, Relating to the creation of the Central Texas Groundwater Conservation District; providing authority to impose a tax and issue bonds.

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 967 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 967** 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 967**, 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 967** 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 RESOLUTION 714 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, Senate Rule 8.02, all necessary rules, and the regular order of business were suspended to take up for consideration **SR 714** at this time on its second reading:

SR 714, Opposing any proposal to close the Waco Veterans Affairs Hospital and urging concerned Texans and veterans to express their support of the hospital and its retention.

SR 714 was read second time and was adopted by a viva voce vote.

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

MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 31 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 31** at this time on its second reading:

CSSB 31, Relating to the creation of a work-study student mentorship program at certain institutions of higher education and to certain student financial aid program requirements.

Senator Zaffirini withdrew further consideration of **CSSB 31**.

**COMMITTEE SUBSTITUTE
SENATE BILL 151 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 151** at this time on its second reading:

CSSB 151, Relating to students enrolled in junior college courses for which students may receive both high school and higher education academic credit.

The motion prevailed.

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

The bill was read second time.

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

Floor Amendment No. 1

Amend **CSSB 151** (committee printed version) as follows:

(1) In SECTION 1 of the bill, in proposed Subsection (c), Section 54.2161, Education Code (page 1, line 1-36), following "Subsection (b)(2)", insert ". The institution of higher education offering the course shall provide the textbooks to the student. The school district in which the student attends school shall pay the costs of the textbooks".

(2) In SECTION 2 of the bill, in proposed Subsection (c), Section 31.021, Education Code (page 2, line 2-24), strike "provide" and substitute "pay the costs of".

(3) In SECTION 2 of the bill, in proposed Subsection (c), Section 31.021, Education Code (page 2, line 2-28), strike "provide textbooks" and substitute "pay the costs of textbooks as".

(4) In SECTION 3 of the bill, in proposed Subsection (a), Section 31.031, Education Code (page 2, line 2-40), strike "provide" and substitute "pay the costs of".

(5) In SECTION 3 of the bill, in proposed Section 31.031, Education Code (page 2, lines 2-43 through 2-52), strike proposed Subsection (c) and substitute the following:

(c) The State Board of Education shall adopt rules in accordance with which a school district shall pay the costs of textbooks under this section. The rules shall provide for a school district to reimburse an institution of higher education for the costs of textbooks that the institution provides to a student under Section 51.2161."

The amendment to **CSSB 151** was read and was adopted by a viva voce vote.

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

Nays: Estes.

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

CSSB 151 as amended was passed to engrossment by a viva voce vote.

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

Nays: Estes, Ogden, Staples.

**COMMITTEE SUBSTITUTE
SENATE BILL 151 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 151** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

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

Nays: Estes, Ogden, Staples, Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 151**, 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 151** 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 28, Nays 3.

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

Nays: Estes, Ogden, Staples.

**COMMITTEE SUBSTITUTE
SENATE BILL 1553 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1553** at this time on its second reading:

CSSB 1553, Relating to the creation of a program for alternative funding of Toward EXcellence, Access, & Success (TEXAS) grants.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1553** as follows:

(1) In SECTION 1 of the bill in proposed Subsection (c), Section 56.310, Education Code (Committee Printing, page 1, lines 23 and 24), strike "state assets for the purposes of this subchapter" and substitute "the program created under this subchapter, an individual grant awarded under this subchapter, or any item received by the coordinating board under Subsection (a)".

(2) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS as appropriate:

SECTION _____. Section 56.302(a), Education Code, is amended to read as follows:

(a) Except as provided under Section 56.310(c), the [~~The~~] student financial assistance program authorized by this subchapter is known as the Toward EXcellence, Access, & Success (TEXAS) grant program, and an individual grant awarded under this subchapter is known as a TEXAS grant.

The amendment to **CSSB 1553** 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 Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1553 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 1553 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1553** 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 1553**, 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 1553** 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.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate students and their teacher from First Valley Baptist Academy in Brownsville.

The Senate welcomed its guests.

REPORT OF COMMITTEE ON NOMINATIONS

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

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

Adjutant General: Charles Gary Rodriguez, Bexar County.

Member, Employees Retirement System of Texas Board of Trustees: George W. "Bill" Ceverha, Dallas County.

Members, Texas State Board of Medical Examiners: Lee S. Anderson, M.D., Tarrant County; Christine L. Canterbury, Nueces County; Melinda Susan Fredricks, Montgomery County; Amanullah Khan, M.D., Dallas County; Keith E. Miller, M.D., Shelby County; Larry Price, D.O., Bell County; Annette P. Raggette, Williamson County; Timothy J. Turner, Harris County.

Presiding Officer, Texas State Affordable Housing Corporation Board of Directors: Jerry Romero, El Paso County.

Members, Texas State Affordable Housing Corporation Board of Directors: Christopher D. DeCluitt, McLennan County; Thomas A. Leeper, Walker County; Charles G. Rencher, Fort Bend County; Jo Van Hovel, Bell County.

Member, Finance Commission of Texas: Cindy F. Lyons, El Paso County.

Presiding Officer, Manufactured Housing Board: Valeri Stiers Malone, Wichita County.

Members, Manufactured Housing Board: Michael H. Bray, El Paso County; Kimberly A. Shambley, Dallas County; Frances Shannon, Comal County.

Members, Texas Public Finance Authority Board of Directors: Linda Lea McKenna, Cameron County; H. L. Bert Mijares, Jr., El Paso County; Marcellus A. Taylor, Denton County.

Member, Sabine River Compact Administration: Robert Byron Reeves, Shelby County.

Member, Risk Management Board: Kenneth N. Mitchell, El Paso County.

Members, Sulphur River Basin Authority Board of Directors: James Richard "Dick" Goodman, Red River County; Patricia A. Wommack, Morris County.

NOTICE OF CONSIDERATION OF NOMINATIONS

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

SENATE BILLS ON FIRST READING

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

SB 1883 by Ogden

Relating to the lands managed and controlled by the board of regents of The Texas A&M University System.

To Subcommittee on Higher Education.

SB 1885 by Jackson

Relating to the creation of the Galveston Economic Development District; providing authority to impose a tax and issue a bond or similar obligation. (Local Bill)

To Committee on Intergovernmental Relations.

(President in Chair)

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Staples and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Transportation and Homeland Security might meet and consider the following bills today: **SB 859**, **SB 696**, **HB 87**, **HB 749**.

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Natural Resources might meet and consider **SB 765** at 2:30 p.m. today.

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

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

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SCR 33 by Seliger, Commending the Panhandle-Plains Historical Museum in Canyon for hosting the exhibit Capturing Western Legends: Russell and Remington's Canadian Frontier.

SR 704 by Barrientos, Recognizing Mainspring Schools of Austin for its service to low-income, working families.

SR 706 by Barrientos, Recognizing Sweetish Hill Bakery in Austin on the occasion of its 30th anniversary.

SR 708 by Averitt, Congratulating Stuart Smith of Waco for becoming the first American to complete the Adventure Grand Slam.

SR 710 by Staples, Congratulating Phuwadol Thamathitikhun of Palestine for earning a Merit award at the Texas Professional Photographers Association Regional Convention.

Official Designation Resolution

SR 712 by Shapiro, Recognizing April 27, 2005, as Abstinence Awareness Day and welcoming the members of the Abstinence Council of Texas to the Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:48 p.m. adjourned, in memory of The Honorable Searcy Bracewell of Houston, The Honorable Charles Ferguson Herring, Sr., of McLennan County, The Honorable Robert D. Price of Pampa, The Honorable Walter H. Richter of Burnet County, The Honorable Preston Earnest Smith of West Texas, and The Honorable Dee Travis of Abilene, until 9:30 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

April 28, 2005

HEALTH AND HUMAN SERVICES — **CSSB 630, CSSB 826**

BUSINESS AND COMMERCE — **CSSB 237, CSSB 1304, HB 885, HB 1393, HB 2761, HB 2870, HB 2872, HB 2307**

HEALTH AND HUMAN SERVICES — **CSHB 404, CSSB 426, CSSB 1183**
INTERGOVERNMENTAL RELATIONS — **SB 1864, SB 1867, SB 1871, SB 1878, SB 1881, SB 1882**

HEALTH AND HUMAN SERVICES — **CSSB 1581, CSHB 102**

JURISPRUDENCE — **HB 231, HB 282, HB 330, HB 564, HB 593, HB 597, HB 729, HB 2913, SB 1122, SB 1450**

STATE AFFAIRS — **CSSB 1176, CSSB 1513, CSSB 1648**

GOVERNMENT ORGANIZATION — **CSSB 1201, CSSB 1644, CSSB 410**

HEALTH AND HUMAN SERVICES — **CSSB 1379**

SIGNED BY GOVERNOR

April 27, 2005

SB 234, SB 346, SB 848

SENT TO GOVERNOR

April 28, 2005

SB 187, SB 402, SB 566, SB 877, SB 1014

