

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

TWENTY-FIRST DAY

(Monday, March 5, 2007)

The Senate met at 3:06 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Gallegos, Patrick, Williams.

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

The Reverend Richard Stevens, Living Word Baptist Church, Little Elm, offered the invocation as follows:

Our heavenly Father, I thank You for those who serve in the leadership of our great nation and state. They are, as Your word says, Your ministers for good. As we endeavor to serve You and our state from this Senate both today and in this session, help us to discern what we can change and what is in Your hands. We can punish wrong behavior, but You change hearts. We take money from individuals and direct it toward the common good, but the individuals earn it through the abilities they have from You. Help this body to use its office not for self-interest or to respond to popular opinion but to legislate with wisdom. Let our personal lives and our public behavior give testimony to Your authority and grace. Father, for this time and this place let us not be Democrat or Republican, liberal or conservative but rather Your ministers seeking to serve Texans, giving them the opportunity to fulfill their God-given potential in freedom and peace. Grant that we will value wisdom and understanding even greater than knowledge. Give us the grace to value personal responsibility above personal gain. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Wednesday, February 28, 2007, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVES OF ABSENCE

On motion of Senator Whitmire, Senator Gallegos was granted leave of absence for today on account of illness.

On motion of Senator Whitmire, Senator Patrick was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Williams was granted leave of absence for today on account of important business.

CO-AUTHOR OF SENATE BILL 21

On motion of Senator Nelson, Senator Nichols will be shown as Co-author of **SB 21**.

CO-AUTHOR OF SENATE BILL 31

On motion of Senator Nelson, Senator Uresti will be shown as Co-author of **SB 31**.

CO-AUTHORS OF SENATE BILL 103

On motion of Senator Hinojosa, Senators Uresti and Van de Putte will be shown as Co-authors of **SB 103**.

CO-AUTHOR OF SENATE BILL 136

On motion of Senator Nelson, Senator Shapiro will be shown as Co-author of **SB 136**.

CO-AUTHOR OF SENATE BILL 335

On motion of Senator Van de Putte, Senator Uresti will be shown as Co-author of **SB 335**.

CO-AUTHOR OF SENATE BILL 368

On motion of Senator Ellis, Senator Uresti will be shown as Co-author of **SB 368**.

CO-AUTHOR OF SENATE BILL 419

On motion of Senator Lucio, Senator Deuell will be shown as Co-author of **SB 419**.

CO-AUTHOR OF SENATE BILL 476

On motion of Senator Uresti, Senator Zaffirini will be shown as Co-author of **SB 476**.

CO-AUTHOR OF SENATE BILL 673

On motion of Senator Zaffirini, Senator Van de Putte will be shown as Co-author of **SB 673**.

CO-AUTHOR OF SENATE BILL 674

On motion of Senator Zaffirini, Senator Uresti will be shown as Co-author of **SB 674**.

CO-AUTHOR OF SENATE BILL 690

On motion of Senator Shapleigh, Senator Uresti will be shown as Co-author of **SB 690**.

CO-AUTHORS OF SENATE BILL 807

On motion of Senator Whitmire, Senators Brimer, Hegar, Nelson, Shapiro, and Van de Putte will be shown as Co-authors of **SB 807**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 20

On motion of Senator Lucio, Senator Hinojosa will be shown as Co-author of **SJR 20**.

CO-AUTHORS OF SENATE JOINT RESOLUTION 28

On motion of Senator Wentworth, Senators Brimer, Duncan, Eltife, Hinojosa, Lucio, Nelson, Nichols, Uresti, and Van de Putte will be shown as Co-authors of **SJR 28**.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were filed with the Secretary of the Senate:

Austin, Texas
March 5, 2007

OFFICIAL MEMORANDUMS
STATE OF TEXAS
OFFICE OF THE GOVERNOR

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTIETH TEXAS LEGISLATURE, REGULAR SESSION:

I, RICK PERRY, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matters for immediate consideration to the Senate and House of Representatives of the 80th Legislature, now convened:

Legislation relating to the prosecution of certain crimes occurring in the Texas Youth Commission.

Legislation relating to the power of the attorney general to have concurrent jurisdiction with the local county or district attorney for the prosecution of offenses involving the Texas Youth Commission.

Legislation relating to the establishment of an office of inspector general at the Texas Youth Commission.

Respectfully submitted,
/s/Rick Perry
Governor

SENATE RESOLUTION 407

Senator Ellis offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize His Excellency Lieutenant Girma Wolde-Giorgis, President of the Federal Democratic Republic of Ethiopia, and welcome him to Texas and to the City of Houston; and

WHEREAS, A man with a wealth of experience and knowledge, President Wolde-Giorgis has served the people of Ethiopia for many decades; he began his career in public service as a member of the air force, teaching air navigation and flight control before assuming the post of director general of Ethiopian Civil Aviation; and

WHEREAS, He became a member of the Ethiopian Parliament in 1953 and served as its president for three consecutive years; while a member of Parliament, he helped win a seat for the Ethiopian Parliament in the International Parliamentary Union, and he later was elected vice president of the union's 52nd Meeting; and

WHEREAS, President Wolde-Giorgis is the founder of the Ghibe Agricultural Association and the Keffa and Illubabor Timber Processing Industry, and he has served as a board member of the Ethiopian Red Cross Society; his leadership and vision have benefited the people of Ethiopia for many years, and he deserves recognition for his many significant accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend His Excellency Lieutenant Girma Wolde-Giorgis, President of the Federal Democratic Republic of Ethiopia, for his outstanding work on behalf of the people of Ethiopia and extend to him a heartfelt welcome to the Lone Star State; and, be it further

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

SR 407 was read.

On motion of Senator Lucio and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Ellis, the resolution was adopted without objection.

GUESTS PRESENTED

Senator Ellis was recognized and introduced to the Senate His Excellency Lieutenant Girma Wolde-Giorgis, President of the Federal Democratic Republic of Ethiopia, accompanied by Girma Wake, Chief Executive Officer of Ethiopian Airlines, and Gezahgen Kebede, Honorary Consul, Ethio-American Trade and Investment Council.

The Senate welcomed its guests.

REMARKS ORDERED PRINTED

On motion of Senator Lucio and by unanimous consent, the remarks by President Girma Wolde-Giorgis of the Federal Democratic Republic of Ethiopia were ordered reduced to writing and printed in the *Senate Journal* as follows:

Honorable Senators, I don't think I've got a lot to say, since a lot has been said by my friend who introduced me to you this morning. I came to this part of the world by invitation of the people that are doing very good work for fighting against poverty and elevating the living standard of our people in Ethiopia, and that is Pastor Terry and his better half, Pastor Jan. I really enjoyed being here. I wish several years to come to this part of the world, particularly Texas. I've been in the other parts of the United States several times before. In fact, I was in New York in 1952, just after the end of the Second World War, and as a fellow air traffic controller at Idlewild Airport. Do you know where that is? It's airport that's now called the Kennedy. It was Idlewild. Since then, I've been coming less frequently but every other year or more. I've even come once on leadership grant when I was the Speaker of the Ethiopia Parliament, when Mr. McCormack of Massachusetts was the Speaker of the House, at the Capitol, not in Texas. Anyway, the part of the world that I didn't see and now wish to see, because of several activities of, particularly got to do with the horses and wild, wild West, if you'd like to call it that. And I'm very pleased to be here with you. I've enjoyed my stay in this Texas state. I've been given tremendous hospitality and complete my knowledge of America. Thank you very much to allow me here, for allowing me to join you this morning as this important house of Legislature of Texas, in United States of America. Thank you very much. Thank you very much for the applause, but you might like to hear a little bit more about what's going on in my part of the world, because somewhere they were mentioning the terrorist situation and the Somalia affairs. If you have questions, one or two, I'd like to answer them because I know that Senators like to speak. Well, in the absence of no questions, thank you very much.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

March 5, 2007

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 3, Relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows.

HB 5, Relating to providing for a reduction of the limitation on the total amount of ad valorem taxes that may be imposed by a school district on the residence homesteads of the elderly or disabled to reflect any reduction in the school district's tax rate and protecting a school district against any resulting loss in local revenue.

HB 542, Relating to the name of the Brazos River Harbor Navigation District of Brazoria County and the name of its governing body.

HCR 59, In memory of Brigadier General Robert F. McDermott of San Antonio.

HCR 60, Honoring attorney Al Kauffman for his vital contributions in the areas of education and civil rights.

HCR 74, Congratulating the Cotulla High School football team on an exceptional 2006 season.

HCR 75, In memory of Charles A. Hinton of Mount Pleasant.

HCR 83, Honoring Hector Trevino on the occasion of his retirement from the U.S. Border Patrol.

HCR 100, Congratulating the Chilton Pirates for winning the 2006 Class A Division II state football championship.

HCR 101, Honoring Deetrice Wallace for being named the 2007 Harris County Teacher of the Year.

SCR 29, Granting the legislature permission to adjourn for more than three days during the period beginning on Wednesday, February 28, 2007, and ending on Monday, March 5, 2007.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Eltife was recognized and presented Dr. Jonathan MacClements of Tyler as the Physician of the Day.

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

MESSAGE FROM THE STATE BAR OF TEXAS

The following Message from the State Bar of Texas was read and was referred to the Committee on Nominations:

STATE BAR OF TEXAS

Austin, Texas
February 22, 2007

TO THE SENATE OF THE EIGHTIETH LEGISLATURE, REGULAR SESSION:

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

TO BE A MEMBER OF THE COMMISSION ON JUDICIAL CONDUCT for a term to expire November 19, 2011:

Mr. Jorge C. Rangel
615 Upper North Broadway, Ste. 2020
Corpus Christi, TX 78477

Mr. Rangel was appointed on April 21, 2006 by then State Bar President Eduardo Roberto Rodriguez and will be replacing Gail Dalrymple who resigned.

Respectfully submitted,
/s/Martha Dickie
President

SENATE RESOLUTION 397

Senator Deuell offered the following resolution:

WHEREAS, The Texas Senate joins the citizens of Kaufman County in celebrating Kaufman County Day at the State Capitol on March 5, 2007; and

WHEREAS, In 1840, King's Fort was established by William P. King and 40 pioneers; Kaufman County was created in 1848, and three years later, King's Fort was selected as the county seat and was renamed Kaufman, in honor of David Spangler Kaufman, a member of the Texas Legislature and the United States Congress; and

WHEREAS, Kaufman County is now one of the top 10 fastest-growing counties in the state and is home to several of the top-rated independent school districts of North Texas; and

WHEREAS, Kaufman County is also home to three higher education facilities—Southwestern Christian College, Trinity Valley Community College, and Trinity Valley Nursing College—as well as to such historical and cultural attractions as the British Flying Training School Museum, the Kaufman County Poor Farm, and the Terrell Heritage Museum; and

WHEREAS, *Progressive Farmers Magazine* recently named Kaufman County one of the Top Ten counties in the southwestern United States in which to live; the county has long been an outstanding place in which to live, work, raise a family, and establish a business; it is indeed a privilege to pay tribute to Kaufman County and its citizens; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby recognize March 5, 2007, as Kaufman County Day at the State Capitol and extend to the visiting delegation best wishes for an enjoyable and informative stay in Austin; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of Kaufman County.

SR 397 was read and was adopted without objection.

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate Kaufman County Mayors: Frances Anderson, City of Terrell; Darrell Grooms, City of Forney; and Joe Baker, City of Crandall; accompanied by Kaufman City Manager Curtis Snow; Kemp Independent School District Superintendent Peter Running; and a delegation of citizens from Kaufman County.

The Senate welcomed its guests.

SENATE RESOLUTION 394

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join the citizens of Little Elm in recognizing March 5, 2007, as Little Elm Day at the State Capitol; and

WHEREAS, Situated along the scenic northeast banks of Lake Lewisville, Little Elm is located on land that was originally an empresario grant by the Republic of Texas in 1841 and that became part of the Peters Colony; and

WHEREAS, Incorporated in 1966, the town of Little Elm has a population that has grown from 363 to over 21,000; the town's prodigious growth continues as more people discover the excellent schools, the diverse business opportunities, and the enjoyable recreational facilities the town offers; and

WHEREAS, Little Elm has increased in population by an astounding 446 percent within the past six years, making it one of the fastest-growing communities in the state; the town has experienced over \$100 million in retail commercial development in the past three years; and

WHEREAS, The State of Texas, along with the North Texas Transportation Authority and Denton County, has authorized the construction of the long-awaited Lewisville Lake Corridor Project that will traverse the middle of the town of Little Elm; and

WHEREAS, With its relaxed country setting and proximity to the conveniences of city life, Little Elm looks forward to a bright future; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend the citizens of Little Elm for their many contributions to our state and extend to them best wishes for a rewarding Little Elm Day at the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the residents of Little Elm as a memento of this special event.

SR 394 was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate a delegation of citizens and officials from Little Elm.

The Senate welcomed its guests.

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate:

HCR 18, HCR 20, HCR 31, HCR 32, HCR 34, HCR 40, HCR 41, HCR 44, HCR 47, HCR 50, HCR 53, HCR 65, HCR 66, HCR 77, HCR 78, HCR 80, HCR 85, HCR 99, HCR 105, HCR 113, HCR 115, HCR 116, HCR 119, HCR 120, HCR 124, HCR 128.

MESSAGES FROM THE GOVERNOR

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

Austin, Texas
March 2, 2007

TO THE SENATE OF THE EIGHTIETH LEGISLATURE, REGULAR SESSION:

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

To be a member of the Teacher Retirement System of Texas Board of Trustees for a term to expire August 31, 2011:

R. David Kelly
Dallas, Texas

(Mr. Kelly is replacing Terence Ellis of New Ulm whose term expired)

To be a member of the Texas Public Safety Commission for a term to expire December 31, 2009:

Allan B. Polunsky
San Antonio, Texas

(Mr. Polunsky is replacing Carlos Cascos of Brownsville who resigned)

Respectfully submitted,
/s/Rick Perry
Governor

PROCLAMATION

The following Proclamation creating the Joint Select Committee on the Operation and Management of the Texas Youth Commission was filed with the Secretary of the Senate:

Pursuant to the Rule 1, Section 16, of the Rules of the House, 80th Legislature, and Rule 11.03, of the Rules of the Senate, 80th Legislature, I, Tom Craddick, Speaker of the House of Representatives, and I, David Dewhurst, President of the Senate, do jointly create the Joint Select Committee on the Operation and Management of the Texas Youth Commission.

The Joint Select Committee on the Operation and Management of the Texas Youth Commission is composed of the following members of the House and Senate:

John Whitmire (Co-chair)	Jerry Madden (Co-chair)
Chris Harris	Harold Dutton
Juan Hinojosa	Aaron Pena
Kel Seliger	Larry Phillips
Florence Shapiro	Debbie Riddle
Royce West	Sylvester Turner
Tommy Williams	Corbin Van Arsdale

The Joint Select Committee on the Operation and Management of the Texas Youth Commission shall have jurisdiction over all matters pertaining to the operation and management of the Texas Youth Commission, including any investigation of

allegations of gross financial mismanagement at the agency, sexual misconduct by agency employees or former employees, and failure of the agency to properly investigate or resolve either of these issues. The Select Committee's jurisdiction includes:

1. Investigating and recommending changes to the current fiscal management practices at the Texas Youth Commission, the current practice regarding the investigation of and resolution of sexual misconduct complaints or complaints made regarding the conduct of employees or former employees of the Texas Youth Commission, and the actions of the Texas Youth Commission related to the recent allegations regarding gross financial mismanagement at the agency, sexual misconduct by agency employees or former employees, and failure of the agency to properly investigate or resolve either of these issues;
2. Investigating and recommending changes to the current operation and management practices of the Texas Youth Commission, including the feasibility of developing new policies on sexual abuse and assault, developing new policies regarding the reporting of misconduct by agency employees or former employees, developing new policies regarding the investigation of misconduct by agency employees or former employees, implementing vulnerability assessments that identify areas and practices within the Texas Youth Commission that create opportunities for misconduct, and developing programs related to the proper training of agency employees and the retention of employees, specifically addressing the Texas Youth Commission's employee turnover rate;
3. Investigating successful operation and management practices of other similar entities in other jurisdictions; and
4. Investigating and recommending any changes to the operation and management of the Texas Youth Commission to ensure that the statutorily stated purpose of the Texas Youth Commission "to provide a program of constructive training aimed at rehabilitation and reestablishment in society of children adjudged delinquent by the courts of this state and committed to the Texas Youth Commission, and to provide active parole supervision for children until officially discharged from custody of the Texas Youth Commission" is carried out.

The Joint Select Committee on the Operation and Management of the Texas Youth Commission shall report its initial finding and recommendations, including drafts of legislation necessary to implement the recommendations, to the lieutenant governor and the speaker of the house of representatives not later than March 31, 2007. In addition, the Joint Select Committee shall immediately report any finding of reportable misconduct to any appropriate enforcement agency. The terms of the Joint Select Committee on the Operation and Management of the Texas Youth Commission expire at the beginning of the 81st Legislature, Regular Session.

In addition to the powers and duties of a House or Senate standing committee, including the power to summon witnesses, issue process, compel the attendance and testimony of witnesses, the Joint Select Committee on the Operation and Management of the Texas Youth Commission may request the assistance from executive branch agencies, including the office of the Attorney General and the Special Prosecution

Unit, and the assistance from legislative branch agencies, including the Sunset Commission, the Legislative Budget Board, the Texas Legislative Council, and the State Auditor's Office.

/s/Tom Craddick
Speaker of the House

(seal)

/s/David Dewhurst
President of the Senate

BIRTHDAY GREETINGS EXTENDED

The President, on behalf of the Senate, extended birthday greetings to Senator Brimer.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate students and their teachers from J. T. Brackenridge Elementary School in San Antonio.

The Senate welcomed its guests.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 386 by Hinojosa, In memory of Edward S. Garza of Corpus Christi.

SR 408 by Zaffirini, In memory of Robert C. Solomon of Austin.

HCR 75 (Eltife), In memory of Charles A. Hinton of Mount Pleasant.

Congratulatory Resolutions

SR 381 by Ellis, Congratulating LaTisha O. Chatman for her election as a partner at McGuire Woods law firm.

SR 382 by Estes, Congratulating the citizens of Weatherford and Parker County for receiving the 2006 City-County Cooperation Award.

SR 385 by West, Commending Robert E. Price, Sr., of Dallas for his contributions to his community.

SR 389 by Wentworth, Congratulating Daniel Steck of San Antonio for being named one of the top youth volunteers in Texas for 2007 by the Prudential Spirit of Community Awards program.

SR 390 by Wentworth, Congratulating Catherine Flores of San Antonio for being named one of the top youth volunteers in Texas for 2007 by the Prudential Spirit of Community Awards program.

SR 391 by Whitmire, Recognizing Rita Louise Giblin of Houston on the occasion of her 90th birthday.

SR 399 by Watson, Recognizing the Assistance League of Austin on the occasion of its 30th anniversary.

SR 400 by Watson, Congratulating the recipients of the 2007 Texas Exes Teaching Awards.

SR 401 by Watson, Commending members of the New York City Fire Department Bravest Football Club for their perseverance.

SR 402 by Wentworth, Recognizing James and Vivian Cox on the occasion of their 50th wedding anniversary.

SR 405 by Ellis, Congratulating Lorraine C. Miller for her appointment as Clerk of the United States House of Representatives.

SR 406 by Ellis, Commending the North Harris Montgomery Community College District Foundation for its contributions to education.

HCR 54 (Uresti), Honoring the Hondo High School football team on its outstanding 2006 season.

HCR 56 (Zaffirini), Honoring J. O. Barrera for his many years of service as Duval County Veterans Service Officer.

HCR 63 (Watson), Honoring Tuerff-Davis EnviroMedia, Inc., of Austin on the 10th anniversary of its founding.

HCR 100 (Averitt), Congratulating the Chilton Pirates for winning the 2006 Class A Division II state football championship.

Official Designation Resolutions

SCR 30 by Janek, Recognizing May 5, 2007, as Parliamentary Law Day at the State Capitol.

SR 383 by Hegar, Recognizing March 15, 2007, as Austin County Day at the State Capitol.

SR 396 by Hegar, Recognizing March 8, 2007, as Texas Soil and Water Conservation District Day at the State Capitol.

SR 398 by Hegar, Recognizing March 6, 2007, as Goliad County Day at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 3:43 p.m. adjourned until 10:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

March 5, 2007

JURISPRUDENCE — **CSSB 237, SB 343, SB 355, CSSB 325, CSSB 378**

HEALTH AND HUMAN SERVICES — **CSSB 131, CSSB 164, CSSB 205, SB 261, SB 364**

EDUCATION — **CSSB 7, CSSB 82**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 369, SB 387**

BUSINESS AND COMMERCE — **CSSB 896, CSSB 482**

SIGNED BY GOVERNOR

February 23, 2007

SCR 20

