

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRTY-FOURTH DAY

(Wednesday, March 28, 2007)

The Senate met at 11:12 a.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, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Gallegos.

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

Denny Burris, Chaplain, Texas State Association of Fire Fighters, offered the invocation as follows:

Our Father, as we approach You, we do so with praise for all Your grace to us and with thanksgiving for all goodness for us. We are thankful for the privilege we enjoy to live in the land of the free and the home of the brave and for the opportunity to live in a great state filled with great people. We are honored people, those who have the benefit of serving others. Here in this great Chamber of the Senate, we pray that these honorable servants will be granted wisdom and grace to make the right decisions and we will listen to You, the true master of life. We pause also to thank You for the brave individuals who serve so humbly in their communities, our public servants. We remember their loving sacrifice and their commitment that goes above and beyond the call of duty. Protect and hedge them about with Your grace. Grant peace to their families when they fear. We can and never will forget their willingness to give of themselves, disregarding their own lives to protect ours. We also pause to ask Your protection and peace upon all our armed forces who serve so bravely and sacrificially to protect our freedom here at home and abroad. Grant us unity as we strive to be the servants You desire us to be, that we may follow Your example of love and grace. In Your magnificent 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.

LEAVE OF ABSENCE

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

CO-AUTHOR OF SENATE BILL 99

On motion of Senator Zaffirini, Senator Lucio will be shown as Co-author of **SB 99**.

CO-AUTHOR OF SENATE BILL 127

On motion of Senator Shapleigh, Senator Carona will be shown as Co-author of **SB 127**.

CO-AUTHOR OF SENATE BILL 131

On motion of Senator West, Senator Van de Putte will be shown as Co-author of **SB 131**.

CO-AUTHORS OF SENATE BILL 439

On motion of Senator Deuell, Senators Carona, Estes, Hegar, Nichols, Patrick, and Van de Putte will be shown as Co-authors of **SB 439**.

CO-AUTHOR OF SENATE BILL 445

On motion of Senator Hinojosa, Senator Ellis will be shown as Co-author of **SB 445**.

CO-AUTHOR OF SENATE BILL 479

On motion of Senator Janek, Senator Hegar will be shown as Co-author of **SB 479**.

CO-AUTHORS OF SENATE BILL 964

On motion of Senator Shapiro, Senators Brimer, Carona, and Harris will be shown as Co-authors of **SB 964**.

CO-AUTHOR OF SENATE BILL 1424

On motion of Senator Brimer, Senator Lucio will be shown as Co-author of **SB 1424**.

CO-AUTHOR OF SENATE BILL 1940

On motion of Senator West, Senator Estes will be shown as Co-author of **SB 1940**.

PHYSICIAN OF THE DAY

Senator Duncan was recognized and presented Dr. Patrick Hanford of Lubbock as the Physician of the Day.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

March 28, 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 48, Relating to distributions from the employment and training investment holding fund.

HB 389, Relating to the eminent domain authority of Texas Woman's University.

HB 566, Relating to compulsory school attendance for students who are at least 18 years of age.

HB 733, Relating to the sale of certain used trucks; providing penalties.

HB 1212, Relating to the penalties for intoxication assault and intoxication manslaughter and to the sentencing of defendants convicted of those offenses.

HB 1295, Relating to filing fees for certain actions filed in a court with probate jurisdiction.

HB 1967, Relating to the regulation as common carriers of certain owners, operators, or managers of pipelines for the transportation of feedstock for carbon gasification, the products of carbon gasification, or the derivative products of carbon gasification.

HCR 4, In memory of David Lee Crowson of Longview.

HCR 6, Designating Industry, Texas, as the Oldest German Settlement in the Lone Star State.

HCR 152, Honoring the Woodturners of North Texas for their service to the community and to members of the U.S. armed forces.

HCR 153, Honoring Emma Jean Schulle on her retirement as the Caldwell County district clerk.

HCR 156, Recognizing March 28, 2007, as Paris/Lamar County Day at the State Capitol.

HCR 165, Recognizing March 27 and 28, 2007, as Longview/Gregg County Days at the State Capitol.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 27, HCR 131.**

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate a delegation of citizens from the Mid Rio Grande Valley area.

The Senate welcomed its guests.

SENATE RESOLUTION 590

Senator Wentworth offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to pay tribute to Texas Court Appointed Special Advocates (CASA) for its invaluable work on behalf of abused and neglected children and to join Texans across the state in recognizing March 28, 2007, as Texas CASA Day at the State Capitol; and

WHEREAS, Texas CASA supports local organizations that provide volunteers to be court advocates for children removed from their homes due to evidence of abuse and neglect; and

WHEREAS, The more than 4,000 volunteers of Texas CASA have made the lives of countless children better through their dedication, hardwork, and determination; and

WHEREAS, The child welfare system of our state functions far more efficiently due to the efforts of these volunteers and to the work of the administrators of the Texas CASA organization; all associated with Texas CASA deserve recognition for its many achievements; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Texas CASA for its many achievements in aiding abused and neglected children and extend best wishes for a rewarding Texas CASA Day at the State Capitol; and, be it further

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

WENTWORTH
DUNCAN

SR 590 was read and was adopted without objection.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate representatives of Texas CASA Day at the State Capitol.

The Senate welcomed its guests.

SENATE RESOLUTION 558

Senator West offered the following resolution:

WHEREAS, For more than a century, the American Red Cross has been at the forefront of institutions helping Americans to prevent, prepare for, and respond to disasters that affect our country, our communities, and our neighborhoods; our nation depends on the Red Cross in times of need, and the Red Cross depends on the support of the American people; and

WHEREAS, Each year, during the month of March, the nation formally recognizes the American Red Cross and its essential role in our communities; we honor the Red Cross' contributions to Texas, and during this month, we focus on the spirit of the volunteers, donors, partners, and employees who support the Red Cross mission of humanitarianism; and

WHEREAS, For years, the Red Cross in Texas has relied on the everyday heroes who donate time, blood, or money and who help coordinate blood drives and provide assistance to those affected by disasters, such as fires, tornadoes, and floods; these heroes give of themselves to make things better for those around them and for those they have never met; and

WHEREAS, In the past year, the Red Cross Chapters in Texas responded to thousands of local emergencies, assisted numerous military families, and trained countless people in lifesaving skills, such as CPR and first aid; more than 10,000 victims of disasters received help for the Texas Chapters last year, and over 60,000 United States military families received direct assistance from the Red Cross through Armed Forces Emergency Services; and

WHEREAS, Texas Red Cross Chapters and over 74,000 volunteers and donors provide valuable tools and education to individuals, families, workplaces, and schools; volunteers and donors are the heart of the Red Cross, as they donate their time, energy, and resources to selflessly serve those in need; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby proclaim March of 2007 American Red Cross Month in the State of Texas and commend all Texas Red Cross Chapters for their invaluable work; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of American Red Cross Month.

SR 558 was read and was adopted without objection.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate Alvin Green, Board Chair, American Red Cross Southwest Blood Services Region; Derrick Chubbs, Executive Director and State Relations Representative, American Red Cross of Central Texas; Claudia McWhorter, Communication and Marketing Director, American Red Cross of Central Texas; and Audrey Lundy, Communications Manager, American Red Cross Southwest Blood Services Region; accompanied by a delegation of representatives of the American Red Cross.

The Senate welcomed its guests.

(Senator Seliger in Chair)

SENATE RESOLUTION 559

Senator Janek offered the following resolution:

WHEREAS, Anesthesiology is the practice of medicine dedicated to the relief of pain and total care of the surgical patient before, during, and after surgery; and

WHEREAS, Texas is well-served by the more than 2,500 physician members of the Texas Society of Anesthesiologists; organized in 1936 and incorporated in 1959, this voluntary, nonprofit association has taken as its mission the advancement, promotion, and support of the practice of the medical specialty of anesthesiology in the State of Texas; the organization is ably led by president Thomas H. Swygert, M.D., of Dallas and president-elect Catherine L. Scholl, M.D., of Austin; and

WHEREAS, After graduating from college, today's anesthesiologists are required to complete four years of medical school and four additional years of anesthesiology residency; they apply their vast knowledge of medicine to fulfill their primary role in the operating room, which is not only to ensure the comfort of the patient during surgery, but also to make informed medical judgments to protect the patient; moreover, they are responsible for diagnosing and treating any medical problems that might arise during surgery or the recovery period; and

WHEREAS, The role of anesthesiologists extends beyond the operating room; they work in intensive care units to help restore critically ill patients to stable conditions, manage the care of the mother and baby in childbirth, and specialize in pain management, diagnosing and treating acute and chronic conditions; and

WHEREAS, The state's anesthesiologists are most deserving of the admiration of their fellow Texans, and it is appropriate to take this opportunity to call attention to the vital services these dedicated doctors provide; now, therefore, be it

RESOLVED, That the Senate of the 80th Texas Legislature hereby recognize March 28, 2007, as Anesthesia Day at the State Capitol and commend the anesthesiologists of Texas on their important work; and, be it further

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

SR 559 was read and was adopted without objection.

GUESTS PRESENTED

Senator Janek was recognized and introduced to the Senate representatives of the Texas Society of Anesthesiologists: Dr. Thomas Swygert, President; Dr. James Arens, Past President; Dr. Gregory Kronberg, Legislative Affairs Chair; Dr. Jeffrey Jekot, Treasurer; and Dr. Susan Dobbs Curling.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Eltife was recognized and introduced to the Senate a delegation of citizens from Gregg, Paris, and Lamar counties.

The Senate welcomed its guests.

SENATE RESOLUTION 583

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Poth High School Pirettes girls basketball team for winning the Class 2A University Interscholastic League state championship title; and

WHEREAS, The Pirettes were victorious in their fourth consecutive appearance at the state tournament, defeating the number one ranked Winnsboro team 72-70; trailing by as many as 13 points in the second quarter, the Pirettes fought back and forced two overtime periods before emerging as champions; and

WHEREAS, These young athletes have demonstrated great talent and perseverance throughout the school year, ending the season with a 30-5 record; team members can take great pride in their outstanding performance; and

WHEREAS, Under the superior leadership and expertise of head coach Peggy Hosek and the aid of assistant coaches Lark Harlos, Judy Scheffler, and Patti Zenner, the Pirettes have developed exceptional teamwork and discipline; and

WHEREAS, Poth High School and the City of Poth are proud of the Pirettes for their hard work, their impressive skills, and their fine sportsmanship; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend the Poth High School Pirettes basketball team for their successful season and extend congratulations to them on winning the Class 2A University Interscholastic League state championship title; and, be it further

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

SR 583 was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate the Poth High School girls basketball team University Interscholastic League Class 2A state champions: Desiree Dziuk, Captain; Whitney Wehmeyer, Co-captain; Peggy Hosek, Head Coach; and Lark Harlos, Assistant Coach.

The Senate welcomed its guests.

SENATE RESOLUTION 589

Senator Duncan offered the following resolution:

SR 589, In memory of Jackie Waynn "Jay" Lester of Lubbock.

The resolution was read.

On motion of Senator Duncan, **SR 589** was adopted by a rising vote of the Senate.

In honor of the memory of Jackie Waynn "Jay" Lester of Lubbock, the text of the resolution is printed at the end of today's *Senate Journal*.

SENATE RESOLUTION 573

Senator Estes offered the following resolution:

SR 573, In memory of Phillip Wayne Townsend of Denison.

The resolution was read.

On motion of Senator Estes, **SR 573** was adopted by a rising vote of the Senate.

In honor of the memory of Phillip Wayne Townsend of Denison, the text of the resolution is printed at the end of today's *Senate Journal*.

SENATE RESOLUTION 587

Senator Ellis offered the following resolution:

WHEREAS, The Senate of the State of Texas is committed to improving the quality of life for all of its residents; and

WHEREAS, Tobacco use is a tremendous burden to Texas, contributing to the premature death of 24,000 Texans each year; and

WHEREAS, Almost 90 percent of adults who smoke began using tobacco before age 18; secondhand smoke is associated with an increased risk for lung cancer and coronary heart disease in nonsmoking adults and endangers the health of children; and

WHEREAS, State tobacco prevention programs have achieved reductions in tobacco use by Texas adults and youth; and

WHEREAS, The Texas Department of State Health Services has partnered with Texas schools and Education Service Centers to support the health and well-being of every student in the state by dedicating a statewide tobacco awareness day; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby recognize the importance of preventing youth tobacco use; and, be it further

RESOLVED, That the Texas Senate hereby declare March 28, 2007, Texas Tobacco-Free Kids Day in support of promoting a healthy future for Texas youth.

SR 587 was read and was adopted without objection.

GUESTS PRESENTED

Senator Ellis was recognized and introduced to the Senate student participants in the Texas Tobacco-Free Kids Day.

The Senate welcomed its guests.

SENATE RESOLUTION 566

Senator Ogden offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Thorndale High School boys basketball team for winning its first University Interscholastic League state championship title; and

WHEREAS, The Thorndale Bulldogs defeated the Martin's Mill Mustangs 39-37 in a thrilling playoff game held in Austin on March 10 to become the 2007 Class A Division I state champions; and

WHEREAS, Head coach Jeff Lieberman and assistant coaches Tim Berg and Todd Doughty showed outstanding leadership during the season in guiding this team of exceptional athletes to the state basketball championship title; they were capably assisted by trainers Jason York and Lauren Larkin and their successes were recorded by videographer Veronica Page; and

WHEREAS, The victorious Thorndale High School Bulldogs are Sederick Brooks, Eric Carrizales, Chris Cornwell, Michael Culbertson, Josh Culp, Blake Doughty, Austin Falke, John Glenn, Everett Hall, Ryan Heine, Michael Hinostroza, Brandon Irwin, Tyler Jordan, Kelly Knue, Isaac Leyendecker, Austin Llana, Britain MacKenzie, Jose Martinez, Glenn Mason, Carlos Rodriguez, Joe Salinas, Chris Saunders, Cody Schneider, Travis Stockton, Preston Stolte, and Ryan Towery; and

WHEREAS, School superintendent Gene Solis, principal Dave Denny, and the entire Thorndale community can take great pride in the members of the Thorndale High School boys basketball team for their hard work, their impressive skills, and their fine sportsmanship; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend the players, coaches, and teachers and staff of the Thorndale High School boys basketball team for their outstanding achievements during the season and extend congratulations to them on winning the University Interscholastic League's 2007 Class A Division I state basketball championship title; and, be it further

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

SR 566 was read and was adopted without objection.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate the Thorndale High School boys basketball University Interscholastic League 2007 Class A Division I state champions: Josh Culp, Team Captain; Jeff Lieberman, Head Coach; Tim Berg, Assistant Coach; Gene Solis, Superintendent, Thorndale Independent School District; and Dave Denny, Principal; accompanied by team members, students, and teachers.

The Senate welcomed its guests.

SENATE RESOLUTION 564

Senator Shapiro offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to welcome this year's participants in the Girl Scouts' Legislative Page Program on their visit to the Capitol, and these dedicated young ladies are most deserving of special recognition; and

WHEREAS, This outstanding program began in 1995 in an effort to provide these future Texas leaders with the opportunity for firsthand experience with the legislative process; and

WHEREAS, Girls from across the state are taking part in this unique, three-day event; and

WHEREAS, Endeavoring to understand the legislative process and state government is a truly worthwhile undertaking; the Girl Scout organization and the young ladies who participate in the Legislative Page Program are indeed commendable, and their contributions to their communities and their state are much appreciated; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby honor all those associated with the Girl Scouts' Legislative Page Program and extend to them best wishes for the future; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of these program participants.

SHAPIRO
NELSON
VAN DE PUTTE
ZAFFIRINI

SR 564 was read and was adopted without objection.

GUESTS PRESENTED

Senator Shapiro, joined by Senators Nelson, Van de Putte, and Zaffirini, was recognized and introduced to the Senate participants in the Girl Scouts' Legislative Page Program.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate a delegation of participants in the Tuition Equalization Grant Program.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The Presiding Officer, Senator Seliger in Chair, at 12:03 p.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 929 ON THIRD READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 929** at this time on its third reading and final passage:

CSSB 929, Relating to the resolution of certain medical disputes regarding workers' compensation claims.

The bill was read third time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSSB 929** on third reading by adding the following appropriately numbered **SECTIONS** to the bill and renumbering the existing **SECTIONS** accordingly:

SECTION __. Subsection (d), Section 408.027, Labor Code, is amended to read as follows:

(d) If an insurance carrier contests the compensability of an injury and the injury is determined not to be compensable, the carrier may recover the amounts paid for health care services from the employee's accident or health benefit plan, or any other person who may be obligated for the cost of health care services. If an accident or health insurance carrier or other person obligated for the cost of health care services has paid for health care services for an employee for an injury for which a workers' compensation carrier denies compensability, and the injury is later determined to be compensable, the accident or health insurance carrier or other person may recover the amounts paid for such services from the workers' compensation insurance carrier. If an accident or health insurance carrier or other person obligated for the cost of health care services has paid for health care services for an employee for an injury for which a workers' compensation carrier or employer accepts compensability, the accident or health insurance carrier or other person may recover reimbursement from the insurance carrier as described in Sections 409.009 and 409.0091.

SECTION __. Subchapter A, Chapter 409, Labor Code, is amended by adding Section 409.0091 to read as follows:

Sec. 409.0091. REIMBURSEMENT PROCEDURES FOR CERTAIN ENTITIES. (a) This section applies only to a request for reimbursement by a health care insurer or authorized representative of a health care insurer. For purposes of this section, "health care insurer" refers to an insurance carrier or an authorized representative of an insurance carrier described by Section 402.084(c-1).

(b) Health care paid by a health care insurer is reimbursable as a medical benefit. For purposes of this section, "Medical benefit" has the meaning assigned by Section 401.011(31).

(c) A request for reimbursement or subclaim of the health care insurer is subject to the defense that the health care paid for was not a medical benefit.

(d) It is not a defense to a subclaim by a health care insurer that:

(1) the subclaimant has not sought reimbursement from a health care provider or the subclaimant's insured;

(2) neither the subclaimant nor the health care provider obtained preauthorization under Section 413.014 or rules adopted under that section;

(3) the health care provider did not bill the insurance carrier, as provided by Section 408.027, by the 95th day after the date the health care paid for by the subclaimant was provided; or

(4) the health care provider did not comply with this subtitle or rules adopted under this subtitle.

(e) Subject to the time limits in Subsection (k), the health care insurer shall provide with any reimbursement request the following information to the insurance carrier:

(1) information identifying the workers' compensation case, including the division case number, patient/claimant name, patient/claimant social security number, and date of injury; and

(2) information describing the health care paid, including provider name, provider tax identification number, date of service, place of service, ICD-9 code, CPT code, amount charged by the provider, and the amount paid by the health care insurer.

(f) The insurance carrier shall reduce the amount of the reimbursable subclaim by any payments the insurance carrier had previously made to the same health care provider for the provision of the same health care on the same dates of service. When making such a reduction in reimbursement to the subclaimant, the insurance carrier shall provide appropriate documentation of the previous payments.

(g) For each medical benefit paid, the insurance carrier shall pay to the health care insurer the lesser of the amount payable under the applicable fee guideline on the date of service or the actual amount paid by the health care insurer. In the absence of fee guidelines for a specific service paid, the amount paid by the health care insurer shall be construed as a fair and reasonable payment under Section 413.011(d). The health care insurer may not recover interest as a part of the subclaim.

(h) Upon receipt of a request for reimbursement under this section, the insurance carrier shall respond to the request in writing within 90 days. If the insurance carrier refuses, fails to pay, or reduces a request for reimbursement under this section, the health care insurer may file a written claim with the division as a subclaimant not later than 120 days from the date of receipt of the carrier's notice of refusal, failure to pay, or reduction in reimbursement.

(i) A subclaimant may request dispute resolution to address the insurance carrier's refusal or denial of reimbursement. The subclaimant must select one of the following options for dispute resolution:

(1) the subclaimant may file a dispute in accordance with Chapter 410; in a dispute under Chapter 410 that arises from a subclaim under this section or Section 408.027(d), health care benefits provided by a health care insurer are considered accrued medical benefits provided to the claimant for purposes of Section 410.168(a)(3) and a hearing officer may award the health care insurer, as a subclaimant, all or part of the subclaim and may order the insurance carrier to pay the subclaim as part of a dispute adjudication process under Chapter 410; or

(2) the subclaimant may request dispute resolution under Section 413.0311; the commissioner and the commissioner of insurance shall adopt rules to specify the appropriate dispute resolution process for subclaimant disputes under Section 413.0311.

(j) For a reduction in payment, a subclaimant may request medical dispute resolution to address the reduction in reimbursement under Chapter 413. The commissioner and the commissioner of insurance shall adopt rules to specify the appropriate dispute resolution process for subclaimant disputes under this subsection.

(k) Until December 31, 2008, a health care insurer must file a request for reimbursement with the insurance carrier not later than one year from the date that the health care insurer received information under Section 402.084(c-3). Effective January 1, 2009, a health care insurer must file a request for reimbursement with the insurance carrier not later than six months from the date the health care insurer received information under Section 402.084(c-3). Effective January 1, 2009, a health care insurer must file a request for reimbursement for a health care claim not later than the second anniversary of the date the claim was paid.

SECTION __. Subchapter C, Chapter 413, Labor Code, is amended by adding Section 413.0311 to read as follows:

Sec. 413.0311. INDEPENDENT REVIEW ORGANIZATION DISPUTE RESOLUTION FOR HEALTH CARE INSURER SUBCLAIMANTS. (a) This section applies to subclaimant disputes regarding reimbursements under Section 409.009 or 409.0091. If an insurance carrier refuses or denies reimbursement, the subclaimant may request dispute resolution from an independent review organization. Each independent review organization performing independent review must be certified under Chapter 4202, Insurance Code.

(b) Upon receipt of a denial or refusal for reimbursement, the subclaimant has the rights of discovery of an insurance carrier records or health care provider records that are available to the parties in a contested case hearing.

(c) The subclaimant shall request dispute resolution and present its written arguments and documentation supporting the determination that the paid health care services were medical benefits as defined under Section 401.011(31) to both the independent review organization and the insurance carrier.

(d) The insurance carrier shall make a written response to the independent review organization, with a copy provided to the subclaimant within 20 business days.

(e) The independent review organization shall review the facts and the parties' arguments and apply evidence-based medicine and generally accepted standards of medical care recognized in the medical community to determine whether the paid health care service constitutes a medical benefit. The independent review organization shall notify the parties of its determination within 60 days of receipt of the initial subclaimant request for dispute resolution.

(f) If the independent review organization determines that a service is a medical benefit, the insurance carrier shall reimburse the subclaimant in the appropriate amount within 15 business days.

(g) The independent review organization review fee shall be paid by the subclaimant at the time of its request for dispute resolution. If the subclaimant prevails, in whole or in part in the dispute, the entire fee shall be reimbursed to the subclaimant by the insurance carrier together with the required medical benefit reimbursement under Subsection (f).

SECTION __. The change in law made by this Act applies only to a subclaim based on a compensable injury occurring on or after September 1, 2007. A subclaim based on a compensable injury occurring before that date is governed by the law in effect on the date the injury occurred, and the former law is continued in effect for that purpose. Except as otherwise provided by this Act, rules required to be adopted by the change in law made by this Act shall be adopted not later than December 31, 2007.

SECTION __. Any forms required under Section 409.0091, Labor Code, as added by this Act, shall be prescribed by the commissioner of workers' compensation not later than 60 days after the effective date of this Act.

The amendment to **CSSB 929** was read and was adopted by a viva voce vote.

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

Absent-excused: Gallegos.

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

CSSB 929 as amended was finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

**SENATE RULE 11.13 SUSPENDED
(Consideration of Bills in Committees)**

On motion of Senator Brimer and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate was meeting today.

**SENATE RULES SUSPENDED
(Posting Rules)**

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

SB 161, SB 273, SB 285, SB 523, SB 612, SB 8.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 12:12 p.m. agreed to adjourn, in memory of Jackie Waynn "Jay" Lester of Lubbock and Phillip Wayne Townsend of Denison, upon conclusion of the Local and Uncontested Calendar Session, until 10:00 a.m. tomorrow.

(Senator Brimer in Chair)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
March 28, 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:

SB 90, Relating to the establishment of a pilot program to provide a ballot by electronic mail to military personnel serving overseas.
(Amended)

SB 190, Relating to sales and use tax information provided by the comptroller of public accounts to certain municipalities.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**SESSION HELD FOR
LOCAL AND UNCONTESTED CALENDAR**

The Presiding Officer announced that the time had arrived to consider bills and resolutions placed on the Local and Uncontested Calendar. Notice of consideration of the local calendar was given by Senator Brimer yesterday.

Pursuant to Senate Rule 9.03(d), the following bills and resolutions were laid before the Senate in the order listed, read second time, amended where applicable, passed to engrossment or third reading, read third time, and passed. The votes on passage to engrossment or third reading, suspension of the Constitutional Three-day Rule, and final passage are indicated after each caption. All Members are deemed to have voted "Yea" on viva voce votes unless otherwise indicated.

CSSB 24 (Nelson)

Relating to certain health care services provided through telemedicine or telehealth under the state Medicaid program.

(viva voce vote) (30-0) (30-0)

CSSB 35 (Nelson)

Relating to a purchasing preference for contractors who provide foods of higher nutritional value and who do not provide foods containing trans fatty acids.

(viva voce vote) (30-0) (30-0)

CSSB 47 (Nelson)

Relating to certain requirements relating to the issuance of a marriage license or the recording of a declaration of informal marriage and to the maintenance of marriage and divorce indexes by the bureau of vital statistics.

(viva voce vote) (30-0) (30-0)

CSSB 99 (Zaffirini)

Relating to the identification of and provision of assistance to colonias and for tracking the progress of certain state-funded projects that benefit colonias.

(viva voce vote) (30-0) (30-0)

CSSB 123 (Deuell)

Relating to excepting from required disclosure under the public information law certain personal information maintained by a municipality that pertains to a minor.

(viva voce vote) (30-0) (30-0)

CSSB 131 (West)

Relating to the creation of nursing home family councils.

(viva voce vote) (30-0) (30-0)

CSSB 136 (Nelson)

Relating to the establishment of a community education program concerning Internet safety.

(viva voce vote) (30-0) (30-0)

SB 143 (West)

Relating to fetal and infant mortality review and health warnings related to fetal and infant mortality; imposing a penalty.

(viva voce vote) (30-0) (30-0)

CSSB 162 (Shapiro)

Relating to property tax abatement agreements entered into by the Dallas County Utility and Reclamation District pertaining to single-family residential property and to the validation of certain actions of the district.

(viva voce vote) (30-0) (30-0)

CSSB 206 (Nelson)

Relating to certain providers of subsidized child care.

(viva voce vote) (30-0) (30-0)

SB 222 (Ellis)

Relating to a security freeze on a consumer file maintained by a consumer reporting agency.

(viva voce vote) (30-0) (30-0)

CSSB 231 (Harris)

Relating to child support enforcement.

(viva voce vote) (30-0) (30-0)

SB 251 (Harris)

Relating to parking of a motor vehicle operated by or for the transportation of a veteran with a disability in certain parking spaces; providing a criminal penalty.

(viva voce vote) (30-0) (30-0)

CSSB 291 (Nelson)

Relating to criminal history record information for certain guardianship services and to lists of certain public guardians.

(viva voce vote) (30-0) (30-0)

(Senator Van de Putte in Chair)

SB 300 (Ellis)

Relating to the duration of judgment liens in favor of the state.

(viva voce vote) (30-0) (30-0)

CSSB 303 (Harris)

Relating to health care coverage for a child in a suit affecting the parent-child relationship.

(viva voce vote) (30-0) (30-0)

SB 304 (Harris)

Relating to the calculation of child support obligations.

(viva voce vote) (30-0) (30-0)

CSSB 316 (Ogden)

Relating to the denial, suspension, or revocation of a state-issued license if the applicant for the license makes a false statement or misrepresentation or refuses to provide information; providing a criminal penalty.

(viva voce vote) (30-0) (30-0)

CSSB 318 (Deuell)

Relating to Medicaid incentive payments for direct nursing care provided by nursing homes.

(viva voce vote) (30-0) (30-0)

SB 339 (Ellis)

Relating to entrance examination procedures for certain police officers under municipal civil service.

(viva voce vote) (30-0) (30-0)

SB 342 (Ellis)

Relating to eligibility requirements for a beginning position in a police department in certain municipalities under municipal civil service.

(viva voce vote) (30-0) (30-0)

CSSB 344 (Carona)

Relating to the additional exit conference required following inspection, survey, or investigation of certain facilities.

(viva voce vote) (30-0) (30-0)

SB 350 (Ellis)

Relating to a request for a public hearing before requiring the abatement of certain nuisances.

(viva voce vote) (30-0) (30-0)

CSSB 351 (Ellis)

Relating to notice procedures for abatement of certain nuisances.

(viva voce vote) (30-0) (30-0)

CSSB 352 (Ellis)

Relating to the method of providing notice in the enforcement of certain municipal ordinances involving substandard buildings and conditions.

(viva voce vote) (30-0) (30-0)

CSSB 370 (Shapiro)

Relating to a school district employee's immunity from liability and responsibility for certain materials.

(viva voce vote) (30-0) (30-0)

SB 406 (Wentworth)

Relating to the assignment of a judge to hear a motion for the recusal or disqualification of a statutory probate court judge.

(viva voce vote) (30-0) (30-0)

CSSB 408 (Lucio)

Relating to authorizing certain counties and municipalities to regulate land development; providing a penalty.

(viva voce vote) (30-0) (30-0)

SB 426 (West)

Relating to qualification for an ad valorem tax exemption for property used to provide low-income or moderate-income housing in the event of a change in ownership of the property as a result of a foreclosure sale.

(viva voce vote) (30-0) (30-0)

SB 430 (Harris)

Relating to a claim for reimbursement in a suit to dissolve a marriage.

(viva voce vote) (30-0) (30-0)

SB 432 (Harris)

Relating to the consent to and annulment of certain marriages.

(viva voce vote) (30-0) (30-0)

CSSB 433 (Harris)

Relating to attorney's fees in certain postjudgment proceedings.

(viva voce vote) (30-0) (30-0)

(Senator Seliger in Chair)**SB 457** (Watson)

Relating to the eligibility for education benefits of surviving minor children of certain public employees killed in the line of duty.

(viva voce vote) (30-0) (30-0)

CSSB 470 (Brimer)

Relating to the submission of uniform financial reports.

(viva voce vote) (30-0) (30-0)

SB 471 (Brimer)

Relating to certain information reporting requirements regarding workers' compensation claims.

(viva voce vote) (30-0) (30-0)

CSSB 496 (Duncan)

Relating to the use of the judicial and court personnel training fund.

(viva voce vote) (30-0) (30-0)

SB 497 (Duncan)

Relating to the application of the professional prosecutors law to the state prosecuting attorney.

(viva voce vote) (30-0) (30-0)

SB 541 (West)

Relating to continuing education in sustainable and energy-efficient design standards for a person registered by the Texas Board of Architectural Examiners.

(viva voce vote) (30-0) (30-0)

CSSB 548 (Carona)

Relating to notice of the presumption for theft by check.

(viva voce vote) (30-0) (30-0)

CSSB 551 (Deuell)

Relating to indigent health care.

(viva voce vote) (30-0) (30-0)

SB 552 (Deuell)

Relating to the accreditation of basic food safety education and training programs for food handlers.

(viva voce vote) (30-0) (30-0)

SB 555 (Lucio)

Relating to designating April as Texas Fruit and Vegetable Month.

(viva voce vote) (30-0) (30-0)

SB 560 (Ellis)

Relating to reimbursement for jury service.

(viva voce vote) (30-0) (30-0)

SB 564 (Hegar)

Relating to the name of The Calhoun County Navigation District.

(viva voce vote) (30-0) (30-0)

CSSB 573 (Brimer)

Relating to an interim study concerning the breeding of white-tailed and mule deer in this state.

(viva voce vote) (30-0) (30-0)

SB 589 (Nelson)

Relating to Temporary Assistance for Needy Families (TANF) employment programs and participation in those programs by certain parents who are not TANF recipients.

(viva voce vote) (30-0) (30-0)

CSSB 590 (Nelson)

Relating to a designated agent's access to a principal's medical and health care information.

(viva voce vote) (30-0) (30-0)

(Senator Brimer in Chair)**SB 591** (Nelson)

Relating to the requirement that licensed physicians provide emergency contact information to the Texas Medical Board.

(viva voce vote) (30-0) (30-0)

SB 593 (Wentworth)

Relating to providing notice to the beneficiaries under a decedent's will.

(viva voce vote) (30-0) (30-0)

Senator Wentworth offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 593** (introduced version) as follows:

(1) In SECTION 1 of the bill, strike proposed Section 128A(c)(1), Texas Probate Code (page 2, lines 9 through 14), and substitute the following:

(1) if the beneficiary is a trust, to the trustee, unless the personal representative is the trustee, in which case the personal representative shall give the notice to:

(A) except as provided by Paragraph (B) of this subdivision, the person, entity, or class first eligible to receive the trust income, to be determined for purposes of this paragraph as if the trust were in existence on the date of the decedent's death;
or

(B) the attorney general, if under Paragraph (A) of this subdivision the notice is required to be given to:

(i) a charitable beneficiary that is no longer in existence; or

(ii) a class of charitable beneficiaries, but providing the notice to the class is impracticable because the class is not composed of natural persons or is unascertainable;

(2) In SECTION 1 of the bill, at the end of proposed Section 128A(c)(2), Texas Probate Code (page 2, line 16), strike "; and" and substitute an underlined semicolon.

(3) In SECTION 1 of the bill, at the end of proposed Section 128A(c)(3), Texas Probate Code (page 2, line 18), between "minor" and the underlined period, insert the following:

; and

(4) if the beneficiary is a charitable beneficiary that is no longer in existence or is a class of charitable beneficiaries that is not composed of natural persons or is unascertainable, to the attorney general

(4) In SECTION 1 of the bill, strike proposed Section 128A(d)(1)(A), Texas Probate Code (page 2, lines 21 through 25), and substitute the following:

(A) the name and address of the beneficiary to whom the notice is given or, for a beneficiary described by Subsection (c) of this section:

(i) the name and address of the beneficiary for whom the notice is given or, if that beneficiary is a charitable beneficiary or class of charitable beneficiaries described by Subsection (c)(4) of this section, a description of the beneficiary or class of beneficiaries; and

(ii) the name and address of the person to whom the notice is given;

(5) In SECTION 1 of the bill, strike proposed Section 128A(d)(1)(F), Texas Probate Code (page 3, lines 6 through 9), and substitute the following:

(F) that the personal representative is a fiduciary and owes duties to the beneficiary, the beneficiary has rights under the Texas Probate Code and common law, and the beneficiary should consider retaining an attorney to advise the beneficiary of those rights and duties; and

(6) In SECTION 1 of the bill, in proposed Section 128A(f), Texas Probate Code, strike page 3, lines 14 through 22 and substitute the following:

(f) Not later than the 90th day after the date of an order admitting a will to probate, the personal representative shall file with the clerk of the court in which the decedent's estate is pending a sworn affidavit of the personal representative, or a certificate signed by the personal representative's attorney, stating:

(1) the name and address of each beneficiary to whom the personal representative gave the notice and, with respect to each beneficiary described by Subsection (c) of this section:

(A) the name and address of the beneficiary for whom the personal representative gave the notice or, if a beneficiary is a charitable beneficiary or class of charitable beneficiaries described by Subsection (c)(4) of this section, a description of the beneficiary or class of beneficiaries; and

(B) the name and address of the person to whom the personal representative gave the notice;

(7) In SECTION 1 of the bill, at the end of proposed Section 128A(f), Texas Probate Code (page 4, line 1), between "section." and "~~["If the address"]~~", insert the following:

(g) The affidavit or certificate required by Subsection (f) of this section may be included with any pleading or other document filed with the clerk of the court, including the inventory, appraisal, and list of claims or an application for an extension of the deadline to file the inventory, appraisal, and list of claims, provided that the pleading or other document with which the affidavit or certificate is included is filed not later than the date the affidavit or certificate is required to be filed as provided by Subsection (f) of this section.

(8) In SECTION 3 of the bill, in amended Section 149C(a)(4), Texas Probate Code (page 5, line 17), strike "the affidavit" and substitute "the affidavit or certificate".

(9) In SECTION 4 of the bill, in amended Section 222(b)(7), Texas Probate Code (page 7, line 1), strike "the affidavit" and substitute "the affidavit or certificate".

The amendment to **SB 593** was read and was adopted by a viva voce vote.

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

Absent-excused: Gallegos.

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

CSSB 600 (Duncan)

Relating to compensation paid to statutory county court judges and certain court-related fees.

(viva voce vote) (30-0) (30-0)

CSSB 606 (Ogden)

Relating to the disclosure of the name of a student or minor who is a victim of abuse or unlawful conduct by an educator.

(viva voce vote) (30-0) (30-0)

CSSB 608 (Ellis)

Relating to restrictions on state contracts with certain contractors.

(viva voce vote) (30-0) (30-0)

SB 618 (Wentworth)

Relating to the jurisdiction of the county, justice, and small claims courts in civil matters.

(viva voce vote) (30-0) (30-0)

Senator Wentworth offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 618** (introduced version) as follows:

(1) In the recital for SECTION 2 of the bill (page 1, line 11), strike "Section 27.031(a)" and substitute "Section 27.031".

(2) In the recital for SECTION 2 of the bill (page 1, lines 11 and 12), between "amended" and "to", insert "by amending Subsection (a) and adding Subsection (c)".

(3) In SECTION 2 of the bill, following amended Section 27.031(a), Government Code (page 1, between lines 23 and 24), insert:

(c) A corporation need not be represented by an attorney in justice court.

The amendment to **SB 618** was read and was adopted by a viva voce vote.

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

Absent-excused: Gallegos.

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

SB 622 (Carona)

Relating to the collection of certain data for the Texas Natural Resources Information System and the duties of the Texas Geographic Information Council.

(viva voce vote) (30-0) (30-0)

CSSB 640 (West)

Relating to creating a recognition day to celebrate adoption, adoptive families, and adoption workers in Texas.

(viva voce vote) (30-0) (30-0)

SB 653 (Seliger)

Relating to filling certain vacancies on the governing bodies of municipalities.

(viva voce vote) (30-0) (30-0)

SB 670 (Ellis)

Relating to allowing an independent school district to change the length of trustees' terms.

(viva voce vote) (30-0) (30-0)

CSSB 682 (Hegar)

Relating to the creation of the Fulshear Municipal Utility District No. 1 of Fort Bend County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

(viva voce vote) (30-0) (30-0)

SB 683 (Hegar)

Relating to the creation and powers of the Fort Bend County Municipal Utility District No. 182, including powers related to the construction, maintenance, operation, and financing of roads or turnpikes; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

(viva voce vote) (30-0) (30-0)

CSSB 684 (Hegar)

Relating to the creation of the Waller County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

(viva voce vote) (30-0) (30-0)

CSSB 688 (Shapleigh)

Relating to the area served by certain municipal drainage utility systems.

(viva voce vote) (30-0) (30-0)

CSSB 699 (Carona)

Relating to the use of only parts of driver's license and social security numbers in certain court documents.

(viva voce vote) (30-0) (30-0)

SB 711 (Shapleigh)

Relating to the use of TexasOnline by businesses to apply and pay for certain permits.

(viva voce vote) (30-0) (30-0)

CSSB 759 (Nelson)

Relating to certain requirements relating to permanency hearings and placement review hearings for children under the care of the Department of Family and Protective Services.

(viva voce vote) (30-0) (30-0)

SB 760 (Nelson)

Relating to participation and reimbursement of telemedicine medical service providers under the Medicaid program.

(viva voce vote) (30-0) (30-0)

CSSB 761 (Nelson)

Relating to reports by nurses of certain conduct and protection from retaliation for those nurses.

(viva voce vote) (30-0) (30-0)

CSSB 762 (Nelson)

Relating to the certification and regulation of mammography systems.

(viva voce vote) (30-0) (30-0)

(Senator Seliger in Chair)**SB 763** (Duncan)

Relating to the affidavit required to prove expenses in a civil action.

(viva voce vote) (30-0) (30-0)

SB 779 (Hegar)

Relating to the appraisal of open-space land devoted principally to agricultural use.

(viva voce vote) (30-0) (30-0)

SB 826 (West)

Relating to providing notice of residence homestead exemptions from ad valorem taxation to owners of certain residential real property.

(viva voce vote) (30-0) (30-0)

CSSB 831 (Ellis)

Relating to energy savings performance contracts.

(viva voce vote) (30-0) (30-0)

CSSB 849 (Hegar)

Relating to the submission of annual reports by farm mutual insurance companies.

(viva voce vote) (30-0) (30-0)

SB 850 (Duncan)

Relating to the designation of certain highways as the Ports-to-Plains Corridor.

(viva voce vote) (30-0) (30-0)

SB 904 (Brimer)

Relating to the continuation and functions of the Texas Alcoholic Beverage Commission; providing penalties.

(viva voce vote) (30-0) (30-0)

SB 908 (Brimer)

Relating to the continuation and functions of the State Office of Risk Management.

(viva voce vote) (30-0) (30-0)

SB 940 (Wentworth)

Relating to multi-jurisdictional library districts.

(viva voce vote) (30-0) (30-0)

SB 948 (Hegar)

Relating to the waiver of penalty and interest on a taxing unit's delinquent payment of its allocation of the budget of an appraisal district.

(viva voce vote) (30-0) (30-0)

SB 978 (Watson)

Relating to certain insurance premium surcharges.

(viva voce vote) (30-0) (30-0)

SB 1263 (Brimer)

Relating to regulation and licensing of certain insurance agents.

(viva voce vote) (30-0) (30-0)

(Senator Brimer in Chair)
SESSION CONCLUDED FOR
LOCAL AND UNCONTESTED CALENDAR

Senator Brimer announced that the session to consider bills and resolutions placed on the Local and Uncontested Calendar was concluded.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 596 by Carona, In memory of Martha Barnes Weisend of Dallas County.

Congratulatory Resolutions

SR 595 by Lucio, Recognizing the City of San Benito on the occasion of its 100th anniversary.

HCR 153 (Hegar), Honoring Emma Jean Schulle on her retirement as the Caldwell County district clerk.

Official Designation Resolutions

SR 593 by Nelson, Recognizing March 30, 2007, as Osteopathic Medicine Day at the State Capitol.

HCR 156 (Eltife), Recognizing March 28, 2007, as Paris/Lamar County Day at the State Capitol.

HCR 165 (Eltife), Recognizing March 27 and 28, 2007, as Longview/Gregg County Days at the State Capitol.

Legislative Policy Resolution

SR 594 by Van de Putte, Memorializing the Congress of the United States to support legislation for veterans' health care budget reform.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 1:17 p.m. adjourned, in memory of Jackie Waynn "Jay" Lester of Lubbock and Phillip Wayne Townsend of Denison, 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 28, 2007

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 1154**

EDUCATION — **CSSB 141, SB 480**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 669, CSSB 887, CSSB 965**

BUSINESS AND COMMERCE — **SB 515, SB 812, SB 952, SB 1152, SB 1153, SB 1340**

SIGNED BY GOVERNOR

March 27, 2007

SB 378

In Memory
of
Phillip Wayne Townsend
Senate Resolution 573

WHEREAS, The Senate of the State of Texas joins the citizens of Denison in mourning the loss of Phillip Wayne Townsend of the Denison Fire Department, who died while serving in the line of duty on December 30, 2006, at the age of 31; and

WHEREAS, Phillip Townsend was born January 8, 1975; he had served in the United States Army prior to becoming a firefighter and had completed a tour of duty in Iraq; and

WHEREAS, Following the example of his father, he joined the Denison Fire Department after his service in the military; at the time of his death, he had been a firefighter for more than a year, and he had been studying to become a paramedic; and

WHEREAS, A man of courage, strength, and generosity, Phillip gave unselfishly to others, and his enthusiasm, courage, and resolute spirit will not be forgotten; and

WHEREAS, Phillip was a devoted father and son, and he will long be remembered with affection and admiration by all who were privileged to share in his life; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby extend sincere condolences to the bereaved family of Phillip Wayne Townsend: his mother, Sherry Richardson; his father, Larry Townsend; his children, Maddox, Tristen, and Rylen Townsend; his sisters, Stormy Sparks and Lauren Walton; and his grandparents, Cleda Richardson and Marvin and Helen Townsend; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Phillip Wayne Townsend.

ESTES

In Memory
of
Jackie Waynn "Jay" Lester
Senate Resolution 589

WHEREAS, The Senate of the State of Texas joins the citizens of Lubbock in mourning the loss of Jackie Waynn "Jay" Lester, who died March 13, 2007, at the age of 50 from his service in the line of duty as a firefighter; and

WHEREAS, Jackie Lester was born December 18, 1956; he graduated from Monterey High School in 1975 and attended South Plains College on a rodeo scholarship; and

WHEREAS, Mr. Lester established the Jay Lester Custom Drywall Company in 1977; in 1980, he joined the Lubbock Fire Department, where he was a lieutenant and served as a hoseman and driver and specialized in heavy rescue for 26 years; and

WHEREAS, In 1985, he received an award for his firefighting from the Lubbock City Council and the citizens of Lubbock, and in 2005, he earned the title Firefighter of the Year and a Certificate of Merit for firefighting from the City of Lubbock; and

WHEREAS, In addition to his duties with the Lubbock Fire Department, Mr. Lester worked part-time at the Texas Motor Speedway as a crash fire truck operator and pit crew member; and

WHEREAS, Active in civic affairs, Mr. Lester was a member of the Lubbock Soccer Association, the Lubbock High School Rodeo Association, the Monterey Booster Club, the International Association of Fire Fighters, and many other organizations; he was a devoted supporter of youth baseball and coached for the Cooper Little League, the Dixie Little League, the Lubbock Pony Colt League, and the Monterey Summer League; and

WHEREAS, A man of courage, strength, and kindness, he gave generously to others, and his wisdom, warmth, and dauntless spirit will not be forgotten by those who knew him; and

WHEREAS, Jay Lester was a devoted husband and father, and he will long be remembered with affection and admiration by all who were privileged to share in his life; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby extend sincere condolences to the bereaved family of Jackie Waynn Lester: his wife, Barbara Lester; his son and daughter-in-law, Jason and Misty Lester; his daughters, Jennifer, Julie, and Jacey Lester; and his sister, Nan Rogers; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Jackie Waynn Lester.

DUNCAN

