

TWELFTH DAY

MONDAY, FEBRUARY 7, 2005

PROCEEDINGS

The Senate met at 1:30 p.m. pursuant to adjournment and was called to order by President Pro Tempore Shapiro.

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, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Lucio, Madla, Van de Putte.

The Presiding Officer announced that a quorum of the Senate was present.

Rabbi Yakov Polatsek, Torah Outreach Resource Center of Houston, offered the invocation as follows:

Avinu shebashamayim, our Father in heaven, we thank You for the opportunity and responsibility which You have given us to make decisions and pass legislation which affect the future of the great State of Texas. Our Father in heaven, we pray to You today that we be responsible with that privilege. We pray that the Senators of this 79th Legislature, who are here in this Chamber, and Governor Perry and Lieutenant Governor Dewhurst, who lead them, be given the courage to make those difficult decisions and the wisdom to make the correct ones. Jewish people throughout the great State of Texas read this past Sabbath the verse in Exodus which discusses the first Senate in the Bible, and I quote, "And you shall discern from among the entire people men of accomplishment, God-fearing people, men of truth, people who despise money, and you shall appoint them leaders of thousands." *Avinu shebashamayim*, our Father in heaven, we conclude this prayer that the men and women of this Senate live up to those standards that You have set as a guide for a moral and ethical society and that all its citizens live in freedom and tranquility. And to this let us all say amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Thursday, February 3, 2005, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVES OF ABSENCE

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

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

On motion of Senator Whitmire, Senator Van de Putte was granted leave of absence for today on account of an illness in the family.

CO-AUTHORS OF SENATE BILL 107

On motion of Senator Estes, Senators Deuell, Janek, and Shapiro will be shown as Co-authors of **SB 107**.

CO-AUTHOR OF SENATE BILL 112

On motion of Senator Van de Putte, Senator Janek will be shown as Co-author of **SB 112**.

CO-AUTHOR OF SENATE BILL 128

On motion of Senator Shapleigh, Senator Ellis will be shown as Co-author of **SB 128**.

CO-AUTHORS OF SENATE BILL 170

On motion of Senator Harris, Senators Deuell and Shapiro will be shown as Co-authors of **SB 170**.

CO-AUTHOR OF SENATE BILL 230

On motion of Senator West, Senator Carona will be shown as Co-author of **SB 230**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

February 7, 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:

HCR 12, Honoring George Mitchell on the 30th anniversary of the founding of The Woodlands.

HCR 15, Honoring the life of U.S. Army Corporal William M. Amundson, Jr., of The Woodlands.

HCR 41, In memory of Judge Fidencio M. Guerra, Sr.

HCR 45, Designating February 7, 2005, as Tim Flynn Day and Advanced Practice Nurses Day at the Capitol.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

MESSAGES FROM THE GOVERNOR

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

Austin, Texas
February 4, 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 appointments:

To be a member of the State Cemetery Committee for a term to expire February 1, 2011:

James Coley Cowden
Austin, Texas

(Mr. Cowden is replacing Ralph Wayne whose term expired)

To be a member of the Texas Racing Commission for a term to expire February 1, 2007:

Louis Edward Sturns
Fort Worth, Texas

(Mr. Sturns is replacing Comer Cottrell who resigned)

To be a Commissioner of the Texas Workforce Commission for a term to expire February 1, 2011:

Ronald Gene Congleton
Austin, Texas

(Mr. Congleton is being reappointed)

To be a member of the State Securities Board for a term to expire January 20, 2011:

Bryan K. Brown
Pearland, Texas

(Mr. Brown is being reappointed)

To be a member of the Office of Rural Community Affairs for a term to expire February 1, 2011:

Michael Cooper Waters
Abilene, Texas

(Mr. Waters is being reappointed)

To be a member of the Texas Building and Procurement Commission for a term to expire January 31, 2011:

Betty Pinckard Reinbeck
Sealy, Texas

(Ms. Reinbeck is being reappointed)

Respectfully submitted,

/s/Rick Perry
Governor

PHYSICIAN OF THE DAY

Senator Staples was recognized and presented Dr. Ronnie McMurry of Jasper as the Physician of the Day.

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

SENATE RESOLUTION 79

Senator Harris offered the following resolution:

WHEREAS, Members of the Texas High School Rodeo Association (THSRA) are visiting the State Capitol today, and the visit provides a fitting opportunity to honor this notable organization; and

WHEREAS, The THSRA is the largest, most prestigious state high school rodeo association in the nation; the association promotes education and athleticism in Texas' youth, while working to instill in participants the values of leadership, personal responsibility, and commitment; and

WHEREAS, The THSRA sponsors 150 rodeos throughout 10 regions across Texas from September to June; at the finals competition in Abilene, the top cowboys and cowgirls from each region compete for numerous awards and scholarships as well as an opportunity to represent the Lone Star State at the National High School Finals Rodeo held in July; and

WHEREAS, The American cowboy has captured the imagination of the world for more than a century, and it is indeed appropriate to commend those young people who participate in this proud tradition; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby welcome the members of the Texas High School Rodeo Association and recognize February 7, 2005, as THSRA Day at the State Capitol.

HARRIS	ESTES	SELIGER
ARMBRISTER	FRASER	SHAPIRO
AVERITT	GALLEGOS	STAPLES
BRIMER	JACKSON	VAN DE PUTTE
CARONA	LINDSAY	WENTWORTH
DEUELL	LUCIO	WEST
DUNCAN	MADLA	WHITMIRE
ELLIS	NELSON	WILLIAMS
ELTIFE	OGDEN	ZAFFIRINI

SR 79 was read and was adopted without objection.

GUESTS PRESENTED

Senator Harris, joined by Senators Armbrister, Averitt, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Jackson, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, West, Whitmire, Williams, and Zaffirini, was recognized and introduced to the Senate members of the Texas High School Rodeo Association.

The Senate welcomed its guests.

HOUSE CONCURRENT RESOLUTION 45

The Presiding Officer, Senator Shapiro in Chair, laid before the Senate the following resolution:

HCR 45, Designating February 7, 2005, as Tim Flynn Day and Advanced Practice Nurses Day at the Capitol.

AVERITT

The resolution was read.

On motion of Senator Averitt and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: Lucio, Madla, Van de Putte.

GUESTS PRESENTED

Senator Averitt was recognized and introduced to the Senate Capitol Nurse Tim Flynn and his wife, Becky, accompanied by a delegation of nurses.

The Senate welcomed its guests.

RESOLUTION SIGNED

The Presiding Officer announced the signing of the following enrolled resolution in the presence of the Senate: **HCR 43**.

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

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

There was no objection.

SENATE RESOLUTION 104

Senator Zaffirini offered the following resolution:

WHEREAS, Lauren Ashly Self of George West was crowned Miss Live Oak County on March 13, 2004, and this achievement is truly deserving of recognition; and

WHEREAS, Selected from a field of lovely and talented contestants, Miss Self was chosen for her beauty and for the exceptional poise that she demonstrated in the competition; she has the distinction of being one of the youngest winners in the pageant's history, and her parents, Kevin and Diana Self, are justifiably proud of their daughter's success; and

WHEREAS, This George West High School student is an honor roll student, a varsity cheerleader, and a member of the volleyball team; she is also active in 4-H and has enjoyed showing animals at the Live Oak County Fair for the past decade; and

WHEREAS, After graduation, Miss Self hopes to attend The University of Texas at Austin, where she plans to study journalism; and

WHEREAS, In addition to pursuing her scholastic and extracurricular interests, this hardworking young woman has devoted her time to helping others, volunteering at the local nursing home and delivering food baskets to shut-ins; and

WHEREAS, With outstanding grace and natural charm, Lauren Self has provided exemplary representation for her community during her reign as Miss Live Oak County, and she undoubtedly faces a future bright with promise; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby congratulate Lauren Ashly Self on being named Miss Live Oak County 2004 and extend to her sincere best wishes for continued success and happiness; and, be it further

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

SR 104 was read and was adopted without objection.

GUEST PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Miss Live Oak County 2004, Lauren Ashly Self.

The Senate welcomed its guest.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 2:00 p.m. agreed to adjourn, in memory of Justice Mack Kidd of Austin, upon completion of the introduction of bills and resolutions on first reading, until 11:00 a.m. tomorrow.

(Senator Seliger in Chair)

SENATE BILLS AND RESOLUTIONS ON FIRST READING

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

SB 281 by Gallegos

Relating to business leave time accounts for peace officers in certain municipalities and counties.

To Committee on Business and Commerce.

SB 282 by Madla, Brimer, Lucio, Van de Putte, Zaffirini

Relating to disclosure and use of sales price information for ad valorem tax purposes; creating an offense.

To Committee on Intergovernmental Relations.

SB 283 by Staples

Relating to a recreational sports fee at Stephen F. Austin State University.

To Subcommittee on Higher Education.

SB 284 by Ellis

Relating to charitable contributions by state employees to certain General Land Office programs.

To Committee on Finance.

SB 285 by Wentworth

Relating to the creation of an additional judicial district in Comal County.

To Committee on Jurisprudence.

SB 286 by Wentworth

Relating to requiring public officials to receive training in the requirements of the open meetings and public information laws.

To Committee on Government Organization.

SB 287 by Janek

Relating to authorizing the issuance of revenue bonds for The University of Texas Medical Branch at Galveston for National Biocontainment Laboratory facilities and infrastructure.

To Committee on Finance.

SB 288 by Shapleigh

Relating to the transfer of certain surplus or salvage property to the United Mexican States.

To Committee on Government Organization.

SB 289 by West

Relating to the punishment for the offense of burglary of vehicles.

To Committee on Criminal Justice.

SB 290 by West

Relating to disclosures required in connection with certain home loans.

To Committee on Business and Commerce.

SB 291 by West

Relating to the index of court fees and costs.

To Committee on Jurisprudence.

SB 292 by Carona

Relating to the fee for reinstatement or issuance of a driver's license following a license suspension or denial for failure to pass a test for intoxication.

To Committee on Transportation and Homeland Security.

SB 293 by Zaffirini, Hinojosa, Lucio, Shapleigh

Relating to meetings between representatives of the Department of Public Safety and Mexican states on transportation and truck inspection issues.

To Committee on International Relations and Trade.

SB 294 by Duncan

Relating to procedures relating to the doctrine of forum non conveniens in a civil cause of action.

To Committee on State Affairs.

SB 295 by Madla

Relating to the issuance of revenue bonds for Texas A&M University–San Antonio.

To Committee on Finance.

SB 296 by Madla

Relating to the student enrollment required for the operation of Texas A&M University–San Antonio as an independent general academic teaching institution.

To Subcommittee on Higher Education.

SB 297 by Wentworth

Relating to the rates charged by a municipally owned utility to certain recreational vehicle parks for potable water or wastewater service.

To Committee on Natural Resources.

SB 298 by Wentworth

Relating to the creation of an offense involving the supervision of a vehicle operator holding an instruction permit.

To Committee on Transportation and Homeland Security.

SB 299 by Wentworth

Relating to the exception from required public disclosure of the name of an applicant for the position of city manager of certain home-rule municipalities.

To Committee on Intergovernmental Relations.

SB 300 by Wentworth

Relating to the authority of certain counties to impose a hotel occupancy tax.

To Committee on Intergovernmental Relations.

SB 301 by Shapleigh

Relating to the collection and reporting of certain information regarding uninsured individuals in this state.

To Committee on State Affairs.

SB 304 by Armbrister

Relating to the prosecution of the offense of criminal trespass.

To Committee on Criminal Justice.

SB 305 by Armbrister

Relating to the licensing and regulation of glass technicians; providing administrative penalties.

To Committee on Business and Commerce.

SB 306 by Duncan

Relating to the disqualification of certain persons for unemployment benefits.
To Committee on Business and Commerce.

SB 307 by Duncan

Relating to persons who participate in a mental health court program.
To Committee on Criminal Justice.

SB 308 by Duncan

Relating to temporary successors to members of the legislature during a period of emergency caused by enemy attack.
To Committee on State Affairs.

SB 309 by Lucio, Armbrister, Averitt, Barrientos, Brimer, Deuell, Ellis, Eltife, Fraser,

Gallegos, Harris, Janek, Madla, Van de Putte, Wentworth, West, Whitmire, Zaffirini
Relating to the creation of an address confidentiality program to assist victims of family violence, sexual assault, or stalking in maintaining confidential addresses.
To Committee on State Affairs.

SB 310 by Deuell

Relating to certain diseases or illnesses suffered by certain emergency first responders.
To Committee on State Affairs.

SB 311 by Deuell

Relating to the regulation of academic language teachers and therapists; imposing penalties.
To Committee on Health and Human Services.

SB 312 by Deuell

Relating to the use, sale, purchase, or possession of a traffic-control signal preemption device; providing criminal penalties.
To Committee on Criminal Justice.

SB 313 by Gallegos

Relating to the training required for certain county jailers.
To Committee on Intergovernmental Relations.

SB 314 by Gallegos

Relating to the emergency service fee rate in certain 9-1-1 emergency communication districts.
To Committee on Business and Commerce.

SB 315 by Lucio

Relating to minimum personal leave for faculty members at public institutions of higher education.
To Subcommittee on Higher Education.

SB 316 by Lucio

Relating to the prevention of shaken baby syndrome.
To Committee on Health and Human Services.

SB 317 by Staples

Relating to the designation of the El Camino East/West Corridor.
To Committee on Transportation and Homeland Security.

SB 318 by Staples

Relating to creating a recognition day in remembrance of the Texian Navy.
To Committee on Government Organization.

SB 319 by Shapleigh

Relating to requiring state investment funds to post certain information on the Internet.
To Committee on State Affairs.

SB 321 by Harris

Relating to the jurisdiction of the 396th District Court.
To Committee on Jurisprudence.

SB 322 by Staples

Relating to proceeds from the sale of certain state surplus and salvage personal property.
To Committee on Transportation and Homeland Security.

SB 323 by Staples

Relating to participation by the Texas Department of Transportation in the cost of acquiring, constructing, maintaining, or operating a toll facility.
To Committee on Transportation and Homeland Security.

SB 324 by Janek

Relating to the creation of a judicial district composed of Brazoria County.
To Committee on Jurisprudence.

SB 325 by Zaffirini

Relating to the management of behavior of residents of certain facilities.
To Committee on Health and Human Services.

SB 326 by Zaffirini

Relating to using the Internet to obtain identifying information of another person for a fraudulent purpose; providing penalties.
To Committee on Criminal Justice.

SB 327 by Zaffirini

Relating to the unauthorized collection and transmission of certain information by computer; providing a penalty.
To Committee on Criminal Justice.

SB 328 by Staples

Relating to the protection of public water supplies.
To Committee on Transportation and Homeland Security.

SB 329 by Hinojosa

Relating to retirement benefits for certain teachers.
To Committee on Education.

SB 330 by Deuell

Relating to the designation of certain hospitals as primary stroke centers.
To Committee on Health and Human Services.

SB 331 by Lindsay

Relating to the North Harris County Regional Water Authority.
To Committee on Natural Resources.

SB 332 by Fraser

Relating to furthering competition in the telecommunication industry.
To Committee on Business and Commerce.

SB 333 by West, Averitt, Ellis, Gallegos, Hinojosa, Lucio, Madla, Ogden, Shapleigh, Van de Putte, Whitmire

Relating to the eligibility of a high school graduate for automatic admission to an institution of higher education.
To Committee on Education.

SB 334 by Duncan

Relating to the remedy provided for failure to disclose certain information in certain residential construction transactions.
To Committee on Business and Commerce.

SB 335 by Carona

Relating to the Uniform Real Property Electronic Recording Act.
To Committee on Jurisprudence.

SB 336 by Carona

Relating to the referral of criminal cases to certain magistrates.
To Committee on Criminal Justice.

SB 337 by Carona

Relating to criminal background checks on users of online relationship services; providing a criminal penalty.
To Committee on Criminal Justice.

SB 338 by Carona

Relating to the amount of the use tax imposed on certain motor vehicles brought into this state by a new resident.
To Committee on Transportation and Homeland Security.

SB 339 by Carona

Relating to the regulation of interior designers; providing penalties.
To Committee on Business and Commerce.

SB 340 by Whitmire

Relating to the authority of a municipality to require the removal of certain vehicles from a freeway without the consent of the owner or person in charge of the vehicle.
To Committee on Intergovernmental Relations.

SB 341 by Van de Putte

Relating to the identification information required of an applicant for a driver's license.

To Committee on Transportation and Homeland Security.

SB 342 by Brimer

Relating to the regulation of swimming pools in the unincorporated areas of certain counties as a public nuisance.

To Committee on Intergovernmental Relations.

SB 343 by Brimer

Relating to county authority to regulate the placement of water wells in unincorporated areas of the county; providing a penalty.

To Committee on Intergovernmental Relations.

SB 344 by Duncan

Relating to the notice, hearing, rulemaking, and permitting procedures for groundwater conservation districts.

To Committee on Natural Resources.

SB 345 by Duncan, Zaffirini

Relating to the exemption from ad valorem taxation of tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes.

To Committee on Finance.

SCR 2 by Staples

Memorializing Congress to enact legislation to provide for federal deployment of the Strategic National Stockpile within Mexico to protect United States border states.

To Committee on Transportation and Homeland Security.

SJR 8 by Shapleigh

Proposing a constitutional amendment limiting the time in which the legislature may enact or modify districts for the state legislature or the United States House of Representatives.

To Committee on State Affairs.

SJR 9 by Shapleigh

Proposing a constitutional amendment to create a consolidated El Paso Metro Government by consolidating El Paso County and the City of El Paso.

To Committee on Intergovernmental Relations.

SJR 10 by Lindsay

Proposing a constitutional amendment to allow an officer of a municipal utility district to simultaneously serve as an election judge.

To Committee on State Affairs.

SJR 11 by Ellis

Proposing a constitutional amendment authorizing the governor to grant one or more reprieves in a capital case.

To Committee on Criminal Justice.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SCR 3 by Armbrister, In memory of King Fisher of Port Lavaca.

HCR 15 (Williams), Honoring the life of U.S. Army Corporal William M. Amundson, Jr., of The Woodlands.

Congratulatory Resolutions

SR 91 by Lindsay, Commending Jason Paige for achieving the rank of Eagle Scout.

SR 92 by Lindsay, Commending Peter Andrew Kendall for achieving the rank of Eagle Scout.

SR 93 by Lindsay, Commending Christopher Clarabut for achieving the rank of Eagle Scout.

SR 94 by Lindsay, Commending Robert Nash for achieving the rank of Eagle Scout.

SR 95 by Lindsay, Commending Anthony Iorio for achieving the rank of Eagle Scout.

SR 96 by Deuell, Recognizing the 24th Annual Terrell Heritage Jubilee Cook-off as a Texas State BBQ Championship competition.

SR 97 by Jackson, Commending C. T. "Tommy" Anderson of Santa Fe for his dedication to his work.

HCR 12 (Williams), Honoring George Mitchell on the 30th anniversary of the founding of The Woodlands.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 2:09 p.m. adjourned, in memory of Justice Mack Kidd of Austin, until 11:00 a.m. tomorrow.

