

# FORTY-FIRST DAY

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THURSDAY, MARCH 31, 2005

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## PROCEEDINGS

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The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hinojosa, Jackson, Janek, Lindsay, Lucio, Nelson, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Harris, Madla, Ogden.

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

Lewis R. Timberlake, Hyde Park Baptist Church, Austin, offered the invocation as follows:

Our Father and our God, I stand here this morning in this special place of service surrounded by people I admire, people I pray for, thankful for Your presence. I stand here grateful for Your blessings, in need of Your forgiveness, asking for Your power. I pray that You will teach us that the brotherhood of man transcends the sovereignty of nations, that economic justice can best be won by free men and women through free enterprise, and that faith in God gives meaning and purpose to human life. I pray that You will teach us we should not ask for strength just to win the praise of men and that sometimes we are made weak to feel the need for God. I pray You will teach us not to ask for wealth so that we might be happy and that often we are given poverty to make us human. Finally, help us be brave when peril comes, consistent when testing comes, loving when hate is shown, and give us the power to be faithful to family and friends. Finally, humbly we ask You to help us go live that our life will be an inspiration and our memory a benediction. 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.

## LEAVES OF ABSENCE

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

**CO-AUTHOR OF SENATE BILL 69**

On motion of Senator Shapleigh, Senator Van de Putte will be shown as Co-author of **SB 69**.

**CO-AUTHOR OF SENATE BILL 282**

On motion of Senator Madla, Senator Wentworth will be shown as Co-author of **SB 282**.

**CO-AUTHOR OF SENATE BILL 301**

On motion of Senator Shapleigh, Senator Van de Putte will be shown as Co-author of **SB 301**.

**CO-AUTHOR OF SENATE BILL 1677**

On motion of Senator Barrientos, Senator Wentworth will be shown as Co-author of **SB 1677**.

**CO-AUTHOR OF SENATE BILL 1695**

On motion of Senator Duncan, Senator Armbrister will be shown as Co-author of **SB 1695**.

**CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 9**

On motion of Senator Armbrister, Senator Williams will be shown as Co-author of **SCR 9**.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

March 31, 2005

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HB 55**, Relating to the designation of the portion of Interstate Highway 20 inside Kaufman, Dallas, and Tarrant Counties as the Ronald Reagan Memorial Highway.

**HB 129**, Relating to the authority to require a convicted person to perform manual labor for a nonprofit organization.

**HB 151**, Relating to the punishment for the offense of burglary of a vehicle.

**HB 474**, Relating to the duty of a gas utility to report certain transactions to the Railroad Commission of Texas.

**HB 554**, Relating to the system benefit fund and to eligibility for and enrollment for benefits under the fund.

**HB 762**, Relating to the solicitation by state officers and employees of and recommendations regarding contributions to charitable organizations and governmental entities.

**HB 915**, Relating to authority of a peace officer to make an arrest outside of the officer's jurisdiction or to seize property while making the arrest.

**HB 951**, Relating to construction affecting pipeline easements and rights-of-way.

**HB 970**, Relating to the required mental state for commission of certain misdemeanor offenses.

**HB 1154**, Relating to limited liability companies and partnerships.

**HB 1319**, Relating to business entities and associations.

**HB 1507**, Relating to the regulation of corporations; providing a penalty.

**HCR 127**, In memory of Dorothy Turner Scharbauer of Midland.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### **PHYSICIAN OF THE DAY**

Senator Nelson was recognized and presented Dr. Tamra Deuser of Lewisville as the Physician of the Day.

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

**(Senator Lucio in Chair)**

### **SENATE RESOLUTION 455**

Senator Brimer, on behalf of Senator Harris, offered the following resolution:

WHEREAS, The Texas Council of Child Welfare Boards (TCCWB) provides support to a statewide network of concerned citizens who are endeavoring to address the needs of children in their communities, especially those who are abused and neglected; and

WHEREAS, Child welfare boards originated in 1931, when the Texas Legislature authorized county commissioners courts to appoint boards that would coordinate local protective services for children; at the same time, the legislature created the Division of Child Welfare Services (DCWS), originally part of the State Board of Control; DCWS has become Child Protective Services, one of four major programs within the Department of Family and Protective Services; and

WHEREAS, Before 1939, when the state assumed responsibility for the protection of children with the establishment of the State Department of Public Welfare, the county child welfare boards often furnished services to families and children themselves, with guidance from the DCWS staff; today one of the responsibilities of these boards is to oversee county expenditures for child welfare services; and

WHEREAS, In 1976, regional child welfare advisory councils began to be established, bringing together representatives of county boards, and in 1978 the TCCWB was created; today the state council is composed of members representing 11 regional councils, which in turn represent 212 county child welfare boards; and

WHEREAS, Members of the TCCWB collaborate with the staffs of Child Protective Services and other agencies and organizations to promote services to abused and neglected children and to prevent the occurrence of abusive treatment; the scale of the challenge facing the TCCWB and allied groups is suggested by the estimate that 8.5 percent of Texas children are at risk for some sort of abuse or neglect; and

WHEREAS, The TCCWB is committed to creating a society in which all children know the security of a loving, nurturing, and safe environment, and its work has ramifications that touch all Texans; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby welcome representatives of the Texas Council of Child Welfare Boards to the State Capitol and commend all those associated with that organization for their continuing dedication to protecting the children of the Lone Star State.

**SR 455** was read and was adopted without objection.

#### **GUESTS PRESENTED**

Senator Brimer, on behalf of Senator Harris, was recognized and introduced to the Senate Estelle Teague, Sandra Penn, Patsy Baggett, Janet Parker, and Marty Belt, accompanied by a delegation of citizens representing the Texas Council of Child Welfare Boards.

The Senate welcomed its guests.

#### **GUESTS PRESENTED**

Senator Jackson was recognized and introduced to the Senate a delegation of citizens from the La Porte-Bayshore Chamber of Commerce.

The Senate welcomed its guests.

#### **GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate a delegation of citizens from Rio Grande City and Starr County: Kevin Hiles, Mayor of Rio Grande City; Ruben Villarreal, Economic Development Corporation President and Alderman; Leo Olivares, City Administrator; Mauro Villarreal, Main Street Program Coordinator; Sam Vale, President, Starr County Industrial Foundation; and Rose Benavidez, Executive Director, Starr County Industrial Foundation.

The Senate welcomed its guests.

**SENATE RESOLUTION 516**

Senator Deuell offered the following resolution:

WHEREAS, Members of Leadership Rowlett 2005 are visiting the State Capitol on March 30 and 31, 2005; and

WHEREAS, Sponsored by the chamber of commerce, the Rowlett group is part of a national leadership program in which participants attend class sessions over a nine-month period to meet local civic and business leaders and to learn more about the city's history, government, economy, and social issues; the curriculum combines lectures, dialogue, and interaction to stimulate a cooperative environment and to help the participants cultivate personal, organizational, and community leadership skills; and

WHEREAS, This year's group operates under the direction of Chairman Owen G. Lokken, of the Rowlett Chamber of Commerce Board of Directors, David Watlington, program chairman of Leadership Rowlett, and facilitator Joan Leonard; benefiting from their commitment and guidance are 12 individuals who represent a diverse array of backgrounds and disciplines, and they include: Scott A. Airtam of Leadership Systems; Charles W. Alexander of the Garland Independent School District; Shane E. Brown of Texans Credit Union; Dretha J. Burris of Coyle Middle School; Peggy L. Debruge of Perot Systems; Danae M. Deltoro of JP Morgan Chase; David W. Dunphy of Rowlett High School; Pamela H. Liston of The Liston Law Firm; L. Dianna Nelson-Molix of Concerned Americans in Action; Craig S. Owens of the City of Rowlett; Lori L. Trahan, D.V.M., of Four Paws Animal Hospital; and James M. Walling of the Rowlett Police Department; and

WHEREAS, Endeavoring to build a more informed and involved citizenry and to develop new leaders, this invaluable program, and all those associated with it, are helping to ensure a bright future for the citizens of Rowlett; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby recognize the members of Leadership Rowlett and extend to them sincere best wishes for an educational and enjoyable visit to the seat of Texas government; and, be it further

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

**SR 516** was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Deuell was recognized and introduced to the Senate a delegation of citizens representing Leadership Rowlett 2005.

The Senate welcomed its guests.

**SENATE RESOLUTION 476**

Senator Seliger offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Texas Lyceum Association on the occasion of its 25th anniversary; and

WHEREAS, Following the tradition Aristotle established with the Lyceum of ancient Athens, the Texas Lyceum Association was created in 1980 to address the critical questions facing Texas through open debate and discussion among its members; and

WHEREAS, The Texas Lyceum brings together individuals with diverse opinions and expertise for the benefit of state leaders, ensuring Texas a place in the forefront of our nation's journey into the 21st century; and

WHEREAS, The association seeks to identify and develop the next generation of top leadership in Texas and to promote stewardship of the values, traditions, and resources of our state; and

WHEREAS, Former members of the association include such luminaries as President George W. Bush, John Sharp, United States Senator Kay Bailey Hutchison, Governor Rick Perry, Attorney General Greg Abbott, Senator Rodney Ellis, and Lena Guerrero; the membership is a diverse group that includes doctors, lawyers, government officials, artists, and clergy; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby congratulate the members of the Texas Lyceum Association on the occasion of the organization's 25th anniversary and honor them for 25 years of meritorious service to Texas; and, be it further

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

**SR 476** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Seliger was recognized and introduced to the Senate representatives of the Texas Lyceum Association: Jordan Cowman, President; Oma Cowman; Donna Cowman; Connor Cowman; and Douglas Cowman.

The Senate welcomed its guests.

### **MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

March 31, 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 74**, Honoring the 56th Brigade Combat Team of the 36th Infantry Division, Texas National Guard, for its courageous service in Iraq.

**HCR 134**, Congratulating the mock trial team of Tivy High School in Kerrville for winning the state championship.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### **SENATE RESOLUTION 422**

Senator Wentworth offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize county auditors across the state on the occasion of the 100th anniversary of the creation of the office of county auditor by the Texas Legislature; and

WHEREAS, Created in 1905 by the 29th Legislature, the office of county auditor was given the critical responsibility of maintaining the financial well-being of each county; and

WHEREAS, The qualifications of a county auditor include expertise in accounting and business practices; an auditor must provide for the prompt collection, safekeeping, and proper disbursement of county funds; and

WHEREAS, The office of county auditor is entrusted with the vital duty of protecting the taxpayers' money and ensuring that the financial laws of Texas are strictly and fairly enforced; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby pay tribute to the county auditors of the State of Texas for the vital services they provide and extend to them best wishes for the future; and, be it further

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

**SR 422** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Wentworth was recognized and introduced to the Senate a delegation of state auditors celebrating the 100th anniversary of the creation of the office of county auditor.

The Senate welcomed its guests.

### **SENATE RESOLUTION 489**

Senator Duncan offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to pay tribute to the cities of Eden, San Augustine, Yoakum, Fort Stockton, Claude, Brownwood, Quitaque, Rio Grande, White Deer, and Post, which have been designated 2005 Texas Yes! Hardworking Rural Communities by the Texas Department of Agriculture; and

WHEREAS, The Texas Yes! project is an initiative of the Texas Department of Agriculture to promote growth and prosperity of every rural Texas town, city, and county and is similar to the department's GO TEXAN marketing campaign; and

WHEREAS, Each community is self-nominated and evaluated by the Texas Yes! Advisory Board, an independent panel comprised of Texas leaders in the arts, media, education, and tourism; the panel assesses the community's program for rural development as it relates to tourism, planning, community involvement, economic progress, education, and other criteria; and

WHEREAS, The Texas Yes! awards spotlight the exciting developments taking place in rural communities across Texas and encourages these communities to share and promote successful ideas; the 10 cities that have been selected for the 2005 Texas Yes! award are proven hardworking rural communities, and they are indeed deserving of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the citizens of Eden, San Augustine, Yoakum, Fort Stockton, Claude, Brownwood, Quitaque, Rio Grande, White Deer, and Post for their outstanding work in developing and promoting their communities and congratulate them on their designation as Texas Yes! Hardworking Rural Communities; and, be it further

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

**SR 489** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Duncan was recognized and introduced to the Senate a delegation of citizens representing the Texas Yes! program.

The Senate welcomed its guests.

### **SENATE RESOLUTION 510**

Senator Nelson offered the following resolution:

WHEREAS, Substance abuse is a major problem in our society, as the number of Americans abusing drugs is alarming; and

WHEREAS, The staggering costs of alcohol, tobacco, and other drug abuse in terms of human suffering and monetary loss affects all of us, and only through a concerted effort by parents, schools, private institutions, and governmental bodies can the growing number of alcohol and drug abusers be reversed; and

WHEREAS, In 2000, the total economic cost associated with alcohol and drug abuse in Texas was estimated at \$25.9 billion; the 2003 total economic cost associated with tobacco use was \$5.833 billion, including \$1.265 billion in Medicaid costs, \$4.552 billion in overall health-care costs, and \$9.89 million in costs due to fires; and

WHEREAS, It has been reported that 71 percent of Texas students in grades 7 through 12 use alcohol, and that 26 percent of the students who drink are considered binge drinkers; 16 percent of Texas middle school students and 33 percent of Texas high school students are regular smokers, and 21 percent of those students began smoking prior to the age of 13; and

WHEREAS, The use of alcohol and drugs can lead to deadly diseases; their use has been closely linked to the occurrence of sexually transmitted diseases, as well as to unwanted pregnancies, fetal deaths, birth defects, and mental disorders; and



WHEREAS, In 2000, more than 13,500 Texans died from alcohol and drug abuse, and 46 percent of them were younger than 25; 480,000 Texas youths who are smokers will die prematurely from smoking-related problems; and

WHEREAS, National data indicates parental substance abuse contributes to seven out of 10 cases of child abuse and neglect and three-quarters of all foster care placements; and

WHEREAS, People with substance abuse problems crowd our jails and prisons; crime related to substance abuse cost Texas \$4 billion in 2000 and accounted for about 48 percent of the total expenditures in the state's criminal justice system; and

WHEREAS, In recent years, while alcohol advertising and efforts to legalize drug use have become more pronounced, funding for prevention programs has been substantially reduced; and

WHEREAS, Prevention programs have been shown to be the least expensive and most effective approach in dealing with these critical social problems; and

WHEREAS, A renewed commitment by all Texans is necessary to reverse the ever-increasing use of addictive drugs among our citizens, and the use of successful prevention programs should be encouraged and supported; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby recognize March 31, 2005, as Substance Abuse Prevention Day in an effort to encourage our citizens to continue their efforts to eradicate the abuse of drugs in our society.

**SR 510** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Nelson was recognized and introduced to the Senate a coalition of youth and adults representing Substance Abuse Prevention Day.

The Senate welcomed its guests.

### **CONCLUSION OF MORNING CALL**

The Presiding Officer, Senator Lucio in Chair, at 10:37 a.m. announced the conclusion of morning call.

**(President in Chair)**

### **COMMITTEE SUBSTITUTE SENATE BILL 46 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 46** at this time on its second reading:

**CSSB 46**, Relating to the establishment of a method to integrate benefits issuance and recipient identification for health and human services programs.

The bill was read second time and was passed to engrossment by the following vote: Yeas 22, Nays 5.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Jackson, Janek, Lindsay, Lucio, Nelson, Seliger, Shapiro, Staples, Van de Putte, Wentworth, West, Williams.

Nays: Barrientos, Gallegos, Shapleigh, Whitmire, Zaffirini.

Absent: Hinojosa.

Absent-excused: Harris, Madla, Ogden.

**(Senator Brimer in Chair)**

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 46 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 46** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 21, Nays 6. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Jackson, Janek, Lindsay, Lucio, Nelson, Seliger, Shapiro, Staples, Van de Putte, West, Williams.

Nays: Barrientos, Gallegos, Shapleigh, Wentworth, Whitmire, Zaffirini.

Absent: Hinojosa.

Absent-excused: Harris, Madla, Ogden.

**Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 46**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 46** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

**Reason for Vote**

Senator Barrientos submitted the following reason for vote on **CSSB 46**:

While I support the goal of reducing fraud in health and human service programs, I am concerned about the increasing intrusion of government in making

those who receive such services give highly personal identifying information in exchange for those services. I am particularly concerned over the lack of definition of what constitutes biometric identification and the fact that we are applying it to children and the disabled.

The bills allow the Health and Human Services Commission to abandon the project if they find the costs outweigh the benefits, but in the recent past, I have no reason to have confidence in the cost benefit analyses. Therefore I could not vote for **CSSB 46**.

## BARRIENTOS

### COMMITTEE SUBSTITUTE SENATE BILL 581 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 581** at this time on its second reading:

**CSSB 581**, Relating to the powers and duties of the Veterans' Land Board.

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

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

Absent-excused: Harris, Madla, Ogden.

### COMMITTEE SUBSTITUTE SENATE BILL 581 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 581** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Wentworth.

Absent-excused: Harris, Madla, Ogden.

#### Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 581**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 581** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed.

Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Harris, Madla, Ogden.

**(President in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 734 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 734** at this time on its second reading:

**CSSB 734**, Relating to municipal regulation of the discharge of firearms and certain other weapons.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 734** as follows:

(1) On page 1, between lines 38 and 39, insert the following:

"SECTION 2. Subsection (a), Section 229.001, Local Government Code, is amended to read as follows:

Sec. 229.001. FIREARMS; EXPLOSIVES. (a) A municipality may not adopt regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, ammunition, or firearm supplies, except as provided by subsection (d).

Section 3. Section 229.001, Local Government Code, is amended by adding a new Subsection (d) to read as follows:

(d) A municipality may adopt regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, ammunition, or firearm supplies on the following:

(A) a semiautomatic rifle that has the capacity to accept a detachable magazine and has at least two of the following:

(i) a pistol grip that protrudes conspicuously beneath the action of the weapon;

(ii) a folding or telescoping stock;

(iii) a grenade launcher or flare launcher;

(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor;

(v) a forward pistol grip; or

(vi) a bayonet mount;

(B) a semiautomatic pistol that has the capacity to accept a detachable magazine and has at least two of the following:

(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;

(ii) a threaded barrel, capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel;

(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; or

(v) a semiautomatic version of an automatic firearm;

(C) a semiautomatic shotgun that has at least two of the following:

(i) a folding or telescoping stock;

(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

(iii) a fixed magazine capacity in excess of five rounds; or

(iv) the capacity to accept a detachable magazine;

(D) a shotgun with a revolving cylinder; and

(E) any of the following firearms, or a copy or duplicate of any of the following firearms, in any caliber:

(i) Norinco, Mitchell, or Poly Technologies Avtomat Kalashnikovs (all models);

(ii) Action Arms Israeli Military Industries UZI and Galil;

(iii) Beretta AR-70;

(iv) Colt AR-15;

(v) Fabrique National FN/FAL, FN/LAR, and FNC;

(vi) SWD M-10, M-11, M-11/9, and M-12;

(vii) Steyr AUG; or

(viii) INTRATEC TEC-9, TEC-DC9, and TEC-22.

(2) Renumber the subsequent Sections appropriately.

The amendment was read.

On motion of Senator Williams, Floor Amendment No. 1 to **CSSB 734** was tabled by the following vote: Yeas 19, Nays 8.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Jackson, Janek, Lindsay, Nelson, Seliger, Shapiro, Staples, Wentworth, Whitmire, Williams.

Nays: Barrientos, Ellis, Gallegos, Lucio, Shapleigh, Van de Putte, West, Zaffirini.

Absent: Hinojosa.

Absent-excused: Harris, Madla, Ogden.

**CSSB 734** was passed to engrossment by a viva voce vote.

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

Absent: Hinojosa.

Absent-excused: Harris, Madla, Ogden.

**COMMITTEE SUBSTITUTE  
SENATE BILL 734 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 734** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Wentworth.

Absent-excused: Harris, Madla, Ogden.

**Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 734**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 734** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Harris, Madla, Ogden.

**COMMITTEE SUBSTITUTE  
SENATE BILL 393 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 393** at this time on its second reading:

**CSSB 393**, Relating to the designation of certain adults to exercise child visitation and possession rights on behalf of a parent serving in the armed forces and deployed outside this country.

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

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

Absent-excused: Harris, Madla, Ogden.

**COMMITTEE SUBSTITUTE  
SENATE BILL 393 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 393** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Wentworth.

Absent-excused: Harris, Madla, Ogden.

**Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 393**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 393** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Harris, Madla, Ogden.

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 221 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 221** at this time on its second reading:

**CSSB 221**, Relating to the possession and self-administration of certain prescription medications by public school students while on school property or at a school-related event or activity.

Senator Zaffirini withdrew the motion to suspend the regular order of business.

**SENATE BILL 34 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 34** at this time on its second reading:

**SB 34**, Relating to the tuition rebate program for certain undergraduates at certain public institutions of higher education.

The bill was read second time.

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

**Floor Amendment No. 1**

Amend **SB 34**, committee printing, SECTION 1 of amended Section 54.0065, Education Code, (page 1, lines 1-43) by inserting the following language and adjusting accordingly:

The performance of active military service by a student shall be recognized as "good cause" for purposes of this section.

The amendment to **SB 34** was read and was adopted by a viva voce vote.

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

Absent-excused: Harris, Madla, Ogden.

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

**SB 34** as amended was passed to engrossment by a viva voce vote.

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

Absent-excused: Harris, Madla, Ogden.

**SENATE BILL 34 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 34** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.



Nays: Wentworth.

Absent-excused: Harris, Madla, Ogden.

### Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 34**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 34** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Harris, Madla, Ogden.

### RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 42, HCR 67, HCR 114, HCR 118, HCR 130.**

### MESSAGE FROM THE GOVERNOR

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

Austin, Texas  
March 31, 2005

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

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

To be a Justice of the Fourth Appellate District, Place 3, San Antonio for a term until the next General Election and until her successor shall be duly elected and qualified:

Rebecca Simmons  
San Antonio, Texas

(Judge Simmons is replacing Justice Paul W. Green who was elected to the Texas Supreme Court)

Respectfully submitted,  
/s/Rick Perry  
Governor

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER  
Austin, Texas  
March 31, 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:

**SB 88**, Relating to minimum enrollment in certain group life insurance policies.

Respectfully,  
/s/Robert Haney, Chief Clerk  
House of Representatives

### SENATE BILL 1239 REREFERRED

Senator Lucio submitted a Motion In Writing requesting that **SB 1239** be withdrawn from the Committee on Education and rereferred to the Committee on Health and Human Services.

The Motion In Writing prevailed without objection.

### SENATE BILL 1379 REREFERRED

Senator Lucio submitted a Motion In Writing requesting that **SB 1379** be withdrawn from the Committee on Education and rereferred to the Committee on Health and Human Services.

The Motion In Writing prevailed without objection.

### SENATE BILL 1500 REREFERRED

Senator Lucio submitted a Motion In Writing requesting that **SB 1500** be withdrawn from the Committee on Health and Human Services and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

**SENATE BILL 42 REREFERRED**

Senator Nelson submitted a Motion In Writing requesting that **SB 42** be withdrawn from the Committee on Education and rereferred to the Committee on Health and Human Services.

The Motion In Writing prevailed without objection.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 509** by Barrientos, In memory of Jerry Hall of Austin.

**SR 514** by Gallegos, In memory of Sidney Miguel Aleman, Jr., of Houston.

**SR 515** by Gallegos, In memory of Samuel Kempt of Houston.

**SR 521** by Barrientos, In memory of Corinna Mercedes Rodriguez of Austin.

**SR 523** by Barrientos, In memory of Eula Mae Scott of Austin.

**Congratulatory Resolutions**

**SR 508** by Barrientos, Recognizing Toni Crawford on the occasion of her retirement.

**SR 511** by Van de Putte, Congratulating Central Catholic High School in San Antonio on the opening of the Alia K. Herrera Pavilion.

**SR 518** by Van de Putte, Recognizing the Chabad Lubavitch center in San Antonio on the occasion of its 20th anniversary.

**SR 519** by Ellis, Recognizing Alfred N. Poindexter for his service to Prairie View A&M University.

**SR 520** by Shapiro, Recognizing members of the Texas Juvenile Diabetes Research Foundation for their work to find a cure for diabetes.

**SR 522** by Barrientos, Recognizing Ann N. McGinley on the occasion of her retirement.

**Official Designation Resolutions**

**SR 512** by Van de Putte, Recognizing September 2005 as Tejano Heritage Month in Texas.

**SR 513** by Gallegos, Proclaiming April 2, 2005, Home Buying Seminar Day in Houston.

**SR 517** by Fraser, Proclaiming the World Championship Bison Cookoff in Santa Anna the Texas State Bison Cookoff.

**ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 12:14 p.m. adjourned until 1:30 p.m. Monday, April 4, 2005.

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**APPENDIX**

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**COMMITTEE REPORTS**

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

March 31, 2005

HEALTH AND HUMAN SERVICES — **SB 465**

INTERNATIONAL RELATIONS AND TRADE — **SB 1641**

INTERGOVERNMENTAL RELATIONS — **CSSB 282, SB 428, SB 429, SB 748**

BUSINESS AND COMMERCE — **SJR 21, SB 171, SB 255, SB 265, SB 495, SB 709, SB 796, SB 807, SB 810, SB 876, CSSB 96, CSSB 359, CSSB 602, CSSB 988**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 11, SB 250, SB 338, CSSB 637, SB 821, SB 866**

CRIMINAL JUSTICE — **CSSB 56, CSSB 159, CSSB 166, CSSB 37, CSSB 396, CSSB 651**