

# SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**THIRTY-FOURTH DAY**

(Tuesday, April 7, 2009)

The Senate met at 11:09 a.m. pursuant to adjournment and was called to order by the President.

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

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

The Reverend Dr. Daniel T. Hannon, Christ Church United Methodist, The Woodlands, offered the invocation as follows:

We stand this day, gracious God, as inheritors of a great freedom, where life and liberty are melded into the pursuit of happiness. We stand this day, gracious God, as citizens of this noble state, where our culture is as diverse as our boundaries are wide. We stand this day, gracious God, as trustee citizens of this noble freedom, so empower the Senate of the State of Texas to put service above self, goodness above glory, and righteousness above indifference. Today, do something great through this august body of our noble state. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

## **CO-AUTHOR OF SENATE BILL 203**

On motion of Senator Shapleigh, Senator Nelson will be shown as Co-author of **SB 203**.

## **CO-AUTHOR OF SENATE BILL 616**

On motion of Senator Shapleigh, Senator Uresti will be shown as Co-author of **SB 616**.

## **CO-AUTHOR OF SENATE BILL 792**

On motion of Senator Nelson, Senator Hinojosa will be shown as Co-author of **SB 792**.

**CO-AUTHORS OF SENATE BILL 855**

On motion of Senator Carona, Senators Davis, Lucio, Shapleigh, Watson, and Wentworth will be shown as Co-authors of **SB 855**.

**CO-AUTHOR OF SENATE BILL 872**

On motion of Senator Lucio, Senator Estes will be shown as Co-author of **SB 872**.

**CO-AUTHORS OF SENATE BILL 961**

On motion of Senator Ellis, Senators Deuell and Van de Putte will be shown as Co-authors of **SB 961**.

**CO-AUTHOR OF SENATE BILL 1443**

On motion of Senator Zaffirini, Senator Patrick will be shown as Co-author of **SB 1443**.

**CO-AUTHOR OF SENATE BILL 1450**

On motion of Senator West, Senator Carona will be shown as Co-author of **SB 1450**.

**CO-AUTHOR OF SENATE BILL 1569**

On motion of Senator Eltife, Senator Wentworth will be shown as Co-author of **SB 1569**.

**CO-AUTHOR OF SENATE BILL 1805**

On motion of Senator Zaffirini, Senator Van de Putte will be shown as Co-author of **SB 1805**.

**CO-AUTHOR OF SENATE BILL 1923**

On motion of Senator Watson, Senator Wentworth will be shown as Co-author of **SB 1923**.

**CO-AUTHOR OF SENATE BILL 1940**

On motion of Senator Van de Putte, Senator Davis will be shown as Co-author of **SB 1940**.

**CO-AUTHOR OF SENATE BILL 2446**

On motion of Senator Uresti, Senator Zaffirini will be shown as Co-author of **SB 2446**.

**RESOLUTION SIGNED**

The President announced the signing of the following enrolled resolution in the presence of the Senate: **HCR 135**.

**MESSAGE FROM THE GOVERNOR**

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

Austin, Texas  
April 6, 2009

TO THE SENATE OF THE EIGHTY-FIRST LEGISLATURE, REGULAR SESSION:

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

To be members of the Brazos River Authority Board of Directors for terms to expire February 1, 2015:

Kari Belt  
Gatesville, Texas  
(replacing Mark Carrabba of Bryan whose term expired)

Sara Lowrey Mackie  
Salado, Texas  
(replacing Patricia Bailon of Belton whose term expired)

Respectfully submitted,

/s/Rick Perry  
Governor

### SENATE RESOLUTION 585

Senator Van de Putte offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join Texans across the state in celebrating April, 2009, as the Month of the Military Child; and

WHEREAS, Established in 1986 by Secretary of Defense Caspar Weinberger, the Month of the Military Child honors the important role that military children play in the armed forces community; and

WHEREAS, This tribute to military children recognizes their daily sacrifices and the many obstacles they overcome as they face the unique challenges of growing up in a military family; and

WHEREAS, Numerous organizations have arisen that serve the needs of these young Americans; the Department of Defense has initiated a series entitled "Military Students on the Move," the United States Air Force has launched a "Stay Connected" program to help children maintain contact with their parents deployed overseas, and the United States Navy is hosting programs to salute military children; and

WHEREAS, Despite facing multiple moves from one school to another and long overseas deployments by their parents, military children exhibit self-confidence and resilience; their strengths are admired by many, and they are truly deserving of acknowledgement for their important role in the armed forces community and their many contributions and sacrifices; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the children of our military families and extend to them best wishes for a memorable Month of the Military Child; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of this special celebration.

**SR 585** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Van de Putte, joined by Senator Fraser, was recognized and introduced to the Senate winners of the Children of Military Families Art and Poetry Contest: Madison Davis, Clear Creek Elementary School, Fort Hood; Samber Saenz, Earl Warren High School, San Antonio; Destineye' Prosser-Phillips, Robert M. Shoemaker High School, Killeen; Samantha Cipriano, Robert M. Shoemaker High School, Killeen; and Hayley Pickard, Montague Village Elementary School, Fort Hood; accompanied by their teachers.

The Senate welcomed its guests.

### **PHYSICIAN OF THE DAY**

Senator Nelson was recognized and presented Dr. Erica Swegler of Keller as the Physician of the Day.

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

### **GUESTS PRESENTED**

Senator Patrick was recognized and introduced to the Senate a group of students from the Cypress-Fairbanks Independent School District.

The Senate welcomed its guests.

### **SENATE RESOLUTION 576**

Senator Uresti offered the following resolution:

WHEREAS, All children need love, guidance, and safety and deserve to grow up in an environment free of violence and physical harm; and

WHEREAS, Child abuse and neglect are a serious and widespread problem in the State of Texas; and

WHEREAS, In 2007 alone, the Texas Department of Family and Protective Services received more than 240,000 reports of child abuse and neglect, and 223 Texas children died as a result of abuse or neglect; most of the victims are infants or preschool children; and

WHEREAS, The direct costs of child abuse and neglect include the costs of judicial, law enforcement, and health system responses to child maltreatment; in Texas, the costs associated with investigation, care, placement, and treatment of child abuse and neglect cases approach \$900 million per year; and

WHEREAS, The enormous costs of child abuse and neglect can be reduced by well-funded and robust child abuse prevention and early intervention programs that break the cycle of violence; and

WHEREAS, There are a number of effective programs that prevent child abuse and neglect, including early childhood education and health care, substance abuse treatment programs, home visitation programs, and parenting programs; and

WHEREAS, Thousands of child protection workers, medical and legal professionals, clergy members, social workers, school teachers, and other adults devote themselves to preventing, detecting, and addressing the effects of child abuse and neglect; and

WHEREAS, Thousands of Texans serve as foster parents each year, opening their homes and hearts to children who have suffered child abuse and neglect and protecting them from further harm; and

WHEREAS, Thousands of children are adopted by loving parents each year in Texas, providing them with a new start in life after they have experienced maltreatment; and

WHEREAS, It is possible to fight child abuse and neglect with community-based programs that reflect the diversity, strengths, and resources of the many communities in this great state, and it is a worthy goal for all citizens to seek to break the cycle of child abuse and neglect in our country and to give victimized children hope for the future; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby recognize April as Child Abuse Prevention Month and commend all Texans who work on behalf of the abused and neglected children of our state; and, be it further

RESOLVED, That a copy of this Resolution be prepared in recognition of Child Abuse Prevention Month.

**SR 576** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Uresti was recognized and introduced to the Senate Oren Debreen, Mark Carmona, Vickie Ernst, Nancy Reed, and Scott McAninch, representing the Blue Ribbon Task Force of Bexar County.

The Senate welcomed its guests.

### **MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

April 7, 2009

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 123**, Honoring the recipients of the 2009 Texas Medal of Arts Awards.

**HCR 138**, In memory of Orange Grove educator Roxie M. Fine.

**SB 769**, Relating to methods for the recovery of system restoration costs incurred by electric utilities following hurricanes, tropical storms, ice or snow storms, floods, and other weather-related events and natural disasters.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### **SENATE RESOLUTION 548**

Senator Harris offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the members of the Mansfield Summit High School girls' basketball team, who won the University Interscholastic League Class 5A state title on March 7, 2009; and

WHEREAS, The Mansfield Summit High School Lady Jaguars took advantage of being the underdog in the championship game and stayed calm and focused to defeat the Houston Nimitz High School Lady Cougars 52-43; the Lady Jaguars finish the season with an excellent 34-4 record; and

WHEREAS, Members of the Summit High School team exhibited perseverance, team unity, and respect for the highest ideals of sportsmanship; they demonstrated exceptional talent and the discipline instilled in them by head coach Tammy Lusinger and assistant coaches Greg Peters, Carmen Woudstra, Peggy Till, and Sonia Bustamante; and

WHEREAS, The Summit High School champions are senior Starr Crawford, who was named Most Valuable Player; seniors Alisha Filmore and Brykia Sims; juniors Amy Moody, Paisley Campbell, Taylor Hooker, Breonna Tolliver, Breanna Harris, Lauren Martin, and Loren McDaniel; sophomores Jakayla Cage and Jacque Allen; and freshman Ashley Eli; and

WHEREAS, The girls' basketball team is a source of tremendous pride for the students and faculty at Summit High School, and it deserves recognition for its outstanding achievement; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby congratulate the players and coaching staff of the Mansfield Summit High School girls' basketball team on winning the University Interscholastic League Class 5A state basketball championship and extend to all best wishes for continued success; 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.

HARRIS  
AVERITT  
DAVIS

**SR 548** was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Harris, joined by Senators Averitt and Davis, was recognized and introduced to the Senate Mansfield Summit High School girls basketball team members Starr Crawford, Captain; Alisha Filmore, Captain; and Brykia Sims, Captain; their coaches Tammy Lusinger and Greg Peters; accompanied by additional team members.

The Senate welcomed its guests.

**SENATE RESOLUTION 565**

Senator Shapiro offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Dr. Kern Wildenthal for his distinguished career and inspiring leadership in the fields of medicine, education, administration, and philanthropy; and

WHEREAS, Dr. Kern Wildenthal served as president of The University of Texas Southwestern Medical Center for 22 years before his retirement in the fall of 2008; he was dean of the graduate school for four years and dean of the medical school for six years before becoming president in 1986; and

WHEREAS, His association with Southwestern began in 1960, when he was admitted to the medical school at the age of 18; he graduated in 1964, completed training in internal medicine and cardiology, and earned a doctorate in cell physiology from the University of Cambridge in 1970; and

WHEREAS, As president, Dr. Wildenthal guided Southwestern Medical Center's exceptional growth and its ascendancy as one of the top medical centers in the world through his visionary leadership, his effectiveness in attracting superior talent to the faculty, which includes several Nobel Prize winners, and his ability to communicate the needs of the center to its benefactors; and

WHEREAS, Dr. Wildenthal has published numerous scientific papers, and he has received many awards over the years for his professional and philanthropic efforts; he was elected to the prestigious Texas Business Hall of Fame in 2008; and

WHEREAS, He has long been active in community organizations and the arts; since retiring, he has increased his volunteer leadership in Dallas and continues his work with the Southwestern Medical Foundation; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Dr. Kern Wildenthal on his illustrious and prolific career and his longtime commitment to The University of Texas Southwestern Medical Center; and, be it further

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

SHAPIRO  
CARONA  
DEUELL  
HARRIS  
WEST

**SR 565** was read.

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

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

### **GUEST PRESENTED**

Senator Shapiro, joined by Senators Carona, Deuell, Duncan, Harris, Nelson, Shapleigh, and West, was recognized and introduced to the Senate Dr. Kern Wildenthal of Dallas.

The Senate welcomed its guest.

### **HOUSE CONCURRENT RESOLUTION 123**

The President laid before the Senate the following resolution:

WHEREAS, The Texas Legislature is pleased to recognize April 7, 2009, as Texas Medal of Arts Awards Day at the State Capitol and to commend this year's distinguished award recipients; and

WHEREAS, Presented by the Texas Cultural Trust, the Texas Medal of Arts Awards pay tribute to Texans who have made important contributions to a variety of artistic disciplines in the state, either through personal achievement or through generous support; and

WHEREAS, Those selected for the 2009 biennial awards are: Laura W. Bush, Standing Ovation; Robert Rauschenberg, Lifetime Achievement; Lake/Flato Architects, Architecture; James Dick, Arts Education; Anheuser-Busch Companies, Corporate Arts Patron; Robert Rodriguez, Film; Edith O'Donnell, Individual Arts Patron; Austin City Limits, Multimedia; Clint Black, Music; T. R. Fehrenbach, Literary Arts; Betty Buckley, Theatre Arts; and Keith Carter, Visual Arts; and

WHEREAS, The arts greatly enhance the quality of life in Texas, and the creative individuals and committed patrons being honored by the Texas Cultural Trust have contributed immeasurably to the rich cultural tapestry of the Lone Star State; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby congratulate the recipients of the 2009 Texas Medal of Arts Awards and express deep appreciation for their dedication to the advancement of the arts in Texas; and, be it further

RESOLVED, That a copy of this resolution be prepared for each award winner as an expression of high regard by the Texas House of Representatives and Senate.

ELLIS

**HCR 123** was read.

On motion of Senator Ellis, 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.

### **GUESTS PRESENTED**

Senator Ellis was recognized and introduced to the Senate recipients of the Texas Medal of Arts Awards: David Peacock, President, Anheuser-Busch Companies, Corporate Arts Patron; Christopher Rauschenberg, Lifetime Achievement, on behalf of his father, Robert; Terry Lickona, Austin City Limits, Multimedia; David Lake and



Ted Flato, Architecture; James Dick, Arts Education; T. R. Fehrenbach, Literary Arts; Betty Buckley, Theatre Arts; Keith Carter, Visual Arts; accompanied by Leslie Blanton, Chair, Texas Cultural Trust; Karen Oswalt, Event Co-chair; and Pam Willerford, Event Co-chair.

The Senate welcomed its guests.

### **SENATE RESOLUTION 482**

Senator Williams offered the following resolution:

WHEREAS, Residents of Montgomery County are celebrating the contributions of their county to our state with a trip to the State Capitol on April 7, 2009; and

WHEREAS, Located in the East Texas Timberlands region, Montgomery County was the third county formed under the Republic of Texas; artifacts from the Paleo-Indian and Archaic cultures have been found in the area, suggesting a human presence more than 10,000 years ago; and

WHEREAS, Among the region's earliest Anglo-American settlers was Andrew Montgomery, who established a trading post at a site that became one of the county's first settlements and eventually became the town of Montgomery; the Republic of Texas Congress officially established Montgomery County in 1837; and

WHEREAS, The construction of the railroads toward the end of the 19th century led to a significant economic transformation in the region, and in 1932, oil was discovered southeast of Conroe; and

WHEREAS, Today, the county's industries still include oil and lumber, but its abundant lakes and its forest land also make it an attractive destination for many; opportunities for hunting, boating, fishing, and hiking abound in the Sam Houston National Forest, the W. Goodrich Jones State Forest, Lake Conroe, Spring Creek, and Lake Woodlands; and

WHEREAS, Many charming towns dot the landscape of Montgomery County, including the county seat, Conroe; the region's first settlement, Montgomery; the cities of Porter, Oak Ridge, and Shenandoah, which provide comfortable residential neighborhoods for some of the county's population; and the township of Willis, which originally thrived with a successful tobacco industry and now has a profitable timber and farming economy; and

WHEREAS, The Woodlands, a master-planned community where its residents live, work, play, and learn, is located in southern Montgomery County and is home to The Cynthia Woods Mitchell Pavillion, which in the year 2006 was ranked the fourth-best-attended outdoor music facility in the nation; the community also features a 1.25-mile-long waterway which serves as a transportation corridor linking offices, retail stores, and dining and entertainment venues; and

WHEREAS, The town of Cut and Shoot earned its unique name after a 1912 community dispute over the design of a new steeple for the town's only church and land claims among church members; when the issue reached a boiling point, a young boy near the church reportedly yelled, "I'm going to cut around the corner and shoot through the bushes," which stuck in the minds of residents, who soon adopted the name Cut and Shoot; and

WHEREAS, The residents of Montgomery County may take justifiable pride in their region's rich heritage, and it is a pleasure to honor them as they look forward to a bright and promising future; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby recognize April 7, 2009, as Montgomery County Day at the State Capitol and extend to the county's citizens here today sincere best wishes for an enjoyable visit to Austin; and, be it further

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

**SR 482** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Williams, joined by Senator Nichols, was recognized and introduced to the Senate Bill Hanover of the Greater Conroe/Lake Conroe Area Chamber of Commerce, Donna Hunt of the Magnolia Area Chamber of Commerce, and Mike Farthing of the Magnolia Parkway Chamber of Commerce, from Senator Nichols' district, and Dr. Jon Kramer of the Community Chamber of Commerce of East Montgomery County, Bret Stong of South Montgomery County Woodlands Chamber of Commerce, and Karen Smith of Drucker, Rutledge & Smith, L.L.P., from Senator Williams' district, accompanied by a delegation of citizens from Montgomery County.

The Senate welcomed its guests.

### **SENATE BILLS ON FIRST READING**

The following bills, filed on or before Friday, March 13, 2009, were introduced, read first time, and referred to the committees indicated:

**SB 104** by Ellis

Relating to a limitation on the amount of tuition charged by public institutions of higher education.

To Committee on Higher Education.

**SB 105** by Hinojosa, Deuell, Fraser, Gallegos, Harris, Nelson, Patrick, Uresti, Williams

Relating to limitations on increases in fees and designated tuition charged by public institutions of higher education.

To Committee on Higher Education.

**SB 191** by Shapleigh

Relating to tuition and fee exemptions for undergraduate students eligible for automatic admission to general academic teaching institutions.

To Committee on Higher Education.

**SB 214** by Van de Putte

Relating to limitations on increases in the total amount of tuition charged by public institutions of higher education.

To Committee on Higher Education.

**SB 667** by Shapleigh

Relating to student Internet access to financial and academic information maintained by public institutions of higher education and to a fixed tuition rate provided by certain institutions of higher education to students for satisfactory academic performance.

To Committee on Higher Education.

**SB 1346** by Davis

Relating to limitations on increases in the total amount of tuition charged by public institutions of higher education.

To Committee on Higher Education.

**HOUSE BILLS ON FIRST READING**

The following bills received from the House were read first time and referred to the committees indicated:

**HB 71** to Committee on State Affairs.

**HB 394** to Committee on Economic Development.

**HB 405** to Committee on Criminal Justice.

**HB 448** to Committee on Health and Human Services.

**HB 621** to Committee on Intergovernmental Relations.

**HB 670** to Committee on Jurisprudence.

**HB 753** to Committee on Natural Resources.

**HB 762** to Committee on Business and Commerce.

**HB 806** to Committee on State Affairs.

**HB 873** to Committee on Economic Development.

**HB 982** to Committee on Criminal Justice.

**HB 1595** to Committee on Natural Resources.

**HB 1637** to Committee on Economic Development.

**HB 1671** to Committee on Health and Human Services.

**HB 1758** to Committee on Business and Commerce.

**HB 1830** to Committee on Government Organization.

**HB 1871** to Committee on Transportation and Homeland Security.

**HB 1975** to Committee on Business and Commerce.

**HB 2208** to Committee on Natural Resources.

**HB 2433** to Committee on Transportation and Homeland Security.

**HB 2434** to Committee on Transportation and Homeland Security.

**HB 2560** to Committee on Business and Commerce.

**SENATE CONCURRENT RESOLUTION 56**

The President laid before the Senate the following resolution:

WHEREAS, Section 17, Article III, Texas Constitution, provides that neither house of the legislature may adjourn for more than three days without the consent of the other house; now, therefore, be it

RESOLVED by the 81st Legislature of the State of Texas, That each house grant the other permission to adjourn for more than three days during the period beginning on Thursday, April 9, 2009, and ending on Tuesday, April 14, 2009.

WHITMIRE

**SCR 56** was read.

On motion of Senator Whitmire, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

### CONCLUSION OF MORNING CALL

The President at 12:19 p.m. announced the conclusion of morning call.

### SENATE BILL 482 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 482** at this time on its second reading:

**SB 482**, Relating to the Texas Holocaust and Genocide Commission.

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.

### SENATE BILL 482 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 482** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

### Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 482**, 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 482** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

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

**BIRTHDAY GREETINGS EXTENDED**

Senator Zaffirini was recognized and, on behalf of the Senate, extended birthday greetings to Senator Ellis, whose birthday is today, and Senator Patrick, whose birthday was Saturday, April 4, 2009.

**COMMITTEE SUBSTITUTE  
SENATE BILL 872 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 872** at this time on its second reading:

**CSSB 872**, Relating to continued health insurance coverage for eligible survivors of certain public servants killed in the line of duty.

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

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 872 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 872** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 872**, 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 872** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

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

**SENATE BILL 638 ON SECOND READING**

Senator Nichols moved to suspend the regular order of business to take up for consideration **SB 638** at this time on its second reading:

**SB 638**, Relating to the collateralization of certain public funds; providing administrative penalties.

The motion prevailed.

Senators Ellis and Watson asked to be recorded as "Present-not voting" on suspension of the regular order of business.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 638** (Senate committee printing) by adding a new SECTION 3 and SECTION 4 as follows and renumbering the remaining section accordingly:

SECTION 3. Section 404.031(e), Government Code, is amended to read as follows:

(e) Instead of depositing pledged securities with the comptroller, a depository may deposit them with a custodian. The custodian may be the (i) Texas Treasury Safekeeping Trust Company, (ii) ~~or~~ a state or national bank that has a capital stock and permanent surplus of not less than \$5 million, is a state depository, and has been designated as a custodian by the comptroller, or (iii) a financial institution authorized to exercise fiduciary powers that has a capital stock and permanent surplus of not less than \$5 million, has its main office, branch office or a trust office in this state, and has been designated as a custodian by the comptroller. For purposes of this subsection (e), "financial institution" has the meaning assigned by Section 201.101(1), Finance Code. The comptroller may designate those custodial applicants that are acceptable and may reject those whose management or condition, in the opinion of the comptroller, do not warrant the placing of securities pledged by state depositories. The comptroller may adopt and enforce rules governing the designation and conduct of custodians with respect to the acceptance and holding of securities pledged by state depositories that the public interest requires and that are not inconsistent with the law governing custodians as set forth in this chapter. The state depository and the custodian of securities pledged by that state depository may not be the same bank or be owned by the same bank holding company. The securities shall be held in trust by the custodian to secure funds deposited by the comptroller in the state depository pledging the securities. On receipt of the securities, the custodian shall immediately, by book entry or otherwise, identify on its books and records the pledge of the securities and shall promptly issue and deliver to the comptroller controlled trust receipts for the securities pledged. The security evidenced by the trust receipts is subject to inspection by the comptroller at any time. The depository pledging the securities shall pay the charges, if any, of the custodian bank for accepting and holding the securities. The custodian, acting alone or through a permitted institution, is for all purposes under state law and notwithstanding Chapters 8 and 9, Business & Commerce Code, the bailee or agent of the comptroller. The security interest arising out of a pledge of securities to secure

deposits of the state is created, attaches, and is perfected for all purposes under state law from the time the custodian identifies the pledge of the securities on its books and records and issues the trust receipts. The security interest remains perfected as of that time in the hands of all subsequent custodians and permitted institutions.

SECTION 4. Section 2257.041(d), Government Code, is amended to read as follows:

(d) A custodian must be approved by the public entity and be:

(1) a state or national bank that:

(A) is designated by the comptroller as a state depository;

(B) has its main office or a branch office in this state; and

(C) has a capital stock and permanent surplus of \$5 million or more;

(2) the Texas Treasury Safekeeping Trust Company;

(3) a Federal Reserve Bank or a branch of a Federal Reserve Bank; ~~or~~

(4) a federal home loan bank; or;

(5) a financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian pursuant to Section 404.031(e).

The amendment to **SB 638** 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:

Present-not voting: Ellis, Watson.

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

**SB 638** 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:

Present-not voting: Ellis, Watson.

### SENATE BILL 638 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 638** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Wentworth.

Present-not voting: Ellis, Watson.

### 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 638**, 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 638** 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 29, Nays 0, Present-not voting 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Present-not voting: Ellis, Watson.

**COMMITTEE SUBSTITUTE  
 SENATE BILL 1389 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1389** at this time on its second reading:

**CSSB 1389**, Relating to the penalty for the offense of reckless driving.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1389** (Senate committee printing), in SECTION 1 of the bill, as follows:

(1) In the introductory language (page 1, line 13), strike "and (g)" and substitute "(g), and (h)".

(2) Immediately following added Section 545.401(g), Transportation Code (page 1, between lines 36 and 37), insert the following:

(h) A person who is subject to prosecution under both this section and another section of this or any other code may be prosecuted under either or both sections.

The amendment to **CSSB 1389** was read and was adopted by a viva voce vote.

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



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

**CSSB 1389** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

#### **SENATE BILL 1410 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1410** at this time on its second reading:

**SB 1410**, Relating to the licensing and regulation of plumbers.

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.

#### **SENATE BILL 1410 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1410** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

#### **Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 1410**, 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 1410** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 2015 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2015** at this time on its second reading:

**CSSB 2015**, Relating to certain metropolitan rapid transit authorities.

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

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2015 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2015** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 2015**, 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 2015** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth  
Senator, District 25

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

**(Senator Carona in Chair)**

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 1392 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 1392** at this time on its second reading:

**CSSB 1392**, Relating to toll collection and enforcement.

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

**(President in Chair)**

**SENATE BILL 1003 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1003** at this time on its second reading:

**SB 1003**, Relating to the abolishment of the Office of State-Federal Relations as an independent agency and the transfer of the duties and functions of that agency to the office of the governor.

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.

**SENATE BILL 1003 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1003** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 1003**, 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 1003** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed.

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

/s/Jeff Wentworth  
Senator, District 25

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

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 488 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 488** at this time on its second reading:

**CSSB 488**, Relating to the operation of a motor vehicle in the vicinity of a vulnerable road user; providing penalties.

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

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Carona and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Transportation and Homeland Security might meet and consider the following bills tomorrow: **SB 1160, HB 1871**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 593** by Lucio, In memory of Socorro Amieva González of Brownsville.

**SR 595** by Watson, In memory of Julia Joseph Sawyer of Austin.

**Congratulatory Resolutions**

**SR 586** by Van de Putte, Congratulating Madison Davis for winning the art contest sponsored by the Committee on Veteran Affairs and Military Installations.

**SR 587** by Van de Putte, Congratulating Samber Saenz for winning the poetry contest sponsored by the Committee on Veteran Affairs and Military Installations.

**SR 588** by Van de Putte, Congratulating Destineye' Prosser-Phillips for winning the poetry contest sponsored by the Committee on Veteran Affairs and Military Installations.

**SR 589** by Van de Putte, Congratulating Samantha Cipriano for winning the poetry contest sponsored by the Committee on Veteran Affairs and Military Installations.

**SR 590** by Van de Putte, Congratulating Hayley Pickard for winning the art contest sponsored by the Committee on Veteran Affairs and Military Installations.

**SR 594** by Watson, Recognizing the Austin Aztex Football Club as it begins the 2009 season.

**SR 596** by Watson, Recognizing Josefina Pedraza Tamez on the occasion of her 86th birthday.

**SR 597** by Watson, Recognizing Robert B. Daigh on the occasion of his retirement from the Texas Department of Transportation.

### ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:18 p.m. adjourned until 11:00 a.m. tomorrow.

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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:

April 7, 2009

STATE AFFAIRS — **SJR 36, CSSB 390, SB 1152, SB 1211, SB 1228, SB 1732, SB 1814, SB 1815**

CRIMINAL JUSTICE — **CSSB 727**

STATE AFFAIRS — **CSSB 378**

ECONOMIC DEVELOPMENT — **SB 1105, SB 1311, SB 1458, SB 1633, SB 1684, SB 1947, SB 1959**

EDUCATION — **SB 100, SB 587, CSSB 644, SB 817, SB 955, CSSB 956, CSSB 1255, SB 1362, SB 1363, CSSB 1606, SB 1831 (Amended)**

GOVERNMENT ORGANIZATION — **SB 1009, SB 1862, SB 1958, CSSB 1973, SB 2169, SCR 7, SCR 11, SCR 40**

NATURAL RESOURCES — **CSSB 1414**

EDUCATION — **CSSB 1459, CSSB 1576**

INTERGOVERNMENTAL RELATIONS — **CSSB 181**

### BILLS AND RESOLUTION ENGROSSED

April 6, 2009

**SB 17, SB 386, SB 404, SB 796, SB 970, SB 1290, SB 1386, SJR 35**

**RESOLUTIONS ENROLLED**April 6, 2009**SR 566, SR 567, SR 569, SR 571, SR 572, SR 573, SR 575, SR 577, SR 578,  
SR 579, SR 580, SR 581, SR 582, SR 583, SR 584, SR 591, SR 592**