

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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## THIRTY-FIRST DAY

(Thursday, March 24, 2011)

The Senate met at 10:09 a.m. pursuant to adjournment and was called to order by President Pro Tempore Ogden.

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

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

Pastor Joseph Parker, Jr., David Chapel Missionary Baptist Church, Austin, was introduced by Senator Watson and offered the invocation as follows:

Almighty God, today I pray for our Senators as they discuss, debate, deliberate, and decide. May they do justice, love mercy, and walk humbly before You, as they resource and help those hurting and in need. It is not easy for them to represent the diverse people of Texas whose many wants cannot all be satisfied. It is not easy to discern which actions will produce the greatest good for the greatest number. It is not easy to withstand the personal temptations that come with power. So bless them with stamina, compassion, and integrity to fight for and legislate what is right in Your sight. Protect them from losing their wits, nerve, mutual respect, or souls in the heady atmosphere of governmental affairs so that Texans may flourish in a state blessed with liberty, peace, and justice. In this setting I am aware there may be those who do not pray or who do pray but in the names of Yahweh, Allah, Buddha, or some other name; I pray in Jesus' name. Amen.

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

The motion prevailed without objection.

## MESSAGES FROM THE GOVERNOR

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

March 23, 2011  
Austin, Texas

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

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

To be the Inspector General for Health and Human Services for a term to expire February 1, 2012:

Douglas C. Wilson  
Pflugerville, Texas

Mr. Wilson is replacing Kelly "Bart" Bevers of Round Rock whose term expired.

To be a member of the Judicial Districts Board for a term to expire December 31, 2014:

Craig T. Enoch  
Austin, Texas  
Justice Enoch is being reappointed.

To be a member of the Cancer Prevention and Research Institute of Texas Oversight Committee for a term to expire January 31, 2017:

Faith Johnson  
Cedar Hill, Texas  
Judge Johnson is being reappointed.

To be members of the Texas Board of Professional Geoscientists for terms to expire February 1, 2017:

Becky L. Johnson  
Fort Worth, Texas  
(replacing Glenn Lowenstein of Houston whose term expired)

Judy A. Reeves  
Grapevine, Texas  
(replacing Yale Clark of Dallas whose term expired)

Gregory C. Ulmer  
Houston, Texas  
(Mr. Ulmer is being reappointed)

Respectfully submitted,  
/s/Rick Perry  
Governor

**RESOLUTIONS SIGNED**

The President Pro Tempore announced the signing of the following enrolled resolutions in the presence of the Senate: **SCR 28, SCR 29.**

**INTRODUCTION OF  
BILLS AND RESOLUTIONS POSTPONED**

The President Pro Tempore 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.

### CONCLUSION OF MORNING CALL

The President Pro Tempore at 10:15 a.m. announced the conclusion of morning call.

### SENATE BILL 430 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 430** at this time on its second reading:

**SB 430**, Relating to written notice to a groundwater conservation district of groundwater contamination.

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 430 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 430** 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 430**, 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 430** 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.

WENTWORTH

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

### PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. Tamara Dominguez of San Antonio as the Physician of the Day.

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

### **GUESTS PRESENTED**

Senator Nelson, joined by Senators Davis and Harris, was recognized and introduced to the Senate the Leadership Fort Worth Class 2011.

The Senate welcomed its guests.

### **SENATE BILL 356 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 356** at this time on its second reading:

**SB 356**, Relating to awards for certain members of the state military forces inducted into federal service in support of Operations Iraqi Freedom, New Dawn, and Enduring Freedom.

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 356 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 **SB 356** 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 356**, 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 356** 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.

WENTWORTH

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

### **SENATE BILL 478 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 478** at this time on its second reading:

**SB 478**, Relating to the protection of stray bison.

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 478 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 478** 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 478**, 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 478** 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.

WENTWORTH

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

### **COMMITTEE SUBSTITUTE SENATE BILL 762 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 762** at this time on its second reading:

**CSSB 762**, Relating to the transfer of an ad valorem tax lien; providing for the imposition of an administrative penalty.

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 762 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 762** 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 762**, 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 762** 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.

WENTWORTH

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

**SENATE BILL 798 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 798** at this time on its second reading:

**SB 798**, Relating to the amounts of administrative penalties assessed or imposed against certain health facilities.

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 798 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 **SB 798** 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 798**, 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 798** 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.

WENTWORTH

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

**SENATE BILL 945 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 945** at this time on its second reading:

**SB 945**, Relating to authorizing a public junior college to award an associate degree to a student enrolled in a four-year public institution of higher education who previously attended the junior college.

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 945 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 945** 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 945**, 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 945** 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.

WENTWORTH

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

### SENATE BILL 117 ON SECOND READING

Senator Uresti moved to suspend the regular order of business to take up for consideration **SB 117** at this time on its second reading:

**SB 117**, Relating to allowing municipally owned utility systems in certain cities to fund a program to aid low-income residents in paying their bills.

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

Nays: Ogden.

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **SB 117** (senate committee report) in SECTION 1 of the bill, amended Section 1502.056(a), Government Code (page 1, line 21), between "million" and the comma, by inserting "but less than two million".

The amendment to **SB 117** 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 Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**SB 117** as amended was passed to engrossment by the following vote: Yeas 30, Nays 1.

Nays: Ogden.

**SENATE BILL 117 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 117** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

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

Nays: Ogden, 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 117**, 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 117** 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.

WENTWORTH

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Ogden.

**SENATE RESOLUTION 624**

Senator Harris offered the following resolution:

**SR 624**, In memory of Senator Don Kennard of Arlington.

The resolution was read.

On motion of Senator Harris, **SR 624** was adopted by a rising vote of the Senate.

In honor of the memory of Don Kennard, the text of the resolution is printed at the end of today's *Senate Journal*.

### GUESTS PRESENTED

Senator Harris was recognized and introduced to the Senate Don Kennard's family: his wife, Mary Jo; their daughter, Paige Smith; and their granddaughter, Vivian Smith.

The Senate welcomed its guests and extended its sympathy.

### HOUSE CONCURRENT RESOLUTION 62

The President Pro Tempore laid before the Senate the following resolution:

**HCR 62**, Congratulating the Regents School of Austin football team on winning the 2010 TAPPS Division III state championship.

WATSON

The resolution was read.

On motion of Senator Watson, 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 Watson was recognized and introduced to the Senate Regents School Head Coach Beck Brydon; Craig Doerksen, Headmaster of the Upper School; and senior team members: Brian Hine, Walker Netherton, and Carson Rice.

The Senate welcomed its guests.

### COMMITTEE SUBSTITUTE SENATE BILL 966 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 966** at this time on its second reading:

**CSSB 966**, Relating to high school diplomas for certain military veterans.

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 966 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 966** 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 966**, 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 966** 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.

WENTWORTH

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

**(President in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 622 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 622** at this time on its second reading:

**CSSB 622**, Relating to the privacy of protected health information and personal information; providing civil and criminal penalties.

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 622** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 181.001(b), Health and Safety Code, is amended by amending Subdivisions (1), (3), and (4) and adding Subdivision (2-a) to read as follows:

(1) "Commission" [~~"Commissioner"~~] means the Health and Human Services Commission [~~commissioner of health and human services~~].

(2-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "Health Insurance Portability and Accountability Act and Privacy Standards" means the privacy requirements in existence on September 1, 2011 [~~August 14, 2002~~], of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

(4) "Marketing" means:

(A) making a communication about a product or service that encourages a recipient of the communication to purchase, ~~or~~ use, or request the product or service, unless the communication is made:

(i) to describe a health-related product or service or the payment for a health-related product or service that is provided by, or included in a plan of benefits of, the covered entity making the communication, including communications about:

(a) the entities participating in a health care provider network or health plan network;

(b) replacement of, or enhancement to, a health plan; or

(c) health-related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits;

(ii) for treatment of the individual;

(iii) for case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual; or

(iv) by a covered entity to an individual that encourages a change to a prescription drug included in the covered entity's drug formulary or preferred drug list; and

~~(B) [an arrangement between a covered entity and any other entity under which the covered entity discloses protected health information to the other entity, in exchange for direct or indirect remuneration, for the other entity or its affiliate to make a communication about its own product or service that encourages recipients of the communication to purchase or use that product or service; and~~

~~[(C)] notwithstanding Paragraphs (A)(ii) and (iii), a product-specific written communication to a consumer that encourages a change in products.~~

SECTION 2. Section 181.005, Health and Safety Code, is amended to read as follows:

Sec. 181.005. DUTIES OF THE EXECUTIVE COMMISSIONER. (a) The executive commissioner shall administer this chapter and may adopt rules consistent with the Health Insurance Portability and Accountability Act and Privacy Standards to administer this chapter.

(b) The executive commissioner shall review amendments to the definitions in 45 C.F.R. Parts 160 and 164 that occur after September 1, 2011 ~~[August 14, 2002]~~, and determine whether it is in the best interest of the state to adopt the amended federal regulations. If the executive commissioner determines that it is in the best interest of the state to adopt the amended federal regulations, the amended regulations shall apply as required by this chapter.

(c) In making a determination under this section, the executive commissioner must consider, in addition to other factors affecting the public interest, the beneficial and adverse effects the amendments would have on:

(1) the lives of individuals in this state and their expectations of privacy; and

(2) governmental entities, institutions of higher education, state-owned teaching hospitals, private businesses, and commerce in this state.

(d) The executive commissioner shall prepare a report of the executive commissioner's determination made under this section and shall file the report with the presiding officer of each house of the legislature before the 30th day after the date the determination is made. The report must include an explanation of the reasons for the determination.

SECTION 3. Chapter 181, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. ACCESS TO AND USE OF PROTECTED HEALTH INFORMATION

Sec. 181.101. COMMISSION RULES. The executive commissioner shall adopt rules consistent with the Health Insurance Portability and Accountability Act and Privacy Standards relating to sharing or exchanging protected health information.

Sec. 181.102. TRAINING REQUIRED. (a) Each covered entity shall provide a training program to employees of the covered entity regarding the state and federal law concerning protected health information as it relates to:

- (1) the covered entity's particular course of business; and
- (2) each employee's scope of employment.

(b) An employee of a covered entity must complete training described by Subsection (a) not later than the 60th day after the date the employee is hired by the covered entity.

(c) An employee of a covered entity shall receive training described by Subsection (a) at least once every two years.

(d) A covered entity shall require an employee of the entity who attends a training program described by Subsection (a) to sign, electronically or in writing, a statement verifying the employee's attendance at the training program. The covered entity shall maintain the signed statement.

Sec. 181.103. NOTIFICATION AND ACCEPTANCE REQUIRED. (a) Except as provided by Subsection (c), before a state agency electronically disseminates protected health information to another person or allows the other person to electronically access protected health information maintained by the agency:

(1) the state agency in writing must notify the other person of legal restrictions on the use and disclosure of the protected health information to be disseminated or accessed; and

(2) the person who receives notice from the state agency under Subdivision (1) must acknowledge, electronically or in writing, receipt, understanding, and acceptance of the restrictions on use and disclosure of the protected health information to be received or accessed.

(b) The written notice and acknowledgment required by Subsection (a) may be satisfied by an existing written agreement between a state agency and a person.

(c) The written notice and acknowledgment required by Subsection (a) is not required for a disclosure of protected health information from a state agency to:

- (1) the individual whose protected health information is being disclosed; or
- (2) a legally authorized representative of the individual described by

Subdivision (1).

Sec. 181.104. CONSUMER ACCESS TO ELECTRONIC HEALTH RECORDS. (a) Except as provided by Subsection (b), if a health care provider is using an electronic health records system that is capable of fulfilling the request, the health care provider, not later than the 15th business day after the date the health care provider receives a written request from a person for the person's electronic health record, shall provide the requested record to the person in electronic form unless the person agrees to accept the record in another form.

(b) A health care provider is not required to provide access to a person's protected health information that is excepted from access, or to which access may be denied, under 45 C.F.R. Section 164.524.

(c) For purposes of Subsection (a), the executive commissioner, in consultation with the Department of State Health Services, the Texas Medical Board, and the Texas Department of Insurance, by rule may recommend a standard electronic format for the release of requested health records. The standard electronic format recommended under this section must be consistent, if feasible, with federal law regarding the release of electronic health records.

Sec. 181.105. CONSUMER INFORMATION WEBSITE. The attorney general shall maintain an Internet website that provides:

(1) information concerning a consumer's privacy rights regarding protected health information under federal and state law;

(2) a list of the state agencies, including the Department of State Health Services, the Texas Medical Board, and the Texas Department of Insurance, that regulate covered entities in this state and the types of entities each agency regulates;

(3) detailed information regarding each agency's complaint enforcement process; and

(4) contact information, including the address of the agency's Internet website, for each agency listed under Subdivision (2) for reporting a violation of this chapter.

Sec. 181.106. CONSUMER COMPLAINT REPORT BY ATTORNEY GENERAL. (a) The attorney general annually shall submit to the legislature a report describing:

(1) the number and types of complaints received by the attorney general and by the state agencies receiving consumer complaints under Section 181.105; and

(2) the enforcement action taken in response to each complaint reported under Subdivision (1).

(b) Each state agency that receives consumer complaints under Section 181.105 shall submit to the attorney general, in the form required by the attorney general, the information the attorney general requires to compile the report required by Subsection (a).

(c) The attorney general shall deidentify protected health information from the individual to whom the information pertains before including the information in the report required by Subsection (a).

SECTION 4. Subchapter D, Chapter 181, Health and Safety Code, is amended by adding Section 181.153 to read as follows:

Sec. 181.153. SALE OF PROTECTED HEALTH INFORMATION PROHIBITED; REMUNERATION OF AGENTS AND CONTRACTORS AUTHORIZED. (a) Except as provided by Subsection (b), a covered entity may not disclose protected health information to any person in exchange for direct or indirect remuneration.

(b) A covered entity may disclose protected health information in exchange for remuneration only:

(1) for purposes of:

(A) treatment;

(B) payment;

(C) health care operations;

(D) public health activities;

(E) research or clinical investigation, as described by 42 U.S.C. Section 17935(d)(2)(B) and 21 C.F.R. Section 312.3; or

(F) providing the protected health information to the individual who is the subject of the protected health information; or

(2) as otherwise permitted or required by state or federal law.

(c) This section does not prohibit a covered entity from disclosing protected health information to and giving remuneration to an agent or contractor of the covered entity in exchange for engaging in an activity authorized by state or federal law involving the exchange of protected health information that the agent or contractor undertakes on behalf of and at the specific request of the covered entity pursuant to an agreement.

SECTION 5. Sections 181.201(b) and (c), Health and Safety Code, are amended to read as follows:

(b) In addition to the injunctive relief provided by Subsection (a), the attorney general may institute an action for civil penalties against a covered entity for a violation of this chapter. A civil penalty assessed under this section may not exceed:

(1) \$5,000 [~~\$3,000~~] for each violation committed negligently;

(2) \$25,000 for each violation committed knowingly or intentionally; or

(3) \$250,000 for each violation in which the covered entity knowingly or intentionally uses protected health information for financial gain.

(c) If the court in which an action under Subsection (b) is pending finds that the violations have occurred with a frequency as to constitute a pattern or practice, the court may assess a civil penalty in an amount the court finds necessary to deter future violations of this chapter [~~not to exceed \$250,000~~].

SECTION 6. Section 521.053, Business & Commerce Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A person who conducts business in this state and owns or licenses computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any individual [~~resident of this state~~] whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided by Subsection (d) or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b-1) Notwithstanding Subsection (b), the requirements of Subsection (b) apply only if the individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person is a resident of this state or another state that does not require a person described by Subsection (b) to notify the individual of a breach of system security. If the individual is a resident of a state that requires a person described by Subsection (b) to provide notice of a breach of system security, the notice of the breach of system security provided under that state's law satisfies the requirements of Subsection (b).

SECTION 7. Section 521.151, Business & Commerce Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to penalties assessed under Subsection (a), a person who fails to take reasonable action to comply with Section 521.053(b) is liable to this state for a civil penalty of not more than \$100 for each individual to whom notification is due under that subsection for each consecutive day that the person fails to take reasonable action to comply with that subsection. Civil penalties under this section may not exceed \$250,000 for all individuals to whom notification is due after a single breach. The attorney general may bring an action to recover the civil penalties imposed under this subsection.

SECTION 8. Section 522.002(b), Business & Commerce Code, is amended to read as follows:

(b) An offense under this section is a Class B misdemeanor, except that the offense is a state jail felony if the information accessed, read, scanned, stored, or transferred by the person was protected health information as defined by the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, Health and Safety Code.

SECTION 9. Section 531.001, Government Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Protected health information" has the meaning assigned by the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, Health and Safety Code.

SECTION 10. Section 531.0315(a), Government Code, is amended to read as follows:

(a) Each health and human services agency and every other state agency that acts as a health care provider or a claims payer for the provision of health care shall[-

~~[(+)] process information related to health care in compliance with national data interchange standards adopted under Subtitle F, Title II, Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.), and its subsequent amendments, within the applicable deadline established under federal law or federal regulations[- or~~

~~[(2) demonstrate to the commission the reasons the agency should not be required to comply with Subdivision (1), and obtain the commission's approval, to the extent allowed under federal law;~~

~~[(A) to comply with the standards at a later date; or~~

~~[(B) to not comply with one or more of the standards].~~

SECTION 11. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0994 to read as follows:

Sec. 531.0994. STUDY; ANNUAL REPORT. (a) The commission, in consultation with the Department of State Health Services, the Texas Medical Board, and the Texas Department of Insurance, shall explore and evaluate new developments in safeguarding protected health information.

(b) Not later than December 1 each year, the commission shall report to the legislature on new developments in safeguarding protected health information and recommendations for the implementation of safeguards within the commission.

SECTION 12. Section 31.03(f), Penal Code, is amended to read as follows:

(f) An offense described for purposes of punishment by Subsections (e)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor was a public servant at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant;

(2) the actor was in a contractual relationship with government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship;

(3) the owner of the property appropriated was at the time of the offense:

(A) an elderly individual; or

(B) a nonprofit organization; ~~or~~

(4) the actor was a Medicare provider in a contractual relationship with the federal government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship; or

(5) the property appropriated was a document containing protected health information, as that term is defined by the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, Health and Safety Code.

SECTION 13. Section 32.51(c-1), Penal Code, is amended to read as follows:

(c-1) An offense described for purposes of punishment by Subsections (c)(1)-(3) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the offense was committed against an elderly individual as defined by Section 22.04; or

(2) the information obtained, possessed, transferred, or used in the commission of the offense was protected health information, as that term is defined by the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, Health and Safety Code.

SECTION 14. Section 33.02(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a Class B misdemeanor unless in committing the offense the actor knowingly obtains a benefit, defrauds or harms another, or alters, damages, or deletes property, in which event the offense is:

(1) a Class A misdemeanor if the aggregate amount involved is less than \$1,500;

(2) a state jail felony if:

(A) the aggregate amount involved is \$1,500 or more but less than \$20,000; ~~or~~

(B) the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter; or

(C) the actor accesses protected health information, as that term is defined by the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, Health and Safety Code;

(3) a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000;

(4) a felony of the second degree if the aggregate amount involved is \$100,000 or more but less than \$200,000; or

(5) a felony of the first degree if the aggregate amount involved is \$200,000 or more.

SECTION 15. Section 35A.02, Penal Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) Except as provided by Subsection (b-2), the punishment prescribed for an offense under this section is increased to the punishment prescribed for the next highest category of offense if it is shown on the trial of the offense that protected health information, as that term is defined by the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, Health and Safety Code, was used in the commission of the offense.

(b-2) The punishment for an offense described by this section may not be increased under Subsection (b-1) if the offense is punishable as a felony of the first degree.

SECTION 16. Section 531.0315(b), Government Code, is repealed.

SECTION 17. Not later than May 1, 2012, the executive commissioner of the Health and Human Services Commission shall adopt rules as required by Section 181.101, Health and Safety Code, as added by this Act.

SECTION 18. (a) Not later than May 1, 2012, the attorney general shall establish the Internet website required by Section 181.105, Health and Safety Code, as added by this Act.

(b) Not later than December 1, 2013, the attorney general shall submit the initial report required by Section 181.106, Health and Safety Code, as added by this Act.

SECTION 19. Not later than December 1, 2013, the Health and Human Services Commission shall submit the initial report required by Section 531.0994, Government Code, as added by this Act.

SECTION 20. The changes in law made by Section 181.201, Health and Safety Code, as amended by this Act, Section 521.053, Business & Commerce Code, as amended by this Act, and Section 521.151(a-1), Business & Commerce Code, as added by this Act, apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 21. The changes in law made by Section 522.002, Business & Commerce Code, and Sections 31.03, 32.51, and 33.02, Penal Code, as amended by this Act, and Sections 35A.02(b-1) and (b-2), Penal Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act. An offense

committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 22. This Act takes effect January 1, 2012.

The amendment to **CSSB 622** 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 Nelson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 622** as amended 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 622 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 622** 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 622**, 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 622** 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.

WENTWORTH

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

**SENATE RESOLUTION 616**

Senator Watson offered the following resolution:

**SR 616**, Recognizing March of 2011 as Child Identity Theft Protection and Awareness Month.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Watson was recognized and introduced to the Senate Jeffrey Richard, CEO and President, Austin Area Urban League; and Doris and Donnie Aldridge and Gary Thomas, representing Kid Gloves.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Jackson was recognized and introduced to the Senate a Leadership Friendswood Class delegation.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE  
SENATE BILL 219 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 219** at this time on its second reading:

**CSSB 219**, Relating to health and mental health services for children in foster care and kinship care.

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 219** (Senate committee printing) in SECTION 1 of the bill by striking added Section 264.015(d), Family Code (page 1, lines 39 through 41).

The amendment to **CSSB 219** 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 Nelson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 219** as amended 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 219 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 219** 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 219**, 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 219** 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.

WENTWORTH

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

#### **SENATE BILL 387 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 387** at this time on its second reading:

**SB 387**, Relating to the sale and consumption in this state of raw oysters harvested from Texas waters.

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 387 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 **SB 387** 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 387**, 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 387** 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.

WENTWORTH

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

**(Senator Eltife in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 690 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 690** at this time on its second reading:

**CSSB 690**, Relating to the enforcement of a self-service storage facility lien; providing a penalty.

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: Williams.

**COMMITTEE SUBSTITUTE  
SENATE BILL 690 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 690** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent: Williams.

**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 690**, 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 690** 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.

WENTWORTH

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent: Williams.

#### GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate a Graham County delegation.

Senator Estes was again recognized and introduced to the Senate a Wilbarger County and City of Vernon delegation.

The Senate welcomed its guests.

#### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, March 24, 2011 - 1

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 14**

Fraser

Sponsor: Harless

Relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

(Committee Substitute/Amended)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE BILL 889 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 889** at this time on its second reading:

**SB 889**, Relating to assignment of rents to holders of certain security interests in real property.

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 889 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 889** 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 889**, 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 889** 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.

**WENTWORTH**

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

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

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

**MOTION TO ADJOURN**

On motion of Senator Whitmire and by unanimous consent, the Senate at 12:03 p.m. agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, in memory of Senator Don Kennard, until 1:30 p.m. Monday, March 28, 2011.

**SENATE BILLS AND RESOLUTIONS ON FIRST READING**

The following bills and resolutions, filed on or before Friday, March 11, 2011, were introduced, read first time, and referred to the committees indicated:

**SB 1801** by Lucio

Relating to benefits from the Employees Retirement System of Texas for certain peace officers and custodial officers.

To Committee on State Affairs.

**SB 1802** by Lucio

Relating to subcontracting opportunities for historically underutilized businesses under certain state purchasing contracts.

To Committee on State Affairs.

**SB 1803** by Lucio

Relating to investments in Texas businesses by certain public retirement systems in this state.

To Committee on State Affairs.

**SB 1804** by Lucio

Relating to residential property and personal lines automobile insurance.

To Committee on Business and Commerce.

**SB 1805** by Lucio

Relating to required use by insurers of certain standard insurance policy forms for residential property insurance.

To Committee on Business and Commerce.

**SB 1806** by Lucio

Relating to timely filing of surplus lines policy; providing penalties.

To Committee on Business and Commerce.

**SB 1807** by Lucio

Relating to the 444th Judicial District.

To Committee on Jurisprudence.

**SB 1808** by Lucio

Relating to pediatric equipment and supplies for emergency medical services vehicles and pediatric care training for emergency medical services personnel.

To Committee on Health and Human Services.

**SB 1809** by Lucio

Relating to a study by the comptroller of public accounts of the economic impact of the Texas-Mexico border wall in the State of Texas.

To Committee on International Relations and Trade.

**SB 1810** by Carona

Relating to the exemption of certain retirement accounts from access by creditors.  
To Committee on Business and Commerce.

**SB 1811** by Duncan

Relating to state fiscal matters.  
To Committee on Finance.

**SB 1812** by Nichols

Relating to criminal history record information of certain applicants for a certificate of registration issued by the Texas Real Estate Commission.  
To Committee on Business and Commerce.

**SB 1813** by Zaffirini

Relating to the state definition of public school.  
To Committee on Education.

**SB 1814** by Zaffirini

Relating to the time permitted for the abatement of a public nuisance.  
To Committee on Criminal Justice.

**SB 1815** by Zaffirini

Relating to electioneering on the premises of certain privately owned polling places.  
To Committee on State Affairs.

**SB 1816** by Zaffirini

Relating to county and municipal land development regulation.  
To Committee on International Relations and Trade.

**SB 1817** by Zaffirini

Relating to the Children's Policy Council, including the transfer of the duties and activities of the consortium that oversees the Texas Integrated Funding Initiative to the Children's Policy Council.  
To Committee on Health and Human Services.

**SB 1818** by Zaffirini

Relating to consent for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors.  
To Committee on Health and Human Services.

**SB 1819** by Ellis

Relating to charity care provided by certain nonprofit hospitals.  
To Committee on Health and Human Services.

**SB 1820** by Ellis

Relating to the authority of the attorney general to recover a civil penalty from certain nonprofit hospitals.  
To Committee on State Affairs.

**SB 1821** by Ellis

Relating to the creation of the Texas HIV Medication Advisory Committee.  
To Committee on Health and Human Services.

**SB 1822** by Patrick

Relating to the administration of certain supplemental student loan programs and the issuance of private activity bonds by qualified nonprofit corporations.

To Committee on Higher Education.

**SB 1823** by Patrick, Hinojosa

Relating to guaranteed student loans and alternative education loans.

To Committee on Higher Education.

**SB 1824** by Harris

Relating to the regulation of title insurance; providing criminal and administrative penalties.

To Committee on Business and Commerce.

**SB 1825** by Gallegos

Relating to the design and installation of signs at low-water crossings.

To Subcommittee on Flooding and Evacuations.

**SB 1826** by Gallegos

Relating to the definition in the open meetings law of the term "deliberation."

To Committee on Open Government.

**SB 1827** by Gallegos

Relating to inspections of flood-prone areas by political subdivisions.

To Subcommittee on Flooding and Evacuations.

**SB 1828** by Wentworth

Relating to the regulation of structural engineers.

To Committee on Business and Commerce.

**SB 1829** by Wentworth

Relating to excluding certain entities from the definition of a governmental body for the purposes of the public information law.

To Committee on Open Government.

**SB 1830** by Wentworth

Relating to increasing certain fees for preservation and archiving of district court records.

To Committee on Jurisprudence.

**SB 1831** by Wentworth

Relating to the designation of the El Camino Real de los Tejas National Historic Trail as a historic highway.

To Committee on Transportation and Homeland Security.

**SB 1832** by Ellis

Relating to notice to inmates and their attorneys of lethal substance or substances to be used in lethal injection.

To Committee on Criminal Justice.

**SB 1833** by Ellis

Relating to liability insurance requirements for daycare facilities.

To Committee on Health and Human Services.

**SB 1834** by Ellis

Relating to the payment of excess proceeds from ad valorem tax foreclosure sales to the comptroller for deposit to the credit of the fair defense account.

To Committee on Finance.

**SB 1835** by Ellis

Relating to the creation of a commission to investigate and prevent wrongful convictions.

To Committee on Criminal Justice.

**SB 1836** by Van de Putte, Davis

Relating to revision of open-enrollment charter school charters to add charter schools under certain circumstances.

To Committee on Education.

**SB 1837** by Van de Putte

Relating to exemptions to persons required to hold a limited property and casualty license.

To Committee on Business and Commerce.

**SB 1838** by Van de Putte

Relating to the transfer of housing funds from the Texas Department of Housing and Community Affairs to the Texas Veterans Commission.

To Committee on Veteran Affairs and Military Installations.

**SB 1839** by Van de Putte

Relating to an annual report of the private entity granted care and custody of the Alamo.

To Committee on Administration.

**SB 1840** by Van de Putte

Relating to the preservation and maintenance of the Alamo and the financial accountability and transparency of persons granted care and custody over certain historic state real properties.

To Committee on Administration.

**SB 1841** by Van de Putte

Relating to the preservation and maintenance of the Alamo by the Texas Historical Commission.

To Committee on Administration.

**SB 1842** by Fraser

Relating to the operation of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association.

To Committee on Business and Commerce.

**SB 1843** by Carona

Relating to providing resources designed to combat crimes against children, especially crimes regarding child exploitation and child pornography trafficking involving the Internet.

To Committee on Criminal Justice.

**SB 1844** by Lucio

Relating to specifying the precinct in a notice to appear before a magistrate issued to a person arrested for a traffic violation.

To Committee on Transportation and Homeland Security.

**SB 1845** by Lucio

Relating to the change of the name of Texas A&M University–Kingsville to Texas A&I University.

To Committee on Higher Education.

**SB 1846** by Lucio

Relating to immunity and liability issues regarding unincorporated charitable organizations, charitable organizations that utilize self-insured retentions in their insurance coverage, and charitable organizations that utilize Lloyd's plans and indemnity policies.

To Committee on Business and Commerce.

**SB 1847** by Lucio

Relating to a franchise or insurance premium tax credit for contributions made to certain educational assistance organizations.

To Committee on Finance.

**SB 1848** by Hegar

Relating to the distribution of the emergency service fee for wireless telecommunications connections and the prepaid 9-1-1 emergency service fee.

To Committee on Business and Commerce.

**SB 1849** by Hegar

Relating to furthering stability and affordable service in the communications industry.

To Committee on Business and Commerce.

**SB 1850** by Van de Putte

Relating to appeals regarding cruelly treated animals.

To Committee on Criminal Justice.

**SB 1851** by Gallegos

Relating to oversight of emergency services districts.

To Committee on Intergovernmental Relations.

**SB 1852** by Gallegos

Relating to the recovery and storage of vessels following natural disasters; providing penalties.

To Subcommittee on Flooding and Evacuations.

**SB 1853** by Deuell

Relating to hospital and emergency medical services lien notice requirements.

To Committee on State Affairs.

**SB 1854** by Deuell

Relating to the women's health program.

To Committee on Health and Human Services.

**SB 1855** by Deuell

Relating to the authority of certain foreign insurers to engage in the business of health and accident insurance in this state.

To Committee on State Affairs.

**SB 1856** by Deuell

Relating to the recovery of medical or health care expenses in civil actions.

To Committee on State Affairs.

**SB 1857** by Zaffirini

Relating to the administration of medications for persons with intellectual and developmental disabilities.

To Committee on Health and Human Services.

**SB 1858** by Duncan

Relating to public school finance matters, including the imposition of a state ad valorem tax for elementary and secondary school purposes.

To Committee on Finance.

**SB 1859** by Ellis

Relating to certain health and safety matters regarding appropriate places of employment and places that are accessible to the public.

To Committee on Health and Human Services.

**SB 1860** by Wentworth, Zaffirini

Relating to funding for transportation needs in certain counties.

To Committee on Transportation and Homeland Security.

**SB 1861** by Van de Putte

Relating to the ability of a nonexempt employee to participate in certain academic, extracurricular, and developmental activities of the employee's child.

To Committee on Economic Development.

**SB 1862** by Davis, West

Relating to the requirements for certain extensions of credit to consumers.

To Committee on Business and Commerce.

**SB 1863** by Davis

Relating to authorizing certain brewers and manufacturers to conduct tours of their premises after which beer or ale is provided to ultimate consumers for off-premises consumption.

To Committee on Business and Commerce.

**SB 1864** by Davis

Relating to the awarding of contracts by the Texas Department of Transportation to private sector providers.

To Committee on Transportation and Homeland Security.

**SB 1865** by Davis

Relating to contract award considerations by certain conservation and reclamation districts.

To Committee on Natural Resources.

**SB 1866** by Davis

Relating to the selection of providers of professional services by governmental entities.

To Committee on State Affairs.

**SB 1867** by Lucio

Relating to premarital education courses.

To Committee on Health and Human Services.

**SB 1868** by Davis

Relating to an allotment under the public school finance system for dropout prevention.

To Committee on Education.

**SB 1869** by Davis

Relating to the creation, fines, and funding of the Railroad Commission of Texas operating account.

To Committee on Finance.

**SB 1870** by Davis

Relating to the regulation of mineral interest pooling by the Railroad Commission of Texas.

To Committee on Natural Resources.

**SB 1871** by Davis

Relating to a contracted services program for certain students with pervasive developmental disorder or intellectual disability.

To Committee on Education.

**SB 1872** by Van de Putte, Davis, Shapiro

Relating to revision of open-enrollment charter school charters to add charter schools under certain circumstances.

To Committee on Education.

**SB 1873** by Davis

Relating to the creation and funding of the well inspection fund.

To Committee on Natural Resources.

**SB 1874** by Zaffirini

Relating to requiring a public institution of higher education to make certain faculty information available to the public on the institution's Internet website.

To Committee on Higher Education.

**SB 1875** by Hinojosa

Relating to the governing body of the Agua Special Utility District.

To Committee on Intergovernmental Relations.

**SB 1876** by Uresti

Relating to the creation of the Lajitas Utility District No. 1 of Brewster County; providing authority to impose taxes and issue bonds; granting a limited power of eminent domain.

To Committee on Intergovernmental Relations.

**SB 1877** by Hegar

Relating to the creation of the Oatman Hill Municipal Utility District; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Committee on Intergovernmental Relations.

**SB 1880** by Huffman

Relating to the powers and duties of the Imperial Redevelopment District; providing authority to impose a tax and issue bonds.

To Committee on Intergovernmental Relations.

**SB 1881** by Wentworth

Relating to certain financial powers and duties of the Travis-Creedmoor Municipal Utility District.

To Committee on Intergovernmental Relations.

**SB 1882** by Patrick

Relating to the creation of Harris County Improvement District No. 22; providing authority to levy an assessment, impose a tax, and issue bonds.

To Committee on Intergovernmental Relations.

**SJR 46** by Williams

Proposing a constitutional amendment relating to county delegation of authority regarding the disposition of county school lands and proceeds of a county permanent school fund.

To Committee on Education.

**SJR 47** by Williams

Proposing a constitutional amendment revising the order of legislative business to permit either house to act on bills and resolutions after the first 15 days of a regular session.

To Committee on Administration.

**SJR 48** by Williams

Proposing a constitutional amendment revising the order of legislative business to permit legislative committees to consider matters during the first 60 days of a regular session.

To Committee on Administration.

**SJR 49** by Patrick

Proposing a constitutional amendment relating to an individual's or a religious organization's free exercise of religion.

To Committee on State Affairs.

**SJR 50** by West

Proposing a constitutional amendment providing for the issuance of general obligation bonds to finance educational loans to students and for authority to enter into bond enhancement agreements with respect to general obligation bonds issued for that purpose.

To Committee on Higher Education.

**SJR 51** by Duncan

Proposing a constitutional amendment imposing a state property tax for public education, authorizing the legislature to establish for purposes of that tax a limit on the maximum appraised value of a residence homestead of 105 percent of the appraised value of the property for the preceding tax year, prohibiting school district property taxes for maintenance purposes, and authorizing school district property taxes for educational enrichment.

To Committee on Finance.

**CO-AUTHOR OF SENATE BILL 117**

On motion of Senator Uresti, Senator Van de Putte will be shown as Co-author of **SB 117**.

**CO-AUTHOR OF SENATE BILL 170**

On motion of Senator Ellis, Senator Lucio will be shown as Co-author of **SB 170**.

**CO-AUTHOR OF SENATE BILL 385**

On motion of Senator Williams, Senator Fraser will be shown as Co-author of **SB 385**.

**CO-AUTHOR OF SENATE BILL 726**

On motion of Senator Rodriguez, Senator Hinojosa will be shown as Co-author of **SB 726**.

**CO-AUTHOR OF SENATE BILL 819**

On motion of Senator Harris, Senator Uresti will be shown as Co-author of **SB 819**.

**CO-AUTHORS OF SENATE BILL 945**

On motion of Senator Patrick, Senators Davis and Lucio will be shown as Co-authors of **SB 945**.

**CO-AUTHORS OF SENATE BILL 966**

On motion of Senator Uresti, Senators Hinojosa and Zaffirini will be shown as Co-authors of **SB 966**.

**CO-AUTHOR OF SENATE BILL 1311**

On motion of Senator Lucio, Senator Zaffirini will be shown as Co-author of **SB 1311**.

**CO-AUTHOR OF SENATE BILL 1360**

On motion of Senator Harris, Senator Hinojosa will be shown as Co-author of **SB 1360**.

**CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 16**

On motion of Senator Nelson, Senator Uresti will be shown as Co-author of **SCR 16**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 628** by Eltife, In memory of Dorothy Faye "Dot" Johnson of Omaha, Texas.

**SR 629** by Eltife, In memory of Vicki Lynne Johnson.

**Congratulatory Resolutions**

**SR 582** by Van de Putte, Recognizing William C. Davis on the occasion of his 80th birthday.

**SR 583** by Van de Putte, Recognizing Rudi R. Rodriguez for receiving the 2010 Texas Historical Commission Award of Excellence in Preserving History.

**SR 586** by Van de Putte, Recognizing Elva Adams for her induction into the San Antonio Women's Hall of Fame for her achievements in athletics.

**SR 587** by Van de Putte, Recognizing Bett Butler for her induction into the San Antonio Women's Hall of Fame for her work in the creative arts.

**SR 588** by Van de Putte, Recognizing Rebecca Q. Cedillo for her induction into the San Antonio Women's Hall of Fame for her work as a civic leader.

**SR 589** by Van de Putte, Recognizing Anna Maria Chavez for her induction into the San Antonio Women's Hall of Fame for her work on behalf of the girls of South Texas.

**SR 590** by Van de Putte, Recognizing Nora W. Chavez for her induction into the San Antonio Women's Hall of Fame for her work in the field of business and finance.

**SR 591** by Van de Putte, Recognizing Kathleen Coughlin for her induction into the San Antonio Women's Hall of Fame for her work in the field of higher education.

**SR 592** by Van de Putte, Recognizing Evangelina G. Flores for her induction into the San Antonio Women's Hall of Fame for her work in the field of business and finance.

**SR 593** by Van de Putte, Recognizing Geraldine J. Garcia for her induction into the San Antonio Women's Hall of Fame for her work in public service.

**SR 594** by Van de Putte, Recognizing Marilyn Harrington for her induction into the San Antonio Women's Hall of Fame for her work in the health professions.

**SR 595** by Van de Putte, Recognizing Sarita G. Jimenez for her induction into the San Antonio Women's Hall of Fame for her work in the field of agriculture and ranching.

**SR 596** by Van de Putte, Recognizing Maria R. Montecel for her induction into the San Antonio Women's Hall of Fame for her work in the field of education.

**SR 597** by Van de Putte, Recognizing Donna Muslin for her induction into the San Antonio Women's Hall of Fame for her work in fashion management and career development.

**SR 598** by Van de Putte, Recognizing Sylvia Rodriguez for her induction into the San Antonio Women's Hall of Fame for her work as a volunteer and community organizer.

**SR 599** by Van de Putte, Recognizing Mary Roman for her induction into the San Antonio Women's Hall of Fame for her work in the legal field.

**SR 600** by Van de Putte, Recognizing Kausi Subramanian for her induction into the San Antonio Women's Hall of Fame for her work in the creative arts.

**SR 625** by Harris, Recognizing Sammy Andrews for his contributions to the sport of rodeo and the Professional Rodeo Cowboys Association.

**SR 627** by Van de Putte, Uresti, Wentworth, and Zaffirini, Recognizing Louis Agnese for his 25 years of service as president of the University of the Incarnate Word.

### **Official Designation Resolution**

**HCR 114** (Wentworth), Designating April 2011 as Distracted Driving Awareness Month in Texas.

### **ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 12:38 p.m. adjourned, in memory of Senator Don Kennard, until 1:30 p.m. Monday, March 28, 2011.

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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 24, 2011

GOVERNMENT ORGANIZATION — **SB 327, SB 631, SB 632, SB 867**

BUSINESS AND COMMERCE — **CSSB 871, CSSB 982, CSSB 1165, CSSB 17, CSSB 782, CSSB 981, CSSB 1124, CSSB 1133, CSSB 1167**

EDUCATION — **SB 49, SB 778**

NATURAL RESOURCES — **CSSCR 2, CSSB 727**

TRANSPORTATION AND HOMELAND SECURITY — **SB 182, SB 534, SB 743, SB 876, SB 888, SB 990, SB 1007**

EDUCATION — **CSSB 290**

JURISPRUDENCE — **CSSB 680**

HIGHER EDUCATION — **SB 873, SB 1020, SB 1121, SB 419**

### **BILLS AND RESOLUTION ENGROSSED**

March 23, 2011

**SB 24, SB 144, SB 181, SB 248, SB 329, SB 390, SB 524, SB 801, SJR 9**

**RESOLUTIONS ENROLLED**March 23, 2011**SCR 28, SCR 29, SR 132, SR 564, SR 573, SR 602, SR 603, SR 604, SR 605, SR 606, SR 607, SR 608, SR 609, SR 610, SR 611, SR 612, SR 613, SR 614, SR 615, SR 617, SR 618, SR 619, SR 620, SR 621, SR 622****SENT TO GOVERNOR**March 24, 2011**SCR 28, SCR 29**

**In Memory**  
**of**  
**Don Kennard**  
**Senate Resolution 624**

WHEREAS, Our former colleague Senator Don Kennard passed away in Austin on March 17, 2011, and we are saddened to lose him and his mischievous smile; we are warmed, however, by the opportunity to memorialize him for the proud legacy he leaves behind to the people of Texas; and

WHEREAS, Donley C. Kennard was born on May 6, 1929, in Houston; at the age of 13, he moved with his family to Fort Worth and became a star football player at Arlington Heights High School; he attended the University of North Texas and Texas Christian University and earned a bachelor's degree from The University of Texas at Austin; he went on to become a longtime Texas lawmaker and a nationally known conservationist; and

WHEREAS, Senator Kennard was inspired to seek public service while still a young man; in 1952, during his senior year at The University of Texas, he ran for election to the Texas House of Representatives and won his seat; at the time, he declared to the *Fort Worth Star-Telegram*, "I want to go to Austin to represent all the people, not just the few"; and

WHEREAS, He served in the House for 10 years, from 1953 to 1963, and became known as a dedicated and respected voice for education and as a strong advocate for the preservation of our state's natural resources; and

WHEREAS, In 1962, the voters of Tarrant County elected him to the Texas Senate, where he served with distinction for another 10 years on behalf of the people of District 10; he was elected president pro tempore by his colleagues in 1969 for the Regular Session of the 61st Legislative Session; and

WHEREAS, His reputation as a warrior for education was solidified with his filibuster of 29 hours and 22 minutes in the Senate Chamber, which resulted in the votes needed to pass the measure that elevated Arlington State College to the four-year institution that became The University of Texas at Arlington; and

WHEREAS, His passion for our natural resources was demonstrated by the courageous and successful crusade he led in 1971 to pass a tax bill that secured funding to maintain state parks for the people of Texas; it was a crusade that ultimately led to his reelection defeat; and

WHEREAS, After leaving the Senate, "by popular demand," as he liked to say, he established and served as the director of The Natural Areas Surveys with the Lyndon B. Johnson School of Public Affairs; the extensive reports from these studies ultimately led to the preservation of Enchanted Rock and several other natural Texas sites; and

WHEREAS, Senator Kennard appropriately will be laid to rest in the Texas State Cemetery on Saturday, March 26, alongside a host of giants of Texas history that form a prominent path back to the days of Stephen F. Austin; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby express gratitude, admiration, and affection for the Honorable Don Kennard and pay tribute to his dedicated service and historic contributions toward the betterment of his beloved state and its people; and, be it further

RESOLVED, That a copy of this Resolution be prepared in his honor, and that when the Senate adjourns this day, it do so in honor and in memory of the Honorable Don Kennard.

HARRIS