

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

ELEVENTH DAY

(Wednesday, February 6, 2013)

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: Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Absent-excused: Carona.

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

Minister Darlene Ephriam, Temple Restoration Ministries, Austin, offered the invocation as follows:

O most gracious heavenly Father, we come before You this morning first thanking you for allowing us to see a brand new day which You have made. What an honor and privilege to be chosen by the great people of this great State of Texas to represent righteousness. In past, many others sat in these same seats of authority, raised their right hand, and solemnly swore to faithfully execute the duties of this office so help them God, and You showed favor upon Your people. So please, do the same for these chosen, called out, collaborators to make righteous decisions for Your people. God, you said, if Your people who are called by Your name will humble ourselves and pray, seek Your face, and turn from all of our diverse and wicked ways, we would hear from heaven, and You would forgive our sins and heal our land. Our land needs healing, O God, and so we seek You this morning. O God, please grant us Your blessings and Your favor during this 83rd legislative session and allow all to know, if they come together in one heart that You would be blessed. We pray it all in the name of Christ Jesus. 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.

LEAVE OF ABSENCE

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, February 6, 2013 - 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:

HCR 2

Hilderbran

Congratulating Johnny Manziel of Texas A&M University on winning the 2012 Heisman Trophy.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Watson was recognized and presented Dr. Travis Bias of Austin as the Physician of the Day.

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

ACKNOWLEDGMENTS

The President acknowledged the presence of Senator Schwertner's wife, Belinda, and sons, Zach and Carson.

The President also acknowledged the presence of Senator Williams' brother, Edward Williams.

The Senate welcomed its guests.

SENATE RESOLUTION 6

Senator Schwertner offered the following resolution:

SR 6, Congratulating Johnny Manziel for winning the 2012 Heisman Trophy.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Schwertner, joined by Senator Eltife, was recognized and introduced to the Senate Johnny Manziel, 2012 Heisman Trophy winner; John Paul and Michelle Manziel, his parents; Pat Manziel, his grandmother; and Meri-Margaret Manziel, his sister; John Sharp, The Texas A&M University System Chancellor; and Eric Hyman, Texas A&M University Athletics Director.

The Senate welcomed its guests.

(Senator Eltife in Chair)**SENATE RESOLUTION 117**

Senator Nelson offered the following resolution:

SR 117, Recognizing the American Cancer Society Cancer Action Network.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate an American Cancer Society delegation.

Senator Nelson was again recognized and introduced to the Senate a Leadership Grapevine delegation.

The Senate welcomed its guests.

SENATE RESOLUTION 93

Senator Schwertner offered the following resolution:

SR 93, Recognizing the Texas 4-H and Youth Development Program for its service to the state.

The resolution was again read.

The resolution was previously adopted on Wednesday, January 30, 2013.

GUESTS PRESENTED

Senator Schwertner, joined by Senator Zaffirini, was recognized and introduced to the Senate a Texas 4-H Council and Texas A&M AgriLife Extension Service delegation, accompanied by 432 Youth Development Program participants.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate a Val Verde County delegation, joined by Bobby Fernandez, Del Rio Mayor; Laura Allen, County Judge; Buddy Wolfenbarger, Comstock ISD Superintendent; Ramon Meza, San Felipe Del Rio Consolidated ISD Board of Trustees; and Blanca Larson, Del Rio Chamber of Commerce President.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Davis was recognized and introduced to the Senate a Texas Christian University delegation.

The Senate welcomed its guests.

SENATE RESOLUTION 119

Senator Williams offered the following resolution:

SR 119, Recognizing February 6, 2013, as Chambers County Day at the State Capitol.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Williams was recognized and introduced to the Senate a Chambers County delegation, accompanied by Scott Peal, County Attorney; and County Commissioners Mark Huddleston, Bubba Abernathy, Gary Nelson, and Rusty Senac.

The Senate welcomed its guests.

SENATE RESOLUTION 92

Senator Schwertner offered the following resolution:

SR 92, Recognizing February 6, 2013, as Bryan-College Station Day at the State Capitol.

The resolution was again read.

The resolution was previously adopted on Wednesday, January 30, 2013.

GUESTS PRESENTED

Senator Schwertner was recognized and introduced to the Senate a Bryan-College Station delegation.

The Senate welcomed its guests.

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

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

There was no objection.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The Presiding Officer announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Hegar.

Senator Hegar moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The Presiding Officer asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona.

Judge, 230th Judicial District Court, Harris County: Bradley Steven Hart, Harris County.

Judge, 234th Judicial District Court, Harris County: Wesley R. Ward, Harris County.

Judge, 83rd Judicial District Court, Pecos, Terrell, and Val Verde Counties: Robert Edward Cadena, Val Verde County.

Presiding Judge, Fourth Administrative Judicial Region: Homer David Peeples, Bexar County.

Presiding Judge, Ninth Administrative Judicial Region: Kelly Glen Moore, Terry County.

Presiding Judge, Sixth Administrative Judicial Region: Stephen Bruce Ables, Kerr County.

Member, Board for Lease of Texas Department of Criminal Justice Lands: Wesley David Lloyd, McLennan County.

Member, Board for Lease of Texas Parks and Wildlife Lands: Wesley David Lloyd, McLennan County.

Presiding Officer, Board of Directors, Cameron County Regional Mobility Authority: David Eugene Alex, Cameron County.

District Attorney, 36th Judicial District Court, Aransas and San Patricio Counties: Michael Everett Welborn, San Patricio County.

Members, Finance Commission of Texas: Susan Holman Burton, Dallas County; Darby Ray Byrd, Orange County; Victor Edgardo Leal, Randall County; Larry L. Patton, El Paso County; Hilliard Judge Shands, Angelina County.

Presiding Officer, Board of Directors, Grayson County Regional Mobility Authority: Will Rich Hubbard, Grayson County.

Presiding Officer, Board of Directors, Hidalgo County Regional Mobility Authority: Dennis Bursleson, Hidalgo County.

Presiding Officer, Board of Directors, North East Texas Regional Mobility Authority: Linda Ryan Thomas, Gregg County.

Members, State Board of Veterinary Medical Examiners: Janie Allen Carpenter, Dallas County; Joe Mac King, Collin County; Manuela Salazar-Harper, El Paso County; Chad Michael Upham, Kendall County.

Members, Statewide Health Coordinating Council: Lourdes M. Cuellar, Harris County; Mabrie Griffith Jackson, Collin County; Danny Ken McCoy, Navarro County; Elizabeth J. Protas, Galveston County; James Robert Yancy, Brazos County.

Member, Texas Alcoholic Beverage Commission: Steven M. Weinberg, Tarrant County.

Members, Texas Forensic Science Commission: Richard Brad Alpert, Tarrant County; Vincent J. M. Di Maio, Bexar County; Robert Julius Lerma, Cameron County; Nizam Peerwani, Tarrant County.

Members, Board of Directors, Texas Health Services Authority: Frederick Buckwold, Harris County; David Clark Fleegeer, Travis County; Matthew J. Hamlin, Denton County; James Lloyd Martin, Travis County; Edward W. Marx, Tarrant County; Kathleen Kay Mechler, Gillespie County; William A. Phillips, Bexar County; Judith Day Powell, Montgomery County; Jennifer Lynn Rangel, Travis County; Jimmy Darren Rodgers, Dallas County; Stephen Yurco, Travis County.

Members, Board of Directors, Texas Underground Facility Notification Corporation: Dean Donald Bernal, Travis County; Julio Cesar Cerda, Hidalgo County; Joseph Wayne Costa, Collin County; Jason Eric Hartgraves, Denton County; Rodney Jay Unruh, Comal County; Janie Lou Walenta, Wood County; James Brent Wynn, Midland County; Jay Solomon Zeidman, Harris County.

CONCLUSION OF MORNING CALL

The Presiding Officer at 12:03 p.m. announced the conclusion of morning call.

SENATE BILL 135 ON SECOND READING

Senator Patrick moved that Senate Rule 7.13, Senate Rule 7.07(a), and the regular order of business be suspended and that **SB 135** be taken up for consideration at this time:

SB 135, Relating to the use of a public school student's performance on an end-of-course assessment instrument in determining the student's final grade for the course.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona.

The bill was read second time.

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

Floor Amendment No. 1

Amend **SB 135** (Senate committee printing) by striking SECTIONS 1 and 2 of the bill (page 1, line 23 through page 2, line 21) and substituting the following:

SECTION 1. Subsections (c) and (f), Section 28.014, Education Code, are amended to read as follows:

(c) The agency, in consultation with the Texas Higher Education Coordinating Board, shall adopt an end-of-course assessment instrument for each course developed under this section to ensure the rigor of the course. A school district shall, in accordance with State Board of Education rules, administer the end-of-course assessment instrument to a student enrolled in a course developed under this section. ~~[Each school district shall adopt a policy that requires a student's performance on the end-of-course assessment instrument to account for 15 percent of the student's final grade for the course.]~~ A student's performance on an end-of-course assessment instrument administered under this subsection may be used, on a scale of 0-40, in calculating whether the student satisfies the graduation requirements established under Section 39.025.

(f) To the extent applicable, the commissioner shall draw from curricula and instructional materials developed under Section ~~[Sections]~~ 28.008 ~~[and 61.0762]~~ in developing a course and related instructional materials under this section. Not later than September 1, 2010, the State Board of Education shall adopt essential knowledge and skills for each course developed under this section. The State Board of Education shall make each course developed under this section and the related instructional materials available to school districts not later than the 2014-2015 school year. ~~[As required by Subsection (c), a school district shall adopt a policy requiring a student's~~

~~performance on an end-of-course assessment instrument administered under that subsection to account for 15 percent of the student's grade for a course developed under this section not later than the 2014-2015 school year.] This subsection expires September 1, 2015.~~

SECTION 2. Subsection (c), Section 39.023, Education Code, is amended to read as follows:

(c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. The Algebra I, Algebra II, and geometry end-of-course assessment instruments must be administered with the aid of technology. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection ~~[and shall adopt a policy that requires a student's performance on an end-of-course assessment instrument for a course listed in this subsection in which the student is enrolled to account for 15 percent of the student's final grade for the course. If a student retakes an end-of-course assessment instrument for a course listed in this subsection, as provided by Section 39.025, a school district is not required to use the student's performance on the subsequent administration or administrations of the assessment instrument to determine the student's final grade for the course].~~ If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).

The amendment to **SB 135** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

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

SB 135 as amended was passed to engrossment by a viva voce vote.

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

Absent-excused: Carona.

SENATE BILL 135 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 135** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

SENATE BILL ON FIRST READING

The following bill was introduced, read first time, and referred to the committee indicated:

SB 406 by Nelson

Relating to the delegation and supervision of prescriptive authority by physicians to certain advanced practice registered nurses and physician assistants.

To Committee on Health and Human Services.

SENATE CONCURRENT RESOLUTION 11

The Presiding Officer 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 83rd 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 Wednesday, February 6, 2013, and ending on Monday, February 11, 2013.

WHITMIRE

SCR 11 was read.

On motion of Senator Whitmire, the resolution was considered immediately and was adopted by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona.

CO-AUTHORS OF SENATE BILL 24

On motion of Senator Hinojosa, Senators West and Whitmire will be shown as Co-authors of **SB 24**.

CO-AUTHORS OF SENATE BILL 112

On motion of Senator Lucio, Senators Van de Putte and Watson will be shown as Co-authors of **SB 112**.

CO-AUTHORS OF SENATE BILL 135

On motion of Senator Patrick, Senators Birdwell, Campbell, Hinojosa, and West will be shown as Co-authors of **SB 135**.

CO-AUTHOR OF SENATE BILL 285

On motion of Senator Carona, Senator Paxton will be shown as Co-author of **SB 285**.

CO-AUTHOR OF SENATE BILL 313

On motion of Senator Uresti, Senator Van de Putte will be shown as Co-author of **SB 313**.

CO-AUTHOR OF SENATE BILL 348

On motion of Senator Schwertner, Senator Deuell will be shown as Co-author of **SB 348**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 139 by West, In memory of Booker T. Watson, Jr.

Congratulatory Resolutions

SR 7 by Schwertner, Recognizing Luke Joeckel for winning the 2012 Outland Trophy.

SR 76 by Uresti, Recognizing the citizens of Val Verde County on the occasion of Val Verde County Day at the Capitol.

SR 133 by Nichols, Recognizing the Texas Forestry Association on the occasion of its seedling giveaway.

SR 134 by Nelson, Recognizing the City of Highland Village on the occasion of its 50th anniversary.

SR 135 by Van de Putte, Recognizing the San Antonio chapter of the National Association of Women in Construction on the occasion of Women in Construction Week.

SR 137 by Van de Putte, Commending those that have played a part in returning the Victory or Death letter to the Alamo.

SR 138 by Hegar and Huffman, Recognizing the Central Fort Bend Chamber Alliance on the occasion of its Legislative Day.

HCR 33 (Seliger), Recognizing Municipal Government Day at the State Capitol.

Official Designation Resolutions

SR 129 by Davis, Proclaiming February 6, 2013, as Texas Christian University Day at the State Capitol.

SR 136 by Estes, Recognizing February 6, 2013, as Texas Chiropractic Association Day at the State Capitol.

SR 140 by Nelson, Birdwell, Davis, and Hancock, Recognizing Tarrant County Days at the State Capitol on February 6 and 7, 2013.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:13 p.m. adjourned, in memory of Carl Pendergrass, Arturo Gonzalez, Alfredo Gutierrez, and the Honorable M. A. Taylor, former State Representative, until 2:00 p.m. Monday, February 11, 2013.

APPENDIX

COMMITTEE REPORTS

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

February 6, 2013

JURISPRUDENCE — **SB 251, SB 246**

BUSINESS AND COMMERCE — **CSSB 112**

RESOLUTIONS ENROLLED

February 5, 2013

SR 110, SR 112, SR 113, SR 115, SR 123, SR 124, SR 126, SR 127, SR 130, SR 131, SR 132