

TWENTY-THIRD DAY

THURSDAY, FEBRUARY 24, 2005

PROCEEDINGS

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

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

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

The Reverend D. Michael Toby, First Baptist Church Woodway, Waco, offered the invocation as follows:

Father, we bow before You this morning to acknowledge Your sovereignty. In doing so, we ask for Your leadership and wisdom to be made available in abundance to the men and women of this legislative body. May they experience a strong awareness of Your hand guiding them in building a better tomorrow for the people of our great state. Father, we thank You for these who serve on our behalf. We ask that You bless them with strong families, meaningful friendships, physical and emotional health, and a vibrant faith. May they be rewarded with the joy and satisfaction of selfless service and sacrifice. It's in the name of the one who paid the ultimate sacrifice that we ask these things. Amen.

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

The motion prevailed without objection.

CO-AUTHORS OF SENATE BILL 59

On motion of Senator Averitt, Senators Carona and Seliger will be shown as Co-authors of **SB 59**.

CO-AUTHOR OF SENATE BILL 154

On motion of Senator Zaffirini, Senator Averitt will be shown as Co-author of **SB 154**.

CO-AUTHOR OF SENATE BILL 480

On motion of Senator Hinojosa, Senator Williams will be shown as Co-author of **SB 480**.

PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. Sandra Guerrero of San Antonio as the Physician of the Day.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

February 24, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 59, Opposing the State Modernization and Regulatory Transparency (SMART) Act and any similar federal legislation that would interfere with the ability of state governments to regulate the business of insurance.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 215

Senator Williams offered the following resolution:

WHEREAS, For half a century Thomas Walter McMullan has served the youth of his community as a member of the Devers Independent School District Board of Trustees, an exceptional tenure that makes him the longest-serving school board member in the state; and

WHEREAS, Mr. McMullan's hard work with Devers ISD is all the more impressive considering the demands of his work as a rice farmer; despite his laborious occupation and the many hours he has logged with the school board, this Texas Rice Festival 2004 Pioneer Farmer of the Year has found the time to further benefit his community and state by serving with the Liberty County Farm Bureau board, the Devers Drainage District No. 4, the Liberty-Hardin County Farm Service Agency board, the Texas Rice Producer board, and other industry-related panels; and

WHEREAS, In his many endeavors, Mr. McMullan has enjoyed the support of his beloved wife, Ruth, and his daughters, grandchildren, and great-grandchild, as well as the fellowship of the First Baptist Church of Devers; and

WHEREAS, The participation of concerned citizens is vital to the success of our state's public schools, and through his exemplary service to the Devers school board, Tommy McMullan has set an extraordinary example of leadership and civic involvement to which all may aspire; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby heartily congratulate Thomas Walter McMullan on five decades as a trustee of the Devers Independent School District and extend to him sincere best wishes for continued happiness; and, be it further

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

SR 215 was read and was adopted without objection.

GUESTS PRESENTED

Senator Williams was recognized and introduced to the Senate Thomas McMullan, Devers Independent School District Board Trustee, and his wife, Ruth.

The Senate welcomed its guests.

SENATE RESOLUTION 173

Senator Armbrister offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize February 24, 2005, as Austin County Day at the State Capitol; and

WHEREAS, Austin County is named in honor of Stephen Fuller Austin, the "Father Of Texas," who chose the site for his colony in 1823; home to the first Anglo-American settlement in Texas, Austin Colony was organized in 1837 during the days of the Republic of Texas and is one of the oldest counties in Texas; and

WHEREAS, The town of San Felipe was the first Austin County seat; it was also the first capital of Texas, and the history of the town is noted for its series of "firsts"; its residents established the first English-speaking school and Sunday school in Texas in 1827; the first newspaper in Texas, the *Texas Gazette*, was published in San Felipe in 1829, and the first organized opposition to Mexican rule was expressed in San Felipe at the Convention of 1832; and

WHEREAS, Also organized in Austin County were the Texas Postal System and the Committee of Safety; the latter was originally founded as protection against the Karankawa Indians and later gained renown as the Texas Rangers; and

WHEREAS, Austin County experienced three waves of settlement—the Anglo-Americans, the German immigrants, and the Czech immigrants; Industry was the first German settlement in Texas, and the first Czech settlement in Texas was at Cat Spring; and

WHEREAS, In 1848, the county seat was moved to Bellville, a settlement named in honor of early settlers Thomas and James Bell, who arrived in Texas in 1822; the town of Bellville was incorporated in 1929; and

WHEREAS, With its rolling hills and idyllic rural vistas, Austin County reminds all Texans of the beauty of the wild land to which early settlers first arrived; more importantly, its vital and engaged citizens and its forward-thinking communities show all Texans the progress that can be made through the strength and tenacity of the pioneer spirit; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the citizens of Austin County for their many contributions to our state and extend to them best wishes for a joyous and celebratory Austin County Day; and, be it further

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

SR 173 was read.

SENATE RESOLUTION 174

Senator Armbrister offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize San Felipe in Austin County as the birthplace of the Texas Rangers; and

WHEREAS, San Felipe became the site of the creation of the Texas Rangers in 1823; that year, only two years after Anglo-American colonization formally began in Texas, empresario Stephen F. Austin hired 10 experienced frontiersmen as "rangers" for a punitive expedition against a band of Indians; and

WHEREAS, On November 24, 1835, the City of San Felipe also served as the site where Texas lawmakers instituted a specific force known as the Texas Rangers; according to the official Hall of Fame and Museum for the Texas Rangers at Waco, "Ranger" or "Ranging company" were the precursors leading to our present-day Texas Rangers; and

WHEREAS, San Felipe engendered the respected law enforcement organization, the Texas Rangers, more than 180 years ago; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby pay tribute to San Felipe as the historic birthplace of the Texas Rangers; and, be it further

RESOLVED, That a copy of this Resolution be prepared for San Felipe in Austin County as an expression of high regard from the Texas Senate.

SR 174 was read.

SR 173 and **SR 174** were adopted without objection.

GUESTS PRESENTED

Senator Armbrister was recognized and introduced to the Senate Austin County Judge Carolyn Bilski, Bellville Mayor Phillip Harrison, Sealy Mayor Russell Koym, San Felipe Mayor Bobby Byars, and Nancy Allen, accompanied by a delegation of citizens from Austin County.

The Senate welcomed its guests.

SENATE RESOLUTION 224

Senator Lindsay offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to welcome representatives of Leadership North Houston on the occasion of their visit to the State Capitol on February 24, 2005; and

WHEREAS, Leadership North Houston was founded 10 years ago by business and community leaders who wanted to provide educational opportunities for existing and emerging community leaders and enhance their leadership skills; and

WHEREAS, Begun by chamber of commerce executives and members from several communities, the program was encouraged by the chancellor of the North Harris Montgomery Community College District, Dr. John Pickelman, who had participated in similar programs in Dallas and Galveston; the North Harris Montgomery Community College District serves as the administrator and sponsor for the program; and

WHEREAS, Other sponsors of Leadership North Houston include the Humble Area Chamber of Commerce, North Houston Greenspoint Chamber of Commerce, Houston Northwest Chamber of Commerce, Community Chamber of Commerce, Greater Tomball Chamber of Commerce, Acres Home Citizens Chamber of Commerce, CyFair Chamber of Commerce, and the North Houston Association; and

WHEREAS, Leadership North Houston participants are concerned citizens who are committed to working with other community leaders on understanding issues and problem-solving in the North Houston community; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Leadership North Houston for its dedication and commitment to its community and welcome the organization's members to the State Capitol on February 24, 2005; and, be it further

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

SR 224 was read and was adopted without objection.

GUESTS PRESENTED

Senator Lindsay was recognized and introduced to the Senate representatives of Leadership North Houston.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate a group of students representing the Superintendent's student cabinet from the College Station Independent School District, accompanied by Steve Johnson, Superintendent of Schools.

The Senate welcomed its guests.

SENATE RESOLUTION 234

Senator Shapiro offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the members of the Texas Women's Alliance and to join them in proclaiming February 24, 2005, Texas Women's Alliance Day at the State Capitol; and

WHEREAS, The Texas Women's Alliance is a statewide, nonpartisan organization of civic and professional leaders who have an independent conservative viewpoint and whose goal is to influence public policy in Texas; and

WHEREAS, Organized in 1984 by Senator Kay Bailey Hutchison and Ambassador Anne Armstrong, Texas Women's Alliance provides an opportunity for women to meet other women from diverse backgrounds and to network in an environment that encourages women's leadership in both the public and private sectors; while discussions on issues are chiefly focused on Texas, many members have traveled internationally on trade and education missions; and

WHEREAS, Dedicated to the principle that women can make a positive impact at all levels of business and government, Texas Women's Alliance brings women together to work toward solutions for a wide array of concerns, and its members have made many valuable contributions to our state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the members of the Texas Women's Alliance for the excellent service, counsel, and leadership they provide our state; and, be it further

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

SHAPIRO
NELSON

SR 234 was read and was adopted without objection.

GUESTS PRESENTED

Senator Shapiro, joined by Senator Nelson, was recognized and introduced to the Senate Janelle Shepard, President-elect, Texas Women's Alliance; Kaye Goolsby, Vice-president, Membership; and Peggy Venable, Past President; accompanied by members of the Texas Women's Alliance.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Gallegos was recognized and introduced to the Senate members of the Association for the Advancement of Mexican Americans.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Armbrister was recognized and introduced to the Senate Archbishop Jose H. Gomez of the Archdiocese of San Antonio; Deacon Pat Rodgers; Richard Daly, Executive Director of the Texas Catholic Conference; and Suzanne Bellsnyder representing the Hispanic Alliance for Progress.

The Senate welcomed its guests.

MESSAGE FROM THE GOVERNOR

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

Austin, Texas
February 24, 2005

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

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

To be District Attorney for the 31st Judicial District for a term until the next General Election and until her successor shall be duly elected and qualified:

Sharon Lynn Switzer
Pampa, Texas

(Ms. Switzer is replacing Richard Roach who resigned)

Respectfully submitted,

/s/Rick Perry
Governor

SENATE RESOLUTION 223

Senator Lindsay offered the following resolution:

SR 223, In memory of Michael Helwig "Hal" Hillman of Houston.

The resolution was read.

Senator Lindsay was recognized and introduced to the Senate family members and friends of Michael Hillman: his wife, Betty Lou Hillman; his daughter, Patricia Ann Philipp; his granddaughter, Megan Philipp; Dennis Slate; Mike Wells; and Dan Gattis.

The Senate welcomed its guests and extended its sympathy.

On motion of Senator Lindsay, **SR 223** was adopted by a rising vote of the Senate.

In honor of the memory of Michael Helwig "Hal" Hillman of Houston, the text of the resolution is printed at the end of today's *Senate Journal*.

SENATE BILL 255 REREFERRED

Senator Carona submitted a Motion In Writing requesting that **SB 255** be withdrawn from the Committee on Government Organization and rereferred to the Subcommittee on Emerging Technologies and Economic Development.

The Motion In Writing prevailed without objection.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given Tuesday, February 22, 2005, by Senator Lindsay.

Senator Lindsay moved confirmation of the nominees reported Tuesday by the Committee on Nominations.

The President 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 31, Nays 0.

Justice, Court of Appeals, Ninth Court of Appeals District: Henry Hollis Horton III, Jefferson County.

Member, Texas Lottery Commission: J. Rolando Olvera, Jr., Cameron County.

Members, Texas Alcoholic Beverage Commission: Jose Cuevas, Jr., Midland County; John Thomas Steen, Jr., Bexar County.

Members, Texas Building and Procurement Commission: James Stewart Duncan, Harris County; Victor E. Leal, Bailey County; Brenda Pejovich, Dallas County; Betty Pinckard Reinbeck, Austin County.

Judge, 224th Judicial District Court, Bexar County: O. Rene Diaz, Bexar County.

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

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

Presiding Judge, First Administrative Judicial Region: John David Ovard, Dallas County.

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

Members, Texas State Board of Examiners of Dietitians: Linda Whitnell Dickerson, R.D.H., Brazoria County; Georgiana S. Gross, Bexar County.

Member, Texas State Board of Medical Examiners District Two Review Committee: Janet Tornelli-Mitchell, M.D., Dallas County.

Member, Texas Board of Licensure for Professional Medical Physicists in the Texas Department of Health: Walter Grant III, Harris County.

Members, State Pension Review Board: Paul A. Braden, El Paso County; Roy Valentine Casanova, Jr., Bexar County; Richard Earl McElreath, Randall County; Norman W. Parrish, Montgomery County; Frederick E. Rowe, Jr., Dallas County; Shari Oualline Shivers, Travis County.

Members, Polygraph Examiners Board: Priscilla Jane Kleinpeter, Randall County; Lawrence D. Mann, Collin County; Hugh Douglas Sutton, Lubbock County.

Members, Texas State Board of Examiners of Psychologists: Betty Lou "Penny" Angelo, Midland County; Gary R. Elkins, Ph.D., Bell County; Catherine Bernell Estrada, Dallas County; Carl E. Settles, Bell County.

Members, Texas Council on Purchasing from People with Disabilities: Howard Keith Karnes, Dallas County; John W. Luna, Tarrant County; Floyd Glen Self, Jr., Hays County; Wanda White Stovall, Tarrant County.

Members, Texas State Board of Social Worker Examiners: Timothy Martel Brown, Brazos County; Jeannie McGuire, L.B.S.W., Brazos County; Matt Shaheen, Collin County; Carrie Yeats, Lubbock County.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 11:03 a.m. agreed to adjourn, in memory of Nancy Hees of Austin and Michael Helwig "Hal" Hillman of Houston, upon completion of the introduction of bills and resolutions on first reading, until 1:30 p.m. Monday, February 28, 2005.

(Senator Wentworth in Chair)

SENATE BILLS AND RESOLUTION ON FIRST READING

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

SB 302 by Ellis

Relating to reports of strategies for increasing minority participation in higher education.

To Subcommittee on Higher Education.

SB 303 by Ellis

Relating to notice of factors used in admissions and scholarship decisions at certain public institutions of higher education.

To Subcommittee on Higher Education.

SB 320 by Wentworth, Armbrister, Brimer, Carona, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Williams

Relating to admission to certain public institutions of higher education.

To Subcommittee on Higher Education.

SB 494 by Williams

Relating to permissive interlocutory appeals in civil actions.

To Committee on State Affairs.

SB 495 by Williams

Relating to the fee paid to the attorney general for examining the record of proceedings authorizing the issuance of a public security or related credit agreement.

To Committee on Business and Commerce.

SB 496 by Williams

Relating to the validation of any act, governmental proceeding, official, bond, or obligation of a navigation district or port authority or a corporation of the district or authority.

To Committee on Natural Resources.

SB 497 by Williams

Relating to the qualifications and removal of a constable.

To Committee on Criminal Justice.

SB 498 by Shapleigh

Relating to the development of a financial literacy program for consumers.

To Committee on Education.

SB 500 by West

Relating to prices charged for the provision of health care services.

To Committee on State Affairs.

SB 501 by West

Relating to indemnification provisions in health care provider contracts.

To Committee on State Affairs.

SB 502 by West

Relating to common undergraduate admission application forms for public institutions of higher education in this state.

To Subcommittee on Higher Education.

SB 503 by West

Relating to making the award of an arbitration an open record.

To Committee on Business and Commerce.

SB 504 by West

Relating to the filing of certain information by arbitrators after each arbitration.

To Committee on Business and Commerce.

SB 505 by West

Relating to registration of arbitrators and arbitration services providers with the secretary of state.

To Committee on Business and Commerce.

SJR 14 by Seliger

Proposing a constitutional amendment allowing a county to abolish and reinstate the office of constable in the county or in a precinct of the county.

To Committee on Intergovernmental Relations.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 242 by Lucio, In memory of Anthony John "Tony" Carnesi, Jr., of Brownsville.

Congratulatory Resolutions

SR 229 by Lindsay, Commending Stephen R. Marymee for achieving the rank of Eagle Scout.

SR 230 by Lindsay, Commending David Wesley Carlson for achieving the rank of Eagle Scout.

SR 231 by Lindsay, Commending Garret Twining for achieving the rank of Eagle Scout.

SR 232 by Lucio, Congratulating Melanie Stacey Castillo and Javier Antonio Fernandez on the occasion of their marriage.

SR 235 by Shapiro, Commending Roberta "Bert" Carnley for her contributions to the Ladies Auxiliary to the Veterans of Foreign Wars of the United States.

SR 236 by Zaffirini, Congratulating Ernesto Ancira, Jr., for his induction into the San Antonio Business Hall of Fame.

SR 243 by Lucio, Congratulating KGBT-TV of Harlingen for receiving the Texas Association of Broadcasters' Bonner McLane Public Service Award.

Official Designation Resolution

SR 233 by Lucio, Recognizing February 24, 2005, as Jeane Elizabeth Echols Day at the Capitol.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 11:24 a.m. adjourned, in memory of Nancy Hees of Austin and Michael Helwig "Hal" Hillman of Houston, until 1:30 p.m. Monday, February 28, 2005.

APPENDIX

COMMITTEE REPORTS

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

February 24, 2005

INTERGOVERNMENTAL RELATIONS — SB 200, SB 224, SB 244, SB 270, SB 280, SB 299

In Memory
of
Michael Helwig "Hal" Hillman
Senate Resolution 223

WHEREAS, The Senate of the State of Texas joins the citizens of Houston in mourning the loss of prominent businessman and respected civic leader Michael Helwig "Hal" Hillman, who died November 1, 2004; and

WHEREAS, A native Houstonian, Hal Hillman had a special interest in education and a longstanding relationship with the Houston Livestock Show and Rodeo; he was known for educating young people and other consumers about the importance of agriculture, and in particular the beef industry, in Texas and across the country; and

WHEREAS, Hal was a graduate of The University of Texas and was a member of the United States Navy during World War II; he was active in a number of organizations that support the university, including the Longhorn Foundation, the President's Associates, and the business school's Century Club; he was a life member of The University of Texas Ex-Students' Association; and

WHEREAS, Hal Hillman was chairman of the board of directors and chief executive officer of The Hillman Company, a holding company whose subsidiaries are involved in real estate, wholesale beverage distribution, and cattle ranching; he was past president and chairman of the board of directors of the Houston Livestock Show and Rodeo; and

WHEREAS, In 1988, Hal played a vital role in the founding of the Texas Agricultural Lifetime Leadership program; he was executive secretary of its advisory board, and when the organization formed a foundation to support its program he served as vice president of the foundation; in recognition of his service and dedication to the program he was presented with the Texas Agricultural Lifetime Leadership Achievement Award in 2003; and

WHEREAS, Hal Hillman was a devoted husband, father, and grandfather, and he leaves behind memories that will be treasured forever by his family and many friends; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby honor and commemorate the life of Michael Helwig Hillman and extend sincere condolences to his bereaved family: his wife, Betty Lou Hillman; his son and daughter-in-law, Robert Michael and Cheryl Hillman; his daughter and son-in-law, Patricia Ann and Scot Philipp; his brother, Jack Hillman; his granddaughters, Nicole and Michelle Hillman and Megan Philipp; and many other relatives and friends; and, be it further

RESOLVED, That a copy of this Resolution be prepared for members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Michael Helwig Hillman.

LINDSAY
ARMBRISTER
ELLIS
GALLEGOS
JACKSON
JANEK
WHITMIRE
WILLIAMS

