

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRTEENTH DAY

(Monday, February 14, 2011)

The Senate met at 1:34 p.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, Davis, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Carona, Deuell, Uresti.

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

The Reverend Leon C. McCowan, Saint James Missionary Baptist Church, Austin, offered the invocation as follows:

Lord God, thank You for this 14th day of February, 2011. Thank You for the 82nd Texas Legislature. Lord, this invocation is just a moment not only to thank You for being God but for asking that Your blessings be showered upon all of today's proceedings. Thank You for those who serve our country, especially this great State of Texas. Thank You for those who represent the Senate and the House. Lord, be with every deliberation and every decision on this day. Help us never to forget that we serve You, by serving Your people. Thank You for those men and women who are protecting us, both near and far. Thank You for the freedoms and liberties that we have in this country. Thank You for the elected officials, the staff workers, the clerks, and the volunteers, these great individuals who make up our government. Lord, I praise You for the diversity that is in this room. Thank You for the various faiths which are present in this room. Thank You, dear God, for making Your love available to all of us. I conclude this invocation in the name of the one I put all my trust and faith in, Jesus the Christ. 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.

LEAVES OF ABSENCE

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

On motion of Senator Whitmire, Senator Deuell was granted leave of absence for today on account of an illness in the family.

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

PHYSICIANS OF THE DAY

Senator Watson was recognized and presented Drs. John and Judith Egerton of Austin as the Physicians of the Day.

The Senate welcomed the Egertons and thanked them for their participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

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

SB 271 by Uresti

Relating to the board of directors of the Bexar Metropolitan Water District.
To Committee on Natural Resources.

SB 331 by Shapiro, Estes, Fraser, Harris, Huffman, Nelson, Williams

Relating to adding certain synthetic cannabinoids to Penalty Group 2 of the Texas Controlled Substances Act.
To Committee on Criminal Justice.

SB 334 by Fraser

Relating to the applicability of the constitutional limit on state debt payable from the general revenues of the state to bonds issued by the Texas Water Development Board.
To Committee on Finance.

SB 341 by Uresti

Relating to the appointment of a conservator for and authorizing the dissolution of the Bexar Metropolitan Water District.
To Committee on Natural Resources.

SB 451 by Ellis

Relating to death benefits for eligible survivors of certain Texas National Guard members.
To Committee on Veteran Affairs and Military Installations.

SB 452 by Ellis

Relating to placing the State Board of Education under periodic review by the Sunset Advisory Commission.
To Committee on Education.

SB 453 by Ellis

Relating to dedicating money in the system benefit fund to certain purposes.
To Committee on Finance.

SB 455 by Ellis

Relating to restrictions on the location and operation of concrete crushing facilities.
To Committee on Natural Resources.

SB 456 by Ellis

Relating to state purchasing of certain environmentally friendly items.
To Committee on Government Organization.

SB 458 by Seliger

Relating to initial claims under the unemployment compensation system.
To Committee on Economic Development.

SB 460 by Seliger

Relating to regulation of the import, export, and management of mule deer; providing penalties.
To Committee on Agriculture and Rural Affairs.

SB 461 by Williams

Relating to the design and issuance of license plates for United States paratroopers.
To Committee on Transportation and Homeland Security.

SB 462 by West

Relating to the right to an expunction of records and files relating to a person's arrest.
To Committee on Criminal Justice.

SB 463 by Lucio

Relating to providing parents with notice of a school district's promotion and retention policies.
To Committee on Education.

SB 464 by Lucio

Relating to tracking peace officer membership in the Teacher Retirement System of Texas.
To Committee on State Affairs.

SB 465 by Lucio

Relating to retirement benefits of school district or institution of higher education peace officers under the Teacher Retirement System of Texas.
To Committee on State Affairs.

SB 466 by Lucio

Relating to a requirement that public school counselors demonstrate knowledge of counseling regarding higher education to obtain a school counselor certificate.
To Committee on Education.

SB 467 by Wentworth

Relating to the power of the Texas Commission on Environmental Quality to authorize certain injection wells that transect or terminate in the Edwards Aquifer.
To Committee on Natural Resources.

SB 468 by Shapiro

Relating to the flexibility of the board of trustees of a school district in the management and operation of public schools in the district.

To Committee on Education.

SB 469 by Nelson

Relating to the collection of unpaid tolls by a regional tollway authority.

To Committee on Transportation and Homeland Security.

SB 471 by West

Relating to public school and child-care facility policies addressing sexual abuse and other maltreatment of children.

To Committee on Health and Human Services.

SB 472 by West

Relating to voting practices and elections of property owners' associations.

To Committee on Intergovernmental Relations.

SB 474 by Patrick

Relating to a limitation on increases in the appraised value for ad valorem tax purposes of commercial or industrial real property.

To Committee on Finance.

SB 475 by Patrick

Relating to the creation of the Harris County Municipal Utility District No. 524; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Committee on Intergovernmental Relations.

SB 476 by Patrick

Relating to the classification of automotive repair shops as primarily engaged in retail trade for purposes of the franchise tax.

To Committee on Finance.

SB 477 by Patrick

Relating to the allocation to a school district of the expenses of a joint election.

To Committee on State Affairs.

SB 478 by Estes

Relating to the protection of stray bison.

To Committee on Agriculture and Rural Affairs.

SB 479 by Estes

Relating to limiting the liability of certain persons for farm animal activities.

To Committee on Agriculture and Rural Affairs.

SB 480 by Hegar

Relating to certain appeals from judgments of municipal courts of record.

To Committee on Jurisprudence.

SB 481 by Harris

Relating to the removal of a guardian of an incapacitated person ordered by a court.

To Committee on Jurisprudence.

SB 482 by Harris

Relating to the requirements for an authorization agreement for a nonparent relative of a child.

To Committee on Jurisprudence.

SB 483 by Harris

Relating to the powers and duties of criminal law magistrates in Tarrant County.

To Committee on Jurisprudence.

SB 484 by Huffman

Relating to the release of a photograph of a police officer and access to records maintained by internal investigative divisions in certain municipalities.

To Committee on Intergovernmental Relations.

SB 485 by Huffman

Relating to proper venue for certain criminal prosecutions of mortgage fraud.

To Committee on Jurisprudence.

SB 486 by Huffman

Relating to creating the offense of sexual voyeurism; providing a penalty and other civil consequences.

To Committee on Criminal Justice.

SB 487 by Huffman

Relating to increasing the penalty for the offense of leaving the scene of an accident that involves personal injury or death.

To Committee on Criminal Justice.

SB 488 by Van de Putte

Relating to criminal background checks on users of online dating services and to disclosures of online dating safety measures; providing a civil penalty.

To Committee on Business and Commerce.

SB 489 by Fraser, Duncan, Estes

Relating to the Texas State Technical College System.

To Committee on Higher Education.

SB 490 by Fraser

Relating to the Hamilton County Hospital District.

To Committee on Intergovernmental Relations.

SB 491 by Fraser

Relating to the composition of the 198th Judicial District, the creation of a judicial district composed of Kimble, McCulloch, Mason, and Menard Counties, and the creation of the office of district attorney for the 440th Judicial District.

To Committee on Jurisprudence.

SB 493 by Fraser

Relating to the idling of motor vehicles.

To Committee on Natural Resources.

SB 494 by Fraser

Relating to the authority of certain local governmental entities to borrow money for a public hospital.

To Committee on Intergovernmental Relations.

SB 495 by Fraser

Relating to an exemption from the motor vehicle use tax for motor vehicles brought into this state by certain military personnel or retired military personnel.

To Committee on Finance.

SB 496 by Fraser

Relating to the punishment for the offense of evading arrest or detention.

To Committee on Criminal Justice.

SB 497 by Jackson

Relating to notice of the construction or expansion of a wind-powered electric generation facility located near a federally owned or operated radar installation or military installation.

To Committee on Natural Resources.

SB 498 by Jackson

Relating to the trapping and transport of surplus white-tailed deer.

To Committee on Agriculture and Rural Affairs.

SB 499 by Jackson

Relating to the identification of breeder deer by microchips.

To Committee on Agriculture and Rural Affairs.

SB 500 by Jackson

Relating to the authority of the governing body of a local authority to impose a civil penalty for certain violations recorded by an automated traffic control system or a photographic traffic signal enforcement system.

To Committee on Transportation and Homeland Security.

SCR 9 by Lucio

Urging the United States Congress to amend the list of allowable foods under the Supplemental Nutrition Assistance Program to eliminate sweetened drinks and snack foods of minimal nutritional value.

To Committee on Health and Human Services.

SCR 10 by Ellis

Designating February 21 through 27 of each year from 2011 through 2020 as Barbara Jordan Freedom Week.

To Committee on Administration.

SCR 11 by Hegar

Designating May 22 of each year from 2011 through 2020 as William Elmo Merrem Day in honor of the first Eagle Scout from Texas.

To Committee on Administration.

SCR 14 by Patrick, Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Seliger, Shapiro, Wentworth, Williams

Affirming the pride of all Texans in both our one and indivisible national union and our one and indivisible state, claiming sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the U.S. Constitution, serving notice to the federal government to cease and desist from certain mandates, and providing that certain federal legislation be prohibited or repealed.

To Committee on State Affairs.

SJR 20 by Patrick

Proposing a constitutional amendment to authorize the legislature to limit the maximum appraised value of commercial or industrial real property for ad valorem tax purposes to 110 percent or more of the appraised value of the property for the preceding tax year.

To Committee on Finance.

SJR 21 by Patrick

Proposing a constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran in an amount equal to the amount of the residence homestead exemption to which the disabled veteran was entitled.

To Committee on Finance.

SENATE RESOLUTION 226

Senator Nelson offered the following resolution:

SR 226, Commending the Texas Council on Family Violence for its service on behalf of the victims of domestic violence.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate representatives of the Texas Council on Family Violence.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

February 14, 2011

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 48, Honoring the Fannie Marchman Garden Club in Mineola on the 75th anniversary of its founding.

HCR 58, Granting the legislature permission to adjourn for more than three days.

SCR 15, Granting the legislature permission to adjourn for more than three days during the period beginning on Wednesday, February 9, 2011, and ending on Monday, February 14, 2011.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE CONCURRENT RESOLUTION 51

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

HCR 51, Commending Heart Hospital of Austin and St. David's HealthCare for providing exceptional cardiovascular care.

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 except as follows:

Absent-excused: Carona, Deuell, Uresti.

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate Jon Foster, President and CEO, Saint David's HealthCare; David Laird, CEO, Heart Hospital of Austin; Matthew Selmon, M.D.; and Marsha Pohorelsky, Director of CCU, Heart Hospital of Austin.

The Senate welcomed its guests.

SENATE RESOLUTION 228

Senator Nelson offered the following resolution:

SR 228, Recognizing February 14, 2011, as Association of Texas Professional Educators Day at the State Capitol.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson, joined by Senators Hinojosa, Lucio, Patrick, Shapiro, and Zaffirini, was recognized and introduced to the Senate representatives from the Association of Texas Professional Educators.

The Senate welcomed its guests.

SENATE RESOLUTION 168

Senator Hegar offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Saint Mary's University for its legacy of outstanding service to the City of San Antonio and our state; and

WHEREAS, A close-knit academic and spiritual community, Saint Mary's University offers a 13-to-one student-to-faculty ratio with numerous Fulbright scholars, Piper professors, and other engaged faculty members coming together to create an exceptional educational experience; and

WHEREAS, Saint Mary's University has produced more than 300 elected officials, who have served both this state and this nation with distinction; and

WHEREAS, The Carnegie Foundation has granted Saint Mary's University its prestigious Community Engagement Classification in recognition of the university's mission-driven focus on academic excellence, community service, and civic engagement; and

WHEREAS, Saint Mary's University was named first in the nation by *Washington Monthly* magazine for promoting an ethic of service to country, fostering scientific and humanistic research, and performing as an engine of social mobility; and

WHEREAS, More than 70 percent of the university's students participate in community service activities, and Saint Mary's University is listed as a College that Builds Character by the John Templeton Foundation and as one of the nation's top Colleges with a Conscience by the Princeton Review and Campus Compact; and

WHEREAS, Saint Mary's University has been home to 167 All-American Scholar athletes, and it has won five national championships in athletic competition; and

WHEREAS, Saint Mary's University graduates have historically been accepted to medical and dental schools at rates far exceeding the national average; the combination of academic, athletic, and community excellence has truly established Saint Mary's University as a leader in the field of higher education; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby commend the students, faculty, and staff of Saint Mary's University for their many outstanding contributions to our state and nation; and, be it further

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

VAN DE PUTTE WENTWORTH
HEGAR ZAFFIRINI
URESTI

SB 168 was read and was adopted without objection.

GUESTS PRESENTED

Senator Hegar was recognized and introduced to the Senate the Saint Mary's University delegation: Charles L. Cotrell, Ph.D., President; Robert L. Elizondo, Chairman, Board of Trustees; Alfred "Freddie" Valenzuela, Secretary, Board of Trustees; and Alexandra "Alex" McCoy, President, Student Government Association.

The Senate welcomed its guests.

SENATE BILL 267 REREFERRED (Motion In Writing)

Senator Williams submitted a Motion In Writing requesting that **SB 267** be withdrawn from the Committee on Finance and rereferred to the Committee on Transportation and Homeland Security.

The Motion In Writing prevailed without objection.

NOMINATION RETURNED

On motion of Senator Hegar and by unanimous consent, the Senate agreed to grant the request of the Governor to return the following nomination:

Member, State Employee Charitable Campaign Policy Committee: Jason Kevin Patteson, Travis County.

CO-AUTHOR OF SENATE BILL 16

On motion of Senator Patrick, Senator Birdwell will be shown as Co-author of **SB 16**.

CO-AUTHOR OF SENATE BILL 161

On motion of Senator Shapiro, Senator Davis will be shown as Co-author of **SB 161**.

CO-AUTHORS OF SENATE BILL 513

On motion of Senator Ellis, Senators Davis and Rodriguez will be shown as Co-authors of **SB 513**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 222 by Wentworth, In memory of William Henry Borchers of New Braunfels.

SR 231 by Lucio, In memory of Romeo Ramirez Esparza.

SR 232 by Lucio, In memory of Castula "Tati" Ozuna Guerra of Weslaco and Edcouch.

SR 233 by Lucio, In memory of Leon Bence of Harlingen.

SR 235 by Lucio, In memory of Aida De Leon Uribe of Brownsville.

SR 236 by Lucio, In memory of Bertha Champion Garza of Brownsville.

SR 237 by Lucio, In memory of Hector Farias, Sr., of Weslaco.

SR 242 by Wentworth, In memory of Rudolph Taylor Monsalvo of Bexar and Atascosa counties.

Welcome and Congratulatory Resolutions

SR 215 by Hinojosa, Recognizing Richard Lee Drewry on the occasion of his retirement from the Edinburg Volunteer Fire Department.

SR 216 by Hinojosa, Commending Matthew Franke on achieving the rank of Eagle Scout.

SR 217 by Ellis, Recognizing the Harris County Hospital District on the occasion of the expansion of its Lyndon Baines Johnson Emergency Center.

SR 218 by West, Congratulating Sejena Elvera and Juan Javier Ramirez on the birth of their daughter, Gianna Elvera Ramirez.

SR 223 by Davis, Congratulating Sarah Fullenwider on being named city attorney for the City of Fort Worth.

SR 224 by Whitmire, Recognizing the Houston Northwest Chapter of National Women of Achievement, Incorporated, for its contributions to its community.

SR 227 by Nelson, Welcoming members of Leadership Keller to Austin and the State Capitol on February 17 and 18, 2011.

SR 229 by Harris, Recognizing Lou Spiegel on the occasion of her retirement from the Mansfield Independent School District.

SR 234 by Lucio, Recognizing the official naming of the Judge Pete De La Garza Courthouse Annex in Kleberg County.

SR 238 by Lucio, Commending Sherry Lynn Stout on receiving the 2010 H-E-B Excellence in Education Award for outstanding elementary school principal.

SR 239 by Lucio, Congratulating Alma Cardenas-Rubio on receiving the 2010 H-E-B Excellence in Education Award for outstanding secondary school principal.

SR 240 by West, Recognizing S. V. Teague for his contributions to the Church of God in Christ.

SR 241 by West, Recognizing the Dallas Area Regional History Day 2011 competition on February 19, 2011.

SR 245 by Rodriguez, Recognizing Sylvia, Tim, and Matthew Collins for their participation in the Arc of Texas' Getting to the Heart of the Matter program.

SR 246 by Rodriguez, Recognizing Apolonia Alvarez-Lozano for her participation in the Arc of Texas' Getting to the Heart of the Matter program.

SR 247 by Rodriguez, Recognizing Jane Jones for her participation in the Arc of Texas' Getting to the Heart of the Matter program.

SR 252 by Nelson, Welcoming the students and faculty of Lake Country Christian School of Fort Worth to the Capitol.

HCR 48 (Eltife), Honoring the Fannie Marchman Garden Club in Mineola on the 75th anniversary of its founding.

Official Designation Resolutions

SR 220 by Birdwell, Recognizing February 17, 2011, as Falls County and Marlin Day at the Capitol.

SR 221 by Wentworth, Declaring March 6 through March 12, 2011, as Women in Construction Week in Texas.

SR 251 by Nelson, Recognizing February 16, 2011, as Texans Support Libraries Day.

SR 253 by Nelson, Lucio, and Shapiro, Recognizing February 16, 2011, as Susan G. Komen for the Cure Advocacy Day in Texas.

SR 254 by Nelson, Proclaiming February 16, 2011, Substance Abuse Prevention and Treatment Advocacy Day at the Capitol.

SR 256 by Nichols, Recognizing February 16 and 17, 2011, as Nacogdoches-SFA Days at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 2:10 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORT

The following committee report was received by the Secretary of the Senate:

February 14, 2011

STATE AFFAIRS — **CSSB 16**

BILL ENGROSSED

February 9, 2011

SB 18

RESOLUTIONS ENROLLED

February 9, 2011

SR 25, SR 110, SR 146, SR 162, SR 183, SR 200, SR 201, SR 202, SR 203, SR 204, SR 205, SR 206, SR 207, SR 208, SR 209, SR 210, SR 211, SR 212