

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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NINETEENTH DAY

(Tuesday, February 26, 2013)

The Senate met at 11:02 a.m. pursuant to adjournment and was called to order by Senator Eltife.

The roll was called and the following Senators were present: Birdwell, Campbell, Carona, 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.

The Presiding Officer announced that a quorum of the Senate was present.

The Reverend Michael S. Haywood, Mission Brenham, Brenham, offered the invocation as follows:

Blessed is the nation whose God is the Lord, the people He has chosen as His own inheritance. The Lord looks from heaven; He sees all the sons of men. From the place of His dwelling He looks on all the inhabitants of the Earth. He fashions their hearts individually. He considers all their works. Lord, as You consider the works of this 83rd Senate today, please have mercy and loving kindness toward these, Your chosen vessels. May Your countenance forever be lifted by the decisions they make on behalf of Your people. May Your hand be forever upon this great state, and may it be a beacon of light to the rest of this great republic. Lord, we now invoke Your presence. Let us be reminded although we bring forth legislation, You will have the final say. Although we cast our ballots for happiness, life, and liberty, it is You who sets us free. Scripture reminds us, in his heart a man plans his course, but the Lord determines his steps. Determine now our steps that we might bring You glory and honor. Bless now all who are present, from this sacred desk to the last row in this Chamber. Provide us now with Your wisdom, Your power, Your provisions, and Your presence, in the name of Your son, God of the most high. 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.

**PHYSICIAN OF THE DAY**

Senator Watson was recognized and presented Dr. Larry Kravitz of Austin as the Physician of the Day.

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

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Tuesday, February 26, 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:

**SCR 16**                                      Whitmire                                      Sponsor: Aycock  
Granting the legislature permission to adjourn for more than three days during the period beginning on Wednesday, February 20, 2013, and ending on Monday, February 25, 2013.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE RESOLUTION 169**

Senator Schwertner offered the following resolution:

**SR 169**, Proclaiming February 26, 2013, Justices of the Peace and Constables Day at the State Capitol.

The resolution was again read.

The resolution was previously adopted on Monday, February 11, 2013.

**GUESTS PRESENTED**

Senator Schwertner was recognized and introduced to the Senate a Justices of the Peace and Constables Association of Texas delegation, accompanied by Bobby Gutierrez, Connie Hickman, Larry Gallardo, Chad Jordan, and Martin Castillo, President.

The Senate welcomed its guests.

**SENATE RESOLUTION 264**

Senator Nelson offered the following resolution:

**SR 264**, Proclaiming February 26, 2013, Nurse Day at the Capitol.

The resolution was again read.

The resolution was previously adopted on Wednesday, February 20, 2013.

**GUESTS PRESENTED**

Senator Nelson was recognized and introduced to the Senate a delegation of Texas nurses.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Hegar was recognized and introduced to the Senate a Washington County delegation.

The Senate welcomed its guests.

**SENATE RESOLUTION 296**

Senator Deuell offered the following resolution:

**SR 296**, Recognizing February 26, 2013, as Texas Grammy Music Day at the State Capitol.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Deuell was recognized and introduced to the Senate a Texas Chapter of The Recording Academy delegation, accompanied by Carlos Alvarez, Josh Abbott, R. C. Rondero De Mosier, Christine Albert, and Paul Wall.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Paxton was recognized and introduced to the Senate a delegation of The University of Texas at Dallas students.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Estes, joined by Senators Zaffirini, Campbell, Hinojosa, and Lucio, was recognized and introduced to the Senate a Future Farmers of America delegation.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Lucio was recognized and introduced to the Senate a City of Kingsville delegation.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Birdwell was recognized and introduced to the Senate a group of Waxahachie High School students.

The Senate welcomed its guests.

**SENATE RESOLUTION 274**

Senator Estes offered the following resolution:

**SR 274**, Welcoming the delegates of the City of Graham and the Graham Chamber of Commerce on the occasion of Graham Day at the State Capitol.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Estes was recognized and introduced to the Senate a Graham Chamber of Commerce delegation.

The Senate welcomed its guests.

**SENATE RESOLUTION 284**

Senator Nelson offered the following resolution:

**SR 284**, Celebrating February 26, 2013, as Emergency Medical Services, Trauma, and Acute Care Advocacy Day at the State Capitol.

The resolution was again read.

The resolution was previously adopted on Monday, February 25, 2013.

**GUESTS PRESENTED**

Senator Nelson was recognized and introduced to the Senate an EMS, trauma, and acute care delegation.

The Senate welcomed its guests.

**(Senator Nelson in Chair)**

**SENATE RESOLUTION 232**

Senator Eltife offered the following resolution:

**SR 232**, Welcoming the delegation to Austin for East Texas Coalition Days at the State Capitol.

The resolution was again read.

The resolution was previously adopted on Monday, February 18, 2013.

**GUESTS PRESENTED**

Senator Eltife was recognized and introduced to the Senate an East Texas delegation, accompanied by Joel Baker, Smith County Judge; Bill Stoudt, Gregg County Judge; Mary Elizabeth Jackson, Tyler Chamber of Commerce Board of Directors Chair; Brad Tidwell, Longview Chamber of Commerce Board of Directors Chair; and Vic Price, Kilgore Chamber of Commerce Board of Directors Chair.

The Senate welcomed its guests.

**SENATE RESOLUTION 313**

Senator Zaffirini offered the following resolution:

**SR 313**, Recognizing February 26, 2013, as El Cenizo Day at the State Capitol.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate a City of El Cenizo delegation, accompanied by Raul L. Reyes, Mayor; San Juanita Valdez, City Commissioner; San Juana Perez, City Secretary; and Rick Salazar, Chief of Police.

The Senate welcomed its guests.

**RESOLUTIONS SIGNED**

The Presiding Officer announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 37, HCR 49.**

**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.

**GUESTS PRESENTED**

Senator Uresti was recognized and introduced to the Senate a Kinney County delegation.

The Senate welcomed its guests.

**REPORT OF COMMITTEE ON NOMINATIONS**

Senator Hegar submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed:

Judge, 248th Judicial District Court, Harris County: Katherine Ann Cabaniss, Harris County.

Adjutant General, Adjutant General's Department: John Frederick Nichols, Comal County.

Members, Advisory Board of Athletic Trainers: David R. Schmidt, Bexar County; Cathy Poerner Supak, Harris County.

Members, Commission on State Emergency Communications: Rick L. Campbell, Shelby County; Terry J. Henley, Fort Bend County; Laura Gibbs Maczka, Dallas County.

Member, Executive Council of Physical Therapy and Occupational Therapy Examiners: Arthur Roger Matson, Williamson County.

Members, Governing Board, Office of Violent Sex Offender Management: Elizabeth Christina Jack, Tarrant County; Leonardo Eloi Longoria, Hidalgo County; Daniel Patrick Powers, Denton County.

Members, Manufactured Housing Board: Bobby Ray McCarn, Calhoun County; Donnie W. Wisenbaker, Hopkins County.

Members, Board of Regents, Midwestern State University: Fenton Lynwood Givens, Collin County; Charles Jefferson Gregg, Baylor County; Samuel Molinar Sanchez, Tarrant County.

Members, Board of Directors, State Bar of Texas: David Richey Alders, Nacogdoches County; Timothy Scott Kelly, Travis County; Eliseo Ruiz, Cameron County; David D. Teuscher, Jefferson County.

Members, State Commission on Judicial Conduct: Joel P. Baker, Smith County; Valerie E. Ertz, Dallas County; Patti Hutton Johnson, Comal County; Ricky A. Raven, Fort Bend County.

Chief Administrative Law Judge, State Office of Administrative Hearings: Lyn Cathleen Parsley, Travis County.

Members, State Soil and Water Conservation Board: Larry Don Jacobs, Montgomery County; Joe Larry Ward, Fannin County.

Members, Board of Regents, Stephen F. Austin State University: David Richey Alders, Nacogdoches County; John R. Garrett, Smith County; Barry Earl Nelson, Dallas County; Constance M. Ware, Harrison County.

Members, Texas Appraiser Licensing and Certification Board: Walker Beard, El Paso County; Clayton Price Black, Martin County; Luis F. De La Garza, Webb County; Laurie Carden Fontana, Harris County; Keith William Kidd, Lamar County; Shannon K. McClendon, Travis County; Sheryl Rigsby Swift, Galveston County; Jamie Lou Sanders Wickliffe, Ellis County.

Members, Texas Board of Orthotics and Prosthetics: Richard M. Neider, Fort Bend County; Ray Deane Smith, Victoria County.

Member, Texas Commission on Environmental Quality: Christopher Tobias Baker, Travis County.

Members, State Board of Trustees, Texas Emergency Services Retirement System: Don Richard Shipman, Tarrant County; Francisco Torres, Willacy County; Stephen Keith Williams, Panola County.

Members, Texas Funeral Service Commission: Jean Lorraine Olinger, Childress County; Jonathan Frank Scepanski, Hidalgo County; Gary Eugene Shaffer, Tom Green County.

Members, Texas Judicial Council: Ashley Elizabeth Johnson, Dallas County; Virgil Justice, Gillespie County.

Members, Texas Optometry Board: Judith Ann Chambers, Hays County; Melvin Grover Cleveland, Tarrant County; Virginia Sosa, Uvalde County.

Members, Texas Racing Commission: Gary Paul Aber, Fort Bend County; Ronald Frank Ederer, Nueces County; John Thomas Steen, Harris County.

Members, Texas State Board of Examiners of Dietitians: Belinda Bazan-Lara, Bexar County; Aida L. Moreno-Brown, El Paso County; Dwight Albert Sharpe, Wise County.

Members, Texas State Board of Examiners of Professional Counselors: Sarah T. Abraham, Fort Bend County; Steven Douglas Christopherson, Harris County; Leslie Fischer Pohl, Travis County.

Members, Texas State Board of Examiners of Psychologists: Donna Lord Black, Fort Bend County; Jo Ann Campbell, Taylor County; John Robert Huffman, Tarrant County.

Members, Texas State Board of Pharmacy: Alice G. Mendoza, Kleberg County; Phyllis A. Stine, Taylor County; Jeanne D. Waggener, McLennan County.

Members, Texas State Board of Podiatric Medical Examiners: Brian Bradford Carpenter, Wise County; Fred E. Davis, Travis County; Travis A. Motley, Tarrant County.

Members, Board of Regents, Texas Tech University System: Juan Daniel Esparza, Travis County; Lawrence Frederick Francis, El Paso County; Ivan Tim Lancaster, Taylor County; John Bryan Walker, Harris County.

Members, Board of Regents, University of Houston System: Spencer D. Armour, Midland County; Roger Fleming Welder, Victoria County; Welcome Wade Wilson, Harris County.

Members, Board of Directors, Upper Neches River Municipal Water Authority: William Barry James, Anderson County; Milton Phillip Jenkins, Anderson County.

### **NOTICE OF CONSIDERATION OF NOMINATIONS**

Senator Hegar gave notice that he would tomorrow submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

### **MOTION TO ADJOURN**

On motion of Senator Whitmire and by unanimous consent, the Senate at 11:48 a.m. agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, until 11:00 a.m. tomorrow.

### **SENATE BILLS AND RESOLUTION ON FIRST READING**

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

**SB 739** by Rodríguez

Relating to authorizing fees deducted from court registry funds.

To Committee on Criminal Justice.

**SB 740** by Rodríguez

Relating to required workers' compensation insurance coverage for building and construction contractors.

To Committee on State Affairs.

**SB 741** by Rodríguez

Relating to the period during which an employee may file a claim for unpaid wages with the Texas Workforce Commission.

To Committee on Economic Development.

**SB 742** by Carona

Relating to reports of missing children or attempted child abductions and to education and training for peace officers regarding missing or exploited children.

To Committee on Criminal Justice.

**SB 743** by Nelson

Relating to the penalties prescribed for repeated violations of certain court orders or conditions of bond in a family violence case.

To Committee on Criminal Justice.

**SB 744** by Nelson

Relating to compensation under the Crime Victims' Compensation Act for loss of support to a dependent who is a victim.

To Committee on Criminal Justice.

**SB 745** by Nelson

Relating to review and verification procedures, and allowing certain claimants to file an application under the Crime Victims' Compensation Act; and the administration of the Sexual Assault Prevention and Crisis Services Act.

To Committee on Criminal Justice.

**SB 746** by Nelson

Relating to unlawful acts against and criminal offenses involving the Medicaid program.

To Committee on Health and Human Services.

**SB 747** by Nelson

Relating to the term for the independent ombudsman for state supported living centers.

To Committee on Health and Human Services.

**SB 748** by Nelson

Relating to the use of certain tax revenue to enhance and upgrade convention center facilities, multipurpose arenas, multiuse facilities, and related infrastructure in certain municipalities.

To Committee on Economic Development.

**SB 749** by Davis

Relating to the detection and repair of natural gas pipeline leaks.

To Committee on Natural Resources.



**SB 750** by Ellis

Relating to the applicability of the death penalty to a capital offense committed by a person with an intellectual disability.

To Committee on Criminal Justice.

**SB 751** by Patrick

Relating to the creation of the Harris County Municipal Utility District No. 531; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Committee on Intergovernmental Relations.

**SB 752** by Patrick

Relating to the creation of the Harris County Municipal Utility District No. 530; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Committee on Intergovernmental Relations.

**SB 753** by Patrick

Relating to the production of the index of the parties to all suits by the clerk of a district court.

To Committee on Jurisprudence.

**SB 754** by Patrick

Relating to the reporting of the hiring of lobbyists on behalf of a governmental entity.

To Committee on State Affairs.

**SB 755** by Patrick

Relating to the filing of reports of political contributions and expenditures and of personal financial statements by certain officeholders and candidates.

To Committee on State Affairs.

**SB 756** by Patrick

Relating to the responsibility for keeping fire-fighting equipment furnished to a volunteer fire department by a county in good working order.

To Committee on Intergovernmental Relations.

**SB 757** by Patrick

Relating to the powers and duties of the Harris County Municipal Utility District No. 257; providing authority to issue bonds.

To Committee on Intergovernmental Relations.

**SB 759** by Lucio

Relating to a plan to increase participation in the summer food service program.

To Committee on Agriculture, Rural Affairs and Homeland Security.

**SB 760** by Lucio

Relating to the provision of home-taught driver education courses by state agencies.

To Committee on Transportation.

**SB 761** by Lucio

Relating to the licensing and regulation of medical laboratory professionals; providing penalties; imposing fees.

To Committee on Health and Human Services.

**SB 762** by Carona

Relating to a prohibition on the disposal of certain used equipment at a municipal solid waste facility; creating an offense.

To Committee on Natural Resources.

**SB 763** by Watson

Relating to motorcycle training and the license requirements for a three-wheeled motorcycle; creating an offense.

To Committee on Transportation.

**SB 764** by Watson

Relating to a limitation on liability for prescribed burning conducted on land owned by, leased by, or occupied by certain self-insured governmental units.

To Committee on State Affairs.

**SB 765** by Watson

Relating to the establishment and duties of an event oversight committee for an event eligible to receive funding through a major events trust fund; limiting payments from the fund to reimbursement for attracting unique events to Texas.

To Committee on Economic Development.

**SB 766** by Hegar

Relating to prohibiting a requirement that a volunteer firefighter obtain a license or certification.

To Committee on Intergovernmental Relations.

**SB 767** by Patrick, Davis

Relating to the creation of DNA records for the DNA database system.

To Committee on Criminal Justice.

**SB 768** by Uresti

Relating to suits affecting the parent-child relationship.

To Committee on Jurisprudence.

**SB 769** by Uresti

Relating to the establishment of a pilot program to provide specialized training to foster parents of certain children.

To Committee on Health and Human Services.

**SB 770** by Uresti

Relating to a prohibition against naming public property after certain former elected officials.

To Committee on Government Organization.

**SB 771** by Uresti

Relating to training for certain employees of the Department of Family and Protective Services.

To Committee on Health and Human Services.

**SB 772** by Uresti

Relating to the elimination of obsolete and redundant reporting requirements for the Department of Agriculture.

To Committee on Agriculture, Rural Affairs and Homeland Security.

**SB 773** by Uresti

Relating to the replatting of a subdivision without vacating the preceding plat in certain municipalities.

To Committee on Intergovernmental Relations.

**SB 774** by Uresti

Relating to requiring dental support for a child subject to a child support order.

To Committee on Jurisprudence.

**SB 775** by Deuell

Relating to public school finance.

To Committee on Finance.

**SB 776** by Ellis, Hinojosa

Relating to reports issued by the comptroller on the effect of certain tax provisions.

To Committee on Finance.

**SB 777** by Ellis

Relating to the terms of the public members of the Texas Holocaust and Genocide Commission.

To Committee on State Affairs.

**SB 778** by Carona

Relating to trusts.

To Committee on Jurisprudence.

**SB 779** by Hinojosa

Relating to applying credit earned by a student at a general academic teaching institution to an associate's degree at a lower-division institution of higher education previously attended by the student.

To Committee on Higher Education.

**SB 780** by Hinojosa

Relating to the prioritization of certain available legal defense services when appointing representation for an indigent defendant in a criminal case.

To Committee on Criminal Justice.

**SB 781** by Hinojosa

Relating to the exclusion of certain transportation services costs in determining total revenue for purposes of the franchise tax.

To Committee on Finance.

**SB 782** by Hinojosa

Relating to a permit exemption for certain drainage districts located in counties bordering the United Mexican States.

To Committee on Natural Resources.

**SB 783** by Hinojosa

Relating to inclusion in school district improvement plans of policies to prevent dating violence.

To Committee on Education.

**SB 784** by Hinojosa

Relating to exempting emergency preparation supplies from the sales and use tax for a limited period.

To Committee on Finance.

**SB 785** by Hinojosa

Relating to a Medicaid provider's right to an administrative hearing on an action taken by the office of inspector general for the Health and Human Services Commission to recover overpayments under the Medicaid program.

To Committee on Health and Human Services.

**SB 786** by Hinojosa

Relating to warrants issued to obtain location information from wireless communications devices and to public access to law enforcement or prosecutor requests for certain related location or communication information.

To Committee on Criminal Justice.

**SB 787** by Hinojosa

Relating to the amount of a surcharge assessed on conviction of certain offenses relating to the operating of a motor vehicle while intoxicated against the driver's license of certain persons who complete a drug court program or an alcohol or drug treatment program.

To Committee on Transportation.

**SB 788** by Hinojosa

Relating to a workforce high school diploma program.

To Committee on Education.

**SJR 35** by Patrick

Proposing a constitutional amendment prohibiting the taxation of the sale or use of certain food, drinks, and medicine.

To Committee on Finance.

**CO-AUTHOR OF SENATE BILL 28**

On motion of Senator Zaffirini, Senator Carona will be shown as Co-author of **SB 28**.

**CO-AUTHOR OF SENATE BILL 260**

On motion of Senator Davis, Senator Rodríguez will be shown as Co-author of **SB 260**.

**CO-AUTHOR OF SENATE BILL 313**

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

**CO-AUTHORS OF SENATE BILL 403**

On motion of Senator Zaffirini, Senators Davis and West will be shown as Co-authors of **SB 403**.

**CO-AUTHOR OF SENATE BILL 495**

On motion of Senator Huffman, Senator West will be shown as Co-author of **SB 495**.

**CO-AUTHOR OF SENATE BILL 635**

On motion of Senator Duncan, Senator Carona will be shown as Co-author of **SB 635**.

**CO-AUTHOR OF SENATE RESOLUTION 300**

On motion of Senator Williams, Senator Nichols will be shown as Co-author of **SR 300**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 319** by Schwertner, In memory of Gregory Wade Pickard of Bryan and College Station.

**SR 320** by Schwertner, In memory of Eric D. Wallace of Marlin, College Station, and Bryan.

**Congratulatory Resolutions**

**SR 312** by Rodríguez, Recognizing Hector "El Pipo" Barragan for his contributions to the City of El Paso.

**SR 316** by Lucio, Recognizing Joe A. Barrera III for his achievements regarding water issues in the Rio Grande Valley.

**SR 317** by Lucio, Recognizing Raul Gonzalez of El Paso on the occasion of his 82nd birthday.

**SR 318** by Lucio, Congratulating Eduardo Yáñez on being named Mr. Amigo 2013.

**Official Designation Resolution**

**SR 311** by Hegar, Recognizing February 27, 2013, as Waller County Day at the State Capitol.

**(Senator Taylor in Chair)**

**ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 11:59 a.m. adjourned until 11:00 a.m. tomorrow.

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**APPENDIX**

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**COMMITTEE REPORTS**

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

February 26, 2013

**HEALTH AND HUMAN SERVICES — CSSB 8, CSSB 127, SB 128, CSSB 190, SB 245, SB 425, SB 426, SB 427, SB 428, SB 429**

**RESOLUTIONS ENROLLED**

February 25, 2013

**SR 259, SR 268, SR 269, SR 270, SR 271, SR 272, SR 273, SR 275, SR 276, SR 277, SR 279, SR 280, SR 282, SR 283, SR 284, SR 285, SR 287, SR 288, SR 289, SR 290, SR 291, SR 292, SR 294, SR 295, SR 297, SR 298, SR 299, SR 300, SR 301, SR 302, SR 303, SR 306, SR 307, SR 308, SR 309**