

# SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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TWELFTH DAY

(Wednesday, February 18, 2015)

The Senate met at 10:32 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Bettencourt, Birdwell, Burton, Campbell, Creighton, Ellis, Eltife, Estes, Fraser, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Kolkhorst, Lucio, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, L. Taylor, V. Taylor, Uresti, Watson, West, Whitmire, Zaffirini.

Absent-excused: Van de Putte.

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

Pastor Jimmy Sansom, First United Methodist Church, West, was introduced by Senator Birdwell and offered the invocation as follows:

Lord, great is the day You have given us today as this Legislature begins. Your blessings to us are overflowing. One of those blessings is the leadership of these officials of the State of Texas that are before us today. Their tasks are not easy and they must make decisions that will affect all citizens of the great State of Texas. With the great burden placed on those who lead us, I pray for each one of them today that they open their hearts to You. Allow them to hear Your voice and bestow upon them Your wisdom that they make decisions that are good and right for all people and for the great State of Texas. Great strides have been made dealing with issues such as education, unemployment, fiscal responsibility, homelessness, justice, and many other challenges we face. Make straight the path before us as You guide us. Let us set aside our personal agendas and partisanship. May we work together as representatives of the people and be the leaders they have called us to be in order to make Texas better today than it was yesterday. God bless Texas and God bless the United States of America. As our lord and savior, I pray this prayer in the most holy and precious name of Jesus 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.

### LEAVE OF ABSENCE

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

### PHYSICIAN OF THE DAY

Senator Birdwell was recognized and presented Dr. George Smith of West as the Physician of the Day.

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

### SENATE RESOLUTION 173

Senator Seliger offered the following resolution:

**SR 173**, Recognizing February 18, 2015, as Andrews County Day.

The resolution was read and was adopted without objection.

### GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate an Andrews County Day delegation: Andrews Economic Development Corporation Board Member Charlotte Huckabay, Andrews ISD Trustee Peter C. Francis, Andrews Mayor Flora Braly, and Andrews Chamber of Commerce President-elect Mark Savell.

The Senate welcomed its guests.

### SENATE RESOLUTION 192

Senator Birdwell offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the citizens of West and the many first responders who helped the city recover from the devastation of the West Fertilizer Company explosion; and

WHEREAS, On April 17, 2013, an explosion shook the City of West with the force of an earthquake that could be felt 50 miles away; hundreds of homes were damaged and the community was left with \$100 million in property damage; and

WHEREAS, Most tragically, 15 citizens lost their lives that day, and 12 of those were first responders seeking to help those in danger; and

WHEREAS, In true Texas form, firefighters from across the state worked alongside the West Volunteer Fire Department in the aftermath of the explosion; two civilians, Jimmy Matus and William Uptmor Jr., lost their lives while assisting others and were posthumously named honorary firefighters by the West Volunteer Fire Department; and

WHEREAS, The City of West is a small community, and residents share in a proud heritage of helping one another through difficult times; the citizens joined together to help their neighbors recover from the tragic event, and they are indeed worthy of recognition for their courage and resolve; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 84th Legislature, hereby commend the residents of West and all the brave first responders who helped the city recover from the West Fertilizer Company explosion; and, be it further

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

**SR 192** was read and was adopted without objection.

#### **GUESTS PRESENTED**

Senator Birdwell was recognized and introduced to the Senate a City of West delegation: Mayor Tommy Muska, Mayor Pro Tempore Steve Vanek, City Secretary Shelly Nors, and Councilmember Brian Muska.

The Senate welcomed its guests.

#### **GUESTS PRESENTED**

Senator Nichols was recognized and introduced to the Senate an Athens Day delegation.

The Senate welcomed its guests.

#### **SENATE RESOLUTION 189**

Senator Garcia offered the following resolution:

**SR 189**, Celebrating February 18, 2015, as Indo-Americans of Greater Houston Day.

The resolution was again read.

The resolution was previously adopted on Tuesday, February 17, 2015.

#### **GUESTS PRESENTED**

Senator Garcia was recognized and introduced to the Senate an Indo-American Association of Houston delegation, accompanied by Karun Sreerama.

The Senate welcomed its guests.

#### **GUESTS PRESENTED**

Senator Watson was recognized and introduced to the Senate a Bastrop County delegation: County Judge Paul Pape, Commissioner Bubba Snowden, City of Bastrop Mayor Ken Kesselus, City of Elgin Mayor At-Large Marc Holm, Elgin City Councilmember Mary Penson, Bastrop ISD Superintendent Steve Murray, Bastrop ISD Trustee Molly McClure, Elgin ISD Superintendent Jodi Duron, and Elgin ISD Board President Byron Mitchell.

The Senate welcomed its guests.

#### **GUESTS PRESENTED**

Senator Hinojosa was recognized and introduced to the Senate a Texas A&M University–Corpus Christi delegation.

The Senate welcomed its guests.

### GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate a City of Rio Bravo delegation: Mayor Francisco I. Peña, City Commissioner Deborah Serrano, Assistant to the Mayor Claudia Y. Martinez, and City Manager Feliciano Garcia, Jr.

The Senate welcomed its guests.

### SENATE RESOLUTION 183

Senator Kolkhorst offered the following resolution:

WHEREAS, Members of the Sheriffs' Association of Texas, one of the nation's oldest law enforcement organizations, are gathering in Austin on February 18, 2015, to participate in Sheriffs' Association of Texas Day at the Capitol; and

WHEREAS, The Texas Constitution created the office of sheriff in each county of the state; legislation requires that a sheriff conserve peace and enforce the criminal laws of the state; moreover, the sheriff is responsible for the county jail, bail bonds, civil process, and the security of the courts, and in some smaller counties, the sheriff may also act as the tax collector; and

WHEREAS, The first meeting of the Sheriffs' Association of Texas took place on August 14, 1874; association members adopted their preamble calling for sheriffs to assist one another in the execution of laws, in the discharge of their duties against criminals, and in the protection of the citizens in their respective counties and throughout the state; the group has continued to follow the dictates of this mission to this day; and

WHEREAS, The office of sheriff is one of the oldest forms of law enforcement; sheriffs in our state's 254 counties are elected to four-year terms, and each sheriff is a member of the Sheriffs' Association of Texas; in addition, more than 2,500 individuals are active members of the group, and over 50,000 individuals are associate members; and

WHEREAS, The men and women of the Sheriffs' Association of Texas are helping to make the Lone Star State an even safer place, and their work benefits countless people each day; now, therefore, be it

RESOLVED, That the Senate of the 84th Texas Legislature hereby recognize February 18, 2015, as Sheriffs' Association of Texas Day at the Capitol and commend the members of the Sheriffs' Association of Texas for their many contributions to their communities; and, be it further

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

**SR 183** was read and was adopted without objection.

### GUESTS PRESENTED

Senator Kolkhorst was recognized and introduced to the Senate a Sheriffs' Association of Texas delegation: Jackson County Sheriff A. J. Louderback, Brazos County Sheriff Chris Kirk, Washington County Sheriff Otto Hanak, and Executive Director Steve Westbrook.

The Senate welcomed its guests.

**SENATE RESOLUTION 196**

Senator Perry offered the following resolution:

**SR 196**, Recognizing February 18, 2015, as United Way Day.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Perry was recognized and introduced to the Senate a United Way Day delegation.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Hinojosa was recognized and introduced to the Senate a Communities In Schools of Texas delegation.

The Senate welcomed its guests.

**MOTION IN WRITING**

Senator Whitmire offered the following Motion In Writing:

I move that a committee of five members of the Senate be appointed by the President to escort the Chief Justice of the Texas Supreme Court to the Joint Session for the State of the Judiciary address today.

**WHITMIRE**

The Motion In Writing was read and was adopted without objection.

**ESCORT COMMITTEE APPOINTED**

In accordance with the provisions of **HCR 53**, the President announced the appointment of the following as a Committee to Escort Chief Justice Nathan Hecht to the Joint Session: Senators Garcia, Campbell, Creighton, Huffines, and Uresti.

**MOTION TO RECESS**

On motion of Senator Whitmire and by unanimous consent, the Senate at 11:06 a.m. agreed to recess, upon conclusion of today's Joint Session, until 12:00 p.m. today.

**AFTER RECESS****JOINT SESSION**

(To hear the State of the Judiciary Address by the Honorable Nathan Hecht, Chief Justice, Supreme Court of Texas)

The President announced the time had arrived for the Joint Session pursuant to the provisions of **HCR 53**.

The President of the Senate and the Senators present, escorted by the Sergeant-at-Arms, proceeded to the Hall of the House of Representatives at 11:10 a.m.

The Honorable Dan Patrick was announced and, on invitation of the Speaker, occupied a seat at the Speaker's Rostrum.

The Senators were announced and were admitted and escorted to seats prepared for them along the aisle.

Speaker Straus at 11:11 a.m. announced the House would stand At Ease pending the arrival of Chief Justice Hecht and his escort committee.

The Honorable Dan Patrick, President of the Senate, at 11:13 a.m. called the Senate to order and announced a quorum of the Senate present.

The Honorable Joe Straus, Speaker of the House of Representatives, at 11:13 a.m. called the House to order and announced a quorum of the House present.

The Honorable Nathan Hecht was announced by the Doorkeeper of the House of Representatives and was escorted to the Speaker's Rostrum by Senators Garcia, Campbell, Creighton, Huffines, and Uresti on the part of the Senate, and Representatives S. Thompson, Clardy, Landgraf, S. Davis, and Sheets on the part of the House.

Speaker Straus stated the purpose of the Joint Session and recognized the President to introduce the Chief Justice.

The President introduced the Honorable Nathan Hecht, who addressed the Joint Session as follows:

Lieutenant Governor Patrick, Speaker Straus, Members of the Legislature, Members of the Judiciary, distinguished guests, ladies and gentlemen:

Benjamin Cardozo, a United States Supreme Court Justice in the mid-20th century, once observed that "courts and legislators work in separation and aloofness". To bridge that division, the Chief Justice of the Texas Supreme Court is required by statute to deliver a message on the State of the Judiciary each regular legislative session "evaluating the accessibility of the courts to the citizens of the state" and the courts' "future directions and needs". In the Legislature's words, the State of the Judiciary message is to "promote better understanding between the legislative and judicial branches of government and . . . more efficient administration of justice in Texas."

Over the third of a century I have served as a judge, including 26 years as a Member of the Texas Supreme Court, I have witnessed relations between the Legislature and the Judiciary grow stronger. This has benefitted the people of Texas. In the past dozen years, for example, the Legislature has repeatedly relied on the Supreme Court's administrative and procedural rule-making authority to implement legislative programs, translating policy into practices. For the past six years, at the Judiciary's urging, the Legislature has provided critical financial support for the legal system's efforts to provide basic civil legal services to the poor. And more recently, the Supreme Court has opened its courtroom to Senator Whitmire and a convocation of stakeholders interested in juvenile justice – issues from decriminalizing schoolyard misconduct and truancy to improving efforts to rehabilitate juveniles charged with criminal offenses. In these circumstances and others, the Legislature and the Judiciary, while strictly observing the separation of powers and independently carrying out their separate

responsibilities, combined efforts to achieve the best for the people of Texas. At a time when the national government is widely criticized as dysfunctional, Texas government is working for the people.

The Texas Judiciary is committed to upholding the rule of law. It is committed to a court system that is fair, efficient, and just, interpreting and applying the law guided by fixed principles. And it is committed to a justice system that is accessible to all, regardless of means. That is the State of the Texas Judiciary, and my message is that the Third Branch will pursue these commitments, working together with the Legislative and Executive Branches, in every way it can for the good of the people of Texas.

During my tenure on the Supreme Court, the nature of its cases, and of civil cases in the courts of appeals, has shifted. Fewer cases involve the common law – judge-made law, like negligence and other torts, property rights, and contracts. More involve statutory interpretation. In these cases, courts do not decide for themselves what the law should be; rather, their responsibility is to give effect to the intent of the legislative body as expressed in the statutory text. Ascertaining what is meant by what is said can be difficult. Try it with your spouse. Even when a statement is in writing, and has been carefully considered, its application in an unforeseen situation can be unclear.

Since 1992, several of the federal circuit courts of appeals have participated with the Congress in an inter-branch project aimed at improving communication and understanding regarding statutory construction. In the interim following the 76th Session of the Texas Legislature, a House Select Committee recommended implementing a similar process to better understanding of judicial interpretations of statutes. Given the likelihood that Texas courts will be called upon to interpret the laws passed by this body with even more frequency, I propose that the Legislature and the Judiciary explore mechanisms for improving their understanding of the writing and interpretation of statutes. Neither Branch can relinquish its constitutional independence or responsibility, but both should work toward a better understanding of the role of each.

The Judiciary has assisted the Legislature in passing school ticketing reform. Disruptive conduct thwarts education, and teachers and administrators must have effective means to stop it. But for years, courthouse hallways were lined with youngsters who belonged in school, not in the criminal justice system. Working to balance the interests of children, schools, and the courts, the 83rd Legislature enacted reforms with sweeping results: fiscal year 2014 saw an 83% drop in criminal filings under the Education Code – that's 90,000 fewer tickets written. Other states have followed Texas' lead. As a result, more kids are in classrooms and out of courts.

The reforms last Session did not extend to truancy and attendance laws, which, while intended to keep kids in school, often operate to keep them out. The theory is that the threat of punishment will incentivize attendance. But when almost 100,000 criminal truancy charges are brought each year

against Texas schoolchildren, one has to think, this approach may not be working. Playing hooky is bad, but is it criminal? A better, more effective solution may be for schools and courts alike to provide prevention and intervention services for at-risk children to actually achieve the goal: getting them back in school. This has led the Texas Judicial Council, a policy-making body for the Judiciary, to call for decriminalizing the failure to attend school. The stakes are high. Our children are our most precious treasures and our future. Education is the key to their success.

Some 40,000 children are in state conservatorship, and courts play a critical role in determining their future. The Supreme Court's Permanent Judicial Commission for Children, Youth, and Families has recommended legislative changes to improve handling of cases involving Child Protective Services. Indigent parents are entitled to a court-appointed attorney, but when there is no conflict of interest between them and no history of family violence, the Commission recommends that judges be permitted to appoint one attorney for both parents, not an attorney for each, thereby reducing costs and improving efficiency. The Commission also recommends the creation of county or regional programs to help provide attorneys for indigent parents. And the Commission recommends improved procedures for transferring a case from one county to another so that placement of children in a stable environment is not delayed. The Texas Judicial Council has endorsed all these recommendations, and I urge you to consider them.

In most situations, the poor have no right to basic civil legal services for things like family matters, divorce and child custody, protection from domestic violence, eviction and foreclosure, and assistance for the elderly. Legal aid lawyers and staffs dedicate themselves to this work at personal financial sacrifice, and lawyers and bar associations annually contribute millions of dollars to provide legal services to the poor. A University of North Texas study has shown that Texas lawyers annually donate more than two million hours in *pro bono* legal services to the poor, worth hundreds of millions of dollars. Funding for legal aid helps provide the infrastructure to connect clients needing services with lawyers willing to help.

Lawyers provide services *pro bono publico* – a Latin phrase meaning "for the good of the public" – as part of their professional responsibility, but the need is far too great for them to meet on their own. Legal aid providers help more than 100,000 families each year, yet they estimate that more than three out of four are turned away for lack of resources to help. Access to justice for all is a righteous cause. It is humanitarian, it is good for the economy, and most importantly, it is essential to the integrity of the rule of law. Justice for only those who can afford it is neither justice *for* all nor justice *at* all.

For three Sessions now, the Legislature has provided financial support for access to justice during hard times that have both diminished available resources, increased the number of poor, and exacerbated their needs. I thank you for that support again this Session. In addition, the 80th Legislature passed a statute imposing a \$5 fee on patrons of sexually



oriented businesses to be used for legal services programs for sexual assault victims. Now that the statute has been upheld in the courts, I urge this Session to keep its promise of funding for these programs.

I must also call upon your help for a special need of access to justice: basic civil legal services for veterans. Too often, servicemen and women return from duty to find benefits delayed, families struggling, jobs scarce, homes in foreclosure, and debt collectors at the door. These enemies at home can be as real a threat to a veteran's survival as the enemies faced in the field. We all cringe at the thought that the country has lost more active military to suicide than to combat in Afghanistan, and that 22 veterans a day commit suicide. When basic legal problems pressure veterans, lawyers can help. There are several programs already, like the State Bar's Texas Lawyers for Texas Veterans. But as with other efforts to improve access to justice, resources are needed to support other legal services programs and to bring veterans who need help together with lawyers who can provide it. The Supreme Court has requested \$4 million for the next biennium to help provide legal aid to veterans.

The Texas Veterans Commission has endorsed the Court's request, and in turn, the Court supports the Commission's pledge of \$1.5 million for legal aid and for veterans criminal courts. Texas has 20 veterans courts, more than any other state, but Texas has the second highest veterans population. Veterans courts have proven effective in determining when rehabilitation is better than punishment. Veterans courts do not offer a get-out-of-jail-free card; their programs are serious and demanding. But they recognize that punishment should not always be the default.

The rule of the battlefield is leave no one behind. It is ingrained in every serviceman and woman. Our military cannot return from risking their lives in defense of our freedoms and values only to find that the justice system they fought for has left them behind. Their access to justice must be assured. Access to justice is a struggle, not only for the poor, but for many in the middle class and small businesses who need the legal system but find the costs prohibitive and are forced to try to represent themselves. There are lawyers looking for work, and clients who need lawyers, but the cost of legal services keeps them apart. This has been called the "justice gap", and it's growing. Standard forms for use in court proceedings and for other purposes can help people represent themselves, and the Texas Supreme Court continues to work to provide them. But the best solution is personal legal assistance.

An important factor in the cost of legal services is the expense of a legal education. New lawyers often enter practice with a heavy load of student debt. The new UNT Dallas College of Law, under the leadership of former Judge and now Dean Royal Furgeson and Professor Ellen Pryor is trying to provide a legal education at a fraction of the cost of other public law schools. There may be other ways to encourage lawyers to provide legal services at reduced rates to people of limited means, and I know our other law schools want to help address the problem. This week, I will ask the

Supreme Court to convene a select group of representatives of the courts, the law schools, the State Bar, the practicing lawyers, and the legal aid and public service communities to consider ways to encourage interested law students after their second year of law school to devote their practice to providing legal services at more affordable rates and help close the justice gap.

The Legislature and the Judiciary have partnered in efforts to improve the criminal justice system. Since 2008, the Criminal Justice Integrity Unit established by the Court of Criminal Appeals and Presiding Judge Sharon Keller, and led by Judge Barbara Hervey, has continued to take a hard look at the strengths and weaknesses of the Texas criminal justice system. Innocence commissions at each of the public law schools review cases for potential exonerations. Based on DNA evidence, Texas has exonerated 52 defendants, more than any other state. That is not, in my view, because Texas judges, prosecutors, and juries make more mistakes, but rather, because Texas has not been afraid to take a hard look at the system and own up to mistakes when they have occurred. Every conviction of an innocent person is tragic, ruining lives, destroying public confidence, threatening public safety when the guilty remain at large, and denying victims justice. Together, the Legislature and the Judiciary must continue to make all reasonable efforts to assure that any innocent person who has been convicted is exonerated, and that only the guilty are convicted.

One way is to continue to make the promise of *Gideon v. Wainwright* a reality. *Gideon* is the 1963 U.S. Supreme Court case upholding the constitutional right of indigent criminal defendants to court-appointed counsel. Since 2001, the number of Texas criminal defendants receiving court-appointed counsel has increased 45%, and the amount spent, mostly by the counties, has increased 137%. But more must be done, and the Texas Judicial Council and Texas Indigent Defense Commission have both called for an additional investment by the State in indigent criminal defense and support for expanding public defenders' offices and assigned counsel systems. Also, *Gideon's* promise is fully realized only when the court-appointed lawyer is qualified, experienced, and not too busy to give attention to each case. The State should increase its investment in these programs.

The Judiciary is ever more efficient. Last year Texas' 3,300 judges disposed of over 10 million cases, from traffic violations to capital murders, and from simple debt collection to complex business cases. In fiscal year 1984, the courts of appeals, with 80 Justices, disposed of a little over 8,000 cases. For more than 30 years, the number of courts of appeals justices has not changed. There are still 80. In 2014, with the same number of Justices as in 1984, the courts of appeals disposed of well over 11,000 cases – a 40% increase in workload. The high courts are also productive. The Court of Criminal Appeals is one of the busiest courts in the entire country. The Supreme Court ended the year with only four argued cases pending – as few

as at any time in its history. Efficiency is important to the courts, but always the most important thing is to have the time and resources to get every case right.

One reason the appellate courts have been able to increase productivity without increasing the number of judges has been the addition of legal and clerical staff. But the gap between private and public sector legal and clerical salaries is large, and to attract the best people to court positions, law clerk, staff attorney, and clerical salaries must not fall further behind. The courts of appeals have worked together to present an almost entirely unified budget request to treat similar court positions similarly and equal to other positions in the government. The requests are modest and reasonable. They are essential to our work. Please remember that state funding for the Judiciary is barely one-third of 1% of the State's budget. I urge the Legislature to fund the courts' budget requests fully.

Another reason all the courts have increased efficiency is better technology. Most of us are accustomed to accessing information through the Internet at the click of a mouse – or at least, most of our children are accustomed to doing that. The appellate courts share a docket management system that allows judges to securely access briefs, memos, and drafts from anywhere there is Internet availability, as well as to check deadlines and timetables. The Supreme Court has mandated electronic filing in civil cases in all appellate courts and in trial courts in the 39 largest counties. E-filing is also voluntary in another 71 counties, making it available in courts where 93% of Texans reside. The e-filing system will soon be required throughout Texas in civil cases and will be available in criminal cases. A small amount of additional state funding will be needed to provide equipment and software in the less populous counties. In the end, the savings to courts, clerks, lawyers, litigants, and taxpayers will be incalculable, not to mention the increased transparency to the public. The success of the e-filing project in a State as big and diverse as Texas has been almost entirely due to the efforts of the Office of Court Administration and its director, David Slayton. A 21st century Texas will soon have a 21st century Judiciary.

New challenges loom. The Texas over-65 population is expected to double by 2040 – a "silver tsunami". The elderly and incapacitated often need the care of a guardian appointed by the court. But a person for whom a guardian is appointed loses important rights – rights to manage finances and make personal decisions. Guardians are a godsend to some, but unfortunately, guardians can also take unfair advantage. There are already 50,000 active guardianships in Texas, and the number is climbing. Two years ago, a special committee of the Texas Judicial Council began to study ways of ensuring the safety and financial security of our elders, something that most courts lack the resources to do. One way is to monitor guardianships to protect against exploitation and abuse and to ensure that they exist only when necessary. The Council has now called for a pilot program to be implemented by the Office of Court Administration in several areas of the

State to explore best methods and practices for monitoring guardianships. I urge the Legislature to approve the small price tag for that important program.

I cannot end without urging your consideration of the Judicial Compensation Commission's 2014 report. To attract and keep the qualified judges Texans want and need, they must be fairly compensated. I urge your consideration of the Commission's recommendations on the amount of judicial compensation and on handling the issue in future sessions.

I have not spoken to the problems of judicial selection because I have no consensus solution. The issue has been discussed throughout the State's history and remains mired in controversy to this day. But let me say two things. First: Texans rightly demand that judges, like all public officials, be accountable, but when voters have no way of knowing a candidate's qualifications, election results are usually the product of campaign spending, familiar names, political swings, and blind luck. The current system rarely serves the public's desire for accountability. Second: The political parties want to participate in judicial selection, and their interest is legitimate. But the increasingly harsh political pressures judges face, and to which they are not permitted as judges to respond, threaten the independence judges must maintain to wield the power to decide the people's disputes with each other and with their government. Judges try to resist those pressures. The public is understandably skeptical they can succeed.

Judges, like others, disagree about judicial selection. But in my view, the tensions in judicial selection are mounting and will tear at the Judiciary's integrity. I hope the Legislature will continue to consider paths to reform.

All people yearn for justice. The prophet Amos cried, "Let justice roll down like waters, and righteousness like an ever-flowing stream." The Texas Judiciary is committed to this sacred cause. We ask for your help.

God bless you, and God bless Texas.

*(Note: Prepared text)*

### **INTERPRETER FOR THE DEAF**

The interpretation of the proceedings of the Joint Session was provided by Shawn Whitley.

### **HOUSE OF REPRESENTATIVES AT EASE**

Speaker Straus at 11:48 a.m. stated the purpose for which the Joint Session was held having been completed, the House of Representatives, pursuant to a previously adopted motion, would stand At Ease pending the departure of its guests.

### **RECESS**

The President at 11:48 a.m. stated the purpose for which the Joint Session was held having been completed, the Senate, pursuant to a previously adopted motion, would stand recessed until 12:00 p.m. today.

**AFTER RECESS**

The Senate met at 12:02 p.m. and was called to order by the President.

**SENATE BILLS AND RESOLUTIONS ON FIRST READING**

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

**SB 18** by Nelson, Hinojosa, Seliger

Relating to measures to support or enhance graduate medical education in this state, including the transfer of assets following the dissolution of the Texas Medical Liability Insurance Underwriting Association.

To Committee on Finance.

**SB 517** by Uresti

Relating to notice of an application for a permit to drill an injection well in the territory of a groundwater conservation district.

To Committee on Agriculture, Water, and Rural Affairs.

**SB 518** by Uresti

Relating to inclusion of mental health concerns in existing school health efforts.

To Committee on Education.

**SB 519** by Schwertner

Relating to the registration of dental support organizations; imposing a fee; providing a civil penalty.

To Committee on Health and Human Services.

**SB 520** by West

Relating to state interventions and sanctions against public school campuses with unacceptable performance and the establishment of the Texas Opportunity School District for educating students at certain low-performing campuses.

To Committee on Education.

**SB 521** by Fraser, Watson, Zaffirini

Relating to the period for which the Texas Commission on Environmental Quality may grant or renew an emergency authorization relating to the use of state water.

To Committee on Agriculture, Water, and Rural Affairs.

**SB 522** by Hinojosa

Relating to the procedure for adoption by a state agency of rules that may have an adverse economic effect on small businesses and micro-businesses.

To Committee on Business and Commerce.

**SB 523** by Birdwell, Estes, Fraser, Kolkhorst, Perry

Relating to the sunset review of river authorities.

To Committee on Agriculture, Water, and Rural Affairs.

**SB 524** by Birdwell, Hinojosa

Relating to a review of state laws requiring an action or proceeding to be brought in Travis County or a Travis County court.

To Committee on Business and Commerce.

**SB 525** by Birdwell

Relating to ad valorem tax lien transfers.  
To Committee on Business and Commerce.

**SB 526** by Birdwell

Relating to restrictions on holders of package store permits.  
To Committee on Business and Commerce.

**SB 527** by Birdwell

Relating to the designation of a segment of U.S. Highway 287 in Midlothian as the Chris Kyle and Chad Littlefield Highway.  
To Committee on Transportation.

**SB 528** by Birdwell

Relating to the storage of certain hazardous chemicals; transferring enforcement of certain reporting requirements, including the imposition of criminal, civil, and administrative penalties, from the Department of State Health Services to the Texas Commission on Environmental Quality.  
To Committee on Natural Resources and Economic Development.

**SB 529** by Hancock

Relating to the eligibility of a landman for unemployment compensation.  
To Committee on Natural Resources and Economic Development.

**SB 530** by Hancock

Relating to the licensing of vehicles for hire by certain airport governing boards; authorizing the imposition of fees.  
To Committee on Transportation.

**SB 531** by Campbell

Relating to the application of foreign laws and foreign forum selection in a proceeding involving marriage, a suit for dissolution of a marriage, or a suit affecting the parent-child relationship in this state.  
To Committee on State Affairs.

**SB 532** by Fraser

Relating to the creation of regional emergency communications districts; authorizing the issuance of bonds; authorizing a fee.  
To Committee on Intergovernmental Relations.

**SB 533** by Watson

Relating to the parking and movement of vehicles in the Capitol Complex.  
To Committee on Business and Commerce.

**SB 534** by Watson, Creighton, Ellis, Hinojosa, Huffman, Rodríguez, Uresti, West, Whitmire

Relating to the oath of a person admitted to practice law in the State of Texas.  
To Committee on State Affairs.

**SB 535** by Watson

Relating to the use of certain mobile devices at a polling place.  
To Committee on State Affairs.

**SB 536** by Whitmire

Relating to the designation of certain prostitution prevention programs as commercially sexually exploited persons programs.

To Committee on Criminal Justice.

**SB 537** by Lucio

Relating to a fee imposed as a condition of community supervision for certain sexual offenses involving a child victim.

To Committee on Criminal Justice.

**SB 538** by Schwertner, Campbell, Kolkhorst, Nelson, Perry, Rodríguez, V. Taylor, Uresti, Zaffirini

Relating to the control of infectious diseases.

To Committee on Health and Human Services.

**SB 539** by Perry

Relating to reinsurance financial statement credit and accounting.

To Committee on Business and Commerce.

**SB 540** by Eltife

Relating to the hours during which a holder of a retail dealer's on-premise late hours license may sell beer.

To Committee on Business and Commerce.

**SB 541** by V. Taylor

Relating to the eligibility of presidential general election debates for distributions from a Major Events trust fund.

To Committee on Natural Resources and Economic Development.

**SB 542** by Kolkhorst

Relating to the prescription and pharmaceutical substitution of biological products.

To Committee on Health and Human Services.

**SB 543** by Zaffirini

Relating to certain requirements applicable to contracts entered into by, and the contract management process of, state agencies.

To Committee on Business and Commerce.

**SB 544** by West

Relating to reimbursement for the costs of legal services provided to an indigent defendant in a criminal case.

To Committee on Criminal Justice.

**SB 545** by L. Taylor

Relating to the exemption from ad valorem taxation of real property leased to and used by certain schools.

To Committee on Finance.

**SB 546** by Eltife

Relating to the authority of a psychologist to delegate certain care to an intern.

To Committee on Health and Human Services.

**SB 547** by Ellis

Relating to epidemiological reports and immunization exemption data and reports.  
To Committee on Health and Human Services.

**SB 548** by Campbell

Relating to the membership of the Electrical Safety and Licensing Advisory Board.  
To Committee on Business and Commerce.

**SB 549** by Fraser

Relating to the creation of an additional judicial district composed of Coryell County.  
To Committee on State Affairs.

**SB 550** by Uresti

Relating to requiring dental support for a child subject to a child support order.  
To Committee on State Affairs.

**SB 551** by Seliger

Relating to the duty of the Water Conservation Advisory Council to submit a report and recommendations regarding water conservation in this state.  
To Committee on Agriculture, Water, and Rural Affairs.

**SB 552** by Uresti

Relating to the creation of the Coates Ranch Municipal Utility District No. 1; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.  
To Committee on Intergovernmental Relations.

**SB 553** by Schwertner

Relating to the informal dispute resolution process for certain disputes between the Department of Aging and Disability Services and certain long-term care facilities.  
To Committee on Health and Human Services.

**SB 554** by Hancock

Relating to zero-based budgeting for state agencies as part of the sunset review process.  
To Committee on Finance.

**SB 555** by V. Taylor

Relating to the eligibility of a person to be a candidate for or holder of a public elective office.  
To Committee on State Affairs.

**SB 556** by Garcia

Relating to a comprehensive review by the Texas Education Agency of weights, allotments, and adjustments under the public school finance system.  
To Committee on Education.

**SB 557** by Birdwell

Relating to the composition, governance, and authority of a regional tollway authority that has or proposes to have projects located in counties that are not part of the authority.  
To Committee on Transportation.



**SB 558** by Burton

Relating to public availability of certain information related to economic development negotiations.

To Committee on Business and Commerce.

**SB 559** by Burton

Relating to public availability of the name of an applicant for the position of executive director, chief investment officer, or chief audit executive of the Teacher Retirement System of Texas.

To Committee on Business and Commerce.

**SB 560** by Lucio

Relating to procedures involving truancy and other fine-only misdemeanors committed by children.

To Committee on Criminal Justice.

**SB 561** by Nichols

Relating to the designation of Farm-to-Market Road 1293 in Hardin County as the Game Warden Wesley W. Wagstaff Memorial Highway.

To Committee on Transportation.

**SB 562** by Nichols

Relating to annual permits to move certain equipment; authorizing a fee.

To Committee on Transportation.

**SB 563** by Hinojosa

Relating to orders of nondisclosure issued for records of certain fine-only misdemeanors; authorizing a fee.

To Committee on Criminal Justice.

**SB 564** by West

Relating to the driver responsibility program and the collection of delinquent driver responsibility program surcharges.

To Committee on Transportation.

**SB 565** by West

Relating to designating the first week of May as Jury Appreciation Week.

To Committee on Administration.

**SB 566** by V. Taylor

Relating to the use of proceeds received from criminal asset forfeiture.

To Committee on Criminal Justice.

**SB 567** by Bettencourt

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

To Committee on State Affairs.

**SB 568** by Bettencourt, Kolkhorst

Relating to a classroom visual aid stipend for public school classroom teachers.

To Committee on Education.

**SB 569** by Creighton

Relating to the presumption of abandonment of certain tangible personal property held by a county.

To Committee on Intergovernmental Relations.

**SB 570** by Estes

Relating to the use of fireworks at certain Texas Department of Transportation rest areas; providing a penalty.

To Committee on Transportation.

**SCR 9** by Hancock

Authorizing the lieutenant governor and speaker to appoint interim joint committees.

To Committee on Administration.

**SCR 12** by Burton

Urging Congress to propose an amendment to the U.S. Constitution to provide for a balanced federal budget except during a time of national emergency.

To Committee on State Affairs.

**SJR 30** by L. Taylor

Proposing a constitutional amendment authorizing the legislature to exempt from ad valorem taxation real property leased to certain schools organized and operated primarily for the purpose of engaging in educational functions.

To Committee on Finance.

**SJR 31** by Ellis

Proposing a constitutional amendment creating the Texas Gaming Commission, authorizing and regulating the operation of casino games and slot machines by a limited number of licensed operators and certain Indian tribes, authorizing a limited state video lottery system to be operated at horse and greyhound racetracks and on Indian tribal lands, and reducing the number of illegal gambling machines.

To Committee on State Affairs.

**RESOLUTIONS SIGNED**

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **SCR 10**, **SCR 11**.

**SENATE BILL 353 REREFERRED****(Motion In Writing)**

Senator Nelson submitted a Motion In Writing requesting that **SB 353** be withdrawn from the Committee on Business and Commerce and rereferred to the Committee on Finance.

The Motion In Writing prevailed without objection.

**SENATE BILL 339 REREFERRED****(Motion In Writing)**

Senator Eltife submitted a Motion In Writing requesting that **SB 339** be withdrawn from the Committee on State Affairs and rereferred to the Committee on Health and Human Services.

The Motion In Writing prevailed without objection.

**COMMITTEE APPOINTED**

The President announced the appointment of the following committee for the 84th Legislature:

**SELECT COMMITTEE ON GOVERNMENT FACILITIES**

Eltife, Chair; Hancock, Seliger, Watson, Whitmire.

**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 yesterday by Senator Birdwell.

Senator Birdwell moved confirmation of the nominees reported yesterday 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 30, Nays 0.

Absent-excused: Van de Putte.

Inspector General, Office of Inspector General, Health and Human Services Commission: Stuart Waddington Bowen, Travis County.

Secretary of State: Carlos H. Cascos, Cameron County.

**SENATE CONCURRENT RESOLUTION 14**

The President 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 84th 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 18, 2015, and ending on Monday, February 23, 2015.

WHITMIRE

**SCR 14** was read.

On motion of Senator Whitmire, the resolution was considered immediately and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Van de Putte.

**CO-AUTHOR OF SENATE BILL 5**

On motion of Senator Nichols, Senator Hall will be shown as Co-author of **SB 5**.

**CO-AUTHOR OF SENATE BILL 63**

On motion of Senator Huffines, Senator Eltife will be shown as Co-author of **SB 63**.

**CO-AUTHOR OF SENATE BILL 106**

On motion of Senator Whitmire, Senator Bettencourt will be shown as Co-author of **SB 106**.

**CO-AUTHOR OF SENATE BILL 488**

On motion of Senator Seliger, Senator Perry will be shown as Co-author of **SB 488**.

**CO-AUTHORS OF SENATE CONCURRENT RESOLUTION 1**

On motion of Senator Creighton, Senators Birdwell, Burton, and Nichols will be shown as Co-authors of **SCR 1**.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 5**

On motion of Senator Nichols, Senator Hall will be shown as Co-author of **SJR 5**.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 6**

On motion of Senator Huffines, Senator Eltife will be shown as Co-author of **SJR 6**.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 10**

On motion of Senator Campbell, Senator V. Taylor will be shown as Co-author of **SJR 10**.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 17**

On motion of Senator Perry, Senator Seliger will be shown as Co-author of **SJR 17**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 199** by Creighton, In memory of David William Crews.

**SR 205** by Nichols, In memory of the life of William Riley Boyd Jr.

**SR 206** by Nichols, In memory of W. I. Davis Jr.

**Welcome and Congratulatory Resolutions**

**SR 193** by Birdwell, Welcoming the members of Leadership Midlothian Class of 2014-2015.

**SR 194** by Birdwell, Welcoming the members of Leadership Waxahachie Class XX.

**SR 197** by Schwertner, Celebrating Texas Public Schools Week.

**SR 198** by Burton, Recognizing the Texas Christian University football team for their achievements.

**SR 200** by Nichols, Recognizing Gloria Bonita Guinn Jennings on the occasion of her retirement.

**SR 201** by Nichols, Recognizing the *Cherokeean Herald* in Rusk on the occasion of its 165th anniversary.

**SR 203** by Nichols, Recognizing Michael W. Alford on the occasion of his retirement.

**SR 207** by Ellis, Recognizing the 19th Annual Texas Lunar New Year Festival.

**SR 208** by Whitmire, Congratulating the 2015 Profiles of Prominence honorees of the Houston Northwest Chapter of National Women of Achievement, Incorporated.

**SR 209** by Whitmire, Recognizing the members of the Chinese International Women Entrepreneur and Professional Association for their contributions to our state.

### **Official Designation Resolutions**

**SR 190** by Campbell, Recognizing February 19, 2015, as Mental Illness Awareness Day.

**SR 191** by Hall, Celebrating February 19, 2015, as Fannin County Day.

**SR 195** by Hinojosa, Recognizing February 18, 2015, as Communities In Schools Day.

**SR 202** by Nichols, Recognizing February 18 and 19, 2015, as Nacogdoches-SFA Days.

**SR 204** by Nichols, Celebrating February 18, 2015, as Athens Day.

### **ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 12:28 p.m. adjourned, in memory of Matt Dawson, until 2:00 p.m. Monday, February 23, 2015.

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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 18, 2015

STATE AFFAIRS — **CSSB 11, SB 17**

### **RESOLUTIONS ENROLLED**

February 17, 2015

**SCR 10, SCR 11, SR 152, SR 158, SR 159, SR 160, SR 161, SR 162, SR 163, SR 164, SR 165, SR 166, SR 167, SR 169, SR 170, SR 171, SR 172, SR 174, SR 175, SR 176, SR 177, SR 178, SR 180, SR 181, SR 182, SR 184, SR 185, SR 186, SR 187, SR 188, SR 189**

