

# SENATE JOURNAL

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EIGHTY-THIRD LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**TWENTY-THIRD DAY**

(Wednesday, March 6, 2013)

The Senate met at 10:06 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Birdwell, Campbell, 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 President announced that a quorum of the Senate was present.

Pastor Rusty Griffin, Christian City Fellowship, Sealy, offered the invocation as follows:

Our most gracious heavenly Father, I come to You on behalf of this great state for Senator Glenn Hegar, Lieutenant Governor David Dewhurst, Governor Rick Perry, and each and every elected and appointed official representing us on the state level as well as my home, Austin County, and the wonderful delegates with me from Judge Carolyn Bilski and the Commissioners to the Economic Development Council that is present. I come to You, Lord, and ask that You help this great state lead the way, that we would remain the best place to do business and an even better place to raise a family, that government would not restrain us, but free us. You temporarily provided for the children of Israel in the wilderness, but keep us from a wilderness mentality where breakfast, lunch, and dinner falls from the sky. Keep our eyes on You and Texas, a land that surely flows with milk and honey. Don't let us wonder around the same hill, to cover distance without taking ground. All the presence, power, and provision are no guarantee that we will ever come to the most important "P" which is purpose. Lord, grant us the promised land and the purpose to go and possess it. Give us the clarity to dream, the courage to do right, and the wisdom to know why. As we heap honor upon You, God, so will You honor us in return. You have even prepared a place for us called heaven. May we also prepare a place here for future generations of Texans. May we understand that life is not all about me, but everyone that is around me. Lord, may we remember that little mission called the Alamo and the people that gave their lives to give us opportunity. In Jesus' name I pray that the

Lone Star State not only be great but, Lord, help us to become exceptional. May we be and continue always to be a state of producers and not just a state of consumers. Bless this land, bless the people, and the Senate of the 83rd Legislature, and God bless Texas. 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. Elliot Trester of Austin as the Physician of the Day.

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

#### **SENATE RESOLUTION 133**

Senator Nichols offered the following resolution:

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

The resolution was again read.

The resolution was previously adopted on Wednesday, February 6, 2013.

#### **GUESTS PRESENTED**

Senator Nichols was recognized and introduced to the Senate a Texas Forestry Association delegation.

The Senate welcomed its guests.

#### **SENATE RESOLUTION 373**

Senator Lucio offered the following resolution:

**SR 373**, Recognizing March 6, 2013, as Harlingen Day at the State Capitol.

The resolution was read and was adopted without objection.

#### **GUESTS PRESENTED**

Senator Lucio was recognized and introduced to the Senate a City of Harlingen delegation, accompanied by Chris Boswell, Mayor; Carlos Cuellar, Harlingen Area Chamber of Commerce; Manny Vela and Matt Stone, Valley Baptist Health Systems; and Brenda Ivory, Harlingen Medical Center.

The Senate welcomed its guests.

#### **GUESTS PRESENTED**

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

The Senate welcomed its guests.

**SENATE RESOLUTION 267**

Senator Hegar offered the following resolution:

**SR 267**, In memory of the life of James H. Calfee.

On motion of Senator Hegar, the resolution was read and was adopted by a rising vote of the Senate.

In honor of the memory of James H. Calfee, the text of the resolution is printed at the end of today's *Senate Journal*.

Senator Hegar was recognized and introduced to the Senate family members of James H. Calfee: Rosalie Bacica, Frances Arrington, Verna Yeamans, Carol Turner, and Debra Morris.

The Senate welcomed its guests and extended its sympathy.

**GUESTS PRESENTED**

Senator Taylor was recognized and introduced to the Senate a La Porte-Bayshore Chamber of Commerce delegation.

The Senate welcomed its guests.

**SENATE RESOLUTION 351**

Senator Duncan offered the following resolution:

**SR 351**, Recognizing March 6, 2013, as Wilbarger County and City of Vernon Day at the State Capitol.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Duncan was recognized and introduced to the Senate a Wilbarger County and City of Vernon Day delegation, accompanied by Dusty Johnston, President of Vernon College; Greg Tyra, Wilbarger County Judge; Jeff Bearden, Vernon Mayor; and Jim Gunn, Business Development Corporation of Vernon.

The Senate welcomed its guests.

**SENATE RESOLUTION 416**

Senator Uresti offered the following resolution:

**SR 416**, Recognizing Senate District 19 Day and welcoming the Brewster, Atascosa, Dimmit, and Uvalde County delegations.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Uresti, joined by Senator Zaffirini, was recognized and introduced to the Senate a Senate District 19 delegation, accompanied by Diana Bautista, Atascosa County Judge; Francisco Ponce, Dimmit County Judge; and William R. Mitchell, Uvalde County Judge.

The Senate welcomed its guests.

**SENATE RESOLUTION 374**

Senator Ellis offered the following resolution:

**SR 374**, Welcoming the delegation of citizens from the Republic of Azerbaijan to Texas.

The resolution was again read.

The resolution was previously adopted on Monday, March 4, 2013.

**GUESTS PRESENTED**

Senator Ellis was recognized and introduced to the Senate an Azerbaijan delegation, accompanied by Ambassador Elin Suleymanov; Samad Seyidov, Chair of the Foreign Affairs Committee; Valeh Aleskerov, Speaker Pro Tempore; Konul Suleymanli, Embassy Second Secretary; Sevinj Fataliyeva, Deputy Chair, Foreign Affairs Committee; Asim Mollazade, Chair of the Democratic Reforms Party; Khalik Mammadov, Vice-president of the State Oil Company of Azerbaijan; and Sahiba Gafarova, Parliamentary Assembly of the Council of Europe.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Paxton was recognized and introduced to the Senate a Richardson delegation.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Hegar was recognized and introduced to the Senate an Austin County delegation.

The Senate welcomed its guests.

**SENATE RESOLUTION 336**

Senator Hancock offered the following resolution:

**SR 336**, Recognizing March 6, 2013, as Grand Prairie Day at the State Capitol.

HANCOCK  
WEST

The resolution was again read.

The resolution was previously adopted on Monday, March 4, 2013.

**GUESTS PRESENTED**

Senator Hancock was recognized and introduced to the Senate a City of Grand Prairie delegation.

The Senate welcomed its guests.

**SENATE RESOLUTION 352**

Senator Van de Putte offered the following resolution:

**SR 352**, Recognizing military veterans of Texas who have returned to school.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Van de Putte was recognized and introduced to the Senate a delegation of student veterans.

The Senate welcomed its guests.

**SENATE RESOLUTION 255**

Senator Davis offered the following resolution:

**SR 255**, Recognizing March 6, 2013, as Mansfield Day at the State Capitol.

DAVIS  
BIRDWELL

The resolution was again read.

The resolution was previously adopted on Monday, March 4, 2013.

**GUESTS PRESENTED**

Senator Davis, joined by Senator Birdwell, was recognized and introduced to the Senate a City of Mansfield delegation, accompanied by David Cook, Mayor; Larry Broseh, Mayor Pro Tempore; Clayton W. Chandler, City Manager; Jim Vaszauskas, Mansfield ISD Superintendent; and Dan Phillips, Mansfield Area Chamber of Commerce.

The Senate welcomed its guests.

**SENATE RESOLUTION 345**

Senator Huffman offered the following resolution:

**SR 345**, Recognizing the Greater Houston Women's Chamber of Commerce for its contributions to the community.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Huffman was recognized and introduced to the Senate a Greater Houston Women's Chamber of Commerce delegation.

The Senate welcomed its guests.

**SENATE RESOLUTION 412**

Senator West offered the following resolution:

**SR 412**, Recognizing March 6, 2013, as Young Professionals Day at the State Capitol.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator West was recognized and introduced to the Senate a Young Professionals Day delegation.

The Senate welcomed its guests.

### MOTION IN WRITING

Senator West offered the following Motion In Writing:

Mr. President:

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.

WEST

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

### ESCORT COMMITTEE APPOINTED

In accordance with the provisions of **HCR 66**, the President announced the appointment of the following as a Committee to Escort Chief Justice Wallace B. Jefferson to the Joint Session: Senators West, Chair; Duncan, Estes, Schwertner, and Whitmire.

### SENATE CONCURRENT RESOLUTION 22

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 83rd Legislature of the State of Texas, That each house grant the other permission to adjourn for more than three days during the period beginning on Wednesday, March 6, 2013, and ending on Monday, March 11, 2013.

WHITMIRE

**SCR 22** was read.

On motion of Senator Whitmire, the resolution was considered immediately and was adopted without objection.

### MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 11:07 a.m. agreed to adjourn, in memory of Jennifer Bobrick and James H. Calfee, upon conclusion of the Joint Session, until 2:00 p.m. Monday, March 11, 2013.

### JOINT SESSION

(To hear the State of the Judiciary Address by the Honorable Wallace B. Jefferson, Chief Justice, Supreme Court of Texas)

The President announced the time had arrived for the Joint Session pursuant to the provisions of **HCR 66**.

The President of the Senate and the Senators present, escorted by the Secretary of the Senate and the Sergeant-at-Arms, proceeded to the Hall of the House of Representatives at 11:15 a.m.

The Honorable David Dewhurst 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.

The Honorable Wallace B. Jefferson was announced and was escorted to the Speaker's Rostrum by Senators West, Chair; Duncan, Estes, Schwertner, and Whitmire on the part of the Senate, and Representatives Lewis, Chair; Moody, Carter, Herrero, and Riddle on the part of the House.

The Honorable David Dewhurst, President of the Senate, called the Senate to order and announced a quorum of the Senate present.

The Honorable Joe Straus, Speaker of the House of Representatives, called the House to order, announced a quorum of the House present, and stated the purpose of the Joint Session.

Speaker Straus introduced Rhonda Jefferson, wife of Chief Justice Wallace B. Jefferson.

The President introduced the Honorable Chief Justice Wallace B. Jefferson, who addressed the Joint Session as follows:

Governor Perry, Governor Dewhurst, Speaker Straus, Members of the Legislature, Presiding Judge Keller, and all of my judicial colleagues throughout Texas. This presentation is entitled "State of the Judiciary," but as I began to think about the message I would like to convey, it occurred to me that the challenges we face are much larger than whether our courts are funded adequately. The question is not how is the Judiciary? We must ask instead whether our system of justice is working for the people it has promised to serve. Do we have liberty and justice for all? Or have we come to accept liberty and justice only for some? So let's not limit our inquiry to whether the judiciary is healthy. Courts exist not to perpetuate the judicial branch for its own sake, but to ensure that the conflicts human beings encounter, whether criminal or civil, are adjudicated in a neutral forum, at an efficient price, producing fair outcomes.

#### *Basic Civil Legal Services*

For those who can afford legal services, we have a top-notch judicial system. Highly qualified lawyers help courts dispense justice fairly and efficiently.

But that kind of representation is expensive. A larger swath of litigation exists in which the contestants lack wealth, insurance is absent, and public funding is not available. Some of our most essential rights - those involving families, homes, and livelihoods - are the least protected. Veterans languish for months before their disability, pension, and educational benefits arrive. As a result of the recent financial crisis, lower- and middle-income homeowners and tenants face foreclosure and eviction. Ever-increasing numbers of consumers and small businesses have filed for bankruptcy. And few can afford a lawyer to guide them through these crises. Nearly six million Texans qualify for legal aid. Yet our state's legal aid programs meet but 20% of the needs of indigent Texans, forcing many to go it alone in our

courts. In South Texas, 2.6 million people qualify for legal aid. That means that there are 21,000 potential clients for each lawyer employed by the region's main legal aid office. It is clear to me, then, that we must fund our state's legal aid programs. Fortunately, for our great state, it is clear to you, too. When we told you that the largest source of funding for these programs, interest on lawyers trust accounts, plummeted 75% in the last 5 years, you came to the rescue. The 81st Legislature appropriated \$20 million in general revenue for the 2010-2011 biennium. Even as the fiscal crisis hit Texas hard, the 82nd Legislature provided \$17.5 million for this biennium. And in this session, the House and Senate have indicated general-revenue funding will remain at these levels. On behalf of desperate Texans who have no other options, I thank you for your continued support of basic civil legal services. Without your assistance, the situation would be utterly hopeless. The legal profession is doing its part. Texas lawyers donate about 2.5 million hours of free legal services to the poor each year. In the Supreme Court, we have had tremendous success with a pro bono program that matches some of our pro se litigants with appellate lawyers who have donated their expertise to the cause of justice. More than 300 lawyers have signed up to participate, and we have referred dozens of cases to that program since 2007. Several of our intermediate appellate courts have adopted similar initiatives. But even if we were to require every Texas lawyer to represent at least one indigent client, we would serve less than 40% of the poor who seek help. We must do more, not to preserve the judiciary, but to keep the courthouse doors open for all of our neighbors.

#### *Indigent defense*

I have been talking about basic civil legal services. But on the 50-year anniversary of *Gideon v. Wainwright*, I cannot resist a few words about our criminal justice system. Gideon, charged with breaking and entering in Florida, asked for a lawyer; was denied counsel; and then was convicted. While in prison, he scrawled a petition on prison stationery, and asked the Supreme Court to reverse his conviction. In that famous case, the Court concluded unanimously that the Constitution guarantees a defendant the right to counsel in criminal proceedings. After retrial, with appointed counsel, Gideon was acquitted. And this brings up my second point. To sound Gideon's trumpet in Texas, we must insist that criminal defendants have qualified counsel who are equipped with the time and resources to mount a meaningful defense. Texas ranks 48th in per capita funding for indigent defense. As alarming as that figure sounds, it masks extraordinary improvements implemented here in just a few short years. The Texas Indigent Defense Commission, chaired by Presiding Judge Keller, has developed innovative programs to increase delivery of indigent defense services. With the Legislature's financial help, thousands more Texans now receive constitutionally guaranteed defense representation. A prime example is the Regional Public Defender Office for Capital Cases, headquartered in Lubbock. The pool of lawyers qualified to handle these complex cases is quite thin and, until recently, local communities had few



resources to pay for these incredibly costly matters. This regional office, serving more than 155 counties, both ensures quality legal representation for the defendant and mitigates the expense a capital case inflicts on the county. The Harris County Public Defender office opened two years ago through a grant from the Indigent Defense Commission. Among other responsibilities, that office represents juvenile clients who are also victims of human trafficking. And Bell County developed a program, with assistance from the Commission, that provides specialized representation and legal support services to defendants who have mental health concerns. The most innovative project is happening right now in Comal County. The Commission gave the county a grant to fund a pilot project that will allow indigent defendants to select the qualified attorney of their choice, rather than receiving attorneys appointed by judges or court administrators. With this idea, new for the United States but standard practice in England and elsewhere, defense lawyers will be more directly aligned with the interests of their clients. Comal County will work with indigent defense experts to assess the current system and to recommend qualitative and quantitative improvements. A caveat. As with basic civil legal services, funding for indigent defense does not currently meet the demand. State funding through the Commission covers only 15 percent of the total indigent defense expenditures in Texas. For that reason, the Commission's appropriations request seeks to close the funding gap, providing relief to counties by sharing the costs of indigent defense equally with county government. We have seen the Commission's success in forging successful programs and partnerships with county governments. I encourage you to increase funding to the Commission so it can carry on this important work and ensure effective representation for all indigent defendants. A final, but important, word about our criminal justice system. If innocent people are rotting in prison for crimes they did not commit, we certainly have not achieved justice for all. Michael Morton's recent exoneration epitomizes the need to address the issue of wrongful convictions in Texas. He spent 25 years in prison, convicted of murdering his wife, until DNA evidence confirmed his innocence. In the last 25 years, 117 Texans have been exonerated. Forty-seven were cleared based on DNA testing, more than any other state. Wrongful convictions leave our citizens vulnerable, as actual perpetrators remain free. And they leave us with the distinct impression that we today suffer from a systemic deficit in our collective approach to the way we decide how to administer criminal justice.

As in years past, I continue to recommend the creation of a commission to investigate each instance of exoneration, to assess the likelihood of wrongful convictions in future cases, and to establish statewide reforms. I appreciate the leadership of Senator Ellis and Representative McClendon in this area. I also appreciate the Legislature's support of the innocence projects at our state's four public law schools. Since 2006, the projects have

helped identify and overturn ten wrongful convictions in our state. In many of these cases, the same investigation that cleared an innocent person also identified the actual perpetrator.

### *Pro Se Litigants*

I have spoken about the indigent. But there is a dark secret that plagues our justice system as a whole. We in the judiciary must bring this secret to light. The sad fact is that the middle class and small businesses find our system unworkable and unaffordable. They believe there are too many unnecessary lawsuits, coupled with incessant legal wrangling that drags out cases. And they feel that even if they are entitled to a remedy for a legal wrong, they cannot afford the fees a lawyer quotes for vindication. It is time for us to do our part to answer these concerns, because if the remedy is unaffordable, justice is denied. Eligibility for legal aid is generally capped at 125% of federal poverty guidelines. A family of four with an income of \$30,000 does not qualify. After that family pays for shelter, sustenance, and the other necessities of daily life, it cannot possibly afford a lawyer for the most basic legal necessities of life. The most generous legal aid programs limit eligibility to those within 200% of federal poverty levels, meaning that a four-person household with income over \$46,100 does not qualify. Statutory rights to counsel generally apply only to the indigent, as do most pro bono efforts. Increasingly, litigants are representing themselves, because they have no real alternative. We have more lawyers in America than at any time in our history. In 1960, there was one lawyer for every 627 people in the United States. Today, there is one for every 252. Isn't it ironic that as litigants are increasingly forced to represent themselves, law school graduates cannot find jobs? I believe that we have to shift our thinking. Access to justice is about more than giving a poor person a lawyer. An accessible justice system requires that even broader segments of our society be able to use it, including those that are forced to navigate the judicial system alone. Our remedies must be expansive and creative. We must change the way we do business in our courts to meet the needs of all citizens and businesses while at the same time improving customer service, increasing transparency, and investing in technology to decrease costs and increase efficiency. We must develop a judicial climate in which people who lack money to hire a lawyer have a reasonable chance to vindicate their rights.

To address this, the Supreme Court recently approved forms that litigants may use when seeking an uncontested divorce involving no children and no real property. Forty-eight states have court-approved family-law forms. Of the thirty-seven states that have forms for divorce proceedings, all have reported a positive impact on the overall efficiency of those cases. I commend the efforts of the Real Estate, Probate and Trust Law Section and Appellate Section of the State Bar, both of which have undertaken similar forms efforts in their respective specialties.

Through the promulgation of procedural rules, we can reduce the expense and delay of litigation while simultaneously protecting the rights of litigants. At the Legislature's direction, the Supreme Court recently adopted rules to simplify proceedings in cases involving claims for monetary relief of less than \$100,000. Discovery is limited; the cases are expedited. Now, a case that is vital to the success of a small business owner can actually be tried, to a verdict. A remedy for a legal injury - even for the individual who cannot afford to pay a lawyer \$500 an hour. The Supreme Court also adopted a rule allowing trial courts to dismiss cases that have no basis in law or fact. The net result is that cases that have no business in the courts will be shown the door, expediting relief for litigants who are subject to frivolous suits. Finally, we are working on rules to simplify and consolidate small claims cases in our justice courts. These rules will be comprehensible for citizens who are representing themselves in Court, and ensure the fair, expeditious, and inexpensive resolution of their cases.

#### *E-filing*

One of the more intractable barriers to justice is antiquity. Our courts operate much like they did in 1891, with paper, stamps on paper, cabinets for paper, staples, storage, shredding of paper. To paraphrase, the era of big paper is over. We must modernize the courts so that the people can swiftly find case information, instructions for how to resolve their disputes, even videos demonstrating proper court protocol. Since 2007, all of the Supreme Court's arguments are webcast. And a new case management system, designed by the Office of Court Administration and now used by the Supreme Court and ten of the 14 intermediate appellate courts, has increased the speed with which we decide cases. The effect? The child from a broken home is returned to normalcy faster, the building tied up in litigation can finally be sold. Responsible investment in technology saves money and promotes efficiency. If paper is dead, what will take its place? In December, the Supreme Court mandated electronic filing in civil cases by attorneys in appellate, district, county, and statutory probate courts on a rolling schedule, beginning next year. The Court's order requires the use of one uniform, statewide e-filing system overseen by the Office of Court Administration. With e-filing, document storage expenses for court clerks decrease. Staff that formerly spent time sorting and file-stamping paper can be assigned to higher-skilled tasks. Important court documents are less likely to be damaged or lost. Attorneys can file their pleadings across the state without the need to master various filing systems. And litigants can more quickly access documents online. But e-filing currently requires litigants to pay a fee each and every time a document is filed. Those expenses add up quickly, even if only a few documents are filed in a case. This week Senator West and Senator Duncan filed SB 1146 and Representative Hunter and Representative Senfronia Thompson filed HB 2302 to address this problem. These bills decrease the cost of e-filing by shifting from a per-document fee to a one-time fee, paid at the beginning of each case. If these bills are passed, the per-case cost to e-file will be less

than the per-document cost to e-file now. I commend and support efforts like these to lower the cost of litigation in our state, a key to ensuring access to our judicial system.

### *Juvenile Justice*

Now, if antiquity is the root of our paper problem, modernity is the curse of our juvenile justice system. In modern times, we have elected to give our children tickets for the kind of misbehavior that, in the old days, landed you and me in the principal's office. Class C misdemeanor tickets for "disruptive" school conduct. The child must appear in court to answer the charges. She has no right to counsel and no guarantee that her record will be sealed. Cash-strapped families forego representation, often with devastating consequences, like arrest warrants and criminal records. An estimated 300,000 misdemeanor tickets are issued in our state's schools each year. We are criminalizing our children for non-violent offenses. Students receiving these tickets are stigmatized. They often miss class or drop out of school altogether. We must keep our children in school, and out of our courts, to give them the opportunity to follow a path of success, not a path towards prison. Senator Whitmire leads in this area, not just in Texas, but nationally. He and Senator West have joined forces this session to address some of these issues. They both understand that we must work together - legislators, judges, educators, law enforcement officers, and others - to address misbehavior in our schools, promote good behavior, maintain the safety of our students, increase graduation rates, decrease students' exposure to the court system, refer students to proper community and mental-health resources when needed, and apply these policies consistently across schools and student bodies.

### *Guardianship*

After "liberty and justice for all," one of the most revered phrases I know is "honor thy father and mother." I am incredibly fortunate to have both my mother and father here with me today, and two of my siblings, Leah and Lamont, who love and care for them in San Antonio. But for each member of the greatest generation that has the tender care of family, there is an elderly citizen for whom Texas provides few protections from abuse. The population over age 65 in this state will increase by almost 50% by 2020 and will more than double by 2040. Many of those individuals will need help managing their affairs - some through the appointment of a guardian. But Texas currently has only 368 state-certified guardians who handle only 5,000 of the 40,000 pending guardianships. Families, friends, and attorneys serve as guardians in the remaining cases. Only ten of our 254 counties have probate courts with resources to adequately prevent abuse. An exploding elderly population will stress the guardianship system. We must begin to address these issues and prepare. For this reason, I am today announcing the creation of a special committee of the Texas Judicial Council whose sole

mission will be to honor our mothers and fathers. The committee will make recommendations to ensure their safety and financial security, and I hope you will all support the effort.

### *Conclusion*

We must provide legal aid for the poor, modernize our system for the middle class, build a sane disciplinary regime for our children, protect our parents.

We should do one more thing. Discard our broken system in which judges of enormous talent are removed from office not for ineptitude, but only because they happen to be a member of the wrong political party when partisan winds shift. All of these reforms are encompassed in the judiciary's obligation to provide access to justice. That phrase is often thought of in terms of providing legal services to the poor. It is that, to be sure, but an accessible justice system requires that even broader segments of our society be able to utilize it. Viewed this way, our remedies must be more expansive as well. Just as no single defect created the barriers, there is no unitary solution. So we must marshal all of our forces.

On February 24, 1836, Texas forces were under siege from the Mexican army at the battle of the Alamo. William Barret Travis, the commander of the Texian soldiers, sent a desperate plea for help. Addressed to "the People of Texas & All Americans in the World," he asked "in the name of Liberty, of patriotism & everything dear to the American character, to come to our aid, with all dispatch." He vowed never to surrender or retreat, promising "victory or death." His fate was sealed March 6th, exactly 177 years ago. We are at a crossroads 177 years later. Addressing the challenges in our justice system requires a fundamental shift in thinking. Our courts are the final line of protection for individual rights. They provide access to justice, protect us from abuses of power by corporations or the government; they protect our most basic constitutional rights. But the courts must, themselves, reform. We need to change the way we do business to better meet the needs of citizens and employers across our state. That's why we are investing in technology to save taxpayers money and to provide better customer service to those who come to us for justice. My presentation today is not a State of the Judiciary. It is a call to arms. "[I]n the name of Liberty, of patriotism & everything dear to the American character," Commander Travis urged Texans to act with dispatch. Today, let's marshal our forces to confront our challenges so that we can better serve the people. We may not win the entire battle today. But, as we Texans like to say, remember the Alamo!

*(Note: Prepared text)*

### **REMARKS ORDERED PRINTED**

On motion of Senator West and by unanimous consent, the remarks by Chief Justice Wallace B. Jefferson were ordered reduced to writing and printed in the *Senate Journal*.

**INTERPRETER FOR THE DEAF**

The interpretation of the proceedings of the Joint Session was provided by Billy Collins.

**HOUSE AT EASE**

Speaker Straus at 11:49 a.m. stated the purpose for which the Joint Session was held having been completed, the House, pursuant to a previously adopted motion, would stand At Ease pending the departure of its guests.

**CO-AUTHOR OF SENATE BILL 149**

On motion of Senator Nelson, Senator Eltife will be shown as Co-author of **SB 149**.

**CO-AUTHOR OF SENATE BILL 303**

On motion of Senator Deuell, Senator Lucio will be shown as Co-author of **SB 303**.

**CO-AUTHOR OF SENATE BILL 448**

On motion of Senator Fraser, Senator Birdwell will be shown as Co-author of **SB 448**.

**CO-AUTHOR OF SENATE BILL 515**

On motion of Senator Eltife, Senator Campbell will be shown as Co-author of **SB 515**.

**CO-AUTHOR OF SENATE BILL 516**

On motion of Senator Eltife, Senator Campbell will be shown as Co-author of **SB 516**.

**CO-AUTHOR OF SENATE BILL 517**

On motion of Senator Eltife, Senator Campbell will be shown as Co-author of **SB 517**.

**CO-AUTHOR OF SENATE BILL 518**

On motion of Senator Eltife, Senator Campbell will be shown as Co-author of **SB 518**.

**CO-AUTHOR OF SENATE BILL 639**

On motion of Senator Carona, Senator Watson will be shown as Co-author of **SB 639**.

**CO-AUTHORS OF SENATE BILL 955**

On motion of Senator Schwertner, Senators Ellis and Hancock will be shown as Co-authors of **SB 955**.

**CO-AUTHORS OF SENATE JOINT RESOLUTION 8**

On motion of Senator Ellis, Senators Lucio and Zaffirini will be shown as Co-authors of **SJR 8**.

**CO-AUTHOR OF SENATE RESOLUTION 417**

On motion of Senator Uresti, Senator Zaffirini will be shown as Co-author of **SR 417**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolution**

**SR 414** by Davis, In memory of Glynis Renee Rhodes-Brown of Fort Worth.

**Welcome Resolution**

**SR 415** by Hegar, Welcoming the citizens of Wharton County to the State Capitol.

**Official Designation Resolutions**

**SR 387** by Carona, Observing March 6, 2013, as Commercial Real Estate Day.

**SR 417** by Uresti, Recognizing March 6, 2013, as Atascosa County Day at the State Capitol.

**SR 418** by Ellis, Recognizing the 2013 Frontier Fiesta BBQ Cook-Off as a Texas State Barbecue Championship competition.

**ADJOURNMENT**

The President at 11:49 a.m. stated the purpose for which the Joint Session was held having been completed, the Senate, pursuant to a previously adopted motion, adjourned, in memory of Jennifer Bobrick and James H. Calfee, until 2:00 p.m. Monday, March 11, 2013.

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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:

March 6, 2013

**BUSINESS AND COMMERCE — SB 631, SB 652, SB 699, SB 618, SB 562, SB 540**

**EDUCATION — SB 185**

**BUSINESS AND COMMERCE — CSSB 232, CSSB 512, CSSB 642, CSSB 661**

**NATURAL RESOURCES — SB 589, SB 447, SB 702, SB 683**

**BILLS ENGROSSED**March 5, 2013**SB 559, SB 758****RESOLUTIONS ENROLLED**March 5, 2013**SR 153, SR 265, SR 286, SR 350, SR 372, SR 388, SR 394, SR 399, SR 400,  
SR 401, SR 402, SR 403, SR 404, SR 405, SR 406, SR 407, SR 408, SR 409,  
SR 410, SR 411**



**In Memory**  
**of**  
**James H. Calfee**  
**Senate Resolution 267**

WHEREAS, The Senate of the State of Texas honors and commemorates the life of United States Air Force Master Sergeant James H. Calfee, who died March 11, 1968, while bravely serving his country in the Vietnam War; and

WHEREAS, A native of Newgulf, Master Sergeant Calfee was one of a select number of highly skilled individuals of the 1st Combat Evaluation Group chosen to staff a top secret radar installation on a mountaintop in Laos known as Lima Site 85; he had specifically requested deployment to this dangerous mission and had to receive a special medical waiver to be able to participate; and

WHEREAS, The installation soon came under fire from North Vietnamese troops; Master Sergeant Calfee played an important role in training the detachment, most of whom were technicians rather than combat soldiers, in the use of the M-16 rifles they were supplied; and

WHEREAS, On the morning of March 11, 1968, North Vietnamese troops launched a concerted attack on the facility; despite being gravely wounded, Master Sergeant Calfee continued to engage the enemy, and thanks to his efforts, some of the other men were able to reach safety; for his valor and his courage under fire, he was posthumously awarded a Bronze Star with Valor device, which, when further details of the raid were established, was upgraded to a Silver Star; and

WHEREAS, Master Sergeant Calfee gave his last full measure of devotion in service to his country, and he joins the long line of courageous men and women whose selfless courage and strength have left an indelible mark on the world; it is truly fitting that this patriot who fought so bravely in defense of our nation's safety, security, and ideals be recognized for his heroism and devotion to duty; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 83rd Legislature, hereby pay tribute to the life and legacy of United States Air Force Master Sergeant James H. Calfee and commemorate his posthumous receipt of the Silver Star; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of gratitude and appreciation for his service, and that when the Senate adjourns this day, it do so in memory of Master Sergeant James H. Calfee.

HEGAR





