

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTEENTH DAY

(Tuesday, February 22, 2011)

The Senate met at 11:06 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

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

Pastor Bradley Speer, Southwest Baptist Church, Amarillo, offered the invocation as follows:

Heavenly Father, maker of heaven and Earth, we thank You for Your great and awesome love that You have demonstrated toward us in so many ways. We thank You and honor You for Your hand of protection upon the United States of America, this wonderful nation in which we are so blessed to live. We are especially grateful for the grand marquee of Your earthly creation, a symbol of blessing that we are so privileged to call home, the great State of Texas. Now, Lord, we ask You to bless this session of the Texas Legislature. Give godly wisdom and guidance to these men and women as they undertake the heavy burden of leadership and give them discernment for the weighty decisions set before them. Please bless them and watch over them as they serve Texas and the people that have elected them. Lord God, I ask a special blessing for provision and protection of the families of these representatives as they are away from their businesses, their families, and their homes. Please give back to them multiplied time with their spouses, children, and grandchildren. Recognizing that every good and perfect gift comes from You, we ask for Your continued blessing of protection and prosperity on our great state and its wonderful people. In the 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.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were referred to the Committee on Nominations:

February 21, 2011
Austin, Texas

TO THE SENATE OF THE EIGHTY-SECOND LEGISLATURE, REGULAR SESSION:

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

To be Judge of the 244th Judicial District Court, Ector County, for a term until the next General Election and until his successor shall be duly elected and qualified:

James M. Rush
Odessa, Texas

Mr. Rush is replacing Judge William Stacy Trotter who resigned.

To be presiding officer of the Camino Real Regional Mobility Authority for a term to expire February 1, 2013:

Scott A. McLaughlin
El Paso, Texas

Mr. McLaughlin is being reappointed.

To be members of the Manufactured Housing Board for terms to expire January 31, 2017:

Michael H. Bray
El Paso, Texas

Devora Mitchell
Kermit, Texas

The individuals listed above are being reappointed.

Respectfully submitted,
/s/Rick Perry
Governor

RESOLUTION SIGNED

The President announced the signing of the following enrolled resolution in the presence of the Senate: **SCR 13**.

SENATE RESOLUTION 313

Senator Nelson offered the following resolution:

SR 313, Recognizing February 21 and 22, 2011, as Denton County Days at the State Capitol.

NELSON
ESTES
HARRIS

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson, joined by Senators Estes and Harris, was recognized and introduced to the Senate a delegation from Denton County: County Judge Mary Horn; Commissioners Hugh Coleman, Ron Marchant, Bobbie Mitchell, and Andy Eads; and a delegation representing Leadership Lewisville.

The Senate welcomed its guests.

BIRTHDAY GREETINGS EXTENDED

Senator Nelson was recognized and, on behalf of the Senate, extended birthday greetings to Senator Harris.

PHYSICIAN OF THE DAY

Senator Fraser was recognized and presented Dr. Robert Deluca of Eastland as the Physician of the Day.

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

SENATE RESOLUTION 259

Senator Shapiro offered the following resolution:

SR 259, Recognizing February 22, 2011, as Texas FFA Day at the State Capitol.

SHAPIRO
ZAFFIRINI

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Shapiro, joined by Senators Eltife, Nichols, Patrick, Williams, and Zaffirini, was recognized and introduced to the Senate representatives of the Texas FFA Association: Mason Parish, President, Caney Creek FFA Chapter, Cut and Shoot; Patrick Byrne, Vice-president, Eagle Pass FFA Chapter, Eagle Pass; Colt Gresham, Vice-president, Garrison FFA Chapter, Garrison; Will Ellis, Vice-president, Midlothian FFA Chapter, Midlothian; and Katelyn Perry, Vice-president, Iowa Park FFA Chapter, Iowa Park; as well as FFA students from Marshall, accompanied by their teacher, Chad Baskin; FFA students from Simms and New Boston and teacher, Ashley Perryman; FFA students from Bee County; and FFA students from Cypress-Fairbanks ISD.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Nichols was recognized and introduced to the Senate a delegation from Athens, Texas.

The Senate welcomed its guests.

SENATE RESOLUTION 283

Senator Wentworth offered the following resolution:

SR 283, Recognizing March 1, 2011, as National Pancake Day in Texas.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate Mike Ford, Potentate, Ben Hur Shrine, Austin; Rick Evans, Potentate, Moslah Shrine, Fort Worth; Tom Smith, Imperial Public Relations Representative; Robert Tomlinson, Vice-president of Operations, ACG Texas IHOP; and Jim Smith, Imperial Public Relations Representative.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Hegar was recognized and introduced to the Senate a delegation from Washington County: Brenham Mayor Milton Tate; Burton Mayor Peggy Felder; Washington County Judge John Brieden; Chairman, Washington County Chamber of Commerce Board of Directors, Cathy Boeker; and Blinn College Foundation Executive Director Joe Al Picone.

The Senate welcomed its guests.

SENATE RESOLUTION 213

Senator Duncan offered the following resolution:

SR 213, Recognizing February 22, 2011, as Rolling Plains Day at the State Capitol.

(Senator Eltife in Chair)

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Duncan was recognized and introduced to the Senate Ronnie Heck, Trey Morgan, Russell Graves, and Sharon Blackburn.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Lucio was recognized and introduced to the Senate Robert J. Underbrink, King Ranch, Incorporated, President and CEO.

The Senate welcomed its guest.

SENATE RESOLUTION 305

Senator Seliger offered the following resolution:

SR 305, Recognizing February 22, 2011, as Texas Panhandle Day at the State Capitol.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate Debra McCartt, Mayor of Amarillo; Riley Hill, President and CEO of Southwestern Public Service Company; Dr. J. Patrick O'Brien, President of West Texas A&M University; J. Pat Richmond, Chair of the Board of the Amarillo Chamber of Commerce; and Roger Williams, Director of Amarillo Site Operations of Bell Helicopter.

The Senate welcomed its guests.

SENATE RESOLUTION 301

Senator Harris offered the following resolution:

SR 301, Recognizing Flower Mound on the occasion of the 50th anniversary of the town's incorporation.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Harris, joined by Senator Nelson, was recognized and introduced to the Senate a delegation from Flower Mound.

The Senate welcomed its guests.

SENATE RESOLUTION 304

Senator Davis offered the following resolution:

SR 304, Welcoming Nigerian writer Chike Momah to the State Capitol and recognizing him for his literary achievements.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Davis was recognized and introduced to the Senate Christian Chike Momah and his wife, Ethel, Jay O Oji, Obie Ihwembe, and Ike Egbouyne.

The Senate welcomed its guests.

GUEST PRESENTED

Senator West was recognized and introduced to the Senate Frederick Douglas Haynes III.

The Senate welcomed its guest.

SENATE RESOLUTION 343

Senator Duncan offered the following resolution:

SR 343, Honoring the West Texas Area Health Education Center Program.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Duncan was recognized and introduced to the Senate Billy Phillips, Jr., Mark Warren, Danielle Askins, Kelly Cheek, and Ronnie Laurence.

The Senate welcomed its guests.

SENATE RESOLUTION 308

Senator Nelson offered the following resolution:

SR 308, Recognizing February 22, 2011, as Texas Emergency Medical Services and Trauma Day at the State Capitol.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate a delegation of Texas EMS and trauma service providers.

The Senate welcomed its guests.

SENATE RESOLUTION 317

Senator Watson offered the following resolution:

SR 317, Recognizing February 22, 2011, as Commercial Real Estate Development Day at the State Capitol.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate representatives from Texas real estate councils across the state.

The Senate welcomed its guests.

SENATE RESOLUTION 325

Senator Ellis offered the following resolution:

WHEREAS, February 21, 2011, marked the 75th anniversary of the birth of the Honorable Barbara Jordan; the legacy that she established in her service to the citizens of Texas and the United States of America remains a source of inspiration to countless people, and time cannot diminish the contributions of this admirable patriot, politician, teacher, mentor, friend, icon, and hero; and

WHEREAS, Born in 1936 to Benjamin and Arlyne Jordan, Barbara Jordan was raised in Houston's Fifth Ward and graduated with honors from Phillis Wheatley High School in the Houston Independent School District; and

WHEREAS, Ms. Jordan attended Texas Southern University, where she majored in government and history and was a member of the debate team, winning numerous honors for her oratory skills; after graduating magna cum laude from TSU, she enrolled at the Boston University School of Law and received her law degree in 1959; and

WHEREAS, In 1966, Ms. Jordan became the first black woman ever elected to the Texas Senate as well as the first African American to be elected as a state senator in the United States since 1883; and

WHEREAS, Following her successful run for a seat in the U.S. Congress in 1972, Ms. Jordan served in the House of Representatives from 1973 until 1979, during which time she enhanced her reputation as an evocative public speaker and arose as a leader on issues relating to voting rights, consumer protection, energy, and the environment; and

WHEREAS, In her role as a member of the House Committee on the Judiciary, she gained national prominence during the Watergate impeachment proceedings against President Nixon in 1974; speaking before the committee, she movingly portrayed the intention of the framers of the U.S. Constitution and eloquently expressed her faith in that document, even as she noted that "We the People," the first words of the preamble to the Constitution, were not originally intended to apply to African Americans; and

WHEREAS, In 1976, Congresswoman Jordan became the first female and the first African American to serve as the keynote speaker at the Democratic National Convention, and her speech reiterated her faith in the Constitution and the desire to form a national community that would fulfill the country's purpose of creating and sustaining a society in which all are equal; and

WHEREAS, Ms. Jordan retired from elective office in 1979 and became a distinguished professor at the Lyndon B. Johnson School of Public Affairs at The University of Texas at Austin; for the remainder of her life, she focused on mentoring a new generation of aspiring leaders, encouraging them to excel and to commit themselves to public service; and

WHEREAS, At the request of President Bill Clinton, she became chair of the U.S. Commission on Immigration Reform in the mid-1990s and held that office until her death; in 1994, President Clinton honored her for her patriotism and outstanding service by awarding her the Presidential Medal of Freedom, the country's highest civilian honor; and

WHEREAS, Barbara Jordan passed away in January 1996, but her lifelong commitment to freedom, integrity, equality, and justice resonates as powerfully today as it did in years past, and her tireless efforts to champion our nation's highest ideals are indeed deserving of our recognition and respect; now, therefore, be it

RESOLVED, That the Senate of the 82nd Texas Legislature hereby pay tribute to the life of Barbara Jordan in honor of the 75th anniversary of her birth.

ELLIS	HINOJOSA	WENTWORTH
CARONA	LUCIO	WEST
DAVIS	OGDEN	WHITMIRE
DUNCAN	SELIGER	WILLIAMS
GALLEGOS	SHAPIRO	ZAFFIRINI

The resolution was read and was adopted by a rising vote of the Senate.

GUESTS PRESENTED

Senator Ellis was recognized and introduced to the Senate teachers and students from Barbara Jordan Elementary School and representatives of the Barbara Jordan Freedom Foundation: Laura Langham, Bill Hilgers, and Norma Cantu.

The Senate welcomed its guests.

SENATE RESOLUTION 258

Senator Shapiro offered the following resolution:

SR 258, Recognizing Leadership North Texas Class of 2011.

The resolution was read and was adopted without objection.

GUEST PRESENTED

Senator Shapiro was recognized and introduced to the Senate Mabrie Jackson, President and CEO of the North Texas Commission.

The Senate welcomed its guest.

SENATE RESOLUTION 331

Senator Lucio, on behalf of Senator Williams, offered the following resolution:

SR 331, Recognizing February 22, 2011, as Justices of the Peace and Constables Day at the State Capitol.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Lucio, on behalf of Senator Williams, was recognized and introduced to the Senate Judge Jackie Miller, Ellis County; Constable Chad Jordan, Hood County; Judge Suzan Thompson, Matagorda County; Constable Mike Truitt, Denton County; and Constable Larry Gallardo, Hidalgo County.

The Senate welcomed its guests.

SENATE RESOLUTION 336

Senator Lucio offered the following resolution:

SR 336, Recognizing the week of February 20 through 27, 2011, as Texas Saves Week at the State Capitol.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Ellis was recognized and introduced to the Senate exonerees Anthony Graves, Cornelius Dupree, Johnnie Lindsey, and Billy Smith, accompanied by Ruby Session, mother of Tim Cole.

The Senate welcomed its guests.

(President in Chair)**REPORT OF COMMITTEE ON NOMINATIONS**

Senator Deuell 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:

Members, Automobile Burglary and Theft Prevention Authority: Carlos Luis Garcia, Cameron County; Kenneth R. Ross, Harris County.

Members, Texas State Board of Examiners of Dietitians: Christina E. Stirling, Cameron County; Elizabeth J. Tindall, Ector County; Mary Kate Weems, McLennan County.

Member, Board of Trustees, Employees Retirement System of Texas: Ira Craig Hester, Travis County.

Members, Texas Board of Professional Engineers: Carry Ann Baker, Potter County; Lamberto Jose Balli, Harris County; James Alan Greer, Tarrant County.

Member, Board of Directors, Evergreen Underground Water Conservation District: Jason Byron Peeler, Wilson County.

Members, Board of Directors, Gulf Coast Waste Disposal Authority: Zoe Milian Barinaga, Harris County; Randy Jarrell, Galveston County; Lamont Edward Meaux, Chambers County.

Commissioners, Board of Pilot Commissioners for Jefferson and Orange County: Martin Eloi Broussard, Jefferson County; George W. Brown, Jefferson County; Russell S. Covington, Orange County; Travis Todd Miller, Orange County; William F. Scott, Jefferson County.

Members, Texas State Board of Plumbing Examiners: Tammy Betancourt, Harris County; Carlos DeHoyos, Gregg County; Richard Allen Lord, Harris County.

Members, Board of Directors, Red River Authority of Texas: Jerry B. Daniel, Knox County; George Wilson Scaling, Clay County; Cliff A. Skiles, Deaf Smith County.

Presiding Officer, Cameron County Regional Mobility Authority: David E. Allex, Cameron County.

Presiding Officer, Central Texas Regional Mobility Authority: Ray Allen Wilkerson, Travis County.

Presiding Officer, Grayson County Regional Mobility Authority: Will Rich Hubbard, Grayson County.

Presiding Officer, Hidalgo County Regional Mobility Authority: Dennis Burleson, Hidalgo County.

Presiding Officer, North East Texas Regional Mobility Authority: Jeff Austin, Smith County.

Presiding Officer, Sulphur River Regional Mobility Authority: Earl Delbert Horton, Delta County.

Member, Texas Workforce Commission: Ronald Gene Congleton, Travis County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Deuell gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

REMARKS ORDERED PRINTED

On motion of Senator Jackson and by unanimous consent, the remarks by Senators Eltife and Jackson relating to Skylar Brooke Carpenter and Jessica Fertitta were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Eltife: Today in the Chamber we recognized FFA from across the state. Unfortunately, one group of FFA students from my district were unable to be here. This group of high school students from Quitman, they were driving to a San Antonio FFA meeting with their teacher, and they were involved in a traffic accident in Van Zandt County. The accident resulted in the death of one of the students with several others injured. Skylar Brooke Carpenter, just 15 years old, died at the scene. She was the daughter of David and Becky Carpenter and is survived by her parents and sister, Shelby. Skylar was a member of First Baptist Church in Quitman and was in the youth choir. Her fellow students said she always brightened up the halls at school and touched their lives. As a father of a son close to Skylar's age, I cannot begin to imagine the pain her family is going through. I simply ask that all of you, Members here in the Chamber, and everyone within the sound of my voice, please keep the Carpenter family and the community of Quitman in your prayers as they mourn the loss of this fine young lady. And I ask that when the Texas Senate adjourns today, we do so in memory of Skylar Brooke Carpenter.

Senator Jackson: It's with a great deal of sadness and a heavy heart that I will be asking, in addition to Senator Eltife's loss of his constituent, that we also adjourn today in honor of Jessica Fertitta. She was in her second year of law school here at UT and recently joined my staff as an intern. She was raised in Beaumont, attended Monsignor Kelly High School, graduated UT with a B.S. in political communication in 2007, and just a great kid. She was a leader, she was active, in addition to her studies, Pi Beta Phi, and the Panhellenic president of UT. She served as deputy finance director for Texans for Greg Abbott before beginning law school in 2009. And just, perhaps her mother hit the nail on the head and said it best, talking about Jessica, "She was a leader, she worked hard for everything, and she was a woman of faith, this is a huge gain for heaven." And we send our sincerest condolences to her family and her friends and pray that they will find peace in this very trying time. Senator Williams and I, who is not in right now, would request, Mr. President, if we could, that the words be reduced to writing for their families, and hopefully we can adjourn in these two losses that are really tragic losses today. Thank you.

CO-AUTHOR OF SENATE BILL 11

On motion of Senator Williams, Senator Harris will be shown as Co-author of **SB 11**.

CO-AUTHOR OF SENATE BILL 19

On motion of Senator Nichols, Senator Shapiro will be shown as Co-author of **SB 19**.

CO-AUTHOR OF SENATE BILL 165

On motion of Senator Shapiro, Senator Birdwell will be shown as Co-author of **SB 165**.

CO-AUTHOR OF SENATE BILL 202

On motion of Senator Shapiro, Senator Birdwell will be shown as Co-author of **SB 202**.

CO-AUTHOR OF SENATE BILL 515

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

CO-AUTHOR OF SENATE JOINT RESOLUTION 12

On motion of Senator Patrick, Senator Birdwell will be shown as Co-author of **SJR 12**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 337 by Davis, In memory of the life of Nikolas Coltan Evans.

SR 346 by Huffman, In memory of Melissa Susan Mitchell-Manning of Houston.

Welcome and Congratulatory Resolutions

SR 303 by Davis, Recognizing Gary Fischer on the occasion of his retirement from the Keller Police Department.

SR 306 by Williams, Recognizing Patricia Steele for receiving a Texas Exes Award for Outstanding Teacher.

SR 307 by Deuell, Recognizing Mildred H. Burnett of Fannin County on the occasion of her 100th birthday.

SR 312 by Nelson and Harris, Welcoming the members of Leadership Lewisville to Austin on February 21 and 22, 2011.

SR 314 by Nelson, Recognizing the Haltom City Public Library on the occasion of its 50th anniversary.

SR 321 by Birdwell, Welcoming the members of Leadership Cleburne to the State Capitol.

SR 322 by Rodriguez, Recognizing Justin Churchman of El Paso for being named one of the top youth volunteers in Texas for 2011 in the 16th annual Prudential Spirit of Community Awards program.

SR 324 by Gallegos, Recognizing the Harris County Historical Commission and the Baytown Carver High School Recognition and Preservation Society on the occasion of the dedication of a Texas Historical Marker for Baytown George Washington Carver High School.

SR 327 by Seliger, Welcoming members of the Odessa Hispanic Chamber of Commerce to the State Capitol.

SR 328 by Lucio, Recognizing Wilbur R. Aten for his service as chaplain of the International Seamen's Center at the Port of Brownsville.

SR 329 by Lucio, Recognizing Carlos Cuevas for being named Mr. Amigo for 2010.

SR 332 by Lucio, Recognizing Lauren Bothwell of Harlingen for being named one of the top youth volunteers in Texas for 2011 and a Distinguished Finalist by the Prudential Spirit of Community Awards program.

SR 333 by Lucio, Recognizing Angela Leal for her contributions to the San Benito Consolidated Independent School District.

SR 334 by Lucio, Recognizing the VA Texas Valley Coastal Bend Health Care System on the occasion of the grand opening of the VA Health Care Center at Harlingen.

SR 335 by Lucio, Recognizing Rogelio Fuentes on the occasion of his retirement from the Texas Department of Aging and Disability Services.

SR 338 by Uresti, Recognizing the historical reenactment of the signing of the Live Oak Treaty of 1838.

SR 339 by Uresti, Recognizing Barbara Martinez on the occasion of her retirement as a justice court manager in Bexar County.

SR 344 by Zaffirini, Recognizing Stanley Andrew Sliwiak for his years of service to the Catholic Church.

SR 345 by Hinojosa, Lucio, and Zaffirini, Recognizing David H. Dewhurst for being named the 2011 Border Texan of the Year.

Official Designation Resolutions

SR 309 by Nelson, Recognizing February 23, 2011, as Osteopathic Medicine Day at the State Capitol.

SR 315 by Nelson, Proclaiming February 22, 2011, as Texas Health Resources Day at the Capitol.

SR 318 by Nichols, Recognizing February 22 and 23, 2011, as Athens Days at the State Capitol.

SR 319 by Jackson, Recognizing February 23 and 24, 2011, as Pearland Day at the State Capitol.

SR 347 by Nichols, Recognizing February 24, 2011, as Palestine Day at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:31 p.m. adjourned, in memory of Skylar Brooke Carpenter and Jessica Fertitta, until 10:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

February 22, 2011

HEALTH AND HUMAN SERVICES — SB 41, SB 44, SB 81, SB 189, SB 221, SB 240, SB 304, SB 436, CSSB 187, CSSB 156

BILL ENGROSSED

February 17, 2011

SB 16

RESOLUTIONS ENROLLED

February 17, 2011

SCR 13, SR 284, SR 285, SR 286, SR 287, SR 288, SR 289, SR 290, SR 291, SR 292, SR 293, SR 294, SR 295, SR 296, SR 297, SR 298, SR 299

SENT TO GOVERNOR

February 22, 2011

SCR 13

