

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**TWENTIETH DAY**

(Wednesday, March 2, 2011)

The Senate met at 11:09 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 Don Garner, Capitol Commission, Austin, was introduced by Senator Estes and offered the invocation as follows:

Father, today we entreat You on behalf of these legislators in this Chamber. We ask You for wisdom and courage, for compassion and forbearance. We ask that You strengthen and protect their families. We ask that You draw them near to You, reveal Yourself to them in ways that humble them and encourage them. We thank You for raising them up to this position of leadership. Work through them to bring order and harmony, blessing and honor to the people of the State of Texas. Use them to punish evil and reward righteousness. In Christ's name we ask it. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

## **PHYSICIAN OF THE DAY**

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

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

## **GUESTS PRESENTED**

Senator Hegar was recognized and introduced to the Senate a delegation from the Royal Independent School District.

The Senate welcomed its guests.

### **PRESENTATION**

The President introduced a reading of the Texas Declaration of Independence by Senators Ogden, Zaffirni, Nelson, Watson, Williams, West, Shapiro, Wentworth, and Whitmire.

A copy of the original Texas Declaration of Independence document was delivered to the Senate Chamber for viewing.

### **GUESTS PRESENTED**

Senator Whitmire was recognized and introduced to the Senate representatives from the State Library and Archives Commission: Peggy Rudd, Director and Librarian; Scott McAfee; State Archivist Jelain Chubb; and Preservation Officer John Anderson.

The Senate welcomed its guests.

### **AT EASE**

Senator Whitmire at 11:33 a.m. moved that the Senate stand At Ease subject to the call of the Chair.

The motion prevailed without objection.

### **IN LEGISLATIVE SESSION**

The President at 11:46 a.m. called the Senate to order as In Legislative Session.

### **GUESTS PRESENTED**

Senator Jackson was recognized and introduced to the Senate a delegation from La Porte.

The Senate welcomed its guests.

### **GUESTS PRESENTED**

Senator Nelson, joined by Senator Davis, was recognized and introduced to the Senate delegations from Leadership Grapevine, Leadership Bedford, and Leadership Southlake.

The Senate welcomed its guests.

### **GUESTS PRESENTED**

Senator West was recognized and introduced to the Senate recipients of Tuition Equalization Grants and students from the following institutions of higher education: Dallas Baptist University, Southern Methodist University, Austin College, Paul Quinn College, Southwestern Assemblies of God University, and the University of Dallas, as well as Dr. Dennis Linam of Dallas Baptist University.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Fraser was recognized and introduced to the Senate members of the Hardin-Simmons University Women's 2011 National Championship Soccer Team: Amy Kuykendall, Katie Kuykendall, Carlyn Powers, Rebecca Roth, Megan Ryan, and Sarah Stansell.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Davis was recognized and introduced to the Senate a delegation from Texas Christian University: Chancellor Victor Boschini; Student Body President Jackie Wheeler; Sarah Beard, Women's Rifle Team; Colin Jones and Bart Johnson, football team; and Mike Sinquefield, Director of Football Operations.

The Senate welcomed its guests.

**SENATE RESOLUTION 10**

Senator Davis offered the following resolution:

**SR 10**, Recognizing the Texas Christian University Horned Frogs football team on the occasion of its victory in the Rose Bowl.

The resolution was again read.

The resolution was previously adopted on Wednesday, January 12, 2011.

**SENATE RESOLUTIONS**

Senator Davis offered the following resolutions:

**SR 414**, Welcoming the Texas Christian University Student Government Association to the State Capitol.

The resolution was read.

**SR 419**, Recognizing the Texas Christian University rifle team on winning the 2010 National Collegiate Athletic Association national title.

The resolution was read.

**SR 420**, Congratulating the Texas Christian University baseball team on its outstanding 2010 season.

The resolution was read.

**SR 414**, **SR 419**, and **SR 420** were adopted without objection.

**SENATE RESOLUTION 99**

Senator Ogden offered the following resolution:

**SR 99**, Recognizing the Agriculture Business Association of Poland and the National Association of Cereal Producers.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Ogden was recognized and introduced to the Senate a delegation from the Agriculture Business Association of Poland and the National Association of Cereal Producers: Kasia Boczek, National 4-H Foundation Director of Poland; Marian Sikora, President of the National Federation of Agriculture Producers of Poland; and Stanislaw Kacperczyk, President of the National Association of Cereal Producers of Poland; accompanied by Dr. Jim Mazurkiewicz, Leadership Program Director, Texas Agricultural Lifetime Leadership Program.

The Senate welcomed its guests.

**(Senator Patrick in Chair)**

**GUESTS PRESENTED**

Senator Birdwell was recognized and introduced to the Senate a Waxahachie Leadership delegation and a City of West delegation: Judge David Pareya; Jerrel Bolton, Mayor of West; Tommy Muska, West Mayor Pro Tem; West City Manager Joey Pustejovsky; and the Czech-Slovak Queen of McLennan and Hill counties, Amy Holecek.

The Senate welcomed its guests.

**SENATE RESOLUTION 389**

Senator Birdwell offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Coach Leta Andrews of Granbury High School on the occasion of her 1,334th win, which establishes her as the most victorious coach in American high school basketball history; and

WHEREAS, Coach Andrews began her remarkable career in 1962 at Tolar High School; driven by the will to succeed, she studied under legendary University of Kentucky coach Adolph Rupp, who helped expand her understanding of the game's fundamentals and its nuances; she first taught at Granbury High School from 1976 to 1980; and

WHEREAS, Over the course of her career, Coach Andrews has amassed 34 consecutive seasons with 20 or more wins and has taken 14 teams to the state tournament, and in 1990, she guided Corpus Christi Calallen High School to the state championship title; and

WHEREAS, Coach Andrews returned to Granbury High School in 1992 and in 2005 became the winningest high school girls' basketball coach in history; surpassing the record for boys' basketball and becoming the most victorious coach in history is a testament to her superior skills and her determination; and

WHEREAS, Coach Andrews has instilled in many generations of players the importance of teamwork and a strong work ethic; her enduring emphasis on building character in all aspects of life has served as an inspiration to her students and her colleagues for nearly 50 years; and

WHEREAS, Coach Andrews has had a profound influence on countless young people, preparing them for success both on and off the court, and she is truly deserving of recognition for her dedication and commitment as she passes this historic milestone; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby commend Coach Leta Andrews on her exceptional career and extend to her congratulations on becoming the most victorious coach in American high school basketball history; and, be it further

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

**SR 389** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Birdwell was recognized and introduced to the Senate Leta Andrews, Granbury High School girls' basketball coach, her husband, Dave, and daughters, Sissy Andrews Tiberia, Linda Andrews Waggoner, and Lisa Andrews Parker, accompanied by elected officials, school board members, the Superintendent of Granbury ISD, and representatives from the Granbury Chamber of Commerce.

The Senate welcomed its guests.

### **SENATE RESOLUTION 421**

Senator Williams offered the following resolution:

**SR 421**, Recognizing March 2, 2011, as Texas Transit Association Day at the State Capitol.

The resolution was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Williams was recognized and introduced to the Senate a Texas Transit Association delegation.

The Senate welcomed its guests.

### **GUESTS PRESENTED**

Senator Uresti was recognized and introduced to the Senate a delegation from Brewster and Jeff Davis counties: Berta Rios Martinez, Mike Davidson, Jim "Fitz" Fitzgerald, Conrad Arriola, George Grubb, Rick McIvor, and Bart Medley.

The Senate welcomed its guests.

### **RESOLUTION SIGNED**

The Presiding Officer announced the signing of the following enrolled resolution in the presence of the Senate: **HCR 175**.

**MESSAGES FROM THE GOVERNOR**

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

March 1, 2011

Austin, Texas

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

On February 21, 2011, I submitted the name of Devora Mitchell for appointment to the Manufactured Housing Board for a term to expire January 31, 2017.

Because she resigned, I hereby withdraw her nomination and request that the Senate return the appointment to me.

Respectfully submitted,

/s/Rick Perry

Governor

March 1, 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 members of the Texas Board of Criminal Justice for terms to expire February 1, 2017:

Lawrence Gist

Beaumont, Texas

(replacing Charles Jackson of Houston whose term expired)

Tomas Mechler

Amarillo, Texas

(Mr. Mechler is being reappointed)

Leopoldo R. Vasquez, III

Houston, Texas

(Mr. Vasquez is being reappointed)

To be members of the Texas State Affordable Housing Corporation Board of Directors for terms to expire as indicated:

To Expire February 1, 2015:

Jerry Romero

El Paso, Texas

(replacing Cynthia Leon of Mission who resigned)

To Expire February 1, 2017:

M. Jeran Akers

Plano, Texas

(Mr. Akers is being reappointed)

To be members of the Texas Department of Housing and Community Affairs for terms to expire January 31, 2017:

Juan S. Munoz

Lubbock, Texas

(Dr. Munoz is being reappointed)

J. Paul Ozer

Sugar Land, Texas

(replacing Gloria Ray of San Antonio whose term expired)

To be members of the Central Colorado River Authority for terms to expire as indicated:

To Expire February 1, 2013:

Andrew M. Young

Coleman, Texas

(replacing Roger Nelson of Santa Anna who resigned)

To Expire February 1, 2017:

Patrick Justiss

Coleman, Texas

(Mr. Justiss is being reappointed)

To be a member of the Red River Compact Commission for a term to expire February 1, 2017:

William A. Abney

Marshall, Texas

Mr. Abney is being reappointed.

To be members of the Risk Management Board for terms to expire as indicated:

To Expire February 1, 2015:

Rosemary A. Gammon

Plano, Texas

(replacing Ernest Garcia of Austin who resigned)

To Expire February 1, 2017:

Tomas Gonzalez

Irving, Texas

(replacing Ronald Walenta of Quitman whose term expired)

To be members of the Commission on Human Rights for terms to expire February 1, 2017:

Toni Rhodes Glover

Fort Worth, Texas

(replacing John James of Midland whose term expired)

Shara Michalka  
Dallas, Texas  
(Ms. Michalka is being reappointed)

To be members of the Texas Private Security Board for terms to expire as indicated:

To Expire January 31, 2015:

Brian England  
Forney, Texas  
(replacing Patrick Patterson of Boerne who resigned)

To Expire January 31, 2017:

Albert L. Black  
Austin, Texas  
(replacing Stella Caldera of Houston whose term expired)

Howard H. Johnsen  
Dallas, Texas  
(Mr. Johnsen is being reappointed)

Mark L. Smith  
Dallas, Texas  
(Mr. Smith is being reappointed)

To be members of the Texas Council on Autism and Pervasive Developmental Disorders for terms to expire February 1, 2013:

Anna Penn Hundley  
Dallas, Texas  
(Ms. Hundley is being reappointed)

Tammy Lemoine  
Center, Texas  
(replacing Rick Campbell of Center whose term expired)

Callie M. Matthews  
Fort Worth, Texas  
(Ms. Matthews is being reappointed)

Frank C. McCamant  
Austin, Texas  
(Mr. McCamant is being reappointed)

To be members of the Aging and Disability Services Council for terms to expire as indicated:

To Expire February 1, 2013:

Donna Stauber  
Waco, Texas  
(replacing David Young of Grand Prairie who resigned)



To Expire February 1, 2017:

Sharon Butterworth  
El Paso, Texas  
(Ms. Butterworth is being reappointed)

John A. Cuellar  
Dallas, Texas  
(Mr. Cuellar is being reappointed)

Judy Foster  
San Antonio, Texas  
(replacing Jean Freeman of Galveston whose term expired)

Respectfully submitted,  
/s/Rick Perry  
Governor

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas

Wednesday, March 2, 2011 - 1

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 72** Zerwas  
Recognizing March 1, 2011, as Donate Life Texas Day at the State Capitol.

**SCR 19** Van de Putte Sponsor: King, Susan  
Commending the doctors, educators, and parents who participate in the Reach Out and Read program.

**SCR 22** Ellis Sponsor: Davis, Yvonne  
Recognizing February 28, 2011, as Texas Southern University Day at the State Capitol.

Respectfully,  
/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE RESOLUTION 397**

Senator Ellis offered the following resolution:

**SR 397**, Recognizing Rice University for the excellent educational opportunities it has provided to students.

The resolution was read and was adopted without objection.

**MESSAGE FROM THE ATTORNEY GENERAL**

The following Message from the Attorney General was read and was referred to the Committee on Nominations:

ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 1, 2011

The Honorable Patsy Spaw  
Secretary of the Texas Senate  
Texas State Capitol  
Room 2E.22  
1200 Congress Avenue  
Austin, Texas 78701

Madam Secretary and Members of the Senate Nominations Committee:

The Office of the Attorney General of Texas has made the following reappointment which requires the advice and consent of the Senate:

To the School Land Board of Texas:

Mr. David Herrmann  
6 Renwick Court  
San Antonio, Texas 78218

Appointments to the School Land Board by the Attorney General are governed by Section 32.012(a)(3) of the Texas Natural Resources Code. In March 2009, I reappointed Mr. Herrmann for a two-year term that will expire on August 31, 2011.

Should you have any questions regarding this reappointment please contact Amy Jones in my Intergovernmental Relations Division at (512) 936-7940. The advice, consent, and confirmation of the Senate is requested for this reappointment.

Sincerely,

/s/Greg Abbott  
Attorney General of Texas

**SENATE CONCURRENT RESOLUTION 23**

The Presiding Officer 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 82nd 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 2, 2011, and ending on Monday, March 7, 2011.

WHITMIRE

**SCR 23** was read.

On motion of Senator Ogden, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

**SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

The Presiding Officer 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 Deuell.

Senator Deuell moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The Presiding Officer 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 31, Nays 0.

Judge, 334th Judicial District Court, Harris County: Kenneth Price Wise, Harris County.

Members, Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments: Martin Deleon, Nueces County; Mary Daphne Darby Ford, Erath County; Christopher C. Kirk, Brazos County; Robert Dean Morgan, Lubbock County.

Members, Commission on Law Enforcement Officer Standards and Education: James Neil Oakley, Burnet County; J. B. Pennington, Harris County; Ruben Villescas, Hidalgo County; John Randall Watson, Johnson County.

Member, Correctional Managed Health Care Committee: Margarita de la Garza-Graham, Smith County.

Members, Council on Sex Offender Treatment: Ronnie Ann Fanning, McLennan County; Aaron Paul Pierce, Bell County.

Fire Fighters' Pension Commissioner: Sherri Barr Walker, Travis County.

Members, Judicial Compensation Commission: Romulo Chavez, Harris County; Harold Edward Jenkins, Dallas County; Michael L. Slack, Travis County.

Public Counsel, Office of Public Insurance Counsel: Deeia Denise Curry Beck, Travis County.

Counsellor, Office of Public Utility Counsel: Sheri Sanders Givens, Williamson County.

Members, State Board of Examiners for Speech-Language Pathology and Audiology: Kimberly M. Carlisle, Collin County; Kerry Ormson, Randall County; Christopher J. Rourk, Dallas County.

Members, State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments: Carla Sue Hoffman, Nueces County; James Paul Jay, Bell County; Cindy Marie Steinbart, Williamson County.

Members, Texas Animal Health Commission: Coleman Hudgins Locke, Wharton County; Ralph Simmons, Shelby County; Beauregard Brite White, Bastrop County.

Members, Texas Crime Stoppers Council: Katherine Cabaniss, Harris County; William R. McDaniel, Montgomery County.

Members, Texas Forensic Science Commission: Lance Taylor Evans, Tarrant County; Norma Jean Farley, Cameron County; Nizam Peerwani, Tarrant County.

Members, Texas Funeral Service Commission: Joyce McCown Odom, Bexar County; Patrick Wayne Robertson, Donley County.

Members, Texas State Board of Podiatric Medical Examiners: Charles Jason Hubbard, Travis County; Harold Ashley Ledger, Bell County; Morgan Talbot, Hidalgo County.

#### **CO-AUTHOR OF SENATE BILL 278**

On motion of Senator Davis, Senator Rodriguez will be shown as Co-author of **SB 278**.

#### **CO-AUTHOR OF SENATE BILL 444**

On motion of Senator Patrick, Senator Birdwell will be shown as Co-author of **SB 444**.

#### **CO-AUTHOR OF SENATE BILL 504**

On motion of Senator Davis, Senator Rodriguez will be shown as Co-author of **SB 504**.

#### **CO-AUTHOR OF SENATE BILL 726**

On motion of Senator Rodriguez, Senator Wentworth will be shown as Co-author of **SB 726**.

#### **CO-AUTHOR OF SENATE JOINT RESOLUTION 25**

On motion of Senator Hinojosa, Senator Williams will be shown as Co-author of **SJR 25**.

#### **RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

##### **Memorial Resolutions**

**SR 422** by Hegar, In memory of Jack Francis Bowen of Victoria.

**SR 423** by Watson, In memory of Tracy Lewis Curtis of Austin.

**SR 424** by Watson, In memory of Nash McDowell Phillips of Austin.

**SR 427** by Lucio, In memory of Pledger Bracket Cate, Jr., of Harlingen.

**SR 432** by Fraser, In memory of Arthur G. "Pat" Patterson.

**Congratulatory Resolutions**

**SR 428** by Deuell, Recognizing the City of Fate as the fastest-growing city in the state.

**SR 429** by Ellis, Congratulating Aida Rhoda Brooks on being named president of the Liberian Association of Greater Houston.

**SR 430** by Ellis, Recognizing the Ivy Educational and Charitable Foundation of Houston, Incorporated, on the occasion of its 30th anniversary.

**SR 431** by Wentworth, Recognizing Matthew Cooper for his service to his country in the United States Army.

**Official Designation Resolutions**

**SR 411** by Ogden, Declaring March 2, 2011, as Sam Houston Day at the State Capitol.

**SR 417** by Uresti, Celebrating Brewster County Day at the State Capitol.

**SR 418** by Uresti, Proclaiming Jeff Davis County Day at the State Capitol.

**SR 425** by Carona and Shapiro, Recognizing March 9, 2011, as Richardson Telecom Corridor Legislative Day.

**SR 426** by Carona, Recognizing February 24, 2011, as Responsible Pet Owners Alliance Lobby Day at the Capitol.

**(President in Chair)**

**ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 12:36 p.m. adjourned, in memory of Garrett Maliska, Shomari Leon Dickerson, Elizabeth Kajoh, Kendyll Stradford, and Elias Castillo, until 1:30 p.m. Monday, March 7, 2011.

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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 2, 2011

EDUCATION — **SB 79, SB 912**

BUSINESS AND COMMERCE — **SB 323, SB 503, SB 539, SB 735, SB 747**

JURISPRUDENCE — **SB 209, SB 118**

EDUCATION — **SB 155**

**RESOLUTIONS ENROLLED**March 1, 2011**SR 225, SR 365, SR 407, SR 408, SR 409, SR 410, SR 415, SR 416**