

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTH DAY

(Wednesday, January 28, 2009)

The Senate met at 11:05 a.m. pursuant to adjournment and was called to order by the President.

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

Absent-excused: Fraser.

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

The Reverend Melva Hill, Ebenezer Baptist Church, Wolfe City, offered the invocation as follows:

Father, as we gather here today to tend to the affairs of our great state, we pause to thank You for Your many blessings and to petition Your guidance and direction in reaching decisions that will benefit all citizens of Texas. We enlist Your wisdom during these critical times in our economy and pray You will assist our lawmakers as they strive to achieve ways and means that will restore jobs, increase commerce, strengthen education, and rebuild the infrastructure of our financial institutions and corporate existence. Our nation has experienced many life-changing events in recent years, but with the efforts of the dedicated and caring men and women who serve in every state throughout this country, we can build on these challenges. We pray that You will give them a listening ear to hear the desires of the people, a sharp eye to see their needs, a compassionate heart to act on what they have seen and heard, and most of all empower each of them to make sound decisions that not only create a more perfect union within the boundaries of Texas borders but all across these United States. This we ask in Jesus' name. Amen.

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

The motion prevailed without objection.

LEAVE OF ABSENCE

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

CO-AUTHOR OF SENATE BILL 170

On motion of Senator Ellis, Senator Zaffirini will be shown as Co-author of **SB 170**.

CO-AUTHORS OF SENATE BILL 296

On motion of Senator West, Senators Carona, Davis, Eltife, Van de Putte, and Wentworth will be shown as Co-authors of **SB 296**.

CO-AUTHOR OF SENATE BILL 377

On motion of Senator Van de Putte, Senator Lucio will be shown as Co-author of **SB 377**.

CO-AUTHOR OF SENATE BILL 475

On motion of Senator Wentworth, Senator Whitmire will be shown as Co-author of **SB 475**.

CO-AUTHOR OF SENATE BILL 482

On motion of Senator Ellis, Senator Lucio will be shown as Co-author of **SB 482**.

CO-AUTHOR OF SENATE BILL 488

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

CO-AUTHOR OF SENATE BILL 544

On motion of Senator Ellis, Senator Davis will be shown as Co-author of **SB 544**.

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate the Reverend Melva Hill of Ebenezer Baptist Church in Wolfe City, accompanied by her daughter, Ashley.

The Senate welcomed its guests.

SENATE RESOLUTION 16

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the members of the Washington's Birthday Celebration Association and the association's president, Guillermo Treviño, on their successful annual planning of the celebration of Washington's Birthday in Laredo; and

WHEREAS, Every year, the citizens of Laredo celebrate the birthday of the Father of Our Country; the Washington's Birthday Celebration Association sponsors the celebration to pay tribute to the memory of George Washington and to his virtues and his patriotism; the 112th Celebration will take place from January 22 through February 22, 2009; and

WHEREAS, Since its beginning as a two-day event in 1898, the Washington's Birthday Celebration gradually has evolved into a grand celebration entailing numerous events in the United States and in Mexico; spectators and participants enjoy marching bands and floats, spectacular fireworks displays, food, games, and entertainers from both sides of the border; and

WHEREAS, The yearly celebrations exemplify the spirit and enthusiasm of Laredoans and the pride they take in their city and country; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the members of the Washington's Birthday Celebration Association on their patriotism and their dedication and extend best wishes to them for a joyous 112th birthday celebration; and, be it further

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

SR 16 was again read.

The resolution was previously adopted on Wednesday, January 14, 2009.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate the following members of the Washington's Birthday Celebration Association: Raul G. Salinas; Dr. Ray M. Keck III; Alitzah Danae Martinez; Michael Powell, Jr.; Katrina Nicole Hein; Michael Cerda; Adrian Garza de Hoyos; Sofia Mendoza de la Miyar; and Guillermo "Memo" Treviño, President, Washington's Birthday Celebration Association.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

January 28, 2009

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SCR 6, Recognizing January 27, 2009, as Lubbock Day at the State Capitol.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 28

Senator Estes offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Victor and Naomi Edmiston on the joyous occasion of their birthdays and to welcome them on their visit to the Capitol in January of 2009; and

WHEREAS, Victor Edmiston was born January 27, 1919, and he is celebrating his 90th birthday; Naomi Edmiston was born January 28, 1922, and she is celebrating her 87th birthday; they are celebrating the occasion with a visit to the Capitol together with their daughter; and

WHEREAS, Victor and Naomi are residents of Springtown, Texas, and are respected citizens in their community; and

WHEREAS, They are a source of strength and joy to others and are beloved by their friends and family, and their enthusiasm for living each day to the fullest is inspirational to all who know them; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby express sincere congratulations to Victor Edmiston on the joyous occasion of his 90th birthday and to Naomi Edmiston on her 87th birthday and extend to them both best wishes for the future; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of Victor and Naomi Edmiston.

SR 28 was again read.

The resolution was previously adopted on Tuesday, January 27, 2009.

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate Victor and Naomi Edmiston of Springtown.

The Senate welcomed its guests.

SENATE RESOLUTION 29

Senator Hegar offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Bob Stallman, president of the American Farm Bureau Federation, for his many contributions to the better interests of American agriculture; and

WHEREAS, A rice and cattle producer from Columbus, Texas, Mr. Stallman is the 11th president in the history of this outstanding organization and the first from the Lone Star State; he has served on its board of directors since 1994; and

WHEREAS, Mr. Stallman graduated with honors from The University of Texas at Austin in 1974; he has been an influential voice on agricultural policy for many years; and

WHEREAS, Mr. Stallman has served on numerous state and federal committees, including the Agricultural Policy Advisory Committee for Trade and the Citizen's Committee on Property Tax Relief; he also serves on the board of trustees of the Farm Foundation and on the advisory board of the World Agricultural Forum; and

WHEREAS, In 2007, President George W. Bush appointed Mr. Stallman to serve as a member of the White House Advisory Committee for Trade Policy and Negotiations, designated to advise the president and Congress on proposed trade agreements; and

WHEREAS, Mr. Stallman understands the importance of good agricultural policy and its effect on the nation's food supply, economy, and trade; he is truly deserving of recognition for his outstanding service on behalf of the American farmer; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Bob Stallman for his exemplary service to our state and nation as president of the American Farm Bureau Federation and extend to him best wishes for continued success in all his endeavors; and, be it further

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

SR 29 was read and was adopted without objection.

GUESTS PRESENTED

Senator Hegar was recognized and introduced to the Senate Bob Stallman, President of the American Farm Bureau Federation, and Kenneth Dierschke, President of the Texas Farm Bureau.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Averitt was recognized and introduced to the Senate a delegation representing the Texas Society of Certified Public Accountants.

The Senate welcomed its guests.

SENATE RESOLUTION 50

Senator Uresti offered the following resolution:

WHEREAS, Community leaders of Eagle Pass and Maverick County are gathering at the State Capitol on January 29, 2009, to celebrate the historical and economic importance of their region and to discuss with members of the legislature issues of great significance to area citizens; and

WHEREAS, Named for cattleman and state legislator Samuel Maverick, the county was established in 1856, and the city of Eagle Pass was incorporated in 1910; and

WHEREAS, The citizens of Maverick County and Eagle Pass have demonstrated a commitment to working together to create jobs, motivate youth, and continuously improve the quality of life in the area through such initiatives as the construction of a sports and arts complex and a civic/international trade center; moreover, a jail facility has been constructed to further enhance public safety; and

WHEREAS, County and civic leaders are also dedicated to ensuring the effective collaboration of the public and private sectors and to administering an economic development plan to attract and retain quality businesses, industries, trade, and housing that are accessible to all residents; and

WHEREAS, With three international bridges, including one rail bridge, Eagle Pass and Maverick County have become an important port of entry to the bustling state of Coahuila, Mexico, and the route of choice for many American tourists crossing the border, and the area offers a variety of entertainment and recreational opportunities to visitors; and

WHEREAS, The citizens of Eagle Pass and Maverick County may take justifiable pride in the region's rich history, and the members of the senate are pleased to acknowledge and applaud the ongoing commitment and collaboration of the area's civic leaders, corporate citizens, and residents; now, therefore, be it

RESOLVED, That the Senate of the 81st Texas Legislature hereby recognize January 29, 2009, as Eagle Pass-Maverick County Day and extend to the visiting delegation best wishes for a productive and memorable trip to the State Capitol.

SR 50 was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate Eagle Pass Mayor Chad Foster and Maverick County Judge José Aranda, Jr., accompanied by William Davis, Ramsey English Cantu, and Judith Canales.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Harris was recognized and introduced to the Senate a delegation representing Team Arlington.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Hegar was recognized and introduced to the Senate a delegation of citizens from Bastrop County and the leadership group of Bastrop County.

The Senate welcomed its guests.

SENATE RESOLUTION 80

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to honor the citizens of Laredo and to recognize Wednesday, January 28, 2009, as Laredo Legislative Day at the Capitol; and

WHEREAS, Laredo was established in 1755 by Don Tomas Sanchez, and its history offers a compelling tale, as the town was forged in the heat of battles incited by Spaniards, Indians, Mexicans, Texans, and Americans; its location as a crossroads between nations has made Laredo a unique city and the site of an interesting mix of cultures; and

WHEREAS, Situated on the banks of the Rio Grande, Laredo is now the 10th largest city in Texas and the largest inland port on the southern United States border; it is one of the top four ports-of-commerce in the nation, and in 2008, the city handled 40 percent of all overland trade between the United States and Mexico; and

WHEREAS, Education plays a vital role in the life of Laredo; Texas A&M International University in North Laredo and the new University of Texas Health Science Center at San Antonio Laredo Extension Campus thrive with students, and Laredo Community College now has two campuses; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby extend best wishes for a celebratory Laredo Legislative Day at the Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the citizens of Laredo as a memento of this occasion.

SR 80 was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate a delegation from the City of Laredo: Raul G. Salinas, Mayor; Juan Narvaez, Johnny Rendon, Gene Belmares, and Cindy Liendo Espinoza, Councilmembers; Rosaura "Wawi" Tijerina and Frank Sciaraffa, Webb County Commissioners; and Sheriff Martin Cuellar.

The Senate welcomed its guests.

SENATE RULE 8.02 SUSPENDED

Senator Van de Putte moved to suspend Senate Rule 8.02 to take up for consideration **SR 51** at this time.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on suspension of the rule except as follows:

Absent-excused: Fraser.

SENATE RESOLUTION 51

The President laid before the Senate the following resolution:

WHEREAS, Between the surrender of Japan on September 2, 1945, and the dissolution of the Soviet Union on December 25-26, 1991, the world witnessed a period of military, economic, and ideological confrontation known as the Cold War; and

WHEREAS, Although the Cold War never erupted into a full-scale armed conflict between the world's superpowers, it gave impetus to a number of localized hot wars, as well as to a massive military buildup on the part of both the United States and the Soviet Union; the consequent demands on U.S. military personnel were often arduous and dangerous; and

WHEREAS, In the National Defense Authorization Act for Fiscal Year 2002, the congress authorized the U.S. Department of Defense to issue a Cold War Service Medal, to be given to each member of the U.S. military who served satisfactorily on active duty during the Cold War era; the DOD has refused, however, to create such an award; instead, since 1999, the department has made available a Cold War Recognition Certificate, to be given to those who served during the Cold War either as a member of the armed forces or as a federal employee; and

WHEREAS, Cold War veterans believe that this certificate scarcely suffices to recognize the sacrifices they bore or the service they rendered; since the certificate was first offered, the American Legion, VFW, Reserve Officers Association, Combat Infantrymen's Association, Cold War Veterans Association, and AMVETS have all expressed the desire that service in the Cold War be honored with an official medal; and

WHEREAS, A medal that honors service similar to that of Cold War veterans already exists and, if made available to those veterans, would both pay them the tribute they are owed and resolve the Pentagon's concern about the cost of issuing a new award; the American Defense Service Medal, created by Executive Order 8808, is given to service personnel who served between September 8, 1939, following the outbreak of war in Europe, and December 7, 1941, when Japan bombed Pearl Harbor; as during the Cold War, the U.S. military spent this period bracing for armed hostilities; and

WHEREAS, A precedent for expanding the dates of eligibility for the American Defense Service Medal exists with the National Defense Service Medal; initially awarded for service during the period of the Korean War, the NDSM was subsequently awarded for service during the period of the Vietnam War, Desert Shield/Desert Storm, and the Global War on Terror; and

WHEREAS, The heraldry, order of precedence, and related issues pertaining to the American Defense Service Medal have already been settled; the only change in the medal that would be required would be the removal of the original dates of eligibility, which are presently engraved on the reverse; removing these dates will also facilitate the reopening of this award for service during a similar period of emergency in the future; and

WHEREAS, There is little doubt that Cold War veterans will prefer to purchase the American Defense Service Medal as opposed to unofficial commemorative medals, which are not authorized to be worn on uniforms, thus significantly reducing the cost to the defense department for providing this award; and

WHEREAS, Those who served in the United States Army, Navy, Marines, Air Force, and Coast Guard during the years of the Cold War made an immeasurable contribution to the safety of this country and its allies, and they are indeed deserving of appropriate recognition; now, therefore, be it

RESOLVED, That the Senate of the 81st Texas Legislature hereby respectfully urge the president of the United States to modify Executive Order 8808 so as to award the American Defense Service Medal to United States armed forces personnel who served on active duty in the period after September 1, 1945, and before December 27, 1991; and, be it further

RESOLVED, That the secretary of the senate forward an official copy of this resolution to the president of the United States.

VAN DE PUTTE

SR 51 was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Fraser.

SENATE CONCURRENT RESOLUTION 8

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 81st 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, January 28, 2009, and ending on Monday, February 2, 2009.

WHITMIRE

SCR 8 was read.

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

Absent-excused: Fraser.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 81 by Whitmire, In memory of Howard Jones, Sr., of Houston.

SR 82 by Whitmire, In memory of James "Brokenrail" Brunkenhoefer.

SR 86 by Shapleigh, In memory of Hughes Butterworth, Jr., of El Paso.

Congratulatory Resolutions

SR 52 by West, Recognizing the Dallas Alumnae Chapter of Delta Sigma Theta Sorority, Incorporated, on the occasion of its Founders Day Celebration Gala.

SR 53 by West, Recognizing Shirley Murray on the occasion of her 77th birthday.

SR 57 by Nelson, Congratulating Barbara Nance for receiving the National Service Award from the Meals on Wheels Association of America.

SR 58 by Nelson, Recognizing the Lewisville Lake Symphony on the occasion of its 25th anniversary.

SR 72 by Wentworth, Recognizing Sandy McDonald on the occasion of her retirement from the Texas Tech University School of Law.

SR 74 by Ellis, Recognizing Angela L. Lopez and Dallas S. Jones on the occasion of their marriage.

SR 75 by Ellis, Recognizing City-Wide Beauticians, Incorporated, of Houston on the occasion of its 52nd Annual Awards Luncheon.

SR 76 by Van de Putte, Congratulating Emilio "Ray" Aguirre for being selected for the Texas Community Health Network's Unsung Heroes Award.

SR 84 by Shapleigh, Congratulating Joe Olvera on receiving the Chicano Lifetime Achievement Award from Del Pueblo Press.

SR 85 by Shapleigh, Recognizing Charles and Mary-Jo Linney on the occasion of their 50th wedding anniversary.

SR 87 by Shapleigh, Recognizing Jimmy Apodaca for his years of service in the El Paso Sheriff's Department.

SR 88 by Gallegos, Recognizing Mary Helen Castro on the occasion of her birthday.

Official Designation Resolutions

SR 21 by Shapiro, Recognizing January 28, 2009, as Texas Capitol Schoolhouse Day.

SR 56 by Deuell, Recognizing January 29, 2009, as Hunt County Day at the State Capitol.

SR 59 by Van de Putte, Recognizing January 30, 2009, as Earned Income Tax Credit Awareness Day in Texas.

SR 67 by Harris and Davis, Recognizing January 28, 2009, as Team Arlington Day.

SR 73 by Ellis, Recognizing January 28, 2009, as Christa McAuliffe Day.

SR 77 by Duncan, Declaring the Blowin' in the Wind Barbecue Cook-off in Silverton a Texas State Barbecue Championship competition.

HCR 20 (Nelson), Designating January 27, 2009, as Texas Healthcare Information Technology Day and commending the participants at the Texas Healthcare Information Technology Forum and all those responsible for furthering the adoption of health information technology in Texas.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 11:47 a.m. adjourned, in memory of John D. Parker, Parks and Wildlife Commissioner, Lufkin, until 1:30 p.m. Monday, February 2, 2009.