

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

EIGHTH DAY

(Wednesday, February 4, 2009)

The Senate met at 11:00 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, Eltife, Estes, Fraser, 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: Ellis, Gallegos.

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

The Reverend Keith Born, Immanuel Lutheran Church, Pflugerville, offered the invocation as follows:

Dear heavenly Father, in uncertain times we all look for guidance. In troubling times we all desire comfort and support. Bless these elected leaders and their efforts. Guide them in their decisions. Comfort and support them in their work. Keep them and us all mindful of the possibility that fulfilling the needs of the people in our families, neighborhoods, and communities is not only a product of what happens here, within these walls, in this session, but also what happens out there in the relationships we have with those around us, in our efforts to help our families, friends, and neighbors, in our willingness to be of service to others. Grace us all and strengthen us with Your presence as we move forward in that service. I offer this prayer in Your most holy 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.

LEAVES OF ABSENCE

On motion of Senator Whitmire, Senator Ellis was granted leave of absence for today on account of illness.

On motion of Senator Whitmire, Senator Gallegos was granted leave of absence for today on account of illness.

CO-AUTHOR OF SENATE BILL 21

On motion of Senator Zaffirini, Senator Davis will be shown as Co-author of **SB 21**.

CO-AUTHOR OF SENATE BILL 22

On motion of Senator Zaffirini, Senator Davis will be shown as Co-author of **SB 22**.

CO-AUTHOR OF SENATE BILL 27

On motion of Senator Zaffirini, Senator West will be shown as Co-author of **SB 27**.

CO-AUTHOR OF SENATE BILL 296

On motion of Senator West, Senator Gallegos will be shown as Co-author of **SB 296**.

CO-AUTHOR OF SENATE BILL 440

On motion of Senator Ellis, Senator Hinojosa will be shown as Co-author of **SB 440**.

CO-AUTHOR OF SENATE BILL 444

On motion of Senator Wentworth, Senator Van de Putte will be shown as Co-author of **SB 444**.

CO-AUTHOR OF SENATE BILL 469

On motion of Senator Carona, Senator Lucio will be shown as Co-author of **SB 469**.

CO-AUTHORS OF SENATE BILL 482

On motion of Senator Ellis, Senators Seliger and West will be shown as Co-authors of **SB 482**.

CO-AUTHOR OF SENATE BILL 483

On motion of Senator Seliger, Senator Shapiro will be shown as Co-author of **SB 483**.

CO-AUTHORS OF SENATE BILL 513

On motion of Senator Ellis, Senators Hinojosa and Zaffirini will be shown as Co-authors of **SB 513**.

CO-AUTHOR OF SENATE BILL 544

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

CO-AUTHOR OF SENATE BILL 643

On motion of Senator Nelson, Senator Hinojosa will be shown as Co-author of **SB 643**.

CO-AUTHORS OF SENATE RESOLUTION 131

On motion of Senator Zaffirini, Senators Averitt, Duncan, Patrick, and West will be shown as Co-authors of **SR 131**.

PHYSICIAN OF THE DAY

Senator Nichols was recognized and presented Dr. Jerry Wood of Livingston as the Physician of the Day.

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

SENATE RESOLUTION 116

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to proclaim February 4, 2009, as Brownsville Day at the State Capitol and to welcome citizens of Brownsville to the State Capital and to the Texas Legislature; and

WHEREAS, Accompanying this distinguished group are representatives of the City of Brownsville, the Brownsville Chamber of Commerce, The University of Texas at Brownsville and Texas Southmost College, the Brownsville Independent School District, the Brownsville Navigation District, the Brownsville Public Utilities Board, the Greater Brownsville Incentives Corporation, the Brownsville Community Improvement Corporation, the Brownsville Economic Development Council, the Brownsville Urban System, the Brownsville South Padre Island International Airport, the Brownsville Convention and Visitors Bureau, the Port of Brownsville, Workforce Solutions Cameron, and Cameron County; and

WHEREAS, The site of Brownsville was originally established as part of the Espiritu Santo land grant in 1781 from Spain; when Mexico gained independence from Spain in 1821, the area became part of Mexico; the region was settled in 1826 as part of Matamoros, Tamaulipas, Mexico; it then became part of the Republic of Texas in 1836, and, briefly, in 1840, part of the Republic of the Rio Grande; the area around Brownsville became part of the United States in 1845 when Texas became a state, but the national sovereignty of the area was still disputed; and

WHEREAS, In 1846, President Polk sent General Zachary Taylor south to the Rio Grande and established Fort Texas, later Fort Brown, as the first permanent United States fort in Texas; its purpose was to defend the Rio Grande as the boundary of the United States after Texas became a state; this action resulted in the Mexican War of 1845, and subsequently the Treaty of Guadalupe Hidalgo permanently established the north bank of the Rio Grande as being in Texas and the United States; and

WHEREAS, The town was first chartered as a city in Texas and the United States in 1848, by Charles Stillman; it was named in honor of Major Jacob Brown, who was killed in the initial action leading to the Mexican War; and

WHEREAS, Brownsville was considered to be vital to both the South and the North during the American Civil War; it was the only port available to the Confederacy to ship its cotton to Europe in exchange for war supplies, and it was the site of the battle of Palmito Ranch, the last battle of the Civil War, which was fought

on May 13, 1865, six weeks after the surrender of the Confederacy at Appomattox, after which the Union Army re-gained control of Fort Brown in order to control the cotton supply and custom house; and

WHEREAS, Brownsville is the county seat of Cameron County, the largest city in the lower Rio Grande Valley, and the southernmost city in Texas; Brownsville has a variety of businesses, including international trade at the international sea and land ports, offshore and marine services, ecotourism and heritage tourism, shrimping, electronics, food processing, and warehouse distribution, which serve as a vital economic base; and

WHEREAS, The destination of thousands of visitors every year, the Brownsville area offers numerous historical sites and museums; it is a birdwatcher's utopia because of its location at the convergence of two major migratory flyways; the Gladys Porter Zoo boasts several endangered species, including the white rhinoceros and the lowland gorilla; and the 557-acre Sabal Palm Sanctuary harbors native plants and animals that do not occur elsewhere in the United States; all of these attractions make Brownsville a desirable destination for tourists and winter Texans; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby welcome the noteworthy visitors from the City of Brownsville; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the Brownsville delegation as an expression of the highest regard and esteem of the Texas Senate.

SR 116 was read and was adopted without objection.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Juliet V. Garcia, President, The University of Texas at Brownsville; John Reed, Vice-chair, Brownsville Navigation District Board; Ruben Cortez, Vice-president, Brownsville Independent School District Board of Trustees; Ruben Gallegos, Jr., President, Greater Brownsville Incentives Corporation; and Charlie Atkinson, Mayor Pro Tempore, Brownsville; accompanied by a delegation of citizens from Brownsville.

The Senate welcomed its guests.

SENATE RESOLUTION 131

Senator Zaffirini offered the following resolution:

WHEREAS, Community colleges play an increasingly important role in higher education in the State of Texas, and on February 4, 2009, a delegation of more than 1,000 Texas community college students are converging at the State Capitol; and

WHEREAS, Leaders of the Texas Junior College Student Government Association, including President Shane Scott, are being joined by community college honors students, community college trustees, and members of the Texas Association of Community Colleges to discuss the essential contributions their schools make to the state; and

WHEREAS, The total annual enrollment for Texas community and technical colleges exceeds one million students, accounting for half of the state's postsecondary student population and the largest sector of higher education; and

WHEREAS, The community colleges of Texas clearly serve a vital function in the educational and economic development of the state, and it is a pleasure to welcome these outstanding students, teachers, and administrators to Austin; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby recognize February 4, 2009, as Community College Student Day at the Capitol and extend to all the participants best wishes for a memorable and productive visit; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of Community College Student Day.

SR 131 was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Nastashia Stokes, Emma Gomez, James Casarez, Jorge Dimas, and Allan Adkins, accompanied by a delegation of students representing Community College Student Day at the Capitol.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate Michael Singleton, Student Government Association President, Southwest Collegiate Institute for the Deaf; Melinda Torrez, Student Government Association President for Howard College in San Angelo; Jason Flores, Student Government Association President, Howard College in Big Spring; Dr. Cheryl Sparks, President, Howard College; and Trey McKnight.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Nichols was recognized and introduced to the Senate a delegation of citizens from the City of Palestine.

The Senate welcomed its guests.

SENATE RESOLUTION 109

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize February 4, 2009, as the second Susan G. Komen for the Cure Advocacy Day in Texas; and

WHEREAS, Breast cancer is the most frequently diagnosed cancer among women in the United States; every three minutes, a woman is diagnosed with the disease; in 2008, it was expected that approximately 185,000 new cases of breast cancer would be diagnosed in women, and some 41,000 women would die from the disease; it was also expected that almost 2,000 cases would be diagnosed in men; and

WHEREAS, For more than 25 years, Susan G. Komen for the Cure has played a major role in raising awareness about breast cancer through its support of research, education, and treatment programs, which have led to increased early detection and greater survival rates; and

WHEREAS, With more than 100,000 survivors and activists as supporters, the Komen Affiliate Network is the nation's largest private funder of community-based breast health education and breast cancer screening and treatment programs; and

WHEREAS, Breast cancer touches the lives of thousands in the Lone Star State, and Komen for the Cure is to be commended for the vision, passion, and tenacity it brings to its vital mission; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby recognize February 4, 2009, as the second Susan G. Komen for the Cure Advocacy Day in Texas and extend to all those associated with Komen for the Cure sincere appreciation for their commitment to such an important cause; and, be it further

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

SR 109 was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate representatives of Susan G. Komen for the Cure.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate Rebekah Karth, Poonam Patel, and Landon Bell, accompanied by Dr. Richard Jolly, Executive Vice-president, Midland College, and Dr. Steven Thomas, President, Midland College.

The Senate welcomed its guests.

SENATOR ANNOUNCED PRESENT

Senator Gallegos, who had previously been recorded as "Absent-excused," was announced "Present."

SENATE RESOLUTION 79

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join the American Heart Association in recognizing February 6, 2009, as National Wear Red Day in Texas; and

WHEREAS, Diseases of the heart are the nation's leading cause of death, and stroke is the third leading cause of death; the direct and indirect costs of cardiovascular diseases in the United States, including strokes, are estimated at \$475 billion for the year 2008; and

WHEREAS, Cardiovascular disease claims the lives of some 455,000 American women each year; more women die of heart disease, stroke, or other cardiovascular disease than of the next five leading causes of death combined, including all cancers; and

WHEREAS, Women account for 53 percent of deaths from cardiovascular disease and 61 percent of deaths from strokes; however, only 21 percent of women regard cardiovascular disease as their greatest health risk; and

WHEREAS, Go Red For Women is the American Heart Association's national call to increase awareness about heart disease and to inspire women to take charge of their heart health; and

WHEREAS, American Heart Month is observed during the month of February, and Wear Red Day on February 6, 2009, is an opportunity for all citizens to show their support for women in the fight against heart disease; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby designate February 6, 2009, as National Wear Red Day in Texas and encourage women and the men who care about them to wear red on that day to help increase awareness about women's risk for cardiovascular disease and to show support for women who are taking charge of their heart health and reducing their risks; and, be it further

RESOLVED, That a copy of this Resolution be prepared in commemoration of National Wear Red Day.

SR 79 was read and was adopted without objection.

SENATE RESOLUTION 62

Senator Deuell offered the following resolution:

WHEREAS, Many citizens of Van Zandt County have come to the State Capitol on February 4, 2009, to celebrate the significant part they and their forebears have played in the development of the Lone Star State; and

WHEREAS, Created by an Act of the Texas Legislature on March 20, 1847, this Northeast Texas county was named for Isaac Van Zandt, a Republic of Texas lawyer, legislator, and diplomat; and

WHEREAS, Canton, the county seat, was laid out in 1850 and incorporated in 1919; recently named a Main Street City, it is home to the Van Zandt County Fair and First Monday Trade Days, one of the country's best-known flea markets; a library of genealogy and local history is also a popular attraction and preserves much of the county's notable heritage; and

WHEREAS, The development of this fascinating area can be traced in a number of other communities as well; Edgewood, settled in the 1840s, boasts the Edgewood Heritage Park Museum, a facility dedicated to the preservation of the rural culture and architectural history of our state; and

WHEREAS, Edom, established in 1856, is one of the oldest towns in the county, and its past is highlighted by 10 state historical markers, many of them researched by members of the Edom Historical Society; the residents of this small community also give vital support to an active civic theater; and

WHEREAS, Fruit cultivation prompted the naming of Fruitvale, where a nursery operated as early as the 1870s; several generations in this century-old town have treasured the Randall Store, a local institution since 1910; and

WHEREAS, Grand Saline, originally called Jordan's Saline, the first Van Zandt County seat, takes its name from an immense dome of pure salt lying beneath the city; more than a mile and a half wide and 20,000 feet thick, the deposit is presently mined by Morton Salt Company; the city celebrates salt with an annual Salt Festival; those exploring this 2004 Main Street City can tour the Salt Palace Museum, a unique

structure built with rock salt crystal, stop by the historical marker that commemorates native son Wiley Post, the renowned pioneer aviator, and visit the new Veterans Memorial Wall Park, featuring a genuine United States Army tank; and

WHEREAS, Van, established in 1891, remained a quiet farming community until 1929, when the discovery of oil nearby transformed the village into a boomtown; the Van Area Oil and Historical Museum recaptures the excitement of that frenetic time and commemorates the discovery with an annual Oil Festival; and

WHEREAS, Wills Point, settled in 1873 and originally known as Iola, was renamed for William Wills, whose cabin served as a stopping place for those traveling between Shreveport and Dallas; the Wills cabin still stands, as does the Texas and Pacific Railroad depot, which houses the Historical Society Museum; Wills Point, which is officially the Bluebird Capital of Texas, hosts the annual Bluebird Festival; and

WHEREAS, Ben Wheeler, surrounded by natural springs and rich farmland, was named for Van Zandt County's first mail carrier, Benjamin R. Wheeler, in 1876; and

WHEREAS, Martins Mill, which got its name from Dan R. Martin's gristmill, was established in 1880 and is home to one of the largest dairies in East Texas; the community survived destruction by tornadoes and fires and today boasts a successful school district; and

WHEREAS, Major events in the county include the Texas State Bluegrass Festival, the Edom Arts Fair, and the Van Zandt County Relay for Life; for the outdoor enthusiast, the Neches and Sabine Rivers, Purtil Creek State Park, and Lake Tawakoni State Park offer wonderful opportunities for fishing, boating, swimming, and camping; and

WHEREAS, The home of nearly 53,000 people, Van Zandt County relies on tourism, oil, and agribusiness; the area is a major producer of hay, blueberries, sweet potatoes, and nursery crops, in addition to cattle, horses, hogs, and dairy products; and

WHEREAS, Present with us today in the Capitol are numerous residents of Van Zandt County, including the Van Zandt County Choir, city and county officials, members of Vision 2009, and members of the board of the Council of Van Zandt County Communities, the sponsors of the biennial visit to the state legislature that provides an occasion for focusing on legislation affecting Van Zandt County citizens; and

WHEREAS, The citizens of Van Zandt County take justifiable pride in the hard work and ready cooperation that have made their county strong, and it is a pleasure to join them in honoring the county they call home; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby recognize February 4, 2009, as Van Zandt County Day at the State Capitol and extend sincere best wishes to the visiting Van Zandt residents for an informative and memorable day.

SR 62 was read and was adopted without objection.

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate Van Zandt County Judge Rhita Koches; County Commissioners Virgil Melton, Jr., Duanne Harvey, and Ron Carroll; accompanied by a delegation of citizens from Van Zandt County.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate a delegation of students and administrators representing Amarillo College.

The Senate welcomed its guests.

SENATE RESOLUTION 120

Senator West offered the following resolution:

WHEREAS, The future of Texas depends on today's children and youth growing into thriving adults; and

WHEREAS, The safety, strength, preparedness, prosperity, and pride of Texas are preserved when Texan children and youth are protected from harm, supported in their health and development, provided with education to help them succeed, given the love and security they need to grow, and offered the resources to solve the problems of tomorrow; and

WHEREAS, Texans Care For Children is a nonpartisan, nonprofit organization that works to improve outcomes for all Texas children and brings together a broad coalition of Texans in a shared campaign to put children first and improve their lives by making the well-being of children a priority for the Lone Star State; and

WHEREAS, Texas Network of Youth Services is a nonprofit membership association of youth-serving agencies and advocates that is dedicated to enhancing the professionalism and effectiveness of community-based agencies serving youth and families in Texas; and

WHEREAS, Youth in Action is a program of the Texas Network of Youth Services that provides young people in at-risk situations with opportunities to learn firsthand about citizenship, leadership, and public policy; and

WHEREAS, Children At Risk is a nonpartisan, nonprofit organization that drives change for children through research, education, and public policy to improve the health, safety, and economic indicators affecting the quality of life for children in the Greater Houston area; and

WHEREAS, Hundreds of constituents and youth from throughout Texas and representatives of 34 faith-based and community-based organizations that are cosponsoring this event have come to the Capitol on this day to request that state leaders pledge to put children first in their decision-making in order to create a solid foundation for the future economic development and well-being of Texas; and

WHEREAS, The dedication of a special day to discuss critical issues affecting young Texans and to strengthen and renew our shared commitment to securing and ensuring the well-being of the children of this state is indeed a worthwhile endeavor; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby recognize February 4, 2009, as Voices for Change Day and commend Texans Care For Children, the Texas Network of Youth Services, and Children at Risk for their significant contributions to the children of Texas; and, be it further

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

SR 120 was read and was adopted without objection.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate a delegation representing the Dallas Community Youth Development program.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate a delegation of students representing the Alamo Community College District.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate a delegation of students and faculty representing Odessa College.

The Senate welcomed its guests.

SENATE CONCURRENT RESOLUTION 13

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, February 4, 2009, and ending on Monday, February 9, 2009.

WHITMIRE

On motion of Senator Whitmire and by unanimous consent, **SCR 13** was considered immediately, was read, and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Ellis.

SENATE RESOLUTION 124

Senator Duncan offered the following resolution:

SR 124, In memory of the life of Timothy Brian Cole.

The resolution was read.

On motion of Senator Shapiro and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Duncan, **SR 124** was adopted by a rising vote of the Senate.

In honor of the memory of the life of Timothy Brian Cole, the text of the resolution is printed at the end of today's *Senate Journal*.

GUESTS PRESENTED

Senator Duncan was recognized and introduced to the Senate family members of Timothy Brian Cole: his mother, Ruby Session; his brothers, Cory Session, Sean Session, Reginald Kennard, Kevin Kennard, and Rodney Kennard; and his sister, Karen Kennard.

The Senate welcomed its guests and extended its sympathy.

REMARKS ORDERED PRINTED

On motion of Senator Whitmire and by unanimous consent, the remarks by President Pro Tempore Duncan regarding **SR 124** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Members, today we are here to honor the life and celebrate the life of Timothy Brian Cole. You heard the resolution. I don't know that I can elaborate on it much more without breaking up. It is a sad story: a story of a young man with all the hope in the world, a story of a young man who was a veteran of our country, a story of a young man whose life was cut off, literally, by an error in the criminal justice system. In 2001, this Senate and you initiated the DNA testing legislation that allows for post-conviction DNA testing that has exonerated over 30 or 40 different persons who have been wrongfully denied their liberty by erroneous convictions. I only wish we could have gotten that done earlier for Timothy. And my apologies to the family for not having that done earlier, so that Timothy could have enjoyed that and enjoyed freedom and exoneration. I wish Senator Ellis was here. Senator Ellis, who has championed these issues, and he's ill today or he would be here, has championed these issues here in the Texas Senate for many years. And all of us have supported those concepts. In fact, last session we had about eight or nine members, or persons on the floor who had been exonerated by post-conviction DNA testing. That was one of the most touching days, I think, of my Senate career, to see that we made a difference in those people's lives. The things we do here are very important, but I can think of no other issue more important than assuring the liberty of the citizens of our state. So, on the floor today, we have with us reminders of this responsibility. We have Mr. Cole's mother, Ruby Session, Ruby, his brothers, Cory Session, Sean Session, Reginald Kennard, Kevin Kennard, and Rodney Kennard, and his sister, Karen Kennard. They will be in the Betty King room after we adjourn today for you to meet with them, and I hope you go by and say hello. Currently in Texas, we don't have a statute that deals posthumously with DNA exonerations. Senator Ellis and I will be working on legislation to come to you with that sort of a statute. I don't even think we have to have any evidence. The evidence is here before us of the need for that sort of statute in the State of Texas. So, join me in celebrating the life of Timothy Brian Cole, in honoring his family for all that they have been through.

GUESTS PRESENTED

Senator West, joined by Senator Shapiro, was recognized and introduced to the Senate a delegation of students representing the Dallas County Community College District.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

February 4, 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:

HCR 24, Recognizing February 17, 2009, as Midland-Odessa Day at the State Capitol.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 121 by Lucio, In memory of Frank E. Shepard of Harlingen.

SR 130 by Hinojosa, In memory of Jose Julio Vela of Corpus Christi.

Congratulatory Resolutions

SR 122 by Lucio, Recognizing KGBT-TV in the Rio Grande Valley for receiving the Bonner McLane Public Service Award from the Texas Association of Broadcasters.

SR 123 by Whitmire, Commending Blage Y. C. Ledbetter for achieving the rank of Eagle Scout.

SR 125 by Duncan, Recognizing Paul Benjamin Keele, Jr., of San Angelo on the occasion of his 80th birthday.

SR 127 by Van de Putte, Commending Sylvia A. Cardona of San Antonio for her work in the legal profession.

SR 132 by Lucio, Congratulating Jose Sulaiman for his selection as the 2008 Mr. Amigo honoree.

SR 133 by Lucio, Recognizing Judy Salinas Cabaza for her accomplishments in the field of dentistry.

Official Designation Resolution

SR 126 by Deuell, Recognizing February 6, 2009, as Dr. Dan Jones Day.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:06 p.m. adjourned, in memory of Tomas "T. T." Moreno of San Antonio and Timothy Brian Cole, until 1:30 p.m. Monday, February 9, 2009.

APPENDIX

COMMITTEE REPORTS

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

February 4, 2009

ADMINISTRATION — **SB 621, SJR 19**

RESOLUTIONS ENROLLED

February 3, 2009

SR 78, SR 83, SR 89, SR 117, SR 118, SR 119

SENT TO SECRETARY OF STATE

February 4, 2009

SCR 8

In Memory
of
Timothy Brian Cole
Senate Resolution 124

WHEREAS, Timothy Brian Cole always maintained his innocence, and in 2008 DNA evidence finally proved he had been wrongly incarcerated for the crime of another; and

WHEREAS, The oldest of seven children, Tim Cole grew up in Brenham and Fort Worth; he was a devoted son and big brother who helped take care of his siblings while his mother completed college; although he suffered from asthma, he excelled in sports and was a role model for neighborhood children; kind and considerate, he made sure the younger ones were not excluded from games; and

WHEREAS, Mr. Cole graduated from high school and began college course work before deciding to serve his country in the United States Army; he returned to Texas Tech University in 1985 as a 26-year-old veteran and focused intently on finishing his bachelor's degree in business; tragically, his plans for the future were interrupted when a rape victim mistakenly identified him in a police lineup; he was convicted despite an alibi, a lack of corroborating physical evidence, and the existence of another suspect, Jerry Wayne Johnson, whose photograph had not been shown to the victim; and

WHEREAS, Steadfastly affirming his innocence, Mr. Cole turned down a pretrial offer of probation in exchange for a guilty plea; later, he refused to make a confession in order to receive parole, declaring that he would serve all 25 years of his sentence rather than admit to something he did not do; in prison, Mr. Cole resumed his business studies, completing a small business management program by correspondence; he continued to demonstrate his concern for his family, sending his brothers financial tips, subscriptions to business magazines, and long letters encouraging them to do well in school and get good jobs; and

WHEREAS, This proud man declined to attend his stepfather's funeral, rather than go in shackles; he averted visits from his nieces and nephews, stating he would see them when he got out, but although Mr. Cole strove to keep a positive attitude for his family, his asthma worsened as his incarceration dragged on for 13 years; he was hospitalized a number of times, and on December 2, 1999, he died at the age of 38, never knowing that a convicted rapist had confessed responsibility for the crime that claimed Mr. Cole's liberty as its second victim; and

WHEREAS, Jerry Johnson first admitted culpability for the rape in 1995; he made further attempts to clear Mr. Cole's name, but had no success until 2007, when he wrote a letter to Mr. Cole that reached his grieving family; modern DNA technology finally revealed in 2008 that Mr. Johnson had committed the crime; and

WHEREAS, Although his life ended in prison, Tim Cole conducted himself with great courage, placing truth and integrity above even his freedom; he is deeply missed by those he cherished, but they may now take some solace in the knowledge that he has been vindicated before the world and is mourned by all who learn his tragic story; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby pay special tribute to the life of Timothy Brian Cole and that profound sympathy be extended to the members of his family; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for his family, and that when the Senate adjourns this day, it do so in memory of Timothy Brian Cole.

DUNCAN

