

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

NINTH DAY

(Monday, February 9, 2009)

The Senate met at 1:30 p.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, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

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

The Reverend Adam T. Carrington, Sr., Grant African Methodist Episcopal Worship Center, Austin, offered the invocation as follows:

Almighty and everlasting God, the God of all humankind and of all creation, we are here today asking for wisdom during these difficult times in our country. We ask God that You bless our Governor, Lieutenant Governor, and every Member of this 81st Texas legislative session with wisdom, helping them to make the necessary decisions that will stimulate our economy with financial successes, keeping hope alive for all American families so that we can say together with confidence we have weathered this economic storm. Dear God, continue to bless our military branches all over the world and every member of their families, protecting them from all hurt, harm, and danger as they keep America safe. Almighty God, bless America and especially the State of Texas, making us the nation where every man, every woman, every boy, and every girl can enjoy freedom, safety, financial success, and the liberty to pursue happiness. In Your name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Wednesday, February 4, 2009, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-AUTHORS OF SENATE BILL 105

On motion of Senator Hinojosa, Senators Ogden, Seliger, and Watson will be shown as Co-authors of **SB 105**.

CO-AUTHOR OF SENATE BILL 278

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

CO-AUTHORS OF SENATE BILL 475

On motion of Senator Wentworth, Senators Deuell and Jackson will be shown as Co-authors of **SB 475**.

CO-AUTHOR OF SENATE BILL 476

On motion of Senator Nelson, Senator Davis will be shown as Co-author of **SB 476**.

CO-AUTHOR OF SENATE BILL 482

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

CO-AUTHOR OF SENATE BILL 515

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

CO-AUTHOR OF SENATE BILL 526

On motion of Senator Nelson, Senator Uresti will be shown as Co-author of **SB 526**.

CO-AUTHOR OF SENATE BILL 643

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

PHYSICIANS OF THE DAY

Senator Watson was recognized and presented Drs. John and Judith Egerton of Austin as the Physicians of the Day.

The Senate welcomed the Egertons and thanked them for their participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

February 9, 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 31, Honoring Barbara Smith Conrad on her career as a world-renowned opera singer.

SCR 13, Granting the legislature permission to adjourn for more than three days during the period beginning on Wednesday, February 4, 2009, and ending on Monday, February 9, 2009.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 25, HCR 32.**

SENATE RESOLUTION 128

Senator Jackson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the La Porte Education Foundation's Global Studies Program China Project for its cultural and social impact on American and Chinese students alike and to welcome the distinguished representatives from Nankai High School to the Texas Capitol; and

WHEREAS, Implemented at La Porte High School, the Global Studies Program China Project increases awareness of the global economy and different cultures among its participants, who serve as ambassadors throughout their campuses and communities; and

WHEREAS, La Porte High School students traveled to China in March of 2008 as the first participants in the program, attending Nankai High School, staying with Chinese families, and visiting such cultural sites as the Great Wall and the Forbidden City; and

WHEREAS, The students of La Porte High School and Nankai High School are truly fortunate to be able to take part in this exchange program which allows them to experience an education beyond the usual books and outside the comfort zone of their local customs and traditions; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the La Porte Education Foundation on its commitment to educational opportunity through the Global Studies Program China Project and extend a heartfelt welcome to the delegation from Nankai High School as they visit the Texas Capitol; and, be it further

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

SR 128 was read and was adopted without objection.

GUESTS PRESENTED

Senator Jackson was recognized and introduced to the Senate a delegation of students from Nankai High School in the People's Republic of China and La Porte High School in La Porte representing the La Porte Education Foundation's Global Studies Program China Project.

The Senate welcomed its guests.

SENATE RESOLUTION 150

Senator Uresti offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join community leaders of Edwards County and citizens across the state in celebrating Edwards County Day at the State Capitol on February 9, 2009; and

WHEREAS, Edwards County is located in southwest Texas east of the Big Bend country and 100 miles west of San Antonio; the county encompasses 2,120 square miles of the Edwards Plateau and has more than 15 natural springs that flow year-round; and

WHEREAS, Named for Hayden Edwards, one of the first American settlers of Nacogdoches, the county was once home to the Lipan Apache; Spanish missionaries established the mission of San Lorenzo de la Santa Cruz in 1762 to Christianize the native population but were otherwise unable to settle the area; and

WHEREAS, Early settlers discovered that the area offered an ample natural food supply for sheep and Angora goats; ranching became the dominant industry, and to this day the county is a top producer of mohair, with the town of Rocksprings calling itself the "Top-o-the-World" in mohair production; and

WHEREAS, Edwards County celebrates the wool and mohair industry every year in May at the Top-o-the-World festival, and the annual Fourth of July rodeo and parade attracts many visitors; the county is also home to the impressive Devil's Sinkhole, with its 150-foot sheer walls and population of thousands of Mexican free-tailed bats; and

WHEREAS, The citizens of Edwards County are rightly proud of its distinguished history and the many contributions its people have made to the growth and progress of our state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby recognize February 9, 2009, as Edwards County Day and extend to the county's citizens a heartfelt welcome to the State Capitol; and, be it further

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

SR 150 was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate Edwards County Judge Nick Gallegos and Rocksprings Mayor Rachel Gallegos, accompanied by a delegation of citizens representing Edwards County Day at the State Capitol.

The Senate welcomed its guests.

MESSAGES FROM THE GOVERNOR

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

February 4, 2009
Austin, Texas

TO THE SENATE OF THE EIGHTY-FIRST 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 Optometry Board for terms to expire January 31, 2015:

Cynthia Tyson Jenkins
Irving, Texas

Randall N. Reichle, O.D.
Houston, Texas

David Dixon Golden
Center, Texas

(the individuals listed above are being reappointed)

(Dr. Golden will continue to serve as presiding officer of the board)

Respectfully submitted,
/s/Rick Perry
Governor

February 5, 2009
Austin, Texas

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

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

To be members of the Parks and Wildlife Commission for terms to expire February 1, 2015:

Rick L. Campbell
Center, Texas

(replacing John Parker of Lufkin whose term expired)

S. Reed Morian
Houston, Texas

(replacing J. Robert Brown of El Paso whose term expired)

Margaret Martin
Boerne, Texas

(Ms. Martin is being reappointed)

To be the Commissioner of Workers' Compensation for a term to expire February 1, 2011:

Roderick A. "Rod" Bordelon, Jr.
Austin, Texas

(Mr. Bordelon is being reappointed)

To be the Texas State Board of Education Chair for a term to expire February 1, 2011:

Don McLeroy
College Station, Texas

(Dr. McLeroy is being reappointed)

To be the Inspector General for Health and Human Services for a term to expire February 1, 2010:

Kelly "Bart" Bevers
Round Rock, Texas

(Mr. Bevers is being reappointed)

To be a member of the State Preservation Board for a term to expire February 1, 2011:

Charlotte C. Foster
Houston, Texas

(Ms. Foster is being reappointed)

Respectfully submitted,

/s/Rick Perry
Governor

February 6, 2009
Austin, Texas

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

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

To be members of the Lower Colorado River Authority Board of Directors for terms to expire February 1, 2015:

John C. Dickerson III
Bay City, Texas

(Mr. Dickerson is being reappointed)

Lori A. Berger
Flatonia, Texas

(replacing Katura Carlton of La Grange whose term expired)

Richard R. Scott
Wimberley, Texas

(replacing Lucy Wilke of Kerrville whose term expired)

Michael G. McHenry
San Saba, Texas

(replacing Clayborne Nettleship of San Saba whose term expired)

Vernon Earl "Buddy" Schrader

Horseshoe Bay, Texas

(replacing Walter Garrett of Wharton whose term expired)

To be members of the Guadalupe-Blanco River Authority Board of Directors for terms to expire February 1, 2015:

Michael D. Schultz

Fair Oaks Ranch, Texas

(replacing Margaret Grier of Boerne whose term expired)

Clifton Leo "Cliff" Thomas, Jr.

Victoria, Texas

(Mr. Thomas is being reappointed)

Grace G. Kunde

Seguin, Texas

(Ms. Kunde is being reappointed)

To be members of the Texas Tech University System Board of Regents for terms to expire January 31, 2015:

Nancy R. Neal

Lubbock, Texas

(replacing F. Scott Dueser of Abilene whose term expired)

Mickey Linn Long

Midland, Texas

(replacing Bob Stafford of Amarillo whose term expired)

John T. Huffaker

Amarillo, Texas

(replacing Windy Sitton of Lubbock whose term expired)

To be members of The Texas A&M University System Board of Regents for terms to expire February 1, 2015:

James Eugene Schwertner, Jr.

Austin, Texas

(replacing John White of Houston whose term expired)

Phillip David Adams

Bryan, Texas

(replacing Erle Nye of Dallas whose term expired)

Bill Jones

Austin, Texas

(Mr. Jones is being reappointed)

To be a member of the Office of Public Utility Counsel for a term to expire February 1, 2011:

Don Ballard

Austin, Texas

(Mr. Ballard is being reappointed)

To be a member of the Manufactured Housing Board for a term to expire January 31, 2015:

Sheila M. Valles-Pankratz
Mission, Texas

(Ms. Valles-Pankratz is being reappointed)

To be the Public Counsel for the Office of Public Insurance Counsel for a term to expire February 1, 2011:

Deeia Denise Beck
Fort Worth, Texas

(Ms. Beck is being reappointed)

To be a member of the Texas Workforce Commission for a term to expire February 1, 2015:

Thomas Weir Pauken
Dallas, Texas

(Mr. Pauken is being reappointed)

Respectfully submitted,

/s/Rick Perry
Governor

SENATE RESOLUTION 144

Senator Hinojosa offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Hadassah for its outstanding work in encouraging volunteerism and its efforts in promoting and supporting medical research; and

WHEREAS, Hadassah, the Women's Zionist Organization of America, is a volunteer women's organization whose members are dedicated to strengthening their partnership with Israel, ensuring Jewish continuity, and playing a role as a dynamic force in American society; and

WHEREAS, The Hadassah Medical Organization in Israel is one the world's foremost health care institutions, leading the way in research on such issues as Parkinson's disease, multiple sclerosis, liver cancer, and cystic fibrosis; and

WHEREAS, In the United States, Hadassah has for many years been an advocate of health care reform and has promoted further research on the correlation between disease and the environment; and

WHEREAS, With 20 chapters and nearly 9,000 members in Texas, this exemplary organization provides a valuable forum for efforts to promote education, advance women's and children's health care rights, and provide vital medical care and research; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Hadassah on its exemplary efforts in volunteerism and medical research and extend to its members a heartfelt welcome to the State Capitol; and, be it further

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

HINOJOSA
SHAPIRO

SR 144 was read and was adopted without objection.

GUESTS PRESENTED

Senator Hinojosa, joined by Senator Shapiro, was recognized and introduced to the Senate representatives of Hadassah: Rosalie Weisfeld, Past President, McAllen Chapter; Claudia Silberman, Regional Board Member; Laurie Werner, National Board Member; Barbara Shurberg, President, Greater Southwest Region; and Debby Rice, Date with the State Organizer; accompanied by a delegation of other members.

The Senate welcomed its guests.

MESSAGE FROM THE SUPREME COURT OF TEXAS

The following Message from the Supreme Court of Texas was read and was referred to the Committee on Nominations:

THE SUPREME COURT OF TEXAS

Austin, Texas
February 5, 2009

The Honorable David Dewhurst
Lieutenant Governor of Texas
Capitol Station
P.O. Box 12068
Austin, Texas 78711

Dear Lieutenant Governor Dewhurst:

Since adjournment of the 80th Texas Legislature, the Supreme Court of Texas has made the following appointment to the State Commission on Judicial Conduct, which requires the advice and consent of the Senate:

The Honorable Janet P. "Jan" Patterson
Justice, Third Court of Appeals, Austin, Texas

Justice Patterson was appointed on November 27, 2007. She succeeds Justice Joseph B. Morris. Justice Patterson was appointed to a term of six years which will expire on November 19, 2013.

In addition, the Court has made the following appointments to the Board of Directors of the State Bar of Texas, all of which require the advice and consent of the Senate:

Ms. Pamela L. Gilbert, San Antonio
Mr. Samuel B. Lovelady, Amarillo
Mr. John Hatchel, Woodway
Ms. Deborah R. Gagliardi, Arlington
Mr. Curtis V. Flowers, Houston
Mr. Rob Kyker, Richardson

Ms. Gilbert was appointed on May 28, 2008, to a term of three years which will expire on June 30, 2011. She succeeds Ms. Sandy Stewart, whose term had expired.

Mr. Lovelady was appointed on May 28, 2008, to a term of three years which will expire on June 30, 2010. He succeeds Dr. Lloyd Garland, whose term had expired.

Mr. Hatchel was appointed on May 14, 2008, to a term of three years which will expire on June 30, 2011. He succeeds Mr. Rodolfo Garcia, whose term had expired.

Ms. Gagliardi was appointed on November 19, 2007, to a term which will expire on June 30, 2010. She succeeds Mr. Bill Burch, whose term had expired.

Mr. Flowers was appointed on September 26, 2007, to a term which will expire on June 30, 2009. He succeeds Mr. Fred Aurbach, whose term had expired.

Mr. Kyker was appointed on September 26, 2007, to a term which will expire on June 30, 2009. He succeeds Mr. Mickey R. Redwine, whose term had expired.

The Supreme Court of Texas requests the consent and confirmation of the Senate for each of these appointments.

Sincerely,

/s/Wallace B. Jefferson
Chief Justice

MESSAGE FROM THE STATE BAR OF TEXAS

The following Message from the State Bar of Texas was read and was referred to the Committee on Nominations:

STATE BAR OF TEXAS

Austin, Texas
February 3, 2009

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

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

To be a member of the Commission on Judicial Conduct for a term to expire November 19, 2013:

Tom Alan Cunningham
Cunningham, Darlow & Zook, LLP
900 Fannin, Suite 3700
Houston, TX 77010

(Mr. Cunningham was appointed on September 28, 2007, by then State Bar President Gib Walton for a term beginning November 20, 2007, and replacing Ronald D. Krist)

Respectfully submitted,

/s/Harper Estes
President

SENATE RESOLUTION 151

Senator Uresti offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join the citizens and community leaders of Pecos County in celebrating Pecos County Day at the State Capitol on February 9, 2009; and

WHEREAS, Established in 1871, Pecos County covers an area of more than 4,700 square miles in southwest Texas and has some 17,000 residents; it is the second-largest county in the state and is named for the Pecos River, which flows along its northern boundary; and

WHEREAS, Pecos County's historical importance dates back into prehistory; archeological excavations at Squawteat Peak have revealed a large prehistoric camp with numerous artifacts and signs of human occupation, and archeological finds along Tunas Creek include a burial site, pictographs, and artifacts; and

WHEREAS, Traders on the Chihuahua Trail passed through the area by Comanche Springs about 1840; the first permanent settlement was Fort Stockton, a United States Army outpost established in 1859; the nearby town of St. Gall became a supply center for the army, mail stages, and wagon trains and was later renamed Fort Stockton and became the county seat; and

WHEREAS, Communities grew rapidly after the construction of the railroad across the county in 1913; irrigation projects boosted agricultural production, and hundreds of acres were planted with cotton and sorghum; since the discovery of oil in the Yates field in 1927, oil and gas production has dominated the local economy, but the county is also known for its production of sheep, goats, cattle, and hogs and the cultivation of onions, peppers, melons, and pecans; and

WHEREAS, Residents of Pecos County can take pride in the important contributions their county has made in the history and development of this state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby extend a warm welcome to the representatives from Pecos County and recognize February 9, 2009, as Pecos County Day at the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared as a memento of this special day.

SR 151 was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate Laurie English, Pecos County District Attorney, and attorneys Ori White and Jesse Gonzales.

The Senate welcomed its guests.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 138 by Van de Putte, In memory of Tomas "T. T." Moreno of San Antonio.

SR 148 by Hinojosa, In memory of Orlando Julio Sanchez of San Antonio.

SR 157 by Lucio, In memory of José Angel Gavito of Brownsville.

SR 158 by Patrick, In memory of Rodney Dale Waters of Spring.

Congratulatory Resolutions

SR 136 by Nelson, Commending Philip J. Huber, Jr., for his service as president of the Dallas County Medical Society.

SR 149 by Hinojosa and Uresti, Commending Justin Rokohl for his service to our nation in the United States Marine Corps.

SR 155 by Lucio, Congratulating Patricia "Cherie" Camacho for earning a 2008 District Award of Merit by the Tip O Tex District, Boy Scouts of America.

SR 156 by Lucio, Congratulating Marion Velarde for earning a 2008 District Award of Merit by the Tip O Tex District, Boy Scouts of America.

Official Designation Resolutions

SR 139 by Hegar, Recognizing February 10, 2009, as Waller County Day at the State Capitol.

SR 140 by Hegar, Recognizing February 11, 2009, as Victoria County Day at the State Capitol.

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

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 2:00 p.m. adjourned, in memory of Rodney Dale Waters of Spring, until 11:00 a.m. tomorrow.

APPENDIX

RESOLUTIONS ENROLLED

February 4, 2009

SR 62, SR 79, SR 109, SR 116, SR 120, SR 121, SR 122, SR 123, SR 124, SR 125, SR 126, SR 127, SR 130, SR 131, SR 132, SR 133

SIGNED BY GOVERNOR

February 6, 2009

SCR 2, SCR 6