

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

TWENTY-FIFTH DAY

(Monday, March 23, 2009)

The Senate met at 1:41 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 Tommy Williams, Woodville United Methodist Church, Woodville, offered the invocation as follows:

O God, You have been our help in ages past, and You are our hope for years to come, You are our shelter from the stormy blast, and our eternal home. From generation to generation, this Senate has dealt with the issues of each era and season in Texas history. You have been faithful to give to us and our leaders grace and direction through times of calm in our state and times of storm on our shores, in times of prosperity and economic fragility, in times of honest dealing and corruption, in times of peace and war. You have been faithful to us through it all. You know, O Lord, that we have not always been faithful to live well with Your grace; we have sometimes failed to rise to the occasion of our time and we ask Your forgiveness. We thank You for this new opportunity today to lead well and choose wisely. Look now once again on the Texas State Senate and grant them wisdom, compassion, and insight. We know that decisions made are often messy, complicated, and are found in shades of gray; solutions reached are often incomplete and compromised. But through it all, we pray You'll shed light and chart a way forward through the legislative process so that which results from it may be pleasing to You, the one who holds our eternal destiny in Your hands. Give all these Senators, staff, and advocates vision and a depth of concern and commitment to all the people of this great state. Give them courage to rise to the occasion of this season and era, O God, who was our help in ages past, who is our hope for years to come, our shelter from the stormy blast, and our eternal home. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Friday, March 20, 2009, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-AUTHOR OF SENATE BILL 9

On motion of Senator Zaffirini, Senator Carona will be shown as Co-author of **SB 9**.

CO-AUTHORS OF SENATE BILL 41

On motion of Senator Zaffirini, Senators Estes and Lucio will be shown as Co-authors of **SB 41**.

CO-AUTHORS OF SENATE BILL 89

On motion of Senator Van de Putte, Senators Davis, Uresti, and Zaffirini will be shown as Co-authors of **SB 89**.

CO-AUTHOR OF SENATE BILL 174

On motion of Senator Shapiro, Senator Shapleigh will be shown as Co-author of **SB 174**.

CO-AUTHOR OF SENATE BILL 220

On motion of Senator Nichols, Senator Watson will be shown as Co-author of **SB 220**.

CO-AUTHOR OF SENATE BILL 252

On motion of Senator Estes, Senator Hinojosa will be shown as Co-author of **SB 252**.

CO-AUTHOR OF SENATE BILL 279

On motion of Senator Nelson, Senator Uresti will be shown as Co-author of **SB 279**.

CO-AUTHOR OF SENATE BILL 298

On motion of Senator Carona, Senator Ellis will be shown as Co-author of **SB 298**.

CO-AUTHOR OF SENATE BILL 476

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

CO-AUTHOR OF SENATE BILL 522

On motion of Senator Averitt, Senator West will be shown as Co-author of **SB 522**.

CO-AUTHOR OF SENATE BILL 584

On motion of Senator Van de Putte, Senator Shapleigh will be shown as Co-author of **SB 584**.

CO-AUTHOR OF SENATE BILL 617

On motion of Senator Shapleigh, Senator Wentworth will be shown as Co-author of **SB 617**.

CO-AUTHORS OF SENATE BILL 684

On motion of Senator Lucio, Senators Hinojosa, Uresti, and Zaffirini will be shown as Co-authors of **SB 684**.

CO-AUTHOR OF SENATE BILL 713

On motion of Senator Carona, Senator Nichols will be shown as Co-author of **SB 713**.

CO-AUTHORS OF SENATE BILL 796

On motion of Senator Hinojosa, Senators Uresti and Zaffirini will be shown as Co-authors of **SB 796**.

CO-AUTHOR OF SENATE BILL 872

On motion of Senator Lucio, Senator Hegar will be shown as Co-author of **SB 872**.

CO-AUTHOR OF SENATE BILL 944

On motion of Senator Zaffirini, Senator Van de Putte will be shown as Co-author of **SB 944**.

CO-AUTHOR OF SENATE BILL 1164

On motion of Senator Wentworth, Senator Carona will be shown as Co-author of **SB 1164**.

CO-AUTHOR OF SENATE BILL 1625

On motion of Senator Wentworth, Senator Nelson will be shown as Co-author of **SB 1625**.

CO-AUTHOR OF SENATE BILL 1841

On motion of Senator Van de Putte, Senator Uresti will be shown as Co-author of **SB 1841**.

CO-AUTHOR OF SENATE BILL 1842

On motion of Senator Van de Putte, Senator Uresti will be shown as Co-author of **SB 1842**.

CO-AUTHORS OF SENATE BILL 1931

On motion of Senator Watson, Senators Carona and Shapiro will be shown as Co-authors of **SB 1931**.

MESSAGES FROM THE GOVERNOR

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

Austin, Texas
March 19, 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 appointments:

To be members of the Texas Board of Criminal Justice for terms to expire February 1, 2015:

Oliver John Bell
Horseshoe Bay, Texas

(Mr. Bell is being reappointed)

Janice Harris Lord
Arlington, Texas

(Ms. Lord is being reappointed)

Carmen Villanueva-Hiles
Palmhurst, Texas

(replacing Gregory Coleman of Cedar Park whose term expired)

To be members of the Texas Board of Professional Geoscientists for terms to expire February 1, 2015:

Kelly Krenz Doe
Friendswood, Texas

(Ms. Doe is being reappointed)

Ben Harris
Plano, Texas

(replacing Rene Pena of El Paso whose term expired)

Charles Knobloch
Katy, Texas

(replacing Gordon Ware of Corpus Christi whose term expired)

To be members of the Governing Board of the Texas School for the Blind and Visually Impaired for terms to expire January 31, 2015:

Mary K. Alexander
Valley View, Texas

(replacing Jamie Wheeler of North Richland Hills whose term expired)

Gene Iran Brooks
Austin, Texas

(Dr. Brooks is being reappointed)

Joseph Muniz
Harlingen, Texas

(replacing Donna Clopton of Weatherford whose term expired)

To be members of the Texas Council on Autism and Pervasive Developmental Disorders for terms to expire February 1, 2011:

Anna Penn Hundley
Dallas, Texas

Frank C. McCamant
Austin, Texas

Manuel M. Vela
Harlingen, Texas

(The individuals listed above are being reappointed)

Respectfully submitted,

/s/Rick Perry
Governor

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **SCR 28, SCR 44.**

SENATE RESOLUTION 406

Senator Deuell offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to welcome the citizens of Kaufman County who have come to Austin on March 23, 2009, to celebrate Kaufman County Day at the State Capitol; and

WHEREAS, Kaufman County was created in 1848 and named in honor of David Spangler Kaufman, a state legislator and United States congressman; in 1851, King's Fort, established by William P. King and other settlers in 1840, was selected as county seat and renamed Kaufman; and

WHEREAS, Kaufman County is located in North Texas and is noted as one of the top 10 fastest-growing counties in the state; it has several top-rated public independent school districts; and

WHEREAS, The county is home to three higher education facilities, Southwestern Christian College, Trinity Valley Community College, and Trinity Valley Nursing College; and

WHEREAS, Its historical and cultural attractions include the British Flying Training School Museum, the historic Kaufman County Poor Farm, and the Terrell Heritage Museum; and

WHEREAS, Kaufman County is an outstanding place to live, work, and raise a family, and Kaufman County Day at the State Capitol is an excellent opportunity to pay tribute to the unique history and qualities of the county and its many contributions to the progress and development of the state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby extend a warm welcome to the representatives of Kaufman County and best wishes for an enjoyable Kaufman County Day at the State Capitol; and, be it further

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

SR 406 was read and was adopted without objection.

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate Mayor Hall Richards of Terrell, Mayor William Fortner of Kaufman, Mayor Darrell Grooms of Forney, City Manager James Stroman of Kemp, and Mayor Pro Tempore Cody Frazier of Crandall, accompanied by additional members of the delegation.

The Senate welcomed its guests.

PHYSICIANS OF THE DAY

Senator Ogden was recognized and presented Dr. Ron Mansolo and Dr. Elizabeth Burnell of Leander as the Physicians of the Day.

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

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate Miss Texas Rebecca Robinson, accompanied by Jean Magness, Executive Director of Miss Texas Organization, and Miss Texas contestants from all over the state.

The Senate welcomed its guests.

SENATE RESOLUTION 481

Senator Williams offered the following resolution:

WHEREAS, The Senate of the State of Texas takes great pleasure in joining the delegation of Leadership Southeast Texas members in designating March 23, 2009, as Leadership Southeast Texas Day at the State Capitol; and

WHEREAS, Leadership Southeast Texas represents 120 Southeast Texas businesses, organizations, and governmental entities; the program is the result of a partnership among the counties of Southeast Texas and serves the counties of Chambers, Hardin, Jasper, Jefferson, Liberty, Newton, Orange, and Tyler and the Bolivar Peninsula of Galveston County; and

WHEREAS, Leadership Southeast Texas is an educational program that was founded in 1992 and is designed to identify and motivate leaders in the Southeast Texas region and to provide opportunities for leadership development while contributing to regional economic advancement; and

WHEREAS, Leadership Southeast Texas is an exemplary program that boasts of an impressive membership of 770 graduates who currently reside and work in 87 cities in Texas, in 23 states of the continental United States, in Europe, and in Iraq, China, and Panama; these members continue to serve as ambassadors for Southeast Texas and the entire Lone Star State; and

WHEREAS, Leadership Southeast Texas promotes a better understanding of Southeast Texas by identifying and studying timely issues that affect ongoing area business development and by encouraging innovative approaches to these issues as well as professional interaction and communication with our state's prominent leaders; and

WHEREAS, In today's globalized society, communities are increasingly affected by national and international forces, making it even more essential that citizens stay fully informed and be actively involved; local communities are often on the front lines of change, but events and needs are often too broad to be addressed by one city or county alone; opportunities and challenges must be viewed on a regional and statewide basis if there is to be progress; and

WHEREAS, In light of the continuing impact of Hurricane Rita in 2005 and Hurricane Humberto in 2006 and, most recently Hurricane Ike's catastrophic results in 2007, in order for the Southeast Texas of the future to continue to grow and thrive, it is imperative that its communities appreciate how they support each other and succeed together as a region; and

WHEREAS, Leadership Southeast Texas Day in Austin provides an opportunity for alumni and new graduates to gather at the Capitol to celebrate the achievements of Southeast Texas; these civic-minded men and women are truly worthy of commendation for their substantial contributions to the betterment of the Lone Star State; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby proclaim March 23, 2009, Leadership Southeast Texas Day at the State Capitol and extend to the visiting delegation best wishes for a productive and celebratory day and for continued success in their endeavors; and, be it further

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

WILLIAMS
HUFFMAN
NICHOLS

SR 481 was read and was adopted without objection.

GUESTS PRESENTED

Senator Williams, joined by Senators Huffman and Nichols, was recognized and introduced to the Senate a delegation representing Leadership Southeast Texas: Nelson Bernard, Dr. Paul Szuch, Elaine Albums, Brenda Dickerson, and Tom Henry, accompanied by a delegation of citizens representing Leadership Southeast Texas Day at the State Capitol.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate students from Uvalde High School, accompanied by their Assistant Principal.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The President at 2:04 p.m. announced the conclusion of morning call.

SENATE BILL 576 ON SECOND READING

On motion of Senator Davis and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 576** at this time on its second reading:

SB 576, Relating to the implementation of a project plan or financing plan for a reinvestment zone under the Tax Increment Financing Act and the granting of exemptions from ad valorem taxes imposed on real property in a reinvestment zone under that Act.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 576 ON THIRD READING

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 576** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 576**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 576** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 584 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 584** at this time on its second reading:

CSSB 584, Relating to notification to a patient of a state-operated mental health facility or resident of a residential care facility of the exemption of certain trusts from liability to pay for support.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 584 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 584** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 584**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 584** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 39 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 39** at this time on its second reading:

SB 39, Relating to health benefit plan coverage for routine patient care costs for enrollees participating in certain clinical trials.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 39 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 39** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 39**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 39** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given Monday, March 16, 2009, by Senator Jackson.

Senator Jackson moved confirmation of the nominees listed in the revised report Tuesday, March 17, 2009, by the Committee on Nominations.

The President 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.

Member, State Preservation Board: Charlotte C. Foster, Harris County.

Presiding Judge, First Administrative Judicial Region: John David Ovard, Dallas County.

Members, Advisory Board of Athletic Trainers: Martin Ray Akins, Travis County; Rebecca Spurlock, Tarrant County.

Commissioners, Board of Pilot Commissioners for Galveston County Ports: Vandy Anderson, Galveston County; Sally H. Prill, Galveston County; James Earl Toups, Galveston County.

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

Member, Gulf States Marine Fisheries Commission: David Austin McKinney, Blanco County.

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

Members, Public Safety Commission: Carin Marcy Barth, Harris County; Ada Brown, Dallas County; Carleton Thomas Clowe, Jr., McLennan County; John Thomas Steen, Jr., Bexar County.

Member, State Cemetery Committee: Scott Philen Sayers, Jr., Travis County.

Members, Task Force on Indigent Defense: Jon H. Burrows, Bell County; Knox Fitzpatrick, Dallas County; Anthony C. "Tony" Odiorne, Potter County; Olen U. Underwood, Montgomery County; B. Glen Whitley, Tarrant County.

Members, Telecommunications Planning and Oversight Council: Jennifer Nash Anderson, Chambers County; Dennis M. Donelson, Bexar County; Johanne Ibsen-Wolford, Travis County; Alice E. Owen, Ph.D., Dallas County.

Members, Texas Alcoholic Beverage Commission: Melinda Susan Fredricks, Montgomery County; Steven M. Weinberg, Tarrant County.

Members, Texas Funeral Service Commission: Elwynn "Gene" Allen, Kerr County; Carol M. Becker, Parker County; Sue Evenwel, Titus County; Jess Alan Fields, Sr., Harris County; Joyce McCown Odom, Bexar County; Norberto Salinas, Hildago County.

Members, Texas Historical Commission: Thomas E. Alexander, Kerr County; A. Mario Castillo, Tom Green County; Leslie "Kirk" Courson, Ochiltree County; John W. Crain, Dallas County; David Alfred Gravelle, Dallas County; Jon T. Hansen, El Paso County; Lisa A. Hembry, Dallas County; Steven Lee Highlander, Travis County; Sheri Shelby Krause, Travis County; Gilbert Eric Peterson III, Brewster County; Nancy M. Steves, Bexar County.

Members, Texas State Board of Plumbing Examiners: Dave Lilley, Wichita County; Alejandro "Alex" Meade III, Cameron County; Edward Don Thompson, Smith County.

Members, Board of Directors, Texas Underground Facility Notification Corporation: Christian A. Alvarado, Travis County; Joseph F. Berry, Brazoria County; Barry Calhoun, Dallas County; Judith H. Devenport, Midland County; John Linton, Denton County; James "Jim" Wynn, Midland County.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
March 23, 2009

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTY-FIRST TEXAS LEGISLATURE, REGULAR SESSION:

I, RICK PERRY, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 81st Legislature, now convened:

Legislation associated with wildfire damage and recovery.

Respectfully submitted,
/s/Rick Perry
Governor

SENATE BILL 315 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **SB 315** at this time on its second reading:

SB 315, Relating to the reapportionment of congressional districts and the creation, function, and duties of the Texas Congressional Redistricting Commission.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Lucio, Patrick, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Estes, Fraser, Harris, Huffman, Jackson, Nelson, Nichols, Ogden, Shapiro, Williams.

The bill was read second time and was passed to engrossment by the following vote: Yeas 19, Nays 12.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hinojosa, Lucio, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Shapiro, Williams.

COMMITTEE SUBSTITUTE
SENATE BILL 309 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 309** at this time on its second reading:

CSSB 309, Relating to the licensing and regulation of amusement redemption machines at certain locations; providing criminal penalties.

(Senator Carona in Chair)

(Senator Eltife in Chair)

The bill was read second time.

(President in Chair)

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 309** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike added Section 2153.502(1), Occupations Code (page 1, lines 23 and 24), and substitute the following:

(1) "Amusement redemption machine" means an electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less.

(2) In SECTION 1 of the bill, in added Section 2153.503(c)(9), Occupations Code (page 1, line 63), strike "Section 47.01(4)(B), Penal Code" and substitute "this subchapter and rules adopted under this subchapter".

(3) In SECTION 1 of the bill, in added Section 2153.503(e), Occupations Code (page 2, lines 15 and 20), strike "Section 47.01(4)(B), Penal Code" both places it appears and substitute "this subchapter and rules adopted under this subchapter".

(4) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 47.01(4), Penal Code, is amended to read as follows:

(4) "Gambling device" means any electronic, electromechanical, or mechanical contrivance [~~not excluded under Paragraph (B)~~] that for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance, even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. The term[-:

~~[(A)]~~ includes, but is not limited to, a slot machine, gray machine, video lottery machine, eight-liner or gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker, or similar electronic, electromechanical, or mechanical games, or facsimiles thereof, that operate by chance or partially so, that as a result of the play or operation of the game award credits or free games, and that record the number of free games or credits so awarded and the cancellation or removal of the free games or credits[-and

~~[(B) does not include any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less].~~

SECTION _____. Section 47.02(e), Penal Code, is repealed.

SECTION _____. (a) The change in law made by this Act applies only to an offense committed on or after September 1, 2009. For purposes of this section, an offense is committed before September 1, 2009, if any element of the offense occurs before that date.

(b) An offense committed before September 1, 2009, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

The amendment to **CSSB 309** was read.

Senator Patrick withdrew Floor Amendment No. 1.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 309** as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 47.01, Penal Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Device" or "contrivance" means all or part of an electronic, electromechanical, or mechanical contrivance, machine, or apparatus.

(Senator Watson in Chair)

(President in Chair)

The amendment to **CSSB 309** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Jackson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 309 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SCR 41 by Ellis, Commending the honorees of the 2009 Texas Medal of Arts Awards.

SR 498 by Watson, Recognizing the Austin Section of the National Council of Jewish Women on the occasion of its 25th anniversary.

SR 500 by Ogden, Recognizing the Mental Health Mental Retardation Authority of Brazos Valley on the occasion of its 35th anniversary.

SR 503 by Ellis, Recognizing Terence H. Fontaine of Houston for his contributions to his community.

Official Designation Resolution

SR 497 by Zaffirini, Designating March, 2009, as National Intellectual and Developmental Disabilities Awareness Month in Texas.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 3:49 p.m. adjourned, in memory of Socorro Amieva Gonzalez of Brownsville, until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

March 23, 2009

HEALTH AND HUMAN SERVICES — **CSSB 68, CSSB 424, SB 532, SB 572, SB 705, CSSB 806, SB 870, CSSB 381**

CRIMINAL JUSTICE — **CSSB 261, CSSB 730**

JURISPRUDENCE — **CSSB 431, CSSB 478**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 480, CSSB 702**

HIGHER EDUCATION — **CSSB 43, SB 48, SB 194, SB 305, SB 811, SB 847**
NATURAL RESOURCES — **CSSB 540**

RESOLUTIONS ENROLLED

March 20, 2009

**SCR 28, SCR 44, SR 479, SR 484, SR 486, SR 487, SR 488, SR 489, SR 490,
SR 491, SR 492, SR 494, SR 495, SR 496**

SENT TO GOVERNOR

March 23, 2009

SCR 28, SCR 44