

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

TWENTY-EIGHTH DAY

(Thursday, March 26, 2009)

The Senate met at 10:10 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, 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 Roberta "Bobbie" Knowles, Saint Philip Episcopal Church, Austin, offered the invocation as follows:

O God, You are the fountain of wisdom, and we invite Your presence to be with these Senators in the Legislature of this state who have been placed in position of public trust. We thank You that Your will is good and gracious and that Your law is truth. Help these men and women as they make decisions on behalf of Your people that they may enact laws that shall please You, to the glory of Your name and the welfare of Your people. May they also serve justice and promote the dignity and freedom of every person. We thank You for this 81st Session of the Texas Legislature and ask Your blessings. 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.

CO-AUTHOR OF SENATE BILL 9

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

CO-AUTHOR OF SENATE BILL 220

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

CO-AUTHOR OF SENATE BILL 1443

On motion of Senator Zaffirini, Senator Harris will be shown as Co-author of **SB 1443**.

MESSAGE FROM THE GOVERNOR

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

Austin, Texas
March 25, 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 Chiropractic Examiners for terms to expire February 1, 2015:

Larry R. Montgomery
Belton, Texas

(replacing David Sime of El Paso whose term expired)

Patrick J. Thomas
Corpus Christi, Texas

(replacing Scott Isdale of Belton whose term expired)

Thomas O. Turner
San Antonio, Texas

(replacing Marcia Daughtrey of Tyler whose term expired)

Respectfully submitted,
/s/Rick Perry
Governor

SENATE RESOLUTION 516

Senator Seliger offered the following resolution:

WHEREAS, The year 2009 marks the 70th anniversary of Cal Farley's Boys Ranch and the 60th anniversary of Cal Farley's Girlstown, U.S.A., and staff and supporters of these worthy organizations are visiting the State Capitol on this day to commemorate these notable milestones; and

WHEREAS, A former semipro baseball player and a businessman, Cal Farley was inspired to help youth after noticing them congregated at the ballpark when they should have been in school; he discovered that most of the youth came from broken homes, and he and other men formed the Maverick Club and Kids, Inc., to provide them with a sports program, as well as food, clothing, and medical attention; and

WHEREAS, Concerned that many youth were still not getting the help they needed, Mr. Farley dreamed of creating a place where troubled boys could be given a second chance for a successful future; in 1938, a local rancher donated 120 acres

northwest of Amarillo to the cause, and Mr. Farley began housing boys there the following year; the original charter for Boys Ranch was filed by the Texas secretary of state on March 14, 1939; and

WHEREAS, Mr. Farley promoted the ranch on his radio program, the "Cal Farley Show," and listeners throughout the state became supporters of Boys Ranch, which by 1947 had grown to include some 100 boys; before the end of the decade, abused and neglected girls would also have a place to find success with the founding of Girlstown, U.S.A., in 1949 by Amelia Anthony; located on land near the community of Whiteface, Girlstown, U.S.A., became an affiliate of Cal Farley's Boys Ranch in 1987; and

WHEREAS, Today, Cal Farley's is one of America's largest privately funded child and family service providers, offering residential, educational, and community-based services at no cost to the families of children in its care; guided by Christian values, its programs are designed to strengthen families and support the physical, emotional, and spiritual development of children; and

WHEREAS, Currently serving approximately 300 children on two campuses, both Boys Ranch and Girlstown, U.S.A., feature cottages where 10 to 12 children live with house parent couples providing supervision, mentoring, and parenting; residents receive academic, athletic, and extracurricular opportunities similar to those offered at other Texas public schools, and qualified alumni earn financial scholarships to college; and

WHEREAS, In addition to its campuses, Cal Farley's operates family resource centers in cities throughout Texas, including Amarillo, Arlington, Austin, and Houston, with another opening in San Antonio in 2009; these centers provide such direct services as case management, life-skills coaching, family and parenting programs, and referrals to other agencies; and

WHEREAS, A volunteer board of directors and dedicated employees, including president and CEO Dan Adams, maintain the highest standards of excellence in fulfilling the organization's mission; in addition, the caring gifts of thousands of faithful supporters, or "champions for children," ensure Cal Farley's continued existence; and

WHEREAS, More than 8,000 boys and girls from every state in the nation and a variety of cultural backgrounds have found hope and opportunity at Cal Farley's Boys Ranch and Cal Farley's Girlstown, U.S.A., and it is indeed fitting to honor the proud legacy of Cal Farley's on this significant occasion; now, therefore, be it

RESOLVED, That the Senate of the 81st Texas Legislature hereby recognize March 26, 2009, as Cal Farley's Day at the State Capitol and commemorate the 70th anniversary of Cal Farley's Boys Ranch and the 60th anniversary of Cal Farley's Girlstown, U.S.A.; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Cal Farley's as an expression of high regard by the Texas Senate.

SR 516 was again read.

The resolution was previously adopted on Wednesday, March 25, 2009.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate representatives of Cal Farley's Boys Ranch and Cal Farley's Girlstown, U.S.A.: Dan Adams, President and Chief Executive Officer; Alan Roberson, former Cal Farley's Chair of the Board; Riley Tillman, resident of Boys Ranch; Markaivia Hubbard, resident of Girlstown, U.S.A.; and Robert Marshall, Girlstown, U.S.A., Campus Administrator; accompanied by a delegation of residents.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The President at 10:20 a.m. announced the conclusion of morning call.

SENATE BILL 532 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 532** at this time on its second reading:

SB 532, Relating to a physician's delegation of prescriptive authority to physician assistants or advanced practice nurses.

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 532 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 532** 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 532**, 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 532** 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.

GUESTS PRESENTED

Senator Eltife was recognized and introduced to the Senate a delegation of nursing students from Panola College.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE SENATE BILL 220 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 220** at this time on its second reading:

CSSB 220, Relating to the conversion of a nontolled state highway or segment of the state highway system to a toll project.

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 220 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 220** 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 220**, 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 220** 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.

PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. Mitchell Finnie of San Antonio as the Physician of the Day.

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

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate fifth-grade students from Saint Francis School in Austin, accompanied by their teachers and sponsors.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Nichols was recognized and introduced to the Senate a delegation of citizens representing Leadership Jacksonville.

The Senate welcomed its guests.

AT EASE

The President at 10:36 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 10:41 a.m. called the Senate to order as In Legislative Session.

SENATE RESOLUTION 424

Senator Estes offered the following resolution:

WHEREAS, Proud residents of Wilbarger County are gathering to celebrate Wilbarger County and City of Vernon Day at the State Capitol on March 26, 2009; and

WHEREAS, Situated upon the rolling grasslands of North Texas, Wilbarger County was once part of the buffalo hunting grounds of the Comanche; named for early settlers Josiah and Mathias Wilbarger, the county was established in 1858; a branch of the Chisholm Trail passed through the area, and six million longhorn traversed the Red River at Doan's Crossing during the great cattle drives; oil, discovered in the early 20th century, remains important to the region's economy; and

WHEREAS, County seat Vernon was originally called Eagle Flat for the abundance of nesting eagles nearby; today, the city is a center for farming, ranching, and the petroleum industry; the birthplace of rock and roll legend Roy Orbison, the town is also home to Vernon College and the Red River Valley Museum, which chronicles the history, culture, and geography of the region; and

WHEREAS, Established in 1849, the Waggoner Ranch, south of Vernon, is the largest ranch in Texas under one fence and a five-time winner of the Texas Ranch Roundup; the Santa Rosa Palomino Club is a renowned precision equestrian riding club, and the club's annual Santa Rosa Roundup draws thousands of visitors and top professional rodeo riders; residents and visitors alike also enjoy the picnic every May at Doan's Crossing, one of the oldest annual events in Texas; and

WHEREAS, Celebrating their rich and colorful history as they work together to build a bright future, the citizens of Vernon and Wilbarger County may take justifiable pride in the important role their unique region continues to play in the story of the Lone Star State; now, therefore, be it

RESOLVED, That the Senate of the 81st Texas Legislature hereby recognize March 26, 2009, as Wilbarger County and City of Vernon Day at the State Capitol and extend to the visiting delegation sincere best wishes for a memorable and meaningful visit to Austin.

SR 424 was again read.

The resolution was previously adopted on Monday, March 16, 2009.

GUESTS PRESENTED

Senator Estes, joined by Senator Duncan, was recognized and introduced to the Senate Jeff Bearden, Mayor, City of Vernon; Robert Webb, President, Vernon Chamber of Commerce; Doug Matthews, Board Member, Business Development Corporation; and Sylvia Mahoney, Vernon College Board of Trustees; accompanied by a delegation of citizens from the City of Vernon.

The Senate welcomed its guests.

SENATE RULE 11.10(a) SUSPENDED (Public Notice of Committee Meetings)

On motion of Senator Van de Putte and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Veteran Affairs and Military Installations might meet today.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SR 525 by Jackson, Recognizing the Texas Council of Child Welfare Boards for its commitment to protecting Texas children.

SR 528 by Davis, Recognizing William M. Jordan of Fort Worth on the occasion of his retirement from the Center for Cancer and Blood Disorders.

Official Designation Resolution

SR 527 by Nichols, Declaring March 25 and 26, 2009, as Jacksonville Leadership Days.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 10:50 a.m. adjourned until 1:30 p.m. Monday, March 30, 2009.

APPENDIX

COMMITTEE REPORTS

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

March 26, 2009

ECONOMIC DEVELOPMENT — **CSSB 605, CSSB 313**

AGRICULTURE AND RURAL AFFAIRS — **CSSB 768**

STATE AFFAIRS — **CSSB 76, CSSB 78, CSSB 79, CSSB 92, CSSB 182, SB 482, CSSB 747, CSSB 762, CSSB 779, CSSB 888, SB 957, CSSB 964, CSSB 972, CSSB 1111, CSSB 1134**

CRIMINAL JUSTICE — **CSSB 257, SB 269, SB 709, SB 729, CSSB 777, SB 808, SB 809, SB 1278, SJR 11**

INTERNATIONAL RELATIONS AND TRADE — **CSSB 1085, CSSB 1368**

BILLS ENGROSSEDMarch 25, 2009

SB 175, SB 300, SB 381, SB 424, SB 470, SB 476, SB 506, SB 531, SB 572, SB 730, SB 731, SB 769, SB 820

RESOLUTIONS ENROLLEDMarch 25, 2009

SR 483, SR 493, SR 508, SR 510, SR 513, SR 514, SR 515, SR 516, SR 517, SR 518, SR 519, SR 520, SR 521, SR 522, SR 523, SR 524