

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRTY-EIGHTH DAY

(Wednesday, April 4, 2007)

The Senate met at 11:23 a.m. pursuant to adjournment and was called to order by the President.

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

Absent-excused: Gallegos.

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

Dr. Yusuf Kavakci, Imam and Resident Scholar, Dallas Central Mosque, Dallas, offered the invocation as follows:

In the name of God, Allah, the beneficent, the merciful, all praise is for Allah, our Lord, the Lord of the worlds, the compassionate, the merciful, master of the day of judgment. O God, Allah, You alone we worship, and You alone we call on for help. O Allah, guide us to the straight path, the path of those whom You have favored, not of those who have earned Your wrath or of those who have lost the way. Our Lord, have mercy on us from Yourself and guide us in our efforts, strivings, and works. Amen.

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

The motion prevailed without objection.

LEAVE OF ABSENCE

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

CO-AUTHORS OF SENATE BILL 103

On motion of Senator Hinojosa, Senators Gallegos, Janek, Nelson, Wentworth, and Williams will be shown as Co-authors of **SB 103**.

CO-AUTHOR OF SENATE BILL 450

On motion of Senator Uresti, Senator Zaffirini will be shown as Co-author of **SB 450**.

CO-AUTHOR OF SENATE BILL 529

On motion of Senator Watson, Senator Seliger will be shown as Co-author of **SB 529**.

CO-AUTHOR OF SENATE BILL 750

On motion of Senator Deuell, Senator Hegar will be shown as Co-author of **SB 750**.

CO-AUTHOR OF SENATE BILL 1266

On motion of Senator Brimer, Senator Shapleigh will be shown as Co-author of **SB 1266**.

CO-AUTHOR OF SENATE BILL 1972

On motion of Senator Fraser, Senator Seliger will be shown as Co-author of **SB 1972**.

BILL SIGNED

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **SB 495**.

PHYSICIAN OF THE DAY

Senator Watson was recognized and presented Dr. Dana Sprute of Austin as the Physician of the Day.

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

SENATE RESOLUTION 632

Senator Estes offered the following resolution:

WHEREAS, The Senate of the State of Texas takes great pride in recognizing Midwestern State University on its acceptance as a member of the prestigious Council of Public Liberal Arts Colleges; and

WHEREAS, Midwestern State University, an institution of higher education in Wichita Falls, is a premier provider of higher education services to 6,400 students; and

WHEREAS, As part of its mission, Midwestern State University aspires to be the leading public liberal arts institution of the State of Texas; and

WHEREAS, Midwestern State University was accepted into membership by the Council of Public Liberal Arts Colleges in June of 2006 and joined 23 nationally recognized institutions of higher education from throughout the United States; these esteemed institutions are committed to providing superior arts and sciences education to undergraduate students; and

WHEREAS, The council's member schools are further distinguished by small classes, innovations in teaching, personal interactions with faculty, opportunities for faculty-supervised research, supportive environments, and the cultural and intellectual diversity integral to an education program; and

WHEREAS, Midwestern State University is the only public university in Texas to be designated a member of the Council of Public Liberal Arts Colleges; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby congratulate Midwestern State University on this outstanding achievement and designation; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Midwestern State University as an expression of high regard from the Texas Legislature.

SR 632 was read and was adopted without objection.

(Senator West in Chair)

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate representatives of Midwestern State University.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 4, 2007

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:

HB 1342, Relating to the creation of an additional judicial district in Cameron County.

HB 1343, Relating to the creation of an additional judicial district in Cameron County.

HB 1554, Relating to the creation of an additional judicial district in El Paso County.

HB 1631, Relating to abolishing the office of inspector of hides and animals.

HCR 180, Honoring the life of James Harold Doolittle and recognizing his military aviation achievements.

HCR 184, Recognizing April 4, 2007, as Marshall Day at the State Capitol.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Eltife was recognized and introduced to the Senate a delegation of citizens from Marshall.

The Senate welcomed its guests.

SENATE RESOLUTION 633

Senator Estes offered the following resolution:

SR 633, In memory of the Honorable John Gavin of Wichita Falls.

The resolution was read.

On motion of Senator Estes, **SR 633** was adopted by a rising vote of the Senate.

In honor of the memory of the Honorable John Gavin of Wichita Falls, the text of the resolution is printed at the end of today's *Senate Journal*.

SENATE RESOLUTION 636

Senator Estes offered the following resolution:

SR 636, In memory of Sergeant Gary S. Johnston of Windthorst.

The resolution was read.

Senator Estes was recognized and introduced to the Senate the parents of Gary S. Johnston: J. B. "Nubbin" Johnston and Angela Johnston.

The Senate welcomed its guests and extended its sympathy.

On motion of Senator Estes, **SR 636** was adopted by a rising vote of the Senate.

In honor of the memory of Sergeant Gary S. Johnston of Windthorst, 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 his great-niece, Andie Smith, and three of his sisters, Frankie Locke, Mary Duncan, and Jill Duncan.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 4, 2007

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:

SB 300, Relating to the duration of judgment liens in favor of the state.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PERMISSION TO INTRODUCE BILLS

On motion of Senator Whitmire and by unanimous consent, Senate Rule 7.07(b) was suspended to permit the introduction of the following bills:

SB 1979, SB 1980, SB 1995, SB 1996, SB 2000, SB 2001, SB 2005.

SENATE CONCURRENT RESOLUTION 52

The Presiding Officer 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 80th 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, April 4, 2007, and ending on Tuesday, April 10, 2007.

WHITMIRE

SCR 52 was read.

On motion of Senator Whitmire and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

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

Absent-excused: Gallegos.

CONCLUSION OF MORNING CALL

The Presiding Officer, Senator West in Chair, at 11:48 a.m. announced the conclusion of morning call.

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate a delegation of citizens from Wichita Falls, representing Wichita Falls Day at the State Capitol.

The Senate welcomed its guests.

(Senator Carona in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 288 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 288** at this time on its second reading:

CSSB 288, Relating to health care associated infection rates at certain health care facilities and the creation of an advisory panel.

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 except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 288 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 288** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Gallegos.

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 288**, 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 288** 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 30, Nays 0.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 990 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 990** at this time on its second reading:

CSSB 990, Relating to the marital property interest in certain employee benefits.

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 except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 990 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 990** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Gallegos.

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 990**, 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 990** 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 30, Nays 0.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 44 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 44** at this time on its second reading:

CSSB 44, Relating to the provision of intervention or counseling services to certain persons who have committed family violence and to a process for accrediting those services.

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 except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 44 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 44** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Gallegos.

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 44**, 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 44** 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 30, Nays 0.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 1012 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1012** at this time on its second reading:

CSSB 1012, Relating to the establishment of regional participation agreements between certain municipalities and districts; authorizing the issuance of bonds.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1012** (committee printing) in SECTION 1 of the bill, in added Section 43.0754, Local Government Code, by striking Subsection (m) (page 3, line 54, through page 4, line 8) and substituting the following:

"(m) Notwithstanding any defect, ambiguity, discrepancy, invalidity, or unenforceability of a regional participation agreement that has been voluntarily entered into and fully executed by the parties, or any contrary law, common law doctrine, or municipal charter provision, and for the duration of any annexation deferral period established in the agreement during which a district continues to perform its obligations under the agreement:

(1) Section 42.023 and any other law or municipal charter provision relating to the reduction of the extraterritorial jurisdiction of an eligible municipality that is a party do not apply, and Sections 42.041(b)-(e) do not apply to any land or owner of land within a district that is a party;

(2) the governing body of an eligible municipality that is a party may not initiate or continue an annexation proceeding relating to that area but may include the area covered by the agreement in a municipal annexation plan; and

(3) any area of a district that is a party to be released from the extraterritorial jurisdiction of an eligible municipality that is a party under an agreement, or that is to be incorporated or included within an alternate form of government with the consent of a municipality that is a party under an agreement, shall, by operation of law and without further action by a party or its governing body, be released from the extraterritorial jurisdiction, or consent of the municipality to the incorporation or adoption of an alternate form of government shall be deemed to have been given, at the time or upon the occurrence of the events specified in the agreement."

The amendment to **CSSB 1012** 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. 1 except as follows:

Absent-excused: Gallegos.

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

CSSB 1012 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 1012 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1012** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Gallegos.

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 1012**, 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 1012** 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 30, Nays 0.

Absent-excused: Gallegos.

COMMITTEE SUBSTITUTE SENATE BILL 462 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 462** at this time on its second reading:

CSSB 462, Relating to the allocation of revenue from the municipal hotel occupancy tax for the arts for certain municipalities.

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 except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 462 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 462** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Gallegos.

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 462**, 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 462** 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 30, Nays 0.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 1207 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1207** at this time on its second reading:

CSSB 1207, Relating to the removal by the county commissioners court of appointed special district board members who engage in misconduct.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1207** in Section 1 of the bill as follows:

(1) Strike added Section 177.051(a), Local Government Code (Senate committee printing, page 1, lines 26-33), and reletter the section appropriately.

(2) Strike added Section 177.053(a), Local Government Code (Senate committee printing, page 2, lines 48-51), and substitute a new Section 177.053(a) as follows:

(a) The commissioners court of a county may remove for misconduct a director who:
(1) serves as a director of a special district located wholly or partly in the county; and

(2) was appointed by the commissioners court.

The amendment to **CSSB 1207** 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. 1 except as follows:

Absent-excused: Gallegos.

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

CSSB 1207 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Gallegos.

COMMITTEE SUBSTITUTE SENATE BILL 1207 ON THIRD READING

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1207** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Gallegos.

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 1207**, 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 1207** 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 30, Nays 0.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 542 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 542** at this time on its second reading:

CSSB 542, Relating to county authority regarding subdivision platting and land development.

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 except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 542 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 542** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Gallegos.

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 542**, 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 542** 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 30, Nays 0.

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 995 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 995** at this time on its second reading:

CSSB 995, Relating to the publication of certain information regarding proposed toll projects.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 995** (Senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 371.051(a), Transportation Code (page 1, line 53), strike "and".

(2) In added Section 371.051(a), Transportation Code (page 1, line 59), between "return" and the period, insert:

(6) the initial toll rate, the methodology for increasing toll rates, and the projected toll rate at the end of the term of the contract; and

(7) the projected total amount of concession payments

The amendment to **CSSB 995** 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. 1 except as follows:

Absent-excused: Gallegos.

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

CSSB 995 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 995 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 995** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Gallegos.

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 995**, 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 995** 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 30, Nays 0.

Absent-excused: Gallegos.

(Senator Ogden in Chair)

SENATE BILL 60 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **SB 60** at this time on its second reading:

SB 60, Relating to the securing of a child passenger in a motor vehicle.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Hegar, Hinojosa, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Jackson, Patrick.

Absent-excused: Gallegos.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 60** as follows:

(1) In SECTION 1 of the bill, strike the introductory language (committee printing page 1, lines 11 and 12) and substitute:

SECTION 1. Subsections (a) and (b), Section 545.412, Transportation Code, are amended to read as follows:

(2) At the end of SECTION 1 of the bill (committee printing page 1, between lines 19 and 20) insert:

(b) An offense under this section is a misdemeanor punishable by a fine of not ~~[less than \$100 or]~~ more than \$25 ~~[\$200]~~. Notwithstanding any other law, a municipality or county shall remit each fine collected under this section to the comptroller for deposit in a separate account in the general revenue fund that may be appropriated only to the Texas Department of Transportation and used to purchase child passenger safety seat systems and distribute them to low-income families. Chapter 133, Local Government Code, applies to a fine collected under this section.

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

SECTION _____. Section 133.003, Local Government Code, is amended to read as follows:

Sec. 133.003. CRIMINAL FEES. This chapter applies to the following criminal fees:

- (1) the consolidated fee imposed under Section 133.102;
- (2) the time payment fee imposed under Section 133.103;
- (3) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104;
- (4) costs on conviction imposed in certain statutory county courts under Section 51.702, Government Code, and deposited in the judicial fund;
- (5) costs on conviction imposed in certain county courts under Section 51.703, Government Code, and deposited in the judicial fund;
- (6) the administrative fee for failure to appear or failure to pay or satisfy a judgment imposed under Section 706.006, Transportation Code;
- (7) fines on conviction imposed under Section 545.412 or 621.506(g), Transportation Code;
- (8) the fee imposed under Article 102.0045, Code of Criminal Procedure;
- and
- (9) the cost on conviction imposed under Section 133.105 and deposited in the judicial fund.

(4) In SECTION 2(c)(1) of the bill (committee printing page 1, line 34) strike "January" and substitute "June".

(5) In SECTION 2(c)(2) of the bill (committee printing page 1, line 35) strike "January" and substitute "June".

(6) Strike SECTION 3 of the bill (committee printing page 1, line 39) and substitute:

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendment to **SB 60** 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. 1 except as follows:

Absent-excused: Gallegos.

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

SB 60 as amended was passed to engrossment by the following vote: Yeas 25, Nays 5.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Hegar, Hinojosa, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Jackson, Wentworth.

Absent-excused: Gallegos.

SENATE BILL 60 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 60** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Hegar, Hinojosa, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Jackson, Wentworth.

Absent-excused: Gallegos.

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 60**, 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 60** 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 26, Nays 4.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Hegar, Hinojosa, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Jackson.

Absent-excused: Gallegos.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 649 by Shapleigh, In memory of Jackson Valentine Curlin of El Paso.

HCR 98 (Ellis), In memory of James DeAnda of Houston, retired chief judge of the U.S. District Court for the Southern District of Texas.

HCR 129 (Eltife), In memory of Donna Annita High of Paris.

HCR 130 (Eltife), In memory of Commissioner Micheal Roger Blackburn of Lamar County.

Congratulatory Resolutions

SCR 51 by Duncan, Recognizing the Lubbock Independent School District on the occasion of its 100th anniversary.

SR 647 by Eltife, Recognizing Carlton and Martha McAlister on the occasion of their 65th wedding anniversary.

SR 648 by Shapleigh, Recognizing Rodney Wells on the occasion of his retirement from the Texas Parks and Wildlife Department.

SR 650 by Seliger, Recognizing Lee Couch for his service to the people of Texas.

SR 651 by West, Recognizing Marsalis Avenue Baptist Church in Dallas on the occasion of the dedication of its Family Ministry Center.

HCR 74 (Zaffirini), Congratulating the Cotulla High School football team on an exceptional 2006 season.

HCR 83 (Zaffirini), Honoring Hector Trevino on the occasion of his retirement from the U.S. Border Patrol.

HCR 110 (Watson), Commemorating the 30th anniversary of the Assistance League of Austin.

Official Designation Resolutions

HCR 57 (Ellis), Designating February 2007 as Black History Month in Texas.

HCR 127 (Janek), Designating September 2007 as Leukemia and Lymphoma Awareness Month.

HCR 184 (Eltife), Recognizing April 4, 2007, as Marshall Day at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:08 p.m. adjourned, in memory of the Honorable John Gavin of Wichita Falls and Sergeant Gary S. Johnston of Windthorst, until 11:00 a.m. Tuesday, April 10, 2007.

APPENDIX

COMMITTEE REPORTS

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

April 4, 2007

FINANCE — **CSSB 242, CSSB 796, CSSB 1758**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 668**

STATE AFFAIRS — **CSSB 382, CSSB 889, SB 1306, SB 1548, SB 1627, SB 1877, SB 1913, SB 1447**

HEALTH AND HUMAN SERVICES — **SB 811, SB 1694**

GOVERNMENT ORGANIZATION — **SB 1805**

EDUCATION — **SB 51, SB 469, SB 963, SB 883, CSSB 1049, CSSB 1050, SB 1053, SB 1133, CSSB 1161, SB 1231, SB 1233, SB 1325, CSSB 1504**

NATURAL RESOURCES — **SB 1665, SB 1666, SB 1667, SB 1670**

BUSINESS AND COMMERCE — **SB 194, SB 142, SB 1257, SB 1540, SB 1541, SB 1542**

CRIMINAL JUSTICE — **SB 1970**

SENT TO GOVERNOR

April 4, 2007

SB 495

**In Memory
of
John Gavin
Senate Resolution 633**

WHEREAS, The Senate of the State of Texas joins the citizens of Wichita Falls in mourning the loss of the Honorable John Gavin, community leader and former state legislator, who died February 16, 2007, at the age of 86; and

WHEREAS, John Gavin contributed significantly to the City of Wichita Falls through his leadership as a city councilman, mayor, and state legislator; and

WHEREAS, He served as Wichita Falls city councilman and as mayor at a volatile period in history, and he is credited with bringing integration to restaurants and theaters in the city; and

WHEREAS, He served in the Texas House of Representatives from 1981 to 1991; his tenure began during a critical time for the residents of North Texas, who were recovering from the devastating effects of the tornado of 1979; and

WHEREAS, He was chair of the House Insurance Committee for three terms and was instrumental in the revision of worker's compensation laws; he also supported legislation providing health care for the poor; and

WHEREAS, John Gavin was born in Indianapolis on August 23, 1920; he was a fighter pilot in the United States Navy during World War II; he owned Gavin Insurance until his retirement in 1995; and

WHEREAS, He was a highly respected gentleman known for his intelligence and his wonderful sense of humor; he had a reputation as a competent and effective professional and a decent and fair man, whose hallmark was his personal integrity; and

WHEREAS, He was a devoted husband and father, and he leaves behind memories that will be treasured forever by his family and many friends; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby pay tribute to the life of John Gavin and extend sincere condolences to his bereaved family: his wife of 64 years, Jean; his daughters, Jean Ohm, Kathleen Von Buren, Maureen Gavin, and Ann Patterson; and his son, John; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of John Gavin.

ESTES

In Memory
of
Gary S. Johnston
Senate Resolution 636

WHEREAS, The friends and family of Sergeant Gary S. Johnston of Windthorst suffered an immeasurable loss with the death of this valiant young man on January 23, 2007, at the age of 21; and

WHEREAS, Born May 24, 1985, Sergeant Johnston was killed while bravely serving his country during combat operations in Al Anbar Province, Iraq; he was a radio operator with the 3rd Reconnaissance Battalion, 3rd Marine Division, III Marine Expeditionary Force; and

WHEREAS, A 2003 graduate of Windthorst High School, Gary Johnston was known for his friendly, laid-back attitude and for his commitment to meeting the demanding goals he set for himself; he excelled at sports and was an all-state football player, in addition to being named to the all-district football team his senior year; he enjoyed trap shooting and earned many awards for his skills; following graduation, he joined the Marine Corps, fulfilling a long-held dream to pursue a career in the military; and

WHEREAS, He performed his duties with great distinction during his tenure in the Marine Corps, earning promotion to the rank of sergeant and earning the Navy and Marine Corps Achievement Medal, the Global War on Terrorism Service Medal, and the National Defense Service Medal, to name but a few; while serving in Mongolia, he was selected to guard President George W. Bush during his visit to the region; despite the dangerous nature of his mission in Iraq, he remained devoted to serving his country and was intensely proud of the role he was playing in the global war on terrorism; and

WHEREAS, Exemplifying the highest ideals of the United States armed forces, Gary Johnston inspired others through his fortitude, tenacity, and courage; although his passing leaves a void in the lives of those who were fortunate enough to know him, memories of this heroic young Texan will remain close to their hearts for years to come; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby pay tribute to the life of Gary S. Johnston and extend sincere condolences to the members of his family and to his other loved ones; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Gary S. Johnston.

ESTES

