

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRTY-SIXTH DAY

(Monday, April 2, 2007)

The Senate met at 1:38 p.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.

The Reverend Chris Osborne, Central Baptist Church, College Station, offered the invocation as follows:

Lord, I thank You for all the great people in this room. They work hard and long to do the best they can for this great state. I ask today for Your wisdom, courage, and integrity to be behind all they say and do. Thank You again for who they are and all they do in this house. In Jesus' name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Thursday, March 29, 2007, 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-AUTHOR OF SENATE BILL 54

On motion of Senator Zaffirini, Senator Gallegos will be shown as Co-author of **SB 54**.

CO-AUTHOR OF SENATE BILL 81

On motion of Senator Van de Putte, Senator Gallegos will be shown as Co-author of **SB 81**.

CO-AUTHORS OF SENATE BILL 103

On motion of Senator Hinojosa, Senators Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Jackson, Lucio, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Watson, West, Whitmire, and Zaffirini will be shown as Co-authors of **SB 103**.

CO-AUTHOR OF SENATE BILL 127

On motion of Senator Shapleigh, Senator Whitmire will be shown as Co-author of **SB 127**.

CO-AUTHORS OF SENATE BILL 156

On motion of Senator Shapiro, Senators Gallegos and Whitmire will be shown as Co-authors of **SB 156**.

CO-AUTHOR OF SENATE BILL 216

On motion of Senator Fraser, Senator Gallegos will be shown as Co-author of **SB 216**.

CO-AUTHORS OF SENATE BILL 338

On motion of Senator Van de Putte, Senators Gallegos and Whitmire will be shown as Co-authors of **SB 338**.

CO-AUTHOR OF SENATE BILL 922

On motion of Senator Watson, Senator Ellis will be shown as Co-author of **SB 922**.

CO-AUTHOR OF SENATE BILL 1287

On motion of Senator Van de Putte, Senator Lucio will be shown as Co-author of **SB 1287**.

CO-AUTHOR OF SENATE BILL 1506

On motion of Senator Janek, Senator Patrick will be shown as Co-author of **SB 1506**.

CO-AUTHORS OF SENATE RESOLUTION 588

On motion of Senator Uresti, Senators Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Jackson, Janek, Lucio, Shapiro, Van de Putte, West, Williams, and Zaffirini will be shown as Co-authors of **SR 588**.

PHYSICIAN OF THE DAY

Senator Jackson was recognized and presented Dr. Syed Azhar of Houston as the Physician of the Day.

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

(Senator Brimer in Chair)

SENATE RESOLUTION 624

Senator Wentworth offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Texas Lutheran University President Jon N. Moline on the occasion of his retirement on May 31, 2007, after 13 years of loyal service; and

WHEREAS, Dr. Jon Moline became president of Texas Lutheran University on August 1, 1994; he had served as vice president and dean of the college at Saint Olaf College in Northfield, Minnesota, from 1987 to 1994 and was on the faculty of the University of Wisconsin-Madison from 1964 to 1986, where he was chair of the Department of Philosophy and of the Environmental Studies Program; and

WHEREAS, Under Dr. Moline's leadership, Texas Lutheran University has seen a remarkable increase in enrollment and financial support; he led the largest fundraising effort in the university's history, and the university's construction and renovation projects were greatly expanded; the university extended its community outreach and funding to underrepresented groups among the student body and faculty and greatly increased participation in the adult studies program; and

WHEREAS, Among Dr. Jon Moline's most significant accomplishments was the establishment in 2005 of the Center for Servant Leadership, a clearinghouse for connecting Texas Lutheran University students with service-learning opportunities that promote leadership through service to others; and

WHEREAS, To honor both Dr. Moline and his wife, Sandra, who recently retired as a librarian at the university, the board of regents for Texas Lutheran University is renaming the Center for Servant Leadership The Jon and Sandra Moline Center for Servant Leadership as a lasting tribute to the two servant leaders; and

WHEREAS, Known for his integrity and candor, Dr. Moline has demonstrated he is a consummate leader and consensus builder; he is an inspiration to those who have been privileged to know him and to work with him at Texas Lutheran University, and he will be greatly missed; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Dr. Jon N. Moline for his service and his many contributions to Texas Lutheran University and the educational system of this state and extend to him best wishes in all his future endeavors; and, be it further

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

WENTWORTH
ZAFFIRINI

SR 624 was read and was adopted without objection.

GUESTS PRESENTED

Senator Wentworth, joined by Senator Zaffirini, was recognized and introduced to the Senate Jon N. Moline, President, Texas Lutheran University, accompanied by his wife, Sandra.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 2, 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 1**, General Appropriations Bill.**HB 15**, Relating to making supplemental appropriations and reductions in appropriations.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives**REPORT OF COMMITTEE ON NOMINATIONS**

Senator Jackson submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed:

Members, Midwestern State University Board of Regents: Charlye Ola Farris, Wichita County; Carol Carlson Gunn, Palo Pinto County.

Members, Stephen F. Austin State University Board of Regents: Richard B. Boyer, Denton County; James A. Thompson, Fort Bend County; Melvin R. White, Travis County.

Members, Teacher Retirement System of Texas Board of Trustees: James H. "Jim" Lee, Harris County; Phillip M. Mullins, Travis County; Linus D. Wright, Dallas County.

Commissioners, Texas Animal Health Commission: Reta Dyess, Cherokee County; Thomas George Kezar, Hays County; Ernesto A. "Ernie" Morales, Medina County; Michael Louis Vickers, D.V.M., Brooks County.

Members, Texas Higher Education Coordinating Board: Fred W. Heldenfels IV, Travis County; Joe B. Hinton, McLennan County; Elaine Mendoza, Bexar County; Lyn Bracewell Phillips, Bastrop County; A. W. "Whit" Riter III, Smith County.

Members, Texas State Technical College System Board of Regents: Joe M. Gurecky, Fort Bend County; Rolf R. Haberecht, Dallas County; Joe K. Hearne, Dallas County.

Members, University of Houston System Board of Regents: Welcome Wade Wilson, Sr., Harris County; Jim P. Wise, Harris County.

Members, University of North Texas System Board of Regents: Charless D. Mitchell, M.D., Dallas County; Alfredo Silva, Bexar County; C. Dan Smith, Collin County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Jackson gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

SENATE RESOLUTION 628

Senator Ellis offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Glynn R. Birch, national president of Mothers Against Drunk Driving (MADD) and welcome him to the State Capitol; and

WHEREAS, The first male and minority president in the 25-year history of MADD, Mr. Birch has volunteered his time and talent for more than 15 years to further the organization's mission at the local, state, and national levels; and

WHEREAS, Following the tragedy of his son's death at the hands of a habitual drunk driver, Mr. Birch began serving as a volunteer speaker for the MADD Central Florida Chapter in Orlando; his participation increased through the years, and he was elected chapter president in 1999; and

WHEREAS, Mr. Birch was a featured speaker at the MADD National Diversity Forum in 1999 and at several MADD national conferences; he has served as a trainer for new victim advocates, and he has represented MADD to numerous groups during his tenure with the organization; he was named National President of MADD in July of 2005, and he is truly deserving of appreciation and admiration for his years of hard work and his exceptional contributions to this most valuable organization; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby commend Glynn R. Birch for his efforts to fight drunk driving and to help other victims and extend to him a heartfelt welcome to Austin and the State Capitol; and, be it further

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

SR 628 was read and was adopted without objection.

GUEST PRESENTED

Senator Ellis was recognized and introduced to the Senate Glynn R. Birch, National President, Mothers Against Drunk Driving.

The Senate welcomed its guest.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

HB 1 to Committee on Finance.

HB 15 to Committee on Finance.

HB 1379 to Committee on Health and Human Services.

CONCLUSION OF MORNING CALL

The Presiding Officer, Senator Brimer in Chair, at 1:52 p.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 306 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 306** at this time on its second reading:

CSSB 306, Relating to the appointment of counsel to represent an indigent defendant in a capital case and to the reimbursement of certain expenses incurred by appointed counsel.

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 306 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 306** 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 306**, 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 306** 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.

SENATE BILL 565 ON THIRD READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 565** at this time on its third reading and final passage:

SB 565, Relating to the locations where the district courts and the courts of appeals may hear cases, hold court, and transact business.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

SENATE BILL 90 WITH HOUSE AMENDMENT

Senator Van de Putte called **SB 90** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 90**, second reading engrossment, in SECTION 1, in added Section 101.0071(k)(1), Election Code (page 3, line 17), by inserting between "overseas" and the semicolon "and the expansion of the program to include all overseas voters".

The amendment was read.

Senator Van de Putte moved to concur in the House amendment to **SB 90**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Gallegos.

ACKNOWLEDGMENT

The Presiding Officer, Senator Brimer in Chair, acknowledged the presence of Governor Rick Perry.

SENATE RESOLUTION 588

Senator Uresti offered the following resolution:

WHEREAS, Child abuse and neglect is an epidemic in the United States, killing more than three children every day in America, nearly 85 percent of whom are under the age of six and nearly half of whom are under the age of one; and

WHEREAS, A child is abused or neglected every 11 minutes in Texas; and

WHEREAS, The number of Texas children in foster care due to child abuse increased by 30 percent between the years 2001 and 2005; and

WHEREAS, The direct costs of child abuse and neglect to our nation, including judicial, law enforcement, and health system responses to child maltreatment, are estimated at \$24 billion each year; in Texas, the costs associated with investigation, care, placement, and treatment of child abuse and neglect cases approach \$900 million per year; and

WHEREAS, The enormous costs of child abuse and neglect can be reduced by well-funded and robust child abuse prevention and early intervention programs that break the cycle of violence; and

WHEREAS, The 80th Texas Legislature is considering continuing and new funding for a number of effective programs that prevent child abuse and neglect, including early childhood education and health care, substance abuse treatment programs, home visitation programs, and parenting programs; and

WHEREAS, Thousands of child protection workers, medical and legal professionals, clergy members, social workers, school teachers, and other adults devote themselves to preventing and detecting child abuse and neglect, as well as addressing their effects; and

WHEREAS, Thousands of Texans serve as foster parents each year, opening their homes and hearts to children who have suffered child abuse and neglect and protecting them from further harm; and

WHEREAS, Thousands of children are adopted by loving parents each year in Texas, providing them with a new start in life after they have experienced maltreatment; and

WHEREAS, It is possible to fight child abuse and neglect with community-based programs that reflect the diversity, strengths, and resources of the many communities in this great state; and

WHEREAS, All Americans should seek to break the cycle of child abuse and neglect in our country and to give victimized children hope for the future; and

WHEREAS, All children need love, guidance, and safety and deserve to grow up in an environment free from violence and physical harm; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 80th Legislature, hereby recognize April as Child Abuse Prevention Month and commend all Texans who work on behalf of the abused and neglected children of our state; and, be it further

RESOLVED, That a copy of this Resolution be prepared in recognition of Child Abuse Prevention Month.

SR 588 was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate a delegation of citizens representing Child Abuse Prevention Month.

The Senate welcomed its guests.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 623 by Wentworth, In memory of Alton Brooks Laws, Jr., of Mustang Ridge and Lockhart.

Congratulatory Resolutions

SR 619 by Hinojosa, Congratulating Dolores L. Savage of Portland for winning the title of Ms. Coastal Bend Senior 2007.

SR 620 by Lucio, Recognizing H. William and Garrison Card of Harlingen on the occasion of their 60th wedding anniversary.

SR 622 by Williams and Ellis, Congratulating Bill White of Houston for being selected co-winner of the 2007 John F. Kennedy Profile in Courage Award.

SR 625 by Uresti, Recognizing the citizens of Real County for paying tribute to the United States Armed Forces.

SR 627 by Hinojosa, Commending Christopher William Burleigh of Corpus Christi for achieving the rank of Eagle Scout.

SR 629 by Ellis, Commending Ruchi Wanchoo for serving as Physician of the Day at the State Capitol.

SR 630 by Ellis, Commending Reginald Sylvester Walker for his contributions to North Star Baptist Church in Houston.

SR 631 by Ellis, Recognizing Gunnery Sergeant Kenneth N. Brooks on the occasion of his retirement from the United States Marine Corps.

Official Designation Resolution

SR 626 by Shapiro, Recognizing April 17, 2007, as Volunteer Day in Texas.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 2:11 p.m. adjourned 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:

April 2, 2007

CRIMINAL JUSTICE — CSSB 166, SB 182, SB 302, SB 307, CSSB 499, SB 528, SB 536, SB 584, CSSB 597, SB 636, SB 643, SB 823, SB 835, CSSB 867, SB 1097

TRANSPORTATION AND HOMELAND SECURITY — CSSB 792

JURISPRUDENCE — CSSB 660, CSSB 1024, CSSB 1048

STATE AFFAIRS — SB 493, SB 1030, SB 1047, CSSB 1107

TRANSPORTATION AND HOMELAND SECURITY — SB 1074, SB 1080, SB 1375, SB 1536, SB 1631, SB 1657, SB 1711

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — SB 371, SB 686

TRANSPORTATION AND HOMELAND SECURITY — SB 1077

HEALTH AND HUMAN SERVICES — CSSB 409, CSSB 450, SB 723, SB 809, CSSB 810, CSSB 813, CSSB 870, CSSB 943, CSSB 1457, CSSB 1734

JURISPRUDENCE — CSSB 1182

NATURAL RESOURCES — SB 616, SB 620, SB 864, SB 1130, SB 1172, SB 1672, SB 969

HEALTH AND HUMAN SERVICES — CSSB 871, CSSB 1187

BUSINESS AND COMMERCE — CSSB 1222

EDUCATION — CSSB 276, SB 285, CSSB 530, CSSB 523, CSSB 612, CSSB 652, CSSB 881, CSSB 1067, CSSB 8, CSSB 1000