SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SECOND DAY

(Wednesday, January 11, 2017)

The Senate met at 11:15 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

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

The Reverend Buddy Johnson, First Baptist Church, Buda, offered the invocation as follows:

> In the words of the Psalmists, O Lord, our Lord, how excellent is Your name in all the Earth, who have set Your glory above the heavens. Out of the mouth of babes and nursing infants You have ordained strength, because of Your enemies, that You may silence the enemy and the avenger. When I consider Your heavens, the work of Your fingers, the moon and the stars, which You have ordained, what is man that You are mindful of him, and the son of man that You visit him? For You have made him a little lower than the angels, and You have crowned him with glory and honor. (Psalms 8:1-5) We bow before You this day to ask Your blessing on us here in this place, and especially on these that You have caused to rise to such a place as this where they may do good and honor You in the decisions, judgments, choices that they make on behalf of those who dwell in the State of Texas where You have made them overseers. We ask for Your divine wisdom and guidance as this body undertakes the important decisions of the day. We pray that where there is disagreement You may open the way for accord and harmony for the good of others and that these may do justly, love mercy, and walk humble with You this day guiding their way. In Your name we pray. Amen.

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

The motion prevailed without objection.

PHYSICIAN OF THE DAY

Senator Nelson was recognized and presented Dr. Manojkumar Dobaruya of Coppell as the Physician of the Day.

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

SENATE RESOLUTION 3

Senator Hancock offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That the Rules of the Senate of the 84th Legislature are adopted as the Permanent Rules of the Senate of the 85th Legislature with the following modifications:

1. Rule 11.02 is amended to read as follows:

LIST OF STANDING COMMITTEES AND SUBCOMMITTEES

Rule 11.02. [~~(a)~~] At the beginning of each regular session, the President shall appoint the following standing committees with the number of members indicated:

STANDING COMMITTEES

(1) Committee on Administration (7 members)
(2) Committee on Agriculture, Water, and Rural Affairs (7 members)
(3) Committee on Business and Commerce (9 members)
(4) Committee on Criminal Justice (9 members) [~~(7 members)~~]
(5) Committee on Education (11 members)
(6) Committee on Finance (15 members)
(7) Committee on Health and Human Services (9 members)
(8) Committee on Higher Education (7 members)
(9) Committee on Intergovernmental Relations (7 members)
(10) Committee on Natural Resources and Economic Development (11 members)
(11) Committee on Nominations (7 members)
(12) Committee on State Affairs (9 members)
(13) Committee on Transportation (9 members)
(14) Committee on Veteran Affairs and Border Security [~~Military Installations~~] (7 members)

[~~(b) From the members of the Committee on Veteran Affairs and Military Installations, the President shall appoint a Subcommittee on Border Security consisting of 3 members~~].

SR 3 was read.

Senator West offered the following amendment to the resolution:

Floor Amendment No. 1

Amend S.R. ___ (Adopting the Permanent Rules of the Senate of the 85th Legislature) by adding the following appropriately numbered modifications:

____. Amend Rule 4.07 to read as follows:

REFUSAL OF MEMBER CALLED TO ORDER TO BE SEATED

Rule 4.07. Whenever a member is called to order by the President of the Senate or by the presiding officer then in the chair in accordance with Rule 4.06 and such member fails to sit down and be in order but continues disorderly, it shall be the duty of the Sergeant-at-Arms and/or the Sergeant's assistants upon the direction of the presiding officer to require such recalcitrant member to take his or her seat and be in order. Any member who persists in disorderly conduct after being warned by the presiding officer may, by motion duly made and carried by two-thirds [~~three-fifths~~] vote of the members present, be required to purge himself or herself of such misconduct. Until such member has purged himself or herself of such misconduct, the member shall not be entitled to the privileges of the floor.

____. Amend Rules 5.11(a) and (b) to read as follows:

(a) Any bill, resolution, or other measure may on any day be made a special order for a future time of the session by an affirmative vote of two-thirds [~~three-fifths~~] of the members present.

(b) A special order shall be considered at the time for which it is set and considered from day to day until disposed of, unless at the time so fixed there is pending business under a special order, but such pending business may be suspended by a two-thirds [~~three-fifths~~] vote of all the members present. If a special order is not reached or considered at the time fixed, it shall not lose its place as a special order. All special orders shall be subject to any Joint Rules and Rule 5.10.

____. Amend Rule 5.13 to read as follows:

SUSPENSION OF THE REGULAR ORDER OF BUSINESS

Rule 5.13. No bill, joint resolution, or resolution affecting state policy may be considered out of its regular calendar order unless the regular order is suspended by a vote of two-thirds [~~three-fifths~~] of the members present.

____. Amend Rule 6.08 to read as follows:

MOTIONS TO REFER OR COMMIT

Rule 6.08. Any bill, petition, or resolution may be referred from one committee or subcommittee to another committee or subcommittee if the motion is approved by the chairs of both committees involved and by a two-thirds [~~three-fifths~~] vote of the members present and voting. Any bill, petition, or resolution may be committed to any committee or subcommittee at any stage of the proceedings on such bill, petition, or resolution by a majority vote of the elected members of the Senate. A bill or joint resolution committed to a committee or subcommittee while on third reading shall be considered as on its second reading if reported favorably back to the Senate.

When several motions shall be made for reference of a subject to a committee, they shall have preference in the following order:

First: To a Committee of the Whole Senate

Second: To a standing committee

Third: To a standing subcommittee

Fourth: To a special committee.

____. Amend Rule 8.02 to read as follows:

REFERRAL TO COMMITTEE

Rule 8.02. Petitions, concurrent and joint resolutions, and resolutions setting or defining legislative or state policy or amending the Senate Rules shall be referred to an appropriate standing committee when introduced and shall not be considered immediately unless the Senate so directs by a two-thirds [~~three-fifths~~] vote of the members present. The motion to consider such petition or resolution immediately is not debatable.

____. Amend Rule 11.17(c) to read as follows:

(c) The sponsor of a bill or resolution for which a minority report is filed or a member signing the minority report must move to have the bill or resolution placed on the calendar within 10 calendar days after the date on which the committee's vote was taken. An affirmative vote of two-thirds [~~three-fifths~~] of the members present is required for the motion to carry. If the motion fails or is not made within the time allowed, the bill or resolution is dead and may not be considered again during the session.

____. Amend Rule 12.10 to read as follows:

SECTION-BY-SECTION ANALYSIS

Rule 12.10. Each conference committee report, regardless of its subject matter, must have attached thereto a section-by-section analysis showing the disagreements which have been resolved by the conference committee. This analysis must show for each and every disagreement in parallel columns: (1) the substance of the House version; (2) the substance of the Senate version; and (3) the substance of the recommendation by the conference committee. No action shall be taken on any conference committee report in the absence of such analysis, except by an affirmative vote of two-thirds [~~three-fifths~~] of the members present, with the yeas and nays thereon to be recorded in the journal.

____. Amend Rule 16.01 to read as follows:

DEFINITIONS

Rule 16.01. The terms "unanimous consent," "four-fifths of the members of the Senate," "four-fifths of the members present," "two-thirds of the members of the Senate," "two-thirds of the members present," [~~"three-fifths of the members present,"~~] "a majority of the members of the Senate," and "a majority of the members present" are defined as follows:

(1) "Unanimous consent" means the consent of all of the members of the Senate who are present and voting on the issue at the time the vote is recorded.

(2) "Four-fifths of the members of the Senate" means four-fifths of the 31 elected members of the Senate.

(3) "Four-fifths of the members present" means four-fifths of the members of the Senate who are present and voting on the issue at the time the vote is recorded.

(4) "Two-thirds of the members of the Senate" means two-thirds of the 31 elected members of the Senate.

(5) "Two-thirds of the members present" means two-thirds of the members of the Senate who are present and voting on the issue at the time the vote is recorded.

(6) [~~"Three-fifths of the members present" means three-fifths of the members of the Senate who are present and voting on the issue at the time the vote is recorded.~~

[~~(7)~~] "A majority of the members of the Senate" means a majority of the 31 elected members of the Senate.

(7) [~~(8)~~] "A majority of the members present" means a majority of the members of the Senate who are present and voting on the issue at the time the vote is recorded.

____. Amend Rule 16.06 to read as follows:

MATTERS REQUIRING VOTE OF
TWO-THIRDS OF MEMBERS PRESENT

Rule 16.06. A vote of two-thirds of the members present shall be required to:

(1) impeach any officer; (Constitution, Article XV, Section 3)

(2) pass a Senate bill that has been returned by the Governor with objections; Rule 6.20 (Constitution, Article IV, Section 14) See note to Rule 6.20.

(3) confirm an appointee of the Governor, unless otherwise directed by law; (Constitution, Article IV, Section 12)

(4) adopt an amendment at third reading of a bill or a joint resolution;[~~.~~] Rules 7.19 and 10.02[~~.~~]

(5) suspend the floor privileges of a member of the Senate; Rule 4.07

(6) suspend the regular order of business; Rule 5.13

(7) excuse absentees; Rule 5.03

(8) set a matter for special order; Rule 5.11

(9) place a minority report on the calendar; Rule 11.17

(10) rerefer a bill to another committee; Rule 6.08

(11) suspend the section-by-section analysis on conference committee reports; Rule 12.10

(12) suspend or rescind any rule of the Senate unless the rules specify a different majority; Rule 22.01

(13) consider immediately petitions, concurrent and joint resolutions, or resolutions setting or defining legislative or state policy. Rule 8.02.

____. Strike Rule 16.07 and renumber the other rules of that article and cross-references to those rules accordingly.

____. Amend Rule 22.01 to read as follows:

SENATE RULES

Rule 22.01. It shall require a vote of two-thirds [~~three fifths~~] of the members present to suspend any rule of the Senate, unless the rules specify a different majority. A majority of the members of the Senate may amend the Rules of the Senate by adoption of a Senate Resolution amending the rules, which resolution has been referred to and reported from a committee as otherwise required by these rules. Rules 16.06 [~~16.07~~] and 16.08.

The amendment to **SR 3** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

SR 3 was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Garcia, Rodríguez.

REMARKS ORDERED PRINTED

On motion of Senator West and by unanimous consent, the remarks by Senators West, Hancock, Menéndez, Rodríguez, and Lucio regarding **SR 3** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Hancock: What you have before you is a resolution that adopted the same rules as were debated and adopted during the 84th legislative session, except for the provisions that Committee on Criminal Justice will move from seven to nine Members and the only other change comes about in the Committee of Veteran Affairs and Border Security. We've consolidated the Border Security Subcommittee into the Veterans Affairs and Military Installations.

President: Senator West, for what purpose?

Senator West: Questions of the author of the rules.

President: Do you yield, Senator Hancock?

Senator West: Senator Hancock, as it relates to the rules, last session, we changed the, what has been traditionally known for at least some 50 years as the Two-thirds Rule, did we not?

Senator Hancock: Correct.

Senator West: And we changed it in a place where we had two-thirds, pretty much in all the rules we changed it to three-fifths.

Senator Hancock: Well, specifically, where it was changed, as you remember from last session was, quorum still two-thirds, special order went to three-fifths, suspend the Intent Calendar is still four-fifths, reconsider's a majority present, and so, I have the list if you'd like to see it, but you're familiar with it.

Senator West: I have it also. I just wanted to make sure I reframe the discussion for the Members. And would you agree with me that under the Two-thirds Rule, that Two-thirds Rule had been in place for at least 50 years? I think since like 1951. In most instances, there were a couple of instances of voter ID, abortion, some of those deals where we didn't have the Two-thirds Rule in and to serve as the blocker bill. Correct?

Senator Hancock: Well, during the regular session, as you know, what happens is, we, I guess, hand over our authority on what comes before the floor on those areas where we go to special sessions. So, yes, the change was made from one supermajority to another supermajority that was changed by the Senate, very similar to the way it was changed by the Senate in the 1950s.

Senator West: Okay, so since the 1950s, we've basically had a Two-thirds Rule until 2015 when it was changed to, frankly, three-fifths or 19. Correct?

Senator Hancock: Correct, another supermajority.

Senator West: So, the supermajority that we changed it to, 19, obviously, is less than 21, 21 being two-thirds of the Members. Correct?

Senator Hancock: Correct.

Senator West: Would you agree with me that a Member, an individual Member as we've talked about, every Member here represents, it's about 27 million Texans, and each one of us represent about 870,000. I did the math, so take my word for that. On an average, we represent about 870,000 Texans each, and that each of us need to make certain that we're empowered in order to represent those constituents. Would you agree that's a fair statement?

Senator Hancock: Well, and I had concerns with that as well, Senator West, having come from the House and seeing the Senate operate historically. I had great respect for the Two-thirds Rule, however, what we experienced last session was a very well-run. And what we're talking about here is procedures and the procedures that we feel like will fit best for this Senate Chamber, and as you know, we finished in a timely manner. We didn't cost the taxpayers any additional money by a special session, where, by the way, we relinquish any control that we would have by having that provision within our rules last session. And we all pretty much took care of the state's business in a, really in an exceptional way.

Senator West: But you would agree that in the individual Members in the Senate voting for a Three-fifths Rule as opposed to a Two-thirds Rule, that individual Members did, in fact, relinquish some power. Would you agree?

Senator Hancock: No, based on the numbers and the data that we've received. That I don't, you know, I had those concerns. I don't see that that actually panned out to be the case based on last session.

Senator West: As it relates to the number of votes that it would take in order to get a bill to the floor, you would agree that it would be more difficult to get a bill to the floor under a Two-thirds Rule as opposed to a Three-fifths Rule. Correct?

Senator Hancock: Well, I don't know that that provision is something I could agree with as well. In fact, the reality is if you look at the total legislation that was passed last session and signed into law, over 1,200 pieces of legislation were signed into law. If you look at what occurred last session, there were, you know, give or take, less than 30 pieces of legislation that actually fell within that provision that were impacted by the changes that we made.

Senator West: Okay.

Senator Hancock: And the reality is, is that the changes that were made only impacted, really 3 percent or less than 3 percent of the legislation that came before this body that was signed into law.

Senator West: I don't have–

Senator Hancock: Now, in agreement with that, the Members that actually benefited from those changes, if you want me to read you the names, included, well, Senate Bill 601, Senator West. You benefited from that change in 601. Senator Perry, 723, Senate Bill 735, Fraser, Senate Bill 779, Huffman, Senate Bill 837, Watson. Senator Watson, you have benefited from those changes in that piece of legislation. Senate Bill 1242, Senator Rodríguez. Where'd you go? There you are. How you doing? You moved on me. You benefited from that. Senator Hall benefited from that. Senator Hinojosa, you benefited from that change that was made. Senator Zaffirini, you were able to get actually SB 1436 to the floor based on those changes. Senator Rodríguez, you got two, SB 1575. So, as you can see, Senator West, that knife cuts both ways, and so what we saw is that there were pieces of legislation that were prevented from getting to the floor, as you well know. My guess is you had some; my guess is I had some.

Senator West: I would say that everyone had some. Would you agree with that?

Senator Hancock: And if you go through the list, there is no system or structure that you can identify the list of those that were actually able to fit within that two-thirds to three-fifths change that you can draw any conclusion from.

Senator West: So then, why change the rule if you can't draw any conclusion? The only thing, now let me finish. Whoa, whoa, whoa, I listened to you, now you listen to me. Okay? What I'm saying is, is that a Senator gives up more power and influence when we have three-fifths requirements as opposed to two-thirds. You would agree with me that if it cuts both ways, why change the rule in the first place? Tell me what's the rationale for changing the rule if it cuts both ways.

Senator Hancock: Well, I'm in complete agreement, and that's why the recommendation in the resolution before you is that we don't change the rules. And so, we're adopting the same rules with the minor changes that we have. So, you and I agree on the same thing, that it had no effect and, therefore, adopting the same rules. The motion is we adopt the same resolution, the same rules that we had last time based on the outcomes that we saw last session. I do appreciate you agreeing that there is no reason to change.

Senator West: We disagree with that. We disagree with that. I'm asking why in the world change the rules last session if, indeed, it didn't really have any particular outcome. Why shouldn't we have just left it at two-thirds as opposed to changing it to three-fifths, which you're arguing that we should maintain this session? If it didn't have any real significant impact last session, we should've left it at two-thirds, thereby allowing Senators to have more influence over debate that comes to the floor and other issues that require two-thirds vote. Wouldn't you agree?

Senator Hancock: Senator West, as you well know, we're not discussing the rules from last session, and so it's a little late to go back and say we shouldn't have changed the rules from last session, because we did. But I am in agreement with you that there was no significant change, no significant impact and, therefore, we're adopting the resolution, and what we're presenting to the body is that we adopt the same rules that we operated so well with last session where we got out of here in 140 days. We saved the taxpayer money by not coming to special session. We controlled our own destiny by not coming back into a special session, so I'm in agreement with you–

Senator West: Okay.

Senator Hancock: –that there is no significant change. We're not talking about the last session. You can keep talking about it, but that's not the resolution, the resolution is for this session.

Senator West: Okay. Well, okay. Can I ask you a question, Sir, so I can make certain I understand and the Members understand the vote? Your argument–

Senator Hancock: I don't have an argument. I have a resolution.

Senator West: –hold on a second. Your resolution, then, is to make certain that we put back in place the rules from last session. The argument that you're making is, is that it was efficient, there were votes that came to the floor that it really didn't make any difference from the session before, and we got out of here in record time and had no special session. Correct me if I'm wrong, is that your argument? I just want to make certain I understand your argument.

Senator Hancock: Well, it's not the total argument.

Senator West: What's your total argument?

Senator Hancock: In fact, there was a bipartisan committee that Senator Eltife put together that was placed together to discuss this. There was a lot of work put into the changes that took place last session. We've already had, I mean, we can continue, you and I, talking about it.

Senator West: I'm just trying to understand your argument. I want to understand your full argument.

Senator Hancock: When I'm finished, you can interrupt me again.

Senator West: Well, I just want to understand your full argument.

Senator Hancock: But only when I'm finished talking, because you asked me a question.

Senator West: Why don't you give me your full argument and answer my question?

President: Members, please let each other talk when they have the floor, please.

Senator West: Yes, Sir.

Senator Hancock: Thank you, Mr. President. So, what I'm pointing out is that this debate occurred. This debate, this discussion occurred last session. There was a committee to look at the changes. Senator Eltife, who brought the rules before us last session, brought those. We had this discussion on the floor if you remember, a very lengthy discussion. The body chose to adopt the rules that we adopted last session. The changes took place then. What I'm pointing out is that we had a very successful session. We did not cost the taxpayers additional money. We did not relinquish the power of every Senator on this floor to the Governor by being called back to a special session, and we took care of the people's business, which each of us is sent here to do. And I would say that the changes, in looking at the data, looking at the information, that the impact represents this body which any changes that we make in the rules should equally impact all Members. And I would think based on the data that we have, based on the information, that we were all benefited from it in an equal manner.

Senator West: And that's your argument? I just want to make sure I understand that's your argument.

Senator Hancock: Well, my argument, I'm just presenting facts. I'm not really arguing. I'm just presenting a resolution in facts.

Senator West: Okay then, those are your facts.

Senator Hancock: No, they're not my facts. They're the documented facts of the Senate.

Senator West: Would you agree that the bills that you cited, most of those bills, three out of five of those bills weren't even controversial?

Senator Hancock: Clearly, they were controversial if they fell within that margin of votes. Your bill, what was the number, I forget, you remember it? You remember you having to work the body in order to get your bill number 601 to the floor?

Senator West: Which bill was that? I don't remember now.

Senator Hancock: Was that easy to get to the floor? Relating to the eligibility of Elite Rodeo Association?

Senator West: That was really controversial there, yeah. I don't think that–

Senator Hancock: It must have been controversial enough that you couldn't get it to the floor.

Senator West: Well, here's–

Senator Hancock: How many votes did you get on that bill, Senator West?

Senator West: You asked me not, you asked me not to interrupt you. Would you please not interrupt me? Okay? Would you please not do that? Let me ask you, and then you respond. Thank you. Okay? The point I'm making to you is that in terms of the facts that you have provided the Members of the body, I just want to go back to two things. Number one, I was supposed to be a Member of that bipartisan committee that you put together, that was put together by the Senate. I don't recall, Senator Whitmire, whether we ever met, that bipartisan committee. And as I recall, the vote on the Two-thirds Rule last session went down by party lines, and it will probably go down by party lines now. I'm not trying to make this a partisan issue. I already know how it's going to go down, but I want to make certain that I put in the Journal, and I ask that it be spread on the Journal, this particular debate, you know, as it relates to this particular rule. And, Members, the question becomes whether or not you want to maintain as much individual influence in this body as you can or you want to relinquish it by having the Three-fifths Rule. Three-fifths as opposed to two-thirds is obviously less. So, it takes two less Senators in order to get a bill to the floor or to have votes on the particular rules that are impacted by that particular Three-fifths Rule in this body. And so, it takes 19 Members to do anything in a body, as opposed to 21. I know how this vote is going to go, but there's no way in the world I was going to sit aside, sit down, and not have this debate about these particular rules. So, I'm not going to extend the debate. I will have an amendment to restore the Two-thirds Rule. And I'm pretty certain I know how that vote's going to go down. Thank you very much for your courtesy.

Senator Hancock: Let me point out that the changes you made in Senate Bill 601 were actually a change to the Major Events Trust Fund, which is a pretty significant piece of legislation that was passed by the body.

Senator West: Did you squirm, hey, did you squirm on that one? Did you squirm–

Senator Hancock: You just barely had enough votes to bring it to the floor.

Senator West: Barely.

President: Senator Menéndez, for what purpose do you rise?

Senator Menéndez: For questions.

President: Do you yield, Senator Hancock?

Senator Hancock: Yeah, for a question.

Senator Menéndez: Thank you, Mr. President. Senator Hancock, I was listening to the exchange between you and Senator West, and I did not have the privilege of being present for the beginning of last session. I was tied up in a special election to replace my former Senator. My understanding of the Three-fifths Rule and the change that was made was that it was a rule that had a long-standing history of protecting minority interests versus those of the majority, in many cases, not necessarily along partisan lines. Sometimes rural versus urban, different points of view on many different issues, let's say public school choice versus not having choice, different issues that different people have different views on. My understanding is, and I would love to see, even though I may have benefited, and I'm sure you have a list of bills that maybe my name's on there, that had only 19 votes to get to the floor. I would be more than happy to give those bills back in order to restore what I believe brings back the full, and this is the question. Don't you think that in order to have three-fifths, the requirement to have two more votes from two more Senators requires us to more vet, fully vet a legislation before we bring it to the floor so it's fully deliberated so that all of 870,000 constituents that we represent regardless of what corner they lie in, whether they be, and this is what doesn't matter, they see themselves as Republicans, Independents, or Democrats, they see themselves in whatever position that they can believe that their Texas Senate is fully vetting every piece of legislation before they let it come for a vote. And in some cases, I've heard of in the past where a Senator would give a vote to suspend and still vote against the legislation. I've heard of that sort of thing occurring prior to my being here. Don't you think it sort of strengthens the legislation as we pass it to the House when we give it a better, a more robust vetting?

Senator Hancock: I think the resolution, actually the rules, are drawn out to address our policies and procedures within this floor to make sure we operate in a responsible manner to the constituents that send us all here–

Senator Menéndez: Correct.

Senator Hancock: –regardless from all who sit here. They want us to operate effectively, they want us to operate efficiently. I think what we saw last session is we operated effectively, we operated efficiently. I'm sure you're aware of the committee process.

Senator Menéndez: Yes.

Senator Hancock: My guess is you had difficulty getting legislation through committee–

Senator Menéndez: Without a doubt.

Senator Hancock: –because of the vetting and the work that took place in order to get it to committee. And so, we have a very, very thorough process where those pieces of legislation are vetted. We will spend hours upon hours upon hours in committee where those bills are fully vetted before they ever make it to the floor, and then they receive a second vetting. As you well know, the committee process does a much better job of vetting legislation because there we bring in constituents, we bring in testimonial, we have much more information through the committee process, and I think what you're confusing with is what takes place here on the floor which is more a procedural event than what takes place in committee, which is where the vetting really takes place.

Senator Menéndez: Senator Hancock, thank you for that explanation, but I'm looking at your resolution, as I read the standing committees, I'll just say the committee, Administration, seven Members; Agriculture and Water, seven Members; Business and Commerce, nine Members; Criminal Justice, it will, you're pursuing nine Members. So, many of these committees have approximately a third of the membership, therefore two-thirds of the membership isn't a part of the committee to be able to vet each individual bill. My reason for supporting Senator West's request, the change to go back to the three-fifths, is because I think that by having three-fifths, it allows more of us to be engaged in the process on every piece of legislation. And so, your leaving the committee process seems to leave two-thirds of us out because we're not on those committees; we're not voting for it. So, we're not a part of getting the legislation here to the floor, but once it comes to the floor, by having three, or two-thirds of us be engaged, as I'd like to go back, it would give us all a stronger voice. It strengthens everyone's voice on this floor, everybody's. And it's had a long-standing history of doing that and that's the only reason why I'd like to support it, because even though I may or may not support every piece of legislation you bring forward, I support your right to be able to get, to protect your constituents from stuff you think may not be good or to help you pass things that would help all Texans. So, it's not a matter of being efficient or not efficient, I think the Two-thirds Rule protects all Texans, especially those that see themselves in the minority, from legislation that maybe they don't see how it would benefit or how it would help them.

Senator Hancock: Well, I do think our constituents want us to be effective and efficient. I mean, you may disagree, but I do think they do expect us to do that here, and this is part of what takes place in that. I would encourage you while this is the makeup of the committees is on this resolution, nothing prevents a Senator from participating in any of the committees; you're welcome in any of them. So, I would encourage you to be engaged in any committee you want to be engaged with regardless of where your place on committees when that time comes. And so, everybody's engaged. In fact, this process still allows a minority, right? A minority of this body can still block any piece of legislation from coming to the floor, a minority. We maintain a supermajority. So, there is a voice, there is a significant voice to every Member of the committee. As you well know, committee process, you learned it well.

I remember late in session, I believe you tagged a piece of my legislation which in essence killed it in committee and allowed it to never to come out of committee. Well done, touché. So, it's difficult for me, someone who had taxi-tagged a piece of my own legislation and killed it in committee to say that you feel powerless because of the changes that took place last session or you don't feel like you'll be engaged. We maintain a minority of this body–think about that–we maintain a minority of this body can block any piece of legislation from coming to the floor. That's pretty responsible.

Senator Menéndez: I don't disagree with you on that. My only thought is that it's the difference of the two Senators whether we keep it at three-fifths or go to two-thirds, that's the only question. And you're, I think what I've heard you say several times is that you feel that it's more efficient. I think we can be just as efficient with a Two-thirds Rule as opposed to the two-thirds. So, I actually would just like to be able to go back to my constituents in my district and say that the Texas Senate stood up and said that, you know, we are going to work harder to be able to allow everyone's voice to be heard. And I understand why there would be probably an unwillingness to change. I was just, I also can, have to join my colleague and say I can't not be here and have the first opportunity to argue against something that I would've argued against had I been here. And so, I have to stand up and say I would've liked to see us go back to the two-thirds, and that's the reason that I stand up today because I do think it just strengthens each and every one of us in our capacity because some day there may be a piece of legislation that we'd like to stop that we can't for that rule, and so that's the position that I'm in.

Senator Hancock: And, you know, I appreciate it. Let me point out this is the Senate body. It would've been very easy for the author of this resolution to simply table the resolution and move on. That's not the way we operate. And so, as a Senate body, we're going to be cordial to our colleagues. We're going to allow you to have your say. You're going to be able to voice and represent your district on this Senate floor when a minority of Members on the floor don't block it, which we still allow. And so, we still require a supermajority. I think the process allows each one of us to represent our districts, and we have respect for one another. There's not a Member on this floor that I don't greatly admire, respect, and recognize that they must represent their districts. Therefore, I felt it very important to allow whoever wanted to speak against the resolution in which we operated so well last session, have the freedom to do that without tabling the legislation. So, I thank you for your words.

Senator Menéndez: And I thank you for the opportunity.

President: Senator Rodríguez, for what purpose?

Senator Rodríguez: To ask a question.

President: Do you yield?

Senator Hancock: Yield for a question.

Senator Rodríguez: Thank you, Mr. President. Senator, I appreciate what you're saying about us being able to pass legislation as a deliberative body here. And you point out how all of us have passed legislation. I certainly have done that, over 70 bills last session, and that has to be with the support, of course, of my colleagues here.

And so, I think that's a given that we can still do that. But the point I think that needs to be made about the Two-thirds Rule, would you not agree with me that on the more contentious issues, on the issues of the day that have statewide impact, not just local impact or regional impact, statewide impact, on those issues, under the Two-thirds Rule, would you agree with me we spent time as a deliberative body engaging in thoughtful debate, sometimes rancorous, I will admit, sometimes divisive, but it was an opportunity for every single Member, whether Democrat or Republican, to express their voice on behalf of their constituents and constituents' interests before that kind of measure got enacted. I mean, there is some value to that, don't you agree?

Senator Hancock: I'm not sure that I experienced any change from every Member on this body being able to voice their support or opposition to any piece of legislation.

Senator Rodríguez: Well, but–

Senator Hancock: Have you ever refused to being called on by Lieutenant Governor?

Senator Rodríguez: No. No, not at all.

Senator Hancock: So, you, so, last session, regardless of the legislation, you were free to pick up your mic, say whatever you wanted to say.

Senator Rodríguez: I think, I think we can all do that.

Senator Hancock: So, that really hasn't changed.

Senator Rodríguez: No, that has not changed, and we–

Senator Hancock: Thank you.

Senator Rodríguez: –and that's one of the things we appreciate being Members of this body, right? But we're talking about a rule that's been in place or was in place since the beginning of the Legislature that we did away with, that served us well in my opinion. That made us different from Washington, and that can still serve us well if we had it back as part of our rules. Now, let me give you an example. I mean, isn't it the case that we had a number of bills last session where everybody got to express themselves but the vote came down to 20-11, I mean–

Senator Hancock: Yeah, you had two of those.

Senator Rodríguez: Right? Okay, I had two of those, but there were plenty of others as well.

Senator Hancock: There were roughly 28.

Senator Rodríguez: Okay, 28–

Senator Hancock: Less than 3 percent.

Senator Rodríguez: –28, but, and I know that you're talking about being efficient and not costing the taxpayers more money, but you will agree with me, we're not going to put a price, we're not going to say in the name of efficiency we're going to diminish the voices of our constituents on the very critical issues of the day that we face in Texas.

Senator Hancock: Well, thank you, Senator Rodríguez. And the argument's been made that we relinquish some of our control. Well, I will tell you, we relinquish pretty much all of our control when we get put into a special session, would you agree with that?

Senator Rodríguez: Well, maybe that's what's required sometimes in order to have a continued debate over that critical issue that resulted in the special session. I mean, when I came in 2011, I was introduced to three special sessions.

Senator Hancock: That's when we had a Two-thirds Rule.

Senator Rodríguez: Well, that's right. But we still did the people's business. We got the job done, and I think we all felt like we were giving a fair shake to express the voices from our constituents back home. And, and so, I think the whole issue here is to ensure that each and every one of us, and I happen to represent, for example, a minority-majority district. I want to be able to articulate on behalf of my constituents all of the reasons or important information that needs to be laid out on some of these more critical issues. Now, let me give you an example, and I won't belabor this. But the voter ID law, now that was passed by suspending the Two-thirds Rule, we still had the Two-thirds Rule in place, but it was suspended and we passed the voter ID law. Last session, there were two federal courts that found the law unconstitutional, and I know that there had been expressions on the Senate floor voicing the fact that if that law were passed, it would be held unconstitutional. Since that time, we had the U.S. Supreme Court weigh in on the issue and also determine it to be unconstitutional. But important for this debate is that, that the court pointed out that there were amendments offered by Democrats, none of which were accepted, and had they been accepted, had they been accepted, it's likely, the court implied, that the voter ID law would've been held constitutional. So, it seems to be that when you do away with the Two-thirds Rule and the ability to carry that discussion as far as it needs to go, even if it's in special session, that you are enhancing the way the democracy works, the way we represent our constituents, and that everyone really has the opportunity to express their concerns about any legislation. I just give one example. And then so, I think the fact that we do have votes here that are 20-11 on the, go back to, on the major pieces of legislation that have statewide impact, without having the Two-thirds Rule, I think we have less deliberation. I've seen it happen. We no longer go and visit with each other as much as we used to with our little green sheets, trying to get those votes that we needed under the Two-thirds Rule in order to bring the bill up for a debate. And to me, that's one of the key indicators that we've lessened the bipartisanship that we used to enjoy under the Two-thirds Rule. Would you agree that that's happened here?

Senator Hancock: I don't think we have anything in the rules that limit anyone's ability to deliberate. I don't think we have anything in the rule that limits anyone's ability to be recognized, as we did here. I mean, would you agree I don't have to yield to you, but I did? You've had the opportunity to represent your district. Nothing prevents, in these rules no one, not a single Member of this body, is prevented from representing their district, from standing on this floor, from arguing or stating whatever they want. You've done that. You've proven that this doesn't change your ability to represent your district. You're doing that right now.

Senator Rodríguez: I think we all do it. We all try the best we can to represent our districts, but I think the Two-thirds Rule enhanced and encouraged and fostered more consensus building, more compromise, more bipartisanship on the major issues of the day. That's the main point that needs to be made, it seems to me, under the Two-thirds Rule. And for that reason, I think Senator West is correct in bringing this up as we start the session so that we can go back to the time when both rural and urban interests could come together and work together on issues that we felt as a minority might be important for our districts.

Senator Hancock: Which is why we went and ran the numbers. And the reality is, regardless of what you hear on the floor, the reality is over 97 percent of legislation that was passed, was passed without this rule taking into effect. When you look at the impact of this rule, which we did, there is no, you can't sit there and extrapolate from those that were able to get legislation passed, you more than most, you got two pieces that fit within this. And so, it, I mean, it impacts everyone, but it doesn't prevent anyone on this floor from having a voice. You have a voice in this Senate to represent your district in any way that you choose to represent it. It doesn't mean you get to win.

Senator Rodríguez: Right.

Senator Hancock: It does mean you get to have a voice, and we're not doing anything in these rules that would prevent anyone in here from representing their district by a vote or by debate on the floor.

Senator Rodríguez: You don't, you don't believe then that our ability to work on a bipartisan basis has been lessened as a result of doing away with the Two-thirds Rule?

Senator Hancock: The numbers just don't prove it.

Senator Rodríguez: On these some 30 pieces of legislation, major, we had the gun bill, we had the campus carry bill, we had, I could go into a lot of these major, controversial, contentious pieces of legislation, where, yes, we were able to speak on it, but the decision was made. Alright, anyway–

Senator Hancock: Ninety-seven percent of the legislation passed, passed here in a bipartisan manner. Most of the work we do here passes in a bipartisan manner. Are we going to have legislation that barely squeak by, yes, but if you look at the list that barely squeaked by last time, there is no correlation that you can make between districts, between parties, between rural and suburban, you know, and urban. It doesn't play out. And everyone has a voice. Everyone can say whatever they choose to say on this floor within reason and represent their district.

Senator Rodríguez: Look, I'm not going to belabor the point, let me just say this.

Senator Hancock: Too late.

Senator Rodríguez: The voter, thank you for allowing me to go on, the voter ID law–

Senator Hancock: Which we didn't have last session.

Senator Rodríguez: –I know, but back in 2009 there was debate. Everybody, as you point out correctly, does have the opportunity–

Senator Hancock: This doesn't change any debate.

Senator Rodríguez: –but when the amendments were offered, there was no debate on the amendments, literally, it was just kind of rejected out of hand. And I'm saying to you, that's one of the things that the Supreme Court pointed out to, and some of the lower federal courts, that there was not deliberation and consideration of the amendments that would've resulted in a different outcome. I mean, it's just an example that I want to point out but I appreciate you–

Senator Hancock: And I don't think we're changing the amendment process whatsoever.

Senator Rodríguez: Thank you for your attention on this. Thank you, Mr. President.

President: The Chair recognizes Senator Lucio. Did you have your light on to speak on the resolution?

Senator Lucio: Thank you, Mr. President. Members, I would like to go back to last session. And for the new Members that maybe might not know how I voted on the rule change from the two-thirds to the 19, I, I certainly did it. I did it because of what I encountered along the way over the years in trying to pass legislation that I thought would benefit our great state. The first one that I ran into a barrier of getting 21 votes was life-without-parole. I had 20 votes. Matter of fact, I had 20 votes for two sessions, and the third session that I tried to pass life-without-parole, I finally got to 21 because of a new Member. Same thing with autism. I tried desperately to try to help children get early intervention treatments on autism. Those that were diagnosed with autism were dropped from the rolls, and I wasn't very happy with that. So, I filed a bill to mandate and, you know, them getting those early special treatments, intervention treatments. It took me three sessions to finally pass and get to 21. Before that, I also passed a bill, finally after three sessions, because I was stuck at 20 to expand TxDOT from three to five members so we could have representation in every region of the state. Again, I found myself for some reason having to deal with very good pieces of legislation that have worked. And I look back, life-without-parole gave jurors an option of not sending someone to the death penalty or giving them the death penalty but putting them in jail forever, in other words, death to incarceration. So, I'll feel good about my vote. And I think we have worked bipartisanly, and I want to see that happen. The Democrats, my fellow Democrats who got up, Senator West, Senator Menéndez, Senator Rodríguez, their arguments are well-taken and should be well-taken by everyone. They have merit. On the other hand, I had to choose between being stuck at 20 in many cases or passing meaningful legislation. So, I voted for that rule change. I think what we need to do is elect two more Democrats, you know, to the Senate floor, and then we would obviously, and I hate to use the word, be forced to work together, you know, and make sure that the issues that we address are in a bipartisan manner, period. So, I wanted to go back a little bit and make sure people understand that if someone says, well, Lucio voted to change those rules. I did, but there was a reason for it, and I'm pleased to have an opportunity to express those reasons here on the Senate floor here this morning. Thank you, Mr. President. Thank you, Members.

CO-AUTHOR OF SENATE BILL 4

On motion of Senator Perry, Senator Schwertner will be shown as Co-author of **SB 4**.

CO-AUTHOR OF SENATE BILL 6

On motion of Senator Kolkhorst, Senator Perry will be shown as Co-author of **SB 6**.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:08 p.m. adjourned, in memory of Archbishop Patrick Flores, until 11:00 a.m. Tuesday, January 17, 2017.

APPENDIX

RESOLUTION ENROLLED

January 10, 2017

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