

SENATE JOURNAL

EIGHTY-SEVENTH LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

SECOND DAY

(Continued)

(Friday, July 16, 2021)

AFTER RECESS

The Senate met at 11:19 a.m. and was called to order by the President.

Senator Paxton offered the invocation as follows:

Our Father in heaven, we thank You that You are the father of wisdom, of love, of truth, of goodness. And You promise us that if we look to You, if we call to You, You will answer us with some great and mighty things that we do not know. Father, we ask You that You would do that today, that we would look to You, that we would call to You, each of us, in our own hearts and listen for Your answer. Thank You for the opportunity to serve the people of Texas, Your children. And it is in the name of Jesus who has saved us and who keeps us saved and who is coming again that I pray. Amen.

ACKNOWLEDGMENT

Senator Nelson acknowledged Senator Whitmire for his 18 years of service as Dean of the Texas Senate and congratulated him on being the longest-serving Dean of the Texas Senate.

The Senate congratulated Dean Whitmire.

(President Pro Tempore Campbell in Chair)

(Senator Schwertner in Chair)

COMMITTEE SUBSTITUTE

SENATE BILL 3 ON SECOND READING

Senator Hughes moved to suspend the regular order of business and Senate Printing Rule 7.12(a) to take up for consideration **CSSB 3** at this time on its second reading:

CSSB 3, Relating to certain curriculum in public schools, including certain instructional requirements and prohibitions.

The motion prevailed by the following vote: Yeas 18, Nays 4.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Hinojosa, Lucio, Whitmire, Zaffirini.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

The bill was read second time.

(President in Chair)

Senator Hughes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 3** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 21.4555(b)(4), Education Code (page 1, line 42), between "sources" and "and identifying", insert ", identifying and responding to logical fallacies,".

(2) In SECTION 1 of the bill, in added Section 21.4555, Education Code (page 2, between lines 16 and 17), add the following appropriately lettered subsection and reletter subsequent subsections of that section accordingly:

() Nothing in this section may be construed as limiting the teaching of or instruction in the essential knowledge and skills adopted under Subchapter A, Chapter 28.

(3) In the recital to SECTION 2 of the bill (page 2, line 18), strike "and (h-7)" and substitute ", (h-7), and (h-8)".

(4) In SECTION 2 of the bill, in added Section 28.002(h-2)(1)(A), Education Code (page 2, line 26), between "political," and "and", by inserting "entrepreneurial,".

(5) In SECTION 2 of the bill, immediately following added Section 28.002(h-7), Education Code (page 3, between lines 10 and 11), insert the following:

(h-8) Nothing in Subsections (h-2) and (h-7) may be construed as limiting the teaching of or instruction in the essential knowledge and skills adopted under this subchapter.

(6) In SECTION 4 of the bill, in added Section 28.0022, Education Code (page 4, between lines 32 and 33), add the following appropriately lettered subsection and reletter subsequent subsections of that section accordingly:

() Nothing in this section may be construed as limiting the teaching of or instruction in the essential knowledge and skills adopted under this subchapter.

The amendment to **CSSB 3** was read and was adopted by the following vote: Yeas 22, Nays 0.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 3** (senate committee report) in SECTION 1 of the bill, in added Section 21.4555(a), Education Code (page 1, line 28), between "shall" and develop", insert ", with input from teachers and administrators from throughout this state,".

The amendment to **CSSB 3** was read and failed of adoption by the following vote: Yeas 4, Nays 18.

Yeas: Hinojosa, Lucio, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 3** (senate committee report) as follows:

(1) In the recital to SECTION 2 of the bill (page 2, line 18), strike "and (h-7)" and substitute ", (h-7), and (h-8)".

(2) In SECTION 2 of the bill, immediately after added Section 28.002(h-7), Education Code (page 3, between lines 10 and 11), insert the following:

(h-8) The State Board of Education shall adopt rules requiring each student, with the consent of the student's parent, to complete a student-led, student-chosen, content-focused civics practicum once during grade eight and once while in high school as part of the social studies curriculum. Each civics practicum may be designed to be completed individually, in a small group, or as a class and must:

(1) be non-partisan;

(2) be consistent with and clearly linked to the essential knowledge and skills adopted for social studies;

(3) focus on building civic knowledge, skills, attitudes, and behaviors;

(4) promote a student's ability to:

(A) rigorously research and analyze information;

(B) make logical arguments with supporting evidence;

(C) present complex issues from multiple perspectives; and

(D) engage in civil discourse with people who hold positions different than the student's; and

(5) require a student to demonstrate an understanding of the relationship between federal, state, and local government and between the policies at each level of government.

(3) In SECTION 4 of the bill, in added Section 28.0022(a)(2), Education Code (page 3, line 32), after the underlined semicolon, insert "and".

(4) In SECTION 4 of the bill, in added Section 28.0022(a), Education Code, strike Subdivision (3) (page 3, lines 33 through 48) and renumber subsequent subdivisions of that subsection and cross-references to those subdivisions accordingly.

(5) In SECTION 4 of the bill, in added Section 28.0022, Education Code, strike Subsection (b) (page 4, lines 18 through 21) and reletter subsequent subsections accordingly.

The amendment to **CSSB 3** was read and failed of adoption by the following vote: Yeas 4, Nays 18.

Yeas: Hinojosa, Lucio, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 3** (senate committee printing) in SECTION 4 of the bill, in added Section 28.0022(b), Education Code (page 4, line 20), between the second underlined comma and "or", by inserting "registering voters, encouraging others to vote.".

The amendment to **CSSB 3** was read and failed of adoption by the following vote: Yeas 4, Nays 18.

Yeas: Hinojosa, Lucio, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 3** (senate committee report) as follows:

(1) In SECTION 4 of the bill, in added Section 28.0022(d), Education Code (page 4, line 27), strike "A school district" and substitute "Except as provided by Subsection (e), a school district".

(2) In SECTION 4 of the bill, immediately following added Section 28.0022(d), Education Code (page 4, between lines 32 and 33), insert the following:

(e) A school district or open-enrollment charter school may implement, interpret, or enforce a rule, including a standard provided by a student code of conduct adopted under Section 37.001, in a manner that results in the punishment of a student for discussing the concepts described by Subsection (a)(4) if, in discussing those concepts, the student directs at another student language that a reasonable person would interpret as hate speech or as language that implies that one race or sex is inherently superior to another race or sex with the intention of causing emotional distress to the other student.

The amendment to **CSSB 3** was read and failed of adoption by the following vote: Yeas 4, Nays 18.

Yeas: Hinojosa, Lucio, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

CSSB 3 as amended was passed to engrossment by the following vote: Yeas 18, Nays 4.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Hinojosa, Lucio, Whitmire, Zaffirini.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

COMMITTEE SUBSTITUTE SENATE BILL 3 ON THIRD READING

Senator Hughes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 3** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 18, Nays 4.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Hinojosa, Lucio, Whitmire, Zaffirini.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

The bill was read third time and was passed by the following vote: Yeas 18, Nays 4. (Same as previous roll call)

STATEMENT REGARDING SENATE BILL 3

Senator Zaffirini submitted the following statement regarding **SB 3**:

I rise respectfully in opposition to Senate Bill 3. This legislation, while well-intentioned, unduly would restrict important, but challenging, conversations that otherwise should occur in classrooms. My opinion is based partly on the testimony of teachers who testified about the unnecessary pressure, intimidation, and uncertainty it would create for them. "Trust our teachers," one testified. (I do.) "They know what to do," he added. (I agree.)

Incredibly, Senate Bill 3 specifies that a teacher may not discuss current events or controversial issues of public policy or social affairs unless the educator "strives to explore the topic from diverse and contending perspectives without giving deference to any one perspective." How could a teacher possibly discuss slavery, the Holocaust, or the mass shootings at the WalMart in El Paso or at the Sutherland Springs church in my district "without giving deference to any one perspective?"

By validating both perspectives of such controversial issues, as this bill would require, students could more easily accept dangerous ideas discovered in the classroom or online. By stifling difficult conversations in the classroom, Senate Bill 3 encourages students to seek answers in dubious places, including radical online forums, questionable Facebook groups, or the dark web.

Alternatively, simply looking at American history from a different perspective that represents the struggles of minorities does not equal promoting division or hatred toward any race, ethnicity, national, or religious group. Tying the hands of our teachers to have these discussions is a disservice to them, to us, and to students, especially students of color who may not be able to separate their daily lives from the topic of racism.

I believe very strongly that racism is based on lack of education, lack of experience and exposure, and lack of intellectual sophistication. I also believe it thrives on stereotyping and generalizing about members of a group—behaviors that are best countered with appropriate education, experience and exposure, and intellectual sophistication.

Within the context of our American melting pot, many strive to honor their ancestry and proud history. Most, if not all of you, for example, probably see me as Mexican American, yet "Zaffirini" is an Italian name, and my maiden name, "Pappas," short for "Papapavlos," is Greek. In fact, I'm of Mexican, Spanish, Sephardic Jew, and Greek descent, and my son is all of that—plus Italian on my husband's side. Imagine the history of those ethnic, national, and religious groups in Texas that our students could learn—and the insights they could develop.

Students need to understand our history and the facts that times change, people change, situations change. They need to learn to deal with the cognitive dissonance, Senator Hughes, that conflicting thoughts and emotions can cause as we examine how our state and country evolved.

There are Mexican American students across generations, for example, who applaud the heroism of our modern-day Texas Rangers, particularly my friend, Ray Martinez, who shot the sniper whose victims I witnessed as he shot them from the UT Tower in 1966.

Yet many of us simultaneously abhor the legacy of vicious brutality and blatant miscarriages of justice from the likes of Special Texas Ranger Alonzo Allee who murdered two Mexican Americans, Don Francisco Gutierrez, and his son, Manuel, because he wanted their land. Those two unarmed men, whose cold-blooded murders are detailed in "A Law for the Lion" by Beatriz de la Garza, were my husband's grandfather and great grandfather. Would Senate Bill 3 require students who read this book to consider the perspective of Allee? (Who, by the way, later was shot by the son of another person he killed.) History like that should be understood, not buried or ignored.

Another troubling provision of this bill would prevent students from getting extra credit for participating in what we so often see students doing at the Capitol during sessions: lobbying and advocating for public policy. We should encourage students to engage in our state governmental process, not discourage them, and offering extra credit for such activities does that. It doesn't matter if their issues are on the left, the right, or somewhere in between; banning extra credit for participation makes no sense. On a related note, how are the prohibitions and requirements in this bill going to be enforced? That question never was answered at our hearings, but I shudder to think of the possibilities. On the other hand, I agree with the teacher from Travis County who called my Capitol office at 11 p.m. Wednesday to say we are not giving our students enough credit for their ability to speak about complicated topics and for their desire to discuss them with their trusted teachers. She posed one simple question: "If this bill passes, where else could kids have constructive conversations about difficult current events, if not with their teachers and diverse classmates?"

I also agree with the educator who testified that we must trust our teachers to guide these conversations in our classrooms. And I agree with the teacher who said Senate Bill 3 would cause our teachers to engage in "educational malpractice."

For these and other reasons, I respectfully will vote "no" on Senate Bill 3. Thank you, Mr. President and members.

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**COMMITTEE SUBSTITUTE
SENATE BILL 4 ON SECOND READING**

Senator Lucio moved to suspend the regular order of business and Senate Rule 7.12(a) to take up for consideration **CSSB 4** at this time on its second reading:

CSSB 4, Relating to abortion complication reporting and the regulation of drug-induced abortion procedures, providers, and facilities; creating a criminal offense.

The motion prevailed by the following vote: Yeas 19, Nays 3.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Hinojosa, Whitmire, Zaffirini.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

The bill was read second time and was passed to engrossment by the following vote: Yeas 19, Nays 3. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 4 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 4** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 19, Nays 3.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hall, Hancock, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Hinojosa, Whitmire, Zaffirini.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

The bill was read third time and was passed by the following vote: Yeas 19, Nays 3. (Same as previous roll call)

**SENATE RULE 14.02 SUSPENDED
(Notice Rule)**

On motion of Senator Campbell and by unanimous consent, Senate Rule 14.02 was suspended in order to consider for confirmation those nominees reported today by the Committee on Nominations.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider executive appointments to agencies, boards, and commissions.

Senator Campbell moved confirmation of the nominees reported today by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 22, Nays 0.

Absent: Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West.

Judge, 355th Judicial District Court, Hood County: Bryan Thomas Bufkin, Hood County.

Director, Office of Community-Based Care Transition: Theresa Lynn Thomas, Travis County.

Members, Board of Directors, Gulf Coast Protection District: Sally Lucille Bakko, Galveston County; Michel Joseph Bechtel, Harris County; Roger Dale Guenther, Galveston County; Robert D. Mitchell, Harris County; Lori Jo Traweek, Harris County; Michael David VanDerSnick, Harris County.

Independent Ombudsman, Office of Independent Ombudsman for State Supported Living Centers: Candace Michelle Jennings, Travis County.

Member, Parks and Wildlife Commission: Anna Benavides Galo, Webb County.

Commissioner, Public Utility Commission of Texas: Lori Ann Cobos, Travis County.

Members, Board of Directors, State Bar of Texas: Serapio Cavazos, Cameron County; Jason McQuerry Charbonnet, Tarrant County; Forrest L. Huddleston, Dallas County.

Member, State Board for Educator Certification: Andrew B. Kim, Comal County.

Members, Texas Historical Commission: Monica Patricia Burdette, Aransas County; Lilia Marisa Garcia, Willacy County; David Alfred Gravelle, Dallas County; John Liston Nau, Harris County; Frank Thomas Perini, Taylor County.

Member, Board of Directors, Texas School Safety Center: Isaac William Avera, Cherokee County.

Members, Board of Regents, Texas State University System: Sheila Jean Faske, Orange County; Stephen J. Lee, Jefferson County; Alan Lee Tinsley, Madison County.

CO-AUTHOR OF SENATE BILL 1

On motion of Senator Hughes, Senator Perry will be shown as Co-author of **SB 1**.

CO-AUTHOR OF SENATE BILL 2

On motion of Senator Perry, Senator Hughes will be shown as Co-author of **SB 2**.

CO-AUTHORS OF SENATE BILL 3

On motion of Senator Hughes, Senators Bettencourt and Perry will be shown as Co-authors of **SB 3**.

CO-AUTHORS OF SENATE BILL 4

On motion of Senator Lucio, Senators Birdwell, Buckingham, Creighton, Paxton, and Schwertner will be shown as Co-authors of **SB 4**.

CO-AUTHOR OF SENATE BILL 6

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

CO-AUTHOR OF SENATE BILL 8

On motion of Senator Bettencourt, Senator Hughes will be shown as Co-author of **SB 8**.

CO-AUTHOR OF SENATE BILL 10

On motion of Senator Nelson, Senator Creighton will be shown as Co-author of **SB 10**.

CO-AUTHOR OF SENATE BILL 12

On motion of Senator Bettencourt, Senator Hughes will be shown as Co-author of **SB 12**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 3

On motion of Senator Huffman, Senator Perry will be shown as Co-author of **SJR 3**.

RESOLUTION OF RECOGNITION

The following resolution was adopted by the Senate:

Congratulatory Resolution

SCR 2 by Hughes, Recognizing the Rotary Club of Quitman on the occasion of its 75th anniversary.

RECESS AND MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 3:05 p.m. agreed to recess until 1:30 p.m. Monday, July 19, 2021.

The Senate further agreed that when the Senate finally adjourns, it do so in memory of Josh Bartlett and Jose "Joe" De Los Santos.

APPENDIX

BILLS ENGROSSED

July 16, 2021

SB 3, SB 4