

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

SECOND DAY

(Thursday, July 2, 2009)

The Senate met at 11:34 a.m. pursuant to adjournment and was called to order by the President.

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

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

The Reverend Don Long, former Senate Doorkeeper, offered the invocation as follows:

Our Father, which art in heaven, whose wisdom and goodness manifest themselves in all the works of creation, we come before You this day to thank You for those who, over two hundred and thirty years ago, courageously declared that this great land would be a democratic republic with freedoms and liberty for its citizens. And how grateful we are to those young men and women who at this hour have placed themselves in harm's way to protect our precious freedoms. Keep them in the hollow of Your hand and guard them from harm and help our leaders and the leaders of other nations to bring them home soon. Bless these Senators in this special session. Give them wisdom, courage, patience, and focus of heart and mind to pass such legislation that will be beneficial to all the citizens of this great State of Texas. Give each Senator the courage to put into practice those immortal words of Abraham Lincoln in his Second Inaugural Address on March 4, 1865: "With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in." God bless each and every one in this Chamber. Amen.

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

The motion prevailed without objection.

PHYSICIAN OF THE DAY

Senator Lucio, on behalf of Senator Fraser, was recognized and presented Dr. H. David Pope of Kerrville as the Physician of the Day.

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

(Senator Averitt in Chair)

SENATE RESOLUTION 2

Senator Shapleigh offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Socorro High School Bulldogs baseball team, which won the Class 5A University Interscholastic League state championship title on June 13, 2009; and

WHEREAS, The Bulldogs were victorious in their first trip to the state finals, defeating the Lufkin High School Panthers by a score of 12-7 in a game that saw them hold off a late Panther rally to capture El Paso's first state baseball championship in 60 years; and

WHEREAS, These young athletes have demonstrated great talent and perseverance throughout the year; team members George Stoltz, Oscar Sandate, Ivan Sigala, Josh Rodriguez, Angel Soria, Armando Muniz, Luis Yanez, Eric Herrera, Aaron Olivas, Roger Favela, Jesus Diaz, Marcus Molina, Jessiray Navarrette, Sergio Mendoza, Cory Falvey, Bobby Mares, Octavio Amparan, Chris Guzman, and Rene Rodriguez can all take great pride in their outstanding performance; and

WHEREAS, Under the superior leadership of head coach Chris Forbes and assistant coaches Joe Alvarez, Adrian Garcia, Federico Contreras, and Heriberto Reyes, and with the support of trainer Juan Renteria, scorekeeper Michael McMinn, and announcer Frank Perez, the Bulldogs have developed exceptional teamwork and discipline; and

WHEREAS, Socorro High School and the City of El Paso are proud of the Bulldogs for their hard work, their impressive skills, and their fine sportsmanship; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, 1st Called Session, hereby commend the Socorro High School Bulldogs baseball team on their successful season and extend congratulations to them on winning the Class 5A University Interscholastic League state championship title; and, be it further

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

SR 2 was read and was adopted without objection.

GUESTS PRESENTED

Senator Shapleigh was recognized and introduced to the Senate members of the baseball team of Socorro High School in Socorro accompanied by their coaches.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Carlette and David Julian, the son and daughter of Rigo Villarreal, chief of staff for Hidalgo County Judge J. D. Salinas III.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

July 2, 2009

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:

HCR 3, In memory of former Texas Attorney General Jim Mattox.

Respectfully,

/s/Robert Haney, Chief Clerk

House of Representatives

SENATE RESOLUTION 17

Senator Nelson offered the following resolution:

WHEREAS, Albert Hawkins is retiring as executive commissioner of the Texas Health and Human Services Commission on August 31, 2009, and it is indeed fitting to recognize his outstanding leadership at this time; and

WHEREAS, Appointed by Governor Rick Perry in January 2003, Mr. Hawkins oversees operations of five health and human services agencies with more than 50,000 employees and a combined budget of about \$25 billion; during his tenure, he oversaw the consolidation of 12 agencies into five and he initiated substantial enhancements in child and adult protective services; widely recognized as a budget expert, he instituted administrative changes in the Texas Medicaid program that have saved millions of dollars, as well as innovations that include personalized treatment plans for clients with chronic health issues and electronic health passports for children from foster homes; and

WHEREAS, Mr. Hawkins met the challenges of natural disasters with compassion and efficiency; by ensuring the availability of federal resources, he avoided overburdening Texas taxpayers while providing timely aid to victims of Hurricanes Katrina, Rita, and Ike; during his tenure, the Texas Health and Human Services Commission won increased federal funding for services, more than doubling Upper Payment Limits for doctors and hospitals and significantly increasing funding

for services to the deaf and hearing impaired; moreover, Mr. Hawkins worked with the legislature to expand community placement options to serve an additional 20,000 clients with disabilities and special health care needs; and

WHEREAS, A Fort Worth native, Mr. Hawkins worked his way through The University of Texas at Austin as a postal service employee and earned his master's degree in public affairs from the Lyndon B. Johnson School of Public Affairs; he joined the Texas Legislative Budget Board in 1978 as a program analyst and eventually became deputy director of the agency; from 1995 to 2000, he served as budget director for Governor George W. Bush, and he went on to serve on the senior staff in the Bush White House as assistant to the president and secretary to the cabinet; and

WHEREAS, This dynamic 35-year veteran of government service has received numerous accolades, including the Whitney M. Young Award of the Austin Urban League, the Outstanding Leadership Award of the Austin Chapter of Blacks in Government, and the Bob Bullock Award for Outstanding Public Stewardship; he received an honorary doctorate of public service from the University of North Texas Health Science Center and was named a distinguished alumnus by the LBJ School; in addition, he was Texas State Administrator of the Year in 1998; he has served his local community as chair of the Austin Area Urban League, as board treasurer of the Capital Area United Way, as a mentor and board member of Project M.A.N., Incorporated, and as a member of the board of Big Brothers/Big Sisters of Austin; and

WHEREAS, Highly respected for his integrity, dedication, and uncompromising commitment to excellence and fiscal responsibility, Albert Hawkins skillfully guided the Health and Human Services Commission through a time of considerable change, and he may indeed reflect with pride on his many accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, 1st Called Session, hereby congratulate Albert Hawkins on his retirement as executive commissioner of the Texas Health and Human Services Commission and extend to him sincere best wishes for continued success and happiness; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for Mr. Hawkins as an expression of high regard from the Texas Senate.

SR 17 was read and was adopted without objection.

GUEST PRESENTED

Senator Nelson was recognized and introduced to the Senate Albert Hawkins, Executive Commissioner of the Texas Health and Human Services Commission.

The Senate welcomed its guest.

SENATE RESOLUTION 18

Senator Nelson offered the following resolution:

WHEREAS, Adelaide Horn is retiring as commissioner of the Texas Department of Aging and Disability Services in August 2009, drawing to a close an outstanding career in public service; and

WHEREAS, Over the course of more than three decades, Addie Horn has developed expertise in such areas as institutional and community care services, policy development, consumer affairs, vocational rehabilitation, and program coordination, and she is highly regarded by her colleagues for her extensive knowledge of legal and legislative issues; and

WHEREAS, Addie Horn was on the staff of the Austin-Travis County Mental Health and Mental Retardation Center, and she later served as the director of programs for the Texas Department of Mental Health and Mental Retardation, where she helped develop a Quality Assurance and Improvement System for Mental Retardation Services; she also worked in the private sector in New Mexico and Indiana and served as the director of long-term care services for the Texas Health and Human Services Commission before she became the deputy commissioner for the Texas Department of Aging and Disability Services in 2004; and

WHEREAS, The department's commissioner since 2006, Addie Horn has overseen all of the agency's activities and care services as well as its nearly 15,000 employees; in this role, she has sought to enhance the overall system of care for individuals who are aging or have disabilities, and she has increased funding for programs and development, reached more clients, and introduced cost-effective practices; in addition, she developed the state's nationally recognized Promoting Independence Plan and Initiative; and

WHEREAS, Addie Horn has been recognized for her achievements on numerous occasions, earning the 1999 Leadership Award from the Texas Association on Mental Retardation and the 2004 Public Servant of the Year designation from the Coalition of Texans with Disabilities; in addition, she is the coauthor of "Addressing Consumer Expectations in Texas," which was published in a 2000 issue of the journal of the American Association on Intellectual and Developmental Disabilities, and in 2004, she completed the Governor's Executive Development Program at The University of Texas at Austin; and

WHEREAS, With the utmost dedication and professionalism, Addie Horn has made significant contributions to the State of Texas, and she may indeed reflect with pride on a career well spent as she prepares to embark on the next exciting chapter of her life; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, 1st Called Session, hereby honor Adelaide Horn on the occasion of her retirement from the Texas Department of Aging and Disability Services and extend to her sincere best wishes for the future; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for her as an expression of high regard from the Texas Senate.

SR 18 was read and was adopted without objection.

GUEST PRESENTED

Senator Nelson was recognized and introduced to the Senate Adelaide Horn, Commissioner of the Texas Department of Aging and Disability Services.

The Senate welcomed its guest.

GUEST PRESENTED

Senator Gallegos was recognized and introduced to the Senate Dr. William V. Flores, President of the University of Houston-Downtown.

The Senate welcomed its guest.

RECESS

On motion of Senator Van de Putte, the Senate at 12:38 p.m. recessed until 1:15 p.m. today.

AFTER RECESS

The Senate met at 1:44 p.m. and was called to order by the President.

AT EASE

Senator Whitmire at 1:44 p.m. moved that the Senate stand At Ease until 2:30 p.m.

The motion prevailed without objection.

IN LEGISLATIVE SESSION

The President at 2:49 p.m. called the Senate to order as In Legislative Session.

AT EASE

The President at 2:49 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 4:06 p.m. called the Senate to order as In Legislative Session.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
July 2, 2009

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, Relating to certain sources of revenue for the funding of highways and transportation projects.

HCR 2, In memory of former state representative Leopoldo Alvarado, Jr.

HCR 5, Honoring the musical drama TEXAS in Palo Duro Canyon on the occasion of its 44th season.

HCR 6, Congratulating Terrell Boyd of Paris, Texas, for being named a Chevalier of the Legion of Honor by the French Republic.

SB 2, Relating to the governmental entities subject to the sunset review process.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL ON FIRST READING

The following bill received from the House was read first time and referred to the committee indicated:

HB 1 to Committee on Finance.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Fraser and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.13 were suspended in order that the Committee on Finance might meet while the Senate was meeting today.

AT EASE

The President at 4:07 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 4:38 p.m. called the Senate to order as In Legislative Session.

BILL SIGNED

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **SB 2**.

CONCLUSION OF MORNING CALL

The President at 4:39 p.m. announced the conclusion of morning call.

HOUSE BILL 1 ON SECOND READING

Senator Carona moved to suspend the regular order of business, Senate Rule 7.12(a), Senate Rule 7.18, and the Constitutional Rule requiring bills to be read on three several days to take up for consideration **HB 1** at this time on its second reading:

HB 1, Relating to certain sources of revenue for the funding of highways and transportation projects.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MOTION TO ADJOURN SINE DIE

On motion of Senator Whitmire, the Senate of the 81st Legislature, 1st Called Session, at 4:49 p.m. agreed to adjourn sine die, pending receipt of Messages from the House and the completion of administrative duties.

BILL AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bill and resolutions in the presence of the Senate after the caption had been read:

HB 1 (signed subject to Sec. 49-a, Art. III, Texas Constitution), **HCR 2**, **HCR 3**, **HCR 5**, **HCR 6**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 26 by Uresti, In memory of Donald Joseph Knapp of San Antonio.

SR 30 by Huffman, In memory of Henry Canales.

SR 31 by Duncan, In memory of Louis Avery Sinclair of Lubbock.

SR 33 by Watson, In memory of Fred Kerwin Fox of Austin.

HCR 2 (Van de Putte), In memory of former state representative Leopoldo Alvarado, Jr.

HCR 3 (Whitmire), In memory of former Texas Attorney General Jim Mattox.

Congratulatory Resolutions

SR 19 by Huffman, Commending William Walker Gilbert for achieving the rank of Eagle Scout.

SR 20 by Huffman, Commending Patrick Cardillo for achieving the rank of Eagle Scout.

SR 21 by Ellis, Commending Jean Moffett Dendy for her service in the office of Senator Rodney Ellis.

SR 22 by Lucio, Recognizing Israel Pacheco, Jr., on the occasion of his retirement from the Texas Department of Public Safety.

SR 23 by Lucio, Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, and Zaffirini, Recognizing the Immaculate Conception Cathedral in Brownsville on the occasion of its sesquicentennial celebration.

SR 24 by Gallegos, Recognizing Robert King Hillier on the occasion of his 50th birthday.

SR 25 by Lucio, Commending Zonta International for its community service projects.

SR 27 by Davis, Congratulating Gabriella Ahbee Orton for winning first place in the National Braille Challenge.

SR 28 by Harris, Estes, and Nelson, Recognizing the Children's Advocacy Center of Denton County on the occasion of the grand opening of its new facility.

SR 29 by Watson, Recognizing Mike Campbell on the occasion of his retirement as director of the Support Services Department of the Texas Senate.

SR 32 by Watson, Recognizing John Andrew Traeger, Jr., on the occasion of his retirement from the Office of the Comptroller of Public Accounts.

SR 34 by Nelson, Recognizing Vic Burgess on the occasion of his retirement as Mayor of the City of Corinth.

HCR 5 (Seliger), Honoring the musical drama TEXAS in Palo Duro Canyon on the occasion of its 44th season.

HCR 6 (Eltife), Congratulating Terrell Boyd of Paris, Texas, for being named a Chevalier of the Legion of Honor by the French Republic.

ADJOURNMENT SINE DIE

The President announced that the hour for final adjournment of the 1st Called Session of the 81st Legislature had arrived and, in accordance with a previously adopted motion, declared the 1st Called Session of the 81st Legislature adjourned sine die at 6:45 p.m. Thursday, July 2, 2009.

APPENDIX

COMMITTEE REPORT

The following committee report was received by the Secretary of the Senate:

July 2, 2009

FINANCE — **HB 1**

BILL ENGROSSED

July 1, 2009

SB 2

BILL AND RESOLUTIONS ENROLLED

July 1, 2009

SR 1, SR 3, SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 12, SR 13, SR 14, SR 15, SR 16

July 2, 2009

**SB 2, SR 2, SR 17, SR 18, SR 19, SR 20, SR 21, SR 22, SR 23, SR 24, SR 25,
SR 26, SR 27, SR 28, SR 29, SR 30, SR 31, SR 32, SR 33, SR 34**

SENT TO GOVERNOR

July 2, 2009

SB 2

SIGNED BY GOVERNOR

July 10, 2009

SB 2