

# SENATE JOURNAL

EIGHTY-SEVENTH LEGISLATURE — THIRD CALLED SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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## FIRST DAY

(Monday, September 20, 2021)

In obedience to the Proclamation of the Honorable Greg Abbott, Governor of the State of Texas, the Senate met in the Senate Chamber of the State Capitol at Austin, Texas, on the 20th day of September, 2021, at 10:00 a.m. and was called to order by the Honorable Dan Patrick, Lieutenant Governor and President of the Senate.

The President directed the Secretary of the Senate to call the roll of the Senate.

The roll was called and the following Senators were present: Alvarado, Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Eckhardt, Gutierrez, Hall, Hancock, Hinojosa, Huffman, Hughes, Johnson, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Paxton, Perry, Powell, Schwertner, Seliger, Springer, Taylor, West, Whitmire, Zaffirini.

Absent-excused: Blanco.

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

President Pro Tempore Campbell offered the invocation as follows:

Gracious heavenly Father, O God of Abraham, Isaac, and Jacob and the Lord Jesus Christ of Nazareth, thank You for the blessings You give us. Father, if there is anybody here who does not know You, please reveal Yourself to them. And for those of us that do know You, we thank You, and may the choices we make be in line with Your favor. In Jesus' name. Amen.

## LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Blanco was granted leave of absence for today on account of important business.

## PROCLAMATION BY THE GOVERNOR

The following Proclamation by the Governor was read and was filed with the Secretary of the Senate:

PROCLAMATION  
BY THE

GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, GREG ABBOTT, GOVERNOR OF THE STATE OF TEXAS, by the authority vested in me by Article III, Sections 5 and 40, and Article IV, Section 8 of the Texas Constitution, do hereby call an extraordinary session of the 87th Legislature, to convene in the City of Austin, commencing at 10:00 a.m. on Monday, September 20, 2021, for the following purposes:

To consider and act upon the following:

Legislation relating to the apportionment of the State of Texas into districts used to elect members of the Texas House of Representatives, the Texas Senate, the State Board of Education, and the United States House of Representatives.

Legislation providing appropriations from the American Rescue Plan Act of 2021 (ARPA), Pub. L. No. 117-2.

Legislation identical to Senate Bill 29 as passed by the Texas Senate in the 87th Legislature, Regular Session, disallowing a student from competing in University Interscholastic League athletic competitions designated for the sex opposite to the student's sex at birth.

Legislation regarding whether any state or local governmental entities in Texas can mandate that an individual receive a COVID-19 vaccine and, if so, what exemptions should apply to such mandate.

Legislation similar to Senate Bill 474 as passed by 87th Legislature, Regular Session, but that addresses the concerns expressed in the governor's veto statement.

Such other subjects as may be submitted by the Governor from time to time after the session convenes.

The Secretary of State will take notice of this action and will notify the members of the legislature of my action.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 7th day of September, 2021.

(Seal)

/s/Greg Abbott  
Governor of Texas

Attested by:

/s/Joe A. Esparza  
Deputy Secretary of State

**MESSAGE FROM THE SUPREME COURT OF TEXAS**

The following Message from the Supreme Court of Texas was read and was referred to the Committee on Nominations:

**THE SUPREME COURT OF TEXAS**

September 16, 2021

The Honorable Dan Patrick  
Lieutenant Governor of Texas  
Texas Capitol Station  
Austin, Texas

Dear Lieutenant Governor Patrick:

The Supreme Court of Texas has made the following appointments that require the advice and consent of the Senate:

To the State Commission on Judicial Conduct

Hon. Lucy M. Hebron of Quitman, Texas effective September 8, 2021, to fulfill an unexpired term to expire on November 19, 2023 (replacing Judge Tramer Woytek).

Hon. Gary L. Steel of Seguin, Texas effective September 8, 2021, to fulfill an unexpired term to expire on November 19, 2023 (replacing Judge Ruben Reyes, deceased).

The Supreme Court of Texas respectfully requests the consent and confirmation of the Senate for each of these interim appointments.

Sincerely,

/s/Nathan L. Hecht  
Chief Justice

**SENATE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

**SB 1** by Bettencourt

Relating to a temporary reduction in the maximum compressed tax rate of a school district and the form of the ballot proposition to be used in an election to approve a tax rate adopted by a school district that exceeds the district's voter-approval tax rate; making an appropriation.

To Committee on Finance.

**SB 3** by Perry

Relating to requiring public school students to compete in interscholastic athletic competitions based on biological sex.

To Committee on Health and Human Services.

**SB 4** by Huffman

Relating to the composition of districts for the election of members of the Texas Senate.

To Committee on Redistricting.

**SB 5** by Lucio

Relating to the unlawful restraint of a dog; creating a criminal offense.

To Committee on Criminal Justice.

**SB 7** by Huffman

Relating to the composition of districts for the election of members of the State Board of Education.

To Committee on Redistricting.

**SR 2** by West

Amending the Temporary Rules of the Senate, 87th Legislature, to allow public testimony on redistricting using two-way videoconferencing.

To Committee on Administration.

**SENATE RESOLUTION 6**

Senator Springer offered the following resolution:

WHEREAS, On September 11, 2001, our nation was forever changed by the deadliest terrorist attack to take place on American soil, and as we observe the 20th anniversary of that tragedy, it is fitting that we pay tribute to the courage and heroism that shone on one of our country's darkest days and in the challenging years that followed; and

WHEREAS, On that infamous morning, terrorist hijackers seized four civilian airliners, using two of them to bring down the twin towers of the World Trade Center in New York City and another to explode into the Pentagon; the fourth airplane, United Flight 93, believed to be targeting the United States Capitol, crashed in the Pennsylvania countryside thanks to the heroic resistance of its passengers; altogether, nearly 3,000 innocent people lost their lives, including more than 400 New York first responders, 184 individuals at the Pentagon, and the 40 passengers of Flight 93; and

WHEREAS, Among those who survived the attack on the Pentagon was United States Army Lieutenant Colonel Brian Birdwell, who had already distinguished himself throughout his over-17 years of duty in the armed forces; while working in his second floor office when American Airlines Flight 77 crashed into the Pentagon building, he was critically wounded and received burns over more than 60 percent of his body; this valiant officer was hospitalized for months as he endured 39 operations and a number of skin grafts; he was awarded the Purple Heart, and upon his retirement from the army in July 2004, he was further honored with the Legion of Merit medal; along with his wife, Mel Birdwell, he later founded a nonprofit organization, Face the Fire Ministries, to support survivors of severe burns, wounded service members, and their families; in 2010 Lieutenant Colonel, Retired, Birdwell continued his public service when he was elected to the Texas Senate; and

WHEREAS, While September 11, 2001, will forever be remembered as a day of tragedy and loss, we also remember the selfless determination of law enforcement officers, firefighters, and other rescue workers who charged into danger that morning

and in the days after; these first responders continued to show up and search for survivors and remains in the days and weeks after the attacks, and many of these heroes lost their lives assisting the people who were trapped and injured; and

WHEREAS, Texans have accounted for a significant number of men and women of the United States Armed Forces who lost their lives or were wounded when answering the call to action in locations around the globe as our country responded to the terrorist threat; and

WHEREAS, Texas and The United States has long been a beacon of hope for vulnerable and disenfranchised people around the world, and the State of Texas has long valued and defended the principles of democracy, individual liberty, freedom of speech, and freedom of religion; as citizens of conscience of this great land, we bear both the responsibility and the honor to raise our voices to honor and tell the story of survival and resilience in order to remember the valor that was demonstrated by countless people on September 11, 2001, and in its aftermath; the roll call of honor that includes everyone from the first responders and ordinary civilians who came to the aid of victims, to the living friends and loved ones of those who perished; and

WHEREAS, the 20th anniversary of 9/11 offers an appropriate opportunity to pay tribute to all of the heroes who emerged from that tragedy and to acknowledge the sacrifice and determination that has enabled our nation to endure; now, therefore, be it

RESOLVED, That the Senate of the 87th Texas Legislature, 3rd Called Session, hereby commemorate the 20th anniversary of the September 11 terrorist attacks and all those who have sacrificed in dedicated service to our state and country as a result of that fateful day.

SPRINGER	HANCOCK	NICHOLS
ALVARADO	HINOJOSA	PAXTON
BETTENCOURT	HUFFMAN	PERRY
BLANCO	HUGHES	POWELL
BUCKINGHAM	JOHNSON	SCHWERTNER
CAMPBELL	KOLKHORST	SELIGER
CREIGHTON	LUCIO	TAYLOR
ECKHARDT	MENÉNDEZ	WEST
GUTIERREZ	MILES	WHITMIRE
HALL	NELSON	ZAFFIRINI

**SR 6** was read and was adopted by a rising vote of the Senate.

### REMARKS ORDERED PRINTED

On motion of Senator Menéndez and by unanimous consent, the remarks regarding **SR 6** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**President:** Senator Springer, you're recognized.

**Senator Springer:** Thank you, Mr. President. And let me start with, Senator Birdwell, it is an absolute honor to serve beside you. You have been an inspiration to all of us and there's so many things we could say. And I know that as the freshman I've had the least amount of personal time with you than our other colleagues. And I know that many of them want to say something but specifically about yourself and your service. But I want to thank you and Mel, specifically Mel, for being by, you

know, strength and strong as she is and everything you two have done in the last 20 years, you know, to not forget 9/11. You know, and we all probably were doing events back in district, you know, and the, and the one that reminds me is that I was driving to the one in Parker County, you know, it was that song, "Where Were You (When the World Stopped Turning)." And I think for each and every one of us we remember exactly where we were. And it changed the way we thought in a large way. We know it brought us together as a nation like nothing really in my lifetime I had seen. You know, we found out what unites us, what makes us better citizens, better neighbors, you know, better followers of God. We know that we're not defined by few evil people but by the millions that want to love each other as our neighbors. And so, it's, it's with that that, you know, we reflect, you know, we saw it, you know, and as a first responder, the largest single event of losing first responders, knowing that they're willing to be running into danger while others are running away, helping others to be able to run away. It's the reason in 2005 I became a volunteer fireman so I had the opportunity, and 9/11 wasn't that far off to be able to reflect that it was my time to be able to give back. And I think all of us have found ways to give back in remembrance of 9/11. And to the Texans and the fellow Americans that have sacrificed their bodies, their lives, fighting for the last 20 years to keep us safe at home, thank you doesn't come close to the gratitude we feel. And we started talking about this during the last special and didn't know whether we should do it before 9/11 or after 9/11, and we thought fitting that we should remember our 9/11 ceremonies. Senator Bettencourt and I've worked on this to make sure that, as a body, we don't forget. We appreciate, we understand, and we will never forget the 3,000 lives lost, the 250,000 people that are still sick or injured from 9/11. And we should try to continue to remember what united us as we continue to move forward as a state and nation. And with that, Mr. President, I know there's many others that would like to say a few words.

**President:** Thank you, Senator, and thank you for bringing this with Senator Bettencourt. Senator Bettencourt, you're recognized.

**Senator Bettencourt:** Thank you, Mr. President, Members. Everybody, as Senator Springer said, knows where they were on 9/11. I happened to be at a breakfast meeting with the HISD superintendent, Kay Stripling, and now-General Noriega, who was a State Rep back then. We were talking about problems at HISD and they seemed to pale in significance as soon as we knew that the first tower was struck. But when the second tower hit, we got up and left because we knew that America was under attack. And it's the same for my parents' generation and my grandparents, they knew exactly where they were when they heard about Pearl Harbor. They knew, they heard the broadcast, you know, that Pearl Harbor was bombed, it's no drill. And we lost about the same number of people that we did on 9/11 as we did in Pearl Harbor. And what I find fascinating and the great strength of America is that there's a saying that was codified by Stephen Ambrose, Senator Birdwell, about citizen soldiers and what this country does on times of great, great danger is we make citizen soldiers better than any other country in the world. We have people that volunteer to run into buildings as Senator Springer said, his brethren in the EMS service. We have citizen soldiers that attacked a cockpit because they had already figured out by that point in time that their plane was going to be used for nefarious purposes to kill Americans, and they took it down in a field outside of Pennsylvania, otherwise it might have

taken out the U.S. Capitol. The plane that hit Senator Birdwell's command station, which is the Pentagon, would have gone to the White House and obliterated it because at that speed with that amount of fuel there would have been nothing left of the White House. Instead, it turned, because they couldn't make this the target and they targeted a wing of the Pentagon where a Lieutenant Colonel was in an office watching what was on television, didn't realize he was about to be in an inferno but soon one came to him. And what I was struck by is that while America does a fantastic job of taking citizens and making soldiers, and I look at Senator Hinojosa because as a citizen soldier, he knows what I'm talking about from service in Vietnam. It's the transition that point in time refined by fire that our friend and our Senator, colleague, went from a citizen soldier to a soldier citizen, now statesman. It was at that moment that his life is cleaved in two because it is by what happened before 9/11 and what has happened after 9/11, the last 20 years. And because many of us share a faith that we believe, Senator Kolkhorst, that what God gives to you, He can take away, in his case this refined by fire, he shouldn't be here. The physics of walking into a two-phased, 300 degree vapor cloud, I mean, Senator Johnson, you would agree, he shouldn't be here but yet he is. Now, that defining point of your life and a lot of people would've said the next three years were service above and beyond the call of duty because it was. Thirty-nine operations and over that period of time God is restoring what He took from you, except that refined by fire's bringing back, literally as in scripture, gold and silver, and to you because your character was always strong. Sometimes I think that, you know, that the only tougher person on the floor right now is Mel Birdwell because she watched you go through that process. And one time I joked that I've, I'm up to like seven operations, so I guess I'm 32 behind you, and his self-deprecating humor about this is astonishing. His first comment is, well, maggot, that's not even the other 13 you don't know about. Okay? And, where, who else addresses people with "maggot" and, Senator Taylor, it's like a form of endearment. Okay? For Senator Birdwell to address you as maggot, oh please do. Okay? And I listen to him on many occasion describe what happened after he was hit and in the hospital, starting with, starting with what he, little he could remember of the President's, George Walker Bush's visit. And when he visits with other injured members, because remember this, our friend, our colleague, retired Lieutenant Colonel, has a Purple Heart, a Legion of Merit. So, he'll be visiting with a injured serviceman, women, and they'll ask, how did you get that Purple Heart? And his answer is, Senator Zaffirini knows, I was walking out of a bathroom. Okay? And that, they can't, they first off, it's a joke, yes, it is about what happened, and it's the story of how Senator Birdwell, refined by fire, is able to transmit to the next generation and I hope the generations afterwards just like what happened with the stories of Pearl Harbor, what really happened on 9/11. So, when we, when we honor every, the fallen, the still injured, the folks that are still hurt by what happened on 9/11, I think of my friend who could have stopped after 39 operations and said I've given enough. He could've gone home to Mel and said we're riding the boat on Lake Granbury. I've done enough, even if he is a menace in navigation and a transmitter of rock and roll at a high decibel level to warn all those that are coming. He could've said that's enough, Senator Campbell, I've gone through what I've done, I've been refined by fire. I've made it. But he doesn't stop because he has a servant's heart and an incredible heart, one that I think is eclipsed by his

relationship, only eclipsed by his relationship with his constituents, because they love him, because he is real, iconic. I was on the phone, the BBC had sent me a call from Senator Hughes, and they wanted to talk to some Texans about some military matters, and I had to say, sorry, I was too young for Vietnam and too old for the Gulf Wars. And then they asked me a question. They said do you know a real hero from 9/11 and I said, I do. I know one, because he didn't stop after 9/11. He has joined what I think is the best political job in America which is the Senate of Texas and his attention to detail's extraordinary. His grasp of an issue if you ask about George Mason on the Constitution and how that amendment to the, about states, about a conference of states comes about, you better expect an hour and 15-minute response, Senator Hall, because I know you've had that conversation with him. Because he's going to cover, Senator Creighton, everything from the Founding Fathers to your five ancestors that have been here in Texas, every conceivable detail he'll tell you about. So, I know that he had trepidation, Mr. President, about this coming up 9/11 because many of us had the same trepidation. Is the country really listening to what happened on 9/11? Well, not as well as it should because we're tied up with petulant politics and, you know, preponderance of activity that it relates around a pandemic. We're tied into a social media strata that basically now highlights the loudest voice. But in about five years, I predict at the 25th anniversary those fires will have calmed down. And once again America will really listen because what really happened on 9/11 is something that Springer started his talk by saying, we just, we should never forget, Senator Lucio, because the lives of American are what you served for, what Senator Hinojosa served for, for every veteran in this room, and for what Senator Birdwell serves for now. So, those are the days I'm waiting for because I know I'm going to be in an audience somewhere on the 25th anniversary of 9/11 because I'll want to hear from our Senate citizen, statesman, soldier, what really happened on 9/11. And with that, Mr. President, I move that all the names of all the Senators be added to the resolution.

**President:** They are already on the resolution. So, that has been taken care of. Let's go to Senator Buckingham, you're recognized.

**Senator Buckingham:** Thank you, Mr. President. You know, I'm going to make this short, but I had the really special privilege of being with Senator Birdwell this past 9/11 and in a packed VFW hall where there was literally not even standing-room-only in Granbury. And being with he and Mel and hearing the story, it almost makes me tear up right now because there's not a dry eye in the room when you realize how they both have served us and how amazingly strong they both are, and it is a joy and a privilege to be able to serve with you in the Texas Senate. So, thank you.

**President:** Senator Zaffirini, you're recognized.

**Senator Zaffirini:** Thank you, Mr. President. Mr. President and Members, it truly is an honor to rise and join all of you in paying tribute to our hero, Senator Brian Birdwell. And it is so appropriate that he is joined today by the person he recognizes as his commanding officer, his beloved Mel. I wish that you would all read, if you haven't already, the beautiful, the incredibly moving and memorable book that they wrote together, *Refined by Fire: A Family's Triumph of Love and Faith*. And if you haven't read it, Members, you really should because their book captures so meaningfully, so memorably not only what happened on that tragic day but how they



coped afterward, and it truly was a triumph of love and faith. And they capture step-by-step not only what they had to endure physically but the emotional churning that they experienced. Brian, lying there in the Pentagon, not knowing whether he would live, not knowing whether he would ever see his wife or their son, Matt, telling the person who held his IV, tell my wife I love her. Imagine how he felt in those moments. Imagine how she felt when she learned what happened to her husband. And yet they coped, they coped through prayer. They coped by accepting the love and the assistance of not only the experts who came to their aid but to the many, many countless people, some of whom they've never heard of, who came to their support and who prayed for them, too. That book captures their character and I believe it should be required reading for all of us who work with him because only in reading that book will you understand what this man is all about, what his wife is all about, what holds their family together, and how much they have endured and how courageous they are to take the time to put that experience into writing to share with others, especially to students who will learn from that experience because truly the Birdwell family stands as an example for all Texans, for all Americans. Thank you, my friend, we all hold you in our deepest respect, deepest admiration, and deepest affection. Thank you for all you do and all you will do.

**President:** Senator Whitmire, you're recognized.

**Senator Whitmire:** Thank you, Mr. President and Members, and Senator Springer, thank you so much. I've said on numerous occasion one of the real pleasures of serving as a State Senator are the relationships, the friendships, lifelong that you experience and certainly, Senator Birdwell and Mel are living examples of that. They will be my friends for life. They're a piece of me, I'm a piece of them. It's been a real pleasure, also as a Senator, and I know several of you have experienced it, to watch a newcomer come into the Senate, Senator Campbell, and all of you, and watch you develop as outstanding Senators. And I mention Campbell because she and I on the first day, Senator Birdwell, smack dab ran into each other. And I said, excuse me, Ma'am. She said, don't say Ma'am to me. What do you want me to call you? Senator. And I said, well, you're not a Senator yet. So, anyway, had to drop that on you this morning, because Senator Birdwell got here as green and fresh a public official as anyone I've experienced. But it's been so rewarding to watch him, Mr. President, become now 10th in seniority, our President Pro Tem, Chairman of Economic Development and Natural Resources, the leadership recognizes your leadership and commitment to public service. But also, each of us brings our skills and personalities to the floor, and Senator Birdwell, probably no one has unified this body like you have because you have unified us in our respect and admiration for your courage. If you Google courage, Mr. President, and Senator Birdwell's name and picture's not there, it should be, because no one has displayed it more than our colleague, Senator Birdwell. So, thank you, Senator Springer. I think we can really honor Senator Birdwell and show our appreciation, our admiration by rededicating ourselves to public service. If we'll do that and say let's do it in the Birdwell fashion, because he comes to my office and he's not afraid to challenge any one of us or the leadership in this building if he believes it's part of his public service. If we will model ourself after

this gentleman's public service, we will pay great respect to his being one of our colleagues. Thank you, Mr. President. And, Senator Springer, thank you, it's a great idea.

**President:** Thank you, Dean Whitmire. Senator Campbell, recognized.

**Senator Campbell:** Thank you, Mr. President and Members. I, too, rise to support the resolution. Thank you, Senator Springer, for bringing it forward. You know, we live under the banner of freedom that our flag represents, that our veterans procured and our active military standing guard around the world continue to maintain. But, Brian, you are the perfect example of how we are the home of the brave, the land of the free and the home of the brave. You are exemplary. You are the brave. You've taken a tragedy and you've turned it around and used it for good for those who have gone through similar tragedies, burns, that only, in a way that only you can understand, with Mel's support by your side and God to guide you. You've helped others in a way that other people cannot. And that says a lot when you turn a tragedy and you use it for something good. It's an honor for me to serve you and with that, I will always treasure knowing you and the spirit of bravery that you've had to endure all this time as you live with the tragedy daily. But you don't let that take you down, you look forward, again, with God and thank you. Thank you so much. Thank you, Mr. President. Thank you, Members.

**President:** Thank you, Senator Campbell. Senator Hinojosa, recognized.

**Senator Hinojosa:** Thank you, Mr. President. I do remember 9/11. That morning I was getting ready to leave for the office when all of a sudden I watched the news and I saw the plane crash into the World Trade towers. And it was shocking to me what's happening. I couldn't believe it. But what I saw was the courage of the first responders, the firefighters, police officers, not running away from the fire but running towards the fire to save lives. And I think many times not only of the victims but I think about the courage of the people involved in 9/11. The plane that was headed to the White House where the passengers knew they were, they were facing death and they stepped, rushed to the pilots and crashed the plane in Pennsylvania. To me, I try to identify how it felt to be in that position for those passengers that willing to do and save the White House and again stand up for our freedom, stand up for our country. I always talk about the victims because what happened that day on 9/11 understand that these people are terrorists. They don't care about our families. They don't care about lives. They want to destroy America. They want to destroy our freedom. They want to destroy who we are as a nation. There are evil people in this world, evil countries that want to destroy us. There's no doubt in my mind, and I will know that, Senator Birdwell, having been in combat myself, understanding what it takes when you see other soldiers get wounded, some dying. It takes the will to live, the courage and the drive to survive so you won't die but also takes support of your friends, Mel standing by your side all the time, your son, Matt, worried about you, and the support you received from all your military friends. That helps give you the will to live. And those of you who have not read the book, *Refined by Fire*, need to read that book. Thirty-nine operations, it's unbelievable what you went through, Senator Birdwell. I think many people would've given up and said I'd would rather die, I'd rather die. But Senator Birdwell refused to die. And you look at the details of the different surgeries,

the pain that he had to go through, the pain he had to endure. But Mel was there supporting him, holding his hand, and she would not give up either. And sharing in that support from family, from your friends, and neighbors that helped take care of Matt, is very much part of what makes our country a great nation. For me, quite frankly, Senator Birdwell, when 9/11 happened, I felt so strong about it that I wanted to volunteer back and join the Marine Corps again. That's how strong I felt about it. I knew I couldn't run as fast as I could when I was young but I could still shoot straight. But I perhaps will never forget 9/11 because it changed the way we live. It changed we, the way we look at the world. It changed in focus and security how vulnerable our open society is to terrorists. Senator Birdwell, I'm very honored to serve with you in the Texas Senate. I'm very honored to have worked with you under your committees and your leadership. Even though you went through this horrific incident of terrorism and surgeries and pain, you still are willing to serve this great state of ours and this great nation of ours by serving in the Texas Senate. I'm very honored to call you my friend. Semper Fi.

**President:** Senator, Senator Nelson, you're recognized.

**Senator Nelson:** Thank you, Mr. President. I have to take a breath. Senator Hinojosa, you made me tear up. I am honored to add my name to this, of every Senator in this body supporting this resolution. Senator Birdwell, like many other Americans this past September 11th, I sat in front of my television and watched many of those specials that were on. And I get emotional, I can't imagine what it is like for you and your family every September 11th. Yet, I was thinking about how that time united Americans. It united Americans and reminded us what a great nation we are and how we were not going to let any country take that away. You unite us as Senators, Senator Birdwell. Even though there are issues that we, you know, may agree or disagree, every Senator in this body looks over there at you and sees a great Texan, a great American. And you are such an example for, not just for the people sitting here, but for Texans and Americans. And I echo, if somebody hasn't read that book, they need to read the book that you wrote, the *Refined by Fire*, and really read about what you went through, and it charges our batteries to know that sitting right here with us is such a great American. Mel, thank you for being there for him so that he can be here with us. Senator Birdwell, you are an inspiration to all of us and we are very, very grateful for what you gave, for what you are giving, and what you are going to give. Thank you. Thank you, Mr. President.

**President:** Thank you, Chair Nelson. Senator Hall, you're reconized.

**Senator Hall:** Thank you, Mr. President. Citizen soldier transitioned to Senator statesman, you know, in a circumstance of not your causing. Like many of us we find ourselves in circumstances and you know character is defined not by our circumstances but how we handle those circumstances. And I think the way you handled the circumstance that transitioned you from one life to an entirely different life speaks volumes of the character that's in you and in Mel that carried you there. Now, my friends went before me here had a lot to say along the same lines. I'm not going to repeat what they had to say. As a fellow veteran, I understand what it is to be called a maggot, and I understand, appreciate your humor with that when you told me you don't go to barbecue events and referred to yourself as a crispy critter. It speaks

volumes about how you came through this and handled it. And I will tell you that when I was first running, I looked at other Senators and I will have to tell you that your voting record that went before I got here was one that I wanted to model what I was doing when I got here. And it was a pure honor to serve with you on the Border Security subcommittee that very first session. Learned a lot from how you handled the meeting, how you handled it and appreciate it. But want to thank you and Mel for what you've done, what you, continuing to do and just can't imagine what your life would have been like if you hadn't have had that circumstance that changed it. And I think America and Texas, for sure, is far better off. Unfortunately, you had to suffer a lot to get there, but what's come out of it, I think, is a true gift to our state. So, thank you for what you've done.

**President:** Thank you, Senator. Senator West, you're recognized.

**Senator West:** Thank you very much, Mr. President and Members. Brian, I can recall when I first met you, and I think we were about to go through redistricting again, too. And I asked you, and there were, you were about to be assigned portions of southern Fort Worth, and I asked you several questions. I'll ask, I said, have you ever heard of The Temptations? Okay? You recall what you said. Who? The tem who? Temptations. I said, give me some of the songs. I said, you don't have anything in common with the people in that particular district. But what you do have in common with each and every one of us on the floor as some of the Members were talking about you, both of you as one, I'm reminded of what you went through at the Pentagon, you and many others. And then I'm reminded of Shadrach, Abednego, and Meshach being in that fiery furnace, so hot that persons that took them to the furnace, as ordered by the king at that time, they died under the heat of going to that furnace. But once they went into the furnace, because they wouldn't do what the king said, instead of being three people in that furnace there were four. You recall the story in Daniel. They were brought out of the furnace just as you were brought out of the furnace on 9/11. And you were brought out for a purpose. And the purpose has been manifested in your service here in the State Senate and for our country. Now, we don't agree on everything. I like The Temptations. Okay? But what I would say to you that your service here in this body, for our country, for our state is applauded today by all of us here in this particular body. So, on behalf of Carol and myself, I want to congratulate you, and I, Senator Springer, thank you for bringing this resolution. And when I was first, when it was first uttered to me whether I wanted to be a signator on this resolution, they didn't have to get the words out of the entire sentence. I thought it very appropriate and I appreciate everything you've done, my friend.

**President:** Senator Kolkhorst.

**Senator Kolkhorst:** Thank you, Mr. President. I want to echo what all of our colleagues have said about a true American hero in Brian Birdwell. Mel, thank you for being the definition of a great partner in life in what you endured. In the last session, we've had many, Mr. President, since regular session. I think we're in our Third Called Session. I believe, Senator Bettencourt, it was the Second Called Session, we walked down the street, a few of us, and we had dinner. It was just prior to September 11th. And we were talking and the 20th anniversary of September 11th came up. And we had the most extraordinary moment to sit and listen to our hero and

his description. And when he showed me the picture of where the plane went in, he said, this was my office right here, but this is where I was standing. And I said, Senator, would it have been better if you would have been in your office? And he said, no, my two colleagues in my office perished. Joan and, Sandy and Joan. And then he said he laid there and what was most impressive about everything was that he called out to the Lord and he said, I'm coming home. I'm coming home to see You. And he completely relented. And I love your faith because most would have just agonized over the pain but you know who you are and where you are going. And I think, Members, that's why we love serving with him. Because not only is he a servant to our country but he's a servant to our God. So, with that, Senator, I say Hooah, and I got the opportunity to share your stories of that dinner with family and friends over the last week or two. And I think that knowing someone who survived, who was willing to share their story and to share their faith will help us all never forget what happened on September 11th, 20 years ago. God bless you both and thank you.

**President:** Senator Lucio, you're recognized.

**Senator Lucio:** Thank you, Mr. President. This is, I was just thinking of a very historic moment in the Texas Senate. One that we all have witnessed and I'm glad I'm speaking at this particular time because I get to listen to the best this state has to offer on this floor express how they feel about one of the most tragic happenings in our time, in our time. And I say that because we were all alive, we witnessed it, even though it was on television, we witnessed something that struck at the heart of who we were, an American family, a country who we always, always state is under God. I can't help but think, not think, know, Senator Birdwell, that it was God's plan for you not to die that day. It was His plan. He brought you here, back home, and here so you could serve as an example of leadership as one of His perfect human beings. Leadership, I've always defined as not the ability to tell people what to do, it is the ability to make people want to do the right thing through example. And that's what you've shown us all. How you live your life as an example to everyone, not only in this state but everyone in this country. I remember where I was, and let me say this, I remember where I was when John Kennedy was murdered and was killed November the 11th, I believe, 1963. I was right between JCPenney in the alley going to the warehouse to bring some merchandise because I was working at Penney's and going to college. I was a freshman. You don't forget those things. I wasn't around, I don't think many people were around 1942, for Pearl Harbor, very few people were around that are in this building today. But what I want to express is God has a plan and it's, we have to look at who we're talking about here today. I sat down that day when my son, Eddie, the Representative, called me and told me to turn on the television before I left work. And I sat there at the edge of my bed all day long. I didn't go to work. And I wept for the people who had gotten killed because they had families, they had children, they were sons and daughters, they had a reason to live like all of us have a reason to live. Because life is precious and life is important to all of us to secure it, to make sure that, you know, we do everything to support someone who is less fortunate than we are. And you came back here, and I understand how you vote on issues because you are a man of God and you understand that what happened was all planned out for you and for us to be able to witness this moment here today and to

talk about being united, being for one another, and making sure we never forget what our real purpose in life is. You were surrounded that moment by a culture of death by bad people who came to our country with intentions of destroying life, and you have done the complete opposite. You have supported issues that enhances life or creates a quality of, a culture of life. And I, for that I, I'm so thankful for you. I really am. I will remember many things, many great leaders on this floor and I consider everyone here a special person. It doesn't matter what side of the aisle we are or where we're from. What matters is that we understand and respect one another, be understanding in caring for one another and know that there's a reason for us to be here. It's God's plan. That's what's important and looking back at the people who perished, I sat down, again, on the 20th anniversary, Senator Kolkhorst, I didn't leave my home. I sat there and relived it all over again. I was thinking of those that jumped from the building, how hard that would've, that was, what their final prayer might have been. And I ask myself what can we do to become less divisive, more understanding, and working together to, for a common cause. That's should be our goal so that something like that doesn't happen. You know, I also was thinking, many of us never put on a military uniform. I was on my way but I was taken off that bus because I was a teacher. There was a shortage of teachers so I never did but God's plan has me here working with all of you to serve our veterans and to acknowledge our first responders and everything that's important and good in our country, in our life. He had a plan for me. And He had a plan for you, a special one for us to be able to acknowledge who you are and what you represent in this country, in this state, in this Capitol. And I thank God, you know, for having the leadership we have that allows us to express this right here, allows us to work with one another to make sure that we address the needs of our, the people of our great state. That's a beautiful plan devised by God, engineered by Him way back. Heaven knows when. May God bless our country and may God bless the men and women who didn't make it and their families. I feel for them not being able to touch a grandchild or tell a wife how much you love her, you know, and that beautiful moment that we have sometimes. This is historic in the sense that we're able to reach out and bond and understand that there's a purpose in life. Thank you, Mr. President.

**President:** Thank you, Senator Lucio. Is there anyone else who wishes to speak? I don't know, Senator Birdwell, if you wish to speak or take it all in. I was sitting here thinking, I'll close with my own comments. Someone asked me one time, what's the difference between being Lieutenant Governor and being a Senator? My simple answer was that as Lieutenant Governor, I look at 31 faces every day. All of you are looking kind of at the back of someone's head, occasionally you turn, but I see your faces every day and I know that there are 31 individual stories. Each one of you have a story. I learned a long time ago that someone said when you're talking with someone from time to time, and maybe they're not happy with you or having a down day, you don't know what's going on behind the surface. You don't know what's going on at home, you don't know what's going on with the family, you don't know what their health is, you don't know what their dreams are. Everyone has a story and each one of you are unique and you bring your own story and help create this body of a Senate, which I think is the best legislative body in the country. And, Senator Birdwell, we know your story better than others because of the book, because of that moment. I've

known you before you were a Senator. We've spent many hours on the phone. You are a remarkable human being. Senator Whitmire said it well. You know, you've made us all better people. You've changed the tone of the Senate. People who disagree with you and try to get you to move on an issue, as Senator Hinojosa said, when you have the will to survive and you will do anything, well, you take that same position on things you believe in. You take strong positions but I don't know that you've ever made anyone angry with you or mad at you, ever. You're so respectful. You have changed the tone of the Senate. I think of that movie, a wonderful life, what's that movie really about? If we didn't exist, how would the world would be different without us? And that would apply to 31 faces. For you, had you not survived, as Senator Lucio just referenced, that day, we would not be the Senate we are today. We would not be, I don't know how we would be different, I'm sure someone would've run and done a fine job, but we would not be the people we are as individuals because we know you. We would not be the Senate we are because you bring a tone and a quality and a seriousness and a passion and a heart to issues really like, with no offense, Members, like no one else on the floor. So, we are blessed that you are with us and we hope you stay with us a long time. You know you talked about The Temptations, Royce, or Senator West, I've got sunshine on a cloudy day, when it's cold outside, it's the month of May. Mel has clearly been your sunshine and we're honored to know both of you. Thank you for sharing him with us. Senator Birdwell, would you like to speak?

**Senator Birdwell:** Yes, Mr. President. Thank you. Well, I don't recall seeing the resolution and signing it. Now I know why some of my former staff are here and some of my current staff from the district are here. I don't get surprised often. I am honored and pleasantly surprised so let me, let me try to briefly say what's on my heart and respond to y'all accordingly. And first is Mel, I, Senator Hinojosa, you talked about the will to live, but, Members, I confess to you, in ICU I pleaded for the Lord to finish what the terrorists started. In fact, the hardest, one of the hardest days was the day I got out of ICU, a month after the attack and was moved into step-down care. In ICU the angel of death is standing in the corner and now that the question of life or death had been answered and the answer was life, the real emotional challenge that day was what's that life going to be. I was a complete train wreck. Knowing that this will probably be recorded in the Journal, I will not give you some of the gruesome details. But I'm a six-foot infant, wrapped like a mummy, cannot toilet, eat, do many of the activities of daily living on my own. Mel was living her wedding vows with an incredible rigor that should the roles be reversed I will be a very inadequate spouse. How would I provide for my family? The Lord is your ultimate assignments officer, as Senator Lucio said, the right time, the right place with the right people, the right training, the right equipment that would afford me the opportunity to be here. I've had the privilege of meeting many different folks by virtue of the events of that day. Whether it's my team that's up there, I can't name everybody because I, I'll miss somebody. Some of y'all have beards and looking a little bit maggot infested of late. But, and I met a gentleman that, several years ago in California, was pulled from the USS *Oklahoma* the morning of December 8th, one of only a handful of people that would survive coming out of the *Oklahoma*. We've, Mel and I have met others that charged into buildings. Two years ago we were in New York, firefighter friend of ours

that took us around, and Mel and I did go to the national September 11th museum. And hard experience, particularly for Mel, when we got to the Pentagon portion of it that the resolution speaks to those that have dedicated and sacrificed and like many of us observed and have recently observed those that charge into buildings. And I have an incredible appreciation for firemen and what they risk, what it's like to spend time in a burn unit. Just yesterday, an aircraft was taking off out of Carswell joint reserve base, two-person aircraft, both ejected. One of those that ejected, parachute brought him down into power lines. Electrical burns are worse than any other burn because of what it does to the interior of the body as the electricity passes. That pilot is at Parkland right now. And when Mel and I hear those stories it, similar to the cancer survivor that deals with the cancer patient, there's that bond of suffering of what that pilot's going to endure for the next several months and years. But in all the people that we've met, whether it was with Senator Nelson before I became a Senator at the heroes of Denton County or you, Governor Patrick, when you introduced me at a West Harris chamber event that I spoke at on a Veterans Day or Saturday night, Chuy, I was with the 3rd Marine Division alumni that I got to go lend some dignity to what would otherwise be a vulgar brawl. Although there's something to be said for vulgar brawls, ultimately I simply stepped out of the men's restroom, which is no act of courage, and the Lord saw fit to spare my life and be here today and serve with y'all for the last 11 years. There's times it seems shorter, times it seems longer. Mel and I were talking during the September 11th timeframe that 20 years seems more like a century ago and there's times it seems just a few years ago. But I want to close with two things, first, that the last 20 years have been an incredible blessing to Mel and I because there were so many things that we've had the opportunity to see, that laying in that ICU bed thinking that Mel would see them as a widow. Our son graduated high school, graduated from Texas Tech back in 2013 on the, what is it the five-year plan or the six-year plan, 12-year plan? Well, it wasn't quite that, but graduated from Texas Tech, eventually, 2015, married a fabulous daughter-in-law, Ann Marie. And we've got two grandchildren now that, Elijah and Lily, that we want to squeeze on and hug on and take them out on that boat and go fishing, though the fish never cooperate. But those blessings that will come, and however the Lord allows Mel and I to tarry here. Those blessings will continue because, Members, this is still, no matter our maladies, this is still the greatest nation on God's green earth. Because I've been to those other countries, Chuy's been to them, I'm sure Bob's flown over them and stuck his head out the side of the window and said, gee, looks like it sucks down there, while Chuy and I were embracing the suck but, Members, it's true. I also want to remind you of one other thing. The last month, month and a half, has been hard to watch. I can't imagine what it's been like for Senator Hinojosa. I want you to know, I dare speak for every veteran here because there are veterans that will not agree with me, and there'll be family members of those that've lost loved ones that will not agree with me, but the preciousness of freedom that this nation and this state affords us is worth every scar that I wear, emotional, physical, or every headstone in Arlington, every headstone in a state cemetery, every headstone on a military installation, and every headstone in a veterans cemetery. It will be worth it now, it was worth it nearly 250 years ago, and it'll be worth it for the next 250. Members, the enemy that attacked me and attacked our nation 20 years ago still exists, still is vibrant, and still hates our guts, and is still



prepared to train, recruit, deploy, and finance those individuals to come here and to destroy our way of life. And I am thankful that there are young men and women that still raise their right hands and say, I'll support and defend the Constitution of the United States against all enemies foreign and domestic, because we'll be happy to put relish on any enemy's hot dog because this country is worth it. And don't ever let anybody tell you otherwise. It is my treat to be with each and every one of you, to serve with each and every one of you, my team that has made me the Senator that I am. God bless Texas and God bless the United States. Hooah.

**President:** Senator Springer, to close. I was going to ask you to all stand, rise for this resolution. Senator West, what purpose?

**Senator West:** Mr. President, if it's appropriate, I would ask unanimous consent to ask Mel Birdwell if she has any comments before we close on this resolution.

**President:** Thank you, Senator West. Senator Birdwell, would Mel like to speak?

**Mel Birdwell:** Say one thing. Senator Bettencourt, when you said that Brian could have just gone home and done nothing, no, that wasn't an option. One of us had to get a job and go somewhere. So, that's all I have.

**President:** Members, the resolution's adopted. We honor you, we respect you, we love you, and we're glad both of you are here. Thank you. Senator Menéndez?

**Senator Menéndez:** Mr. President, I believe that the words I heard here today were so moving that I would hope that if this motion has not been made that we make a motion and this resolution and all the words said deserve to be on the Journal, spread on the Journal, for posterity's sake for others to learn from our history, and I hope that that motion is amenable to you and the body.

**President:** Thank you for that motion. Any objection, of course not. Motion's adopted and the resolution is adopted. Thank you, Senator Springer. Thank you, Senator Bettencourt.

## RECESS

On motion of Senator Whitmire, the Senate at 11:50 a.m. recessed until 12:00 p.m. today.

## AFTER RECESS

The Senate met at 12:16 p.m. and was called to order by the President.

## ELECTION OF SERGEANT-AT-ARMS

The President announced that the time had arrived for the election of the Sergeant-at-Arms of the Senate.

Senator Whitmire placed in nomination the name of Austin Osborn for the office of Sergeant-at-Arms.

On motion of Senator Miles and by unanimous consent, all Members seconded the nomination.

On motion of Senator Whitmire, Austin Osborn was elected Sergeant-at-Arms.

The President declared that Austin Osborn had been duly elected Sergeant-at-Arms by acclamation.

### **OATH OF OFFICE ADMINISTERED**

The President administered the Constitutional Oath of Office to Austin Osborn as follows:

I, Austin Osborn, do solemnly swear, that I will faithfully execute the duties of the office of Sergeant-at-Arms of the Senate of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this state, so help me God.

### **SENATE RULES SUSPENDED**

#### **(Posting Rules)**

On motion of Senator Kolkhorst and by unanimous consent, Senate Rule 11.10(a), Senate Rule 11.18(a), and Senate Rule 11.19 were suspended in order that the Committee on Health and Human Services might meet and consider **SB 2** upon adjournment tomorrow in the Senate Chamber.

### **SENATE RULES SUSPENDED**

#### **(Posting Rules)**

On motion of Senator Nelson and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Finance might meet and consider **SB 1** at 10:00 a.m. tomorrow in Room E1.036.

### **SENATE RULES SUSPENDED**

#### **(Posting Rules)**

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Criminal Justice might meet and consider **SB 5** upon adjournment in the Betty King Committee Room.

### **SENATE RULES SUSPENDED**

#### **(Posting Rules)**

Senator Kolkhorst again moved to suspend Senate Rule 11.10(a), Senate Rule 11.18(a), and Senate Rule 11.19 in order that the Committee on Health and Human Services might meet and consider **SB 3** at 12:30 p.m. tomorrow in the Senate Chamber.

The motion prevailed without objection.

### **MOMENT OF SILENCE OBSERVED**

At the request of Senator Whitmire, the Senate observed a moment of silence in honor of Houston Police Officer William "Bill" Jeffrey.

### **CO-AUTHOR OF SENATE BILL 1**

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

## RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

### Memorial Resolutions

**SR 3** by Kolkhorst, In memory of the life of Larry Wayne Marusik.

**SR 5** by Zaffirini, In memory of Norma Helaine Clark Moore.

### Congratulatory Resolutions

**SR 1** by Lucio, Recognizing Jaime Villarreal for receiving a doctorate of education from The University of Texas Rio Grande Valley.

**SR 4** by Zaffirini, Recognizing Darius D. Todd on the occasion of his retirement.

## MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 12:27 p.m. agreed to adjourn, in memory of William "Bill" Jeffrey, pending the receipt of committee reports, until 12:00 p.m. tomorrow.

## ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 11:59 a.m. Tuesday, September 21, 2021, adjourned, in memory of William "Bill" Jeffrey, until 12:00 p.m. today.

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## APPENDIX

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## COMMITTEE REPORT

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

September 20, 2021

CRIMINAL JUSTICE — **SB 5**

## RESOLUTIONS ENROLLED

September 20, 2021

**SR 1, SR 3, SR 4, SR 5, SR 6**

