

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — SECOND CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRD DAY

(Continued)

(Friday, July 19, 2013)

AFTER RECESS

The Senate met at 11:57 a.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, July 19, 2013 - 1

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 16 Pickett

Relating to state revenues, including the provision and use of revenue for transportation, the transfer of revenue to the available school fund, and the administration of, transfers to, and appropriations from the economic stabilization fund; making contingent appropriations.

HCR 3 Turner, Scott

Directing the governor of the State of Texas to award the Texas Legislative Medal of Honor posthumously to Audie Murphy.

HCR 5 Menéndez

In memory of U.S. Air Force Captain Mark Tyler Voss of Boerne.

HCR 9 Lavender

In memory of Paul Gene Roden of Paris.

HCR 10 Lavender

In memory of Gerald Glen Bawcum of Paris, Texas.

HCR 12 Lavender

In memory of Franklin Joseph Homer, Sr., of Paris.

HCR 14

Walle

Recognizing Nancy Blackwell on her retirement from the Aldine Independent School District.

HJR 2

Pickett

Proposing a constitutional amendment to provide for revenue from motor fuel taxes to be used solely for constructing, maintaining, and acquiring rights-of-way for certain public roadways and to provide for the transfer of certain general revenue to the economic stabilization fund and the available school fund.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 4, HCR 11.**

LEAVES OF ABSENCE

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

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

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

**SENATE RESOLUTION 71
(Caucus Report)**

Senator Whitmire offered the following resolution:

BE IT RESOLVED BY THE SENATE OF THE STATE OF TEXAS:

SECTION 1. CAUCUS REPORT. At a caucus held on July 19, 2013, the caucus made the recommendations for the operation of the senate contained in this resolution.

SECTION 2. EMPLOYEES. (a) The lieutenant governor may employ the employees necessary for the operation of the office of the lieutenant governor from the closing of this session and until the convening of the next session. The lieutenant governor and the secretary of the senate shall be furnished postage, telegraph, telephone, express, and all other expenses incident to their respective offices.

(b) The secretary of the senate is the chief executive administrator and shall be retained during the interval between adjournment of this session and the convening of the next session of the legislature. The secretary of the senate may employ the employees necessary for the operation of the senate and to perform duties as may be required in connection with the business of the state from the closing of this session and until the convening of the next session.

(c) Each senator may employ secretarial and other office staff for the senator's office.

(d) The chairman of the administration committee is authorized to retain a sufficient number of staff employees to conclude the work of the enrolling clerk, calendar clerk, journal clerk, and sergeant-at-arms. The administration committee shall establish the salaries for the senate staff.

SECTION 3. SENATE OFFICERS. (a) The following elected officers of the 83rd Legislature shall serve for the interval between adjournment of this session and the convening of the next session of the legislature:

- (1) Secretary of the Senate—Patsy Spaw;
- (2) Calendar Clerk—Linda Tubbs;
- (3) Doorkeeper—Austin Osborn;
- (4) Enrolling Clerk—Patience Worrel;
- (5) Journal Clerk—Polly Emerson; and
- (6) Sergeant-at-Arms—Rick DeLeon.

(b) All employees and elected officers of the senate shall operate under the direct supervision of the secretary of the senate during the interim.

(c) Officers named in this section serve at the will of the senate.

SECTION 4. DUTIES OF CHAIRMAN OF ADMINISTRATION COMMITTEE. (a) The chairman of the administration committee shall place the senate chamber in order and purchase supplies and make all necessary repairs and improvements between the adjournment of this session and the convening of the next session of the legislature.

(b) The chairman shall make an inventory of all furniture and fixtures in the senate chamber and in the private offices of the members, as well as of the supplies and equipment on hand in the purchasing and supply department and shall close the books for the Regular Session of the 83rd Legislature.

(c) The chairman shall not acquire any equipment on a rental/purchase plan unless the equipment is placed on the senate inventory at the termination of the plan.

(d) The chairman shall examine records and accounts payable out of the contingent expense fund as necessary to approve all claims and accounts against the senate, and no claim or account shall be paid without the consent and approval of the chairman.

(e) The chairman and any member of the administration committee shall be entitled to receive actual and necessary expenses incurred during the interim.

(f) In addition to the duties of the administration committee expressly imposed by this resolution, the committee shall take actions necessary to ensure that the administrative operations of the senate comply with applicable law and are conducted effectively and efficiently.

(g) The chairman shall appoint a working group of the senate to study the Permanent Rules of the Senate of the 83rd Legislature and to make recommendations for changes to the rules to the Senate of the 84th Legislature. The Parliamentarian, Karina Davis, and the Secretary of the Senate, Patsy Spaw, shall staff the working group and provide confidential and neutral advice to the chairman and members of the working group. The working group shall study issues related to the proper functioning of the senate, including senate decorum, admission to the floor and gallery, consideration of ceremonial resolutions, filibusters, public hearings, executive sessions, and all other senate rules.

SECTION 5. JOURNAL. (a) The secretary of the senate shall have 225 volumes of the Senate Journal of the Second Called Session of the 83rd Legislature printed. Two hundred and twenty-five copies shall be bound in buckram and delivered to the secretary of the senate who shall forward one volume to each member of the senate, the lieutenant governor, and each member of the house of representatives on request.

(b) The printing of the journals shall be done in accordance with the provisions of this resolution under the supervision of the chairman of the administration committee. The chairman shall refuse to receive or receipt for the journals until corrected and published in accordance with the preexisting law as finally approved by the chairman of the administration committee. When the accounts have been certified by the chairman of the administration committee, the accounts shall be paid out of the contingent expense fund of the 83rd Legislature.

SECTION 6. PAYMENT OF SALARIES AND EXPENSES. (a) Salaries and expenses authorized by this resolution shall be paid out of the per diem and contingent expense fund of the 83rd Legislature as provided by this section.

(b) The senate shall request the comptroller of public accounts to issue general revenue warrants for:

(1) payment of the employees of the lieutenant governor's office, the lieutenant governor, members of the senate, employees of the senate committees, and employees of the senate, except as provided by Subchapter H, Chapter 660, Government Code, upon presentation of the payroll account signed by the chairman of the administration committee and the secretary of the senate; and

(2) the payment of materials, supplies, and expenses of the senate, including travel expenses for members and employees, upon vouchers signed by the chairman of the administration committee and the secretary of the senate.

SECTION 7. EXPENSE REIMBURSEMENT AND PER DIEM. (a) In furtherance of the legislative duties and responsibilities of the senate, the administration committee shall charge to the individual member's office budget:

(1) the reimbursement of all actual expenses incurred by the members when traveling in performance of legislative duties and responsibilities or incident to those duties; and

(2) the payment of all other reasonable and necessary expenses for the operation of the office of the individual senator during any period the legislature is not in session. Expenditures for these services by the administration committee are authorized as an expense of the senate and shall not be restricted to Austin but may be incurred in individual senatorial districts. Such expenses shall be paid from funds appropriated for the use of the senate on vouchers approved by the chairman of the administration committee and the secretary of the senate in accordance with regulations governing such expenditures.

(b) Each senator shall be permitted a payroll of \$38,000 per month to employ secretarial and other office staff and for intrastate travel expenses for staff employees. This payroll amount accrues on the first day of the month and may not be expended prior to the month in which it accrues, but any unexpended portion for a month may be carried forward from month to month until the end of the fiscal year. An unexpended amount remaining at the end of each fiscal year, not to exceed \$10,000,

may be carried forward to the next fiscal year. Other expenses, including travel expenses or other reasonable and necessary expenses incurred in the furtherance and performance of legislative duties or in operation of the member's office or incident thereto, shall be provided in addition to the maximum salary authorized.

(c) The secretary of the senate may order reimbursement for legislative expenses consistent with this resolution and the establishment by the Texas Ethics Commission of per diem rates.

(d) Any member of the senate and the lieutenant governor are eligible to receive such reimbursement on application of the member or the lieutenant governor to the secretary of the senate.

(e) On the application of a member of the senate or the lieutenant governor, the applicant shall be entitled to reimbursement for legislative expenses for each legislative day.

(f) For purposes of this section, a legislative day includes each day of a regular or special session of the legislature, including any day the legislature is not in session for a period of four consecutive days or less, and all days the legislature is not in session if the senator or lieutenant governor attends a meeting of a joint, special, or legislative committee as evidenced by the official record of the body, and each day, limited to 12 days per month for non-chairs or 16 days per month for chairs and the lieutenant governor, the senator or the lieutenant governor, including those living within a 50-mile radius, is otherwise engaged in legislative business as evidenced by claims submitted to the chairman of the administration committee.

SECTION 8. MEMBER'S EMPLOYEE LEAVE POLICY. (a) An employee of a senator accrues vacation leave, compensatory leave, or sick leave in accordance with policies adopted by the senator consistent with the requirements of this section.

(b) An employee may accrue vacation leave, compensatory leave, or sick leave only if the employee files a monthly time record with the senate human resources office. Time records are due not later than the 10th day of the following month.

(c) Compensatory time must be used not later than the last day of the 12th month following the month in which the time was accrued.

(d) An employee is not entitled to compensation for accrued but unused compensatory time.

SECTION 9. DESIGNATION FOR ATTENDANCE AT MEETINGS AND FUNCTIONS. (a) The lieutenant governor may appoint any member of the senate, the secretary of the senate, or any other senate employee to attend meetings of the National Conference of State Legislatures and other similar meetings. Necessary and actual expenses are authorized upon the approval of the chairman of the administration committee and the secretary of the senate.

(b) The lieutenant governor may designate a member of the senate to represent the senate at ceremonies and ceremonial functions. The necessary expenses of the senator and necessary staff for this purpose shall be paid pursuant to a budget approved by the administration committee.

SECTION 10. MEETINGS DURING INTERIM. (a) Each of the standing committees and subcommittees of the senate of the 83rd Legislature may continue to meet at such times and places during the interim as determined by such committees

and subcommittees and to hold hearings, recommend legislation, and perform research on matters directed either by resolution, the lieutenant governor, or as determined by majority vote of each committee.

(b) Each continuing committee and subcommittee shall continue to function under the rules adopted during the legislative session where applicable.

(c) Expenses for the operation of these committees and subcommittees shall be paid pursuant to a budget prepared by each committee and approved by the administration committee.

(d) The operating expenses of these committees shall be paid from the contingent expense fund of the senate, and committee members shall be reimbursed for their actual expenses incurred in carrying out the duties of the committees.

SECTION 11. SENATE OFFICES. Members not returning for the 84th Legislature shall vacate their senate offices by December 1, 2014.

SECTION 12. FURNISHING OF INFORMATION BY SENATE EMPLOYEE. An employee of the senate may not furnish any information to any person, firm, or corporation other than general information pertaining to the senate and routinely furnished to the public.

SECTION 13. OUTSIDE EMPLOYMENT. An employee of the senate may not be employed by and receive compensation from any other person, firm, or corporation during the employee's senate employment without the permission of the employee's senate employer.

SECTION 14. REMOVAL OF SENATE PROPERTY. The secretary of the senate is specifically directed not to permit the removal of any of the property of the senate from the senate chamber or the rooms of the senate except as authorized by the chairman of the administration committee.

SR 71 was read and adopted by the following vote: Yeas 27, Nays 0.

Absent-excused: Carona, Hancock, Huffman, Williams.

HOUSE BILL ON FIRST READING

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

HB 16 to Committee on Finance.

SENATE RULES 8.02 AND 10.01 SUSPENDED

(Referral to Committee)

(Joint Resolutions Subject to Rules Governing Bills)

Senator Nichols moved to suspend Senate Rule 8.02 and Senate Rule 10.01 to take up for consideration **HJR 2** at this time.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent-excused: Carona, Hancock, Huffman, Williams.

HOUSE JOINT RESOLUTION 2

The President laid before the Senate **HJR 2** sponsored by Senator Nichols:

HJR 2, Proposing a constitutional amendment to provide for revenue from motor fuel taxes to be used solely for constructing, maintaining, and acquiring rights-of-way for certain public roadways and to provide for the transfer of certain general revenue to the economic stabilization fund and the available school fund.

The resolution was read.

Senator Nichols offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **HJR 2** by striking all below the resolving clause and substituting the following:

SECTION 1. Section 49-g, Article III, Texas Constitution, is amended by amending Subsections (c), (d), and (e) and adding Subsections (c-1) and (c-2) to read as follows:

(c) Not later than the 90th day of each fiscal year, the comptroller of public accounts shall transfer from the general revenue fund to the economic stabilization fund and the state highway fund the sum of the amounts described ~~[prescribed]~~ by Subsections (d) and (e) of this section, to be allocated as provided by Subsections (c-1) and (c-2) of this section. However, if necessary and notwithstanding the allocations prescribed by Subsections (c-1) and (c-2) of this section, the comptroller shall reduce proportionately the amounts described by Subsections (d) and (e) of this section to be transferred and allocated to the economic stabilization fund to prevent the amount in that ~~the~~ fund from exceeding the limit in effect for that biennium under Subsection (g) of this section. Revenue transferred to the state highway fund under this subsection may be used only for constructing, maintaining, and acquiring rights-of-way for public roadways other than toll roads.

(c-1) Of the sum of the amounts described by Subsections (d) and (e) of this section and required to be transferred from the general revenue fund under Subsection (c) of this section, the comptroller shall allocate one-half to the economic stabilization fund and the remainder to the state highway fund, except as provided by Subsection (c-2) of this section.

(c-2) If the anticipated balance of the economic stabilization fund after any transfer that may be made under Subsection (b) of this section and any transfer and allocation of money that may be made as provided by Subsections (c) and (c-1) of this section would be less than \$6 billion, the comptroller shall reduce the amount that would otherwise be allocated to the state highway fund as provided by Subsection (c-1) of this section by the lesser of the total amount of the allocation to that fund or the amount necessary for the anticipated balance of the economic stabilization fund, after any transfer that may be made under Subsection (b) of this section and the transfer and allocation to be made as provided by Subsections (c) and (c-1) of this section, to equal \$6 billion. The comptroller shall allocate to the economic stabilization fund the amount by which the allocation to the state highway fund is reduced under this subsection.

(d) If in the preceding year the state received from oil production taxes a net amount greater than the net amount of oil production taxes received by the state in the fiscal year ending August 31, 1987, the comptroller shall transfer under Subsection (c) of this section and allocate in accordance with Subsections (c-1) and (c-2) of this

section ~~[to the economic stabilization fund]~~ an amount equal to 75 percent of the difference between those amounts. The comptroller shall retain the remaining 25 percent of the difference as general revenue. In computing the net amount of oil production taxes received, the comptroller may not consider refunds paid as a result of oil overcharge litigation.

(e) If in the preceding year the state received from gas production taxes a net amount greater than the net amount of gas production taxes received by the state in the fiscal year ending August 31, 1987, the comptroller shall transfer under Subsection (c) of this section and allocate in accordance with Subsections (c-1) and (c-2) of this section ~~[to the economic stabilization fund]~~ an amount equal to 75 percent of the difference between those amounts. The comptroller shall retain the remaining 25 percent of the difference as general revenue. For the purposes of this subsection, the comptroller shall adjust the ~~[his]~~ computation of revenues to reflect only 12 months of collection.

SECTION 2. Section 49-p, Article III, Texas Constitution, is amended by adding Subsection (e) to read as follows:

(e) Revenue transferred to the state highway fund under Section 49-g(c) of this article may be appropriated to pay the principal of and interest on bonds issued under this section.

SECTION 3. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 83rd Legislature, 2nd Called Session, 2013, to provide for the transfer of certain general revenue to the economic stabilization fund, to provide for the transfer of certain general revenue to the state highway fund and the dedication of that revenue, and to authorize the payment of the principal and interest on certain highway improvement bonds from certain general revenue transferred to the state highway fund.

(b) The amendment to Section 49-g, Article III, of this constitution takes effect January 1, 2014, and applies only to a transfer of revenue made by the comptroller of public accounts as provided by Subsection (c) of that section on or after January 1, 2014.

(c) This temporary provision expires January 1, 2015.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 2013. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing for the use and dedication of certain money deposited or transferred to the state highway fund to assist in the completion of transportation construction, maintenance, and rehabilitation projects other than toll roads."

The amendment to **HJR 2** was read and was adopted by the following vote: Yeas 27, Nays 0.

Absent-excused: Carona, Hancock, Huffman, Williams.

On motion of Senator Nichols and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

HJR 2 as amended was considered immediately and was adopted by the following vote: Yeas 27, Nays 0.

Absent-excused: Carona, Hancock, Huffman, Williams.

PERSONAL PRIVILEGE STATEMENT ORDERED PRINTED

On motion of Senator Fraser and by unanimous consent, his personal privilege statement was ordered reduced to writing and printed in the *Senate Journal* as follows:

Killeen Police Officer Robert Hornsby, known as Bobby, was shot last Saturday night while responding as a member of a Killeen Police Department SWAT team to a local domestic disturbance.

He and his team were confronted by a man with an AK-47 rifle. In the exchange of gunfire, Officer Hornsby was hit and died early last Sunday morning. A fellow officer was wounded.

Bobby Hornsby, age 32, was a local boy and a graduate of Temple High School who joined the Killeen Police Department four years ago. He had joined its elite SWAT team just eight months ago.

Fellow officers describe Bobby as an officer's officer and a man with a heart of gold. He was a father, a son, a husband, a brother, and a friend, and the first Killeen police officer killed in the line of duty since 1917.

Officer Hornsby is survived by his wife, Kimberly, and two children, a four-year-old daughter and a one-year-old son.

He was laid to rest Thursday at the Killeen City Cemetery.

Mr. President, I move that the Senate adjourn today in honor of a Killeen police officer, Robert "Bobby" Hornsby, killed in the line of duty last Saturday evening while serving to protect and defend the citizens of Killeen and all of us here in the Lone Star State.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 12:09 p.m. agreed to recess, in memory of Robert Hornsby, pending the introduction of bills and resolutions on first reading, the receipt of messages, and the receipt of committee reports, until 2:00 p.m. Thursday, July 25, 2013.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 60 by Watson, In memory of Robert Lewis Hardesty.

SR 62 by Lucio, In memory of Don Lee.

SR 65 by Taylor, In memory of Winnette Vinyard Wimberly.

SR 68 by Ellis, In memory of Wesley Taylor, Sr.

HCR 7 (Van de Putte), In memory of William Douglas Jefferson of San Antonio.

Congratulatory Resolutions

SR 61 by Nichols, Recognizing Inez Reeder Conley on the occasion of her 100th birthday.

SR 63 by Van de Putte, Recognizing Petra Margarita Gonzales on the occasion of her 90th birthday.

SR 64 by Hegar, Ellis, and West, Recognizing George C. Wright on the occasion of his 10th anniversary as President of Prairie View A&M University.

SR 66 by Watson, Recognizing Ann Helen and Frank Joseph Mignoli on the occasion of their 50th wedding anniversary.

SR 67 by Watson, Recognizing John Frank Zalaznik on the occasion of his 100th birthday.

SR 69 by Nelson, Recognizing Robert A. Bennett for his service to the nation.

HCR 14 (Garcia), Recognizing Nancy Blackwell on her retirement from the Aldine Independent School District.

Official Designation Resolution

SR 70 by Garcia and Van de Putte, Celebrating July 27, 2013, as Gus Garcia Day.

RECESS

Pursuant to a previously adopted motion, the Senate at 12:10 p.m. recessed, in memory of Robert Hornsby, until 2:00 p.m. Thursday, July 25, 2013.

APPENDIX

RESOLUTIONS ENROLLED

July 17, 2013

SR 50, SR 51, SR 52, SR 53, SR 54, SR 55, SR 56, SR 57, SR 58, SR 59

SIGNED BY GOVERNOR

July 22, 2013

SB 2