

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — SECOND CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRD DAY

(Continued)

(Thursday, July 25, 2013)

AFTER RECESS

The Senate met at 2:07 p.m. and was called to order by the President.

SENATORS ANNOUNCED PRESENT

Senators Hancock, Huffman, and Williams, who had previously been recorded as "Absent-excused," were announced "Present."

AT EASE

The President at 2:09 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 3:03 p.m. called the Senate to order as In Legislative Session.

RECESS

On motion of Senator Whitmire, the Senate at 3:04 p.m. recessed until 4:30 p.m. today.

AFTER RECESS

The Senate met at 4:44 p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, July 25, 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:

HCR 8

Davis, John

Congratulating James Oran McCorquodale of Austin on his 90th birthday.

HCR 13

Moody

In memory of World War II veteran Jacinto Romo of El Paso.

HCR 19

Naishtat

Commemorating the 40th anniversary of Austin Community College.

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HJR 2 (non-record vote)

House Conferees: Pickett - Chair/Darby/Geren/Phillips/Turner, Sylvester

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

LEAVES OF ABSENCE

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

Senator Whitmire moved to grant Senator Davis a leave of absence for today on account of important business.

There was objection by Senators Campbell, Nelson, and Patrick.

Parliamentary inquiries were made and questions were asked by Senators Uresti, Nelson, and Watson.

The objections by Senators Campbell, Nelson, and Patrick were withdrawn.

Senator Davis was granted leave of absence for today on account of important business.

**SENATE RULE 7.12(a) SUSPENDED
(Printing of Bills)**

On motion of Senator Nichols and by unanimous consent, Senate Rule 7.12(a) was suspended and the committee report for **CSHB 16** was ordered not printed.

**COMMITTEE SUBSTITUTE
HOUSE BILL 16 ON SECOND READING**

The President laid before the Senate **CSHB 16**, sponsored by Senator Nichols, at this time on its second reading:

CSHB 16, Relating to a study of the provision and use of certain state revenue.

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 except as follows:

Absent-excused: Carona, Davis, West.

**COMMITTEE SUBSTITUTE
HOUSE BILL 16 ON THIRD READING**

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 16** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Carona, Davis, West.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 1.

Nays: Patrick.

Absent-excused: Carona, Davis, West.

CONFERENCE COMMITTEE ON HOUSE JOINT RESOLUTION 2

Senator Nichols called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HJR 2** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HJR 2** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Nichols, Chair; Williams, Whitmire, Eltife, and Hinojosa.

**SENATE RULE 8.02 SUSPENDED
(Referral to Committee)**

Senator Estes moved to suspend Senate Rule 8.02 to take up for consideration **HCR 3** at this time.

The motion prevailed without objection.

HOUSE CONCURRENT RESOLUTION 3

The President laid before the Senate the following resolution:

WHEREAS, The Texas Legislative Medal of Honor was established to recognize gallant and intrepid service by a member of the state or federal military forces, and Audie Murphy, the most highly decorated American soldier of World War II, would be a fitting recipient of this prestigious award; and

WHEREAS, Born in Kingston, Hunt County, on June 20, 1925, Audie Leon Murphy was one of 12 children; he received several years of formal education before leaving school to help support his family; in addition to working a variety of jobs, he hunted small game for food and became a crack shot; and

WHEREAS, Audie Murphy tried to enlist in the armed forces after the attack on Pearl Harbor but was rejected because he was underage; later, when he claimed to be a year older than he actually was, the marines and paratroopers turned him down on the

grounds that he was too short and thin; finally, in June 1942, still misrepresenting his date of birth, he managed to join the army infantry; determined to become a combat soldier, he successfully resisted the effort of his company commander to have him transferred to a cook and bakers school; and

WHEREAS, In early 1943, Private Murphy shipped overseas to Morocco as a replacement in Company B, 1st Battalion, 15th Infantry Regiment, 3rd Infantry Division; while stationed in North Africa, he participated in extensive training maneuvers; he saw his first combat in July 1943, when the 3rd Division invaded Sicily, and he subsequently took part in the landing at Salerno, the Volturno River Campaign, the landing at Anzio, and the march on Rome; during those months in Italy, Audie Murphy demonstrated both exceptional skill as a marksman and a sound grasp of small-unit tactics; his proficiency as a soldier earned him repeated promotions and several decorations for valor; and

WHEREAS, On the morning of August 15, 1944, Staff Sergeant Murphy landed with the 3rd Division in southern France; that same day, he earned the Distinguished Service Cross, this nation's second-highest award for heroism, for his actions in single-handedly destroying a German machine gun crew and several other enemy positions, feats that made possible the capture of a fiercely contested hill; the following October 2 and October 5, he earned Silver Stars for further heroic action; and

WHEREAS, That fall, Audie Murphy received a battlefield commission as a second lieutenant; soon afterward, he sustained a wound that removed him from action for the next 10 weeks; though not completely healed, he returned to his unit early the next year, and on January 25, 1945, he became company commander; and

WHEREAS, At that time, Lieutenant Murphy's men were engaged in the effort to clear German soldiers from an area in eastern France known as the Colmar Pocket; on January 26, in bitter cold and with several feet of snow covering the ground, Company B came under attack by six German tanks and 250 German infantrymen; Lieutenant Murphy ordered his troops, whose effective strength had been reduced by about 40 percent, to fall back; he remained forward and continued to direct Allied artillery fire by telephone; when the German tanks drew abreast of his position, he mounted a burning tank destroyer and, though exposed to fire on three sides, employed its machine gun against the enemy, causing the German infantry to waver and the tanks to fall back; he continued to hold his ground in the firefight for an hour, wiping out a German squad that had reached within 10 yards of his position; when his ammunition was exhausted, he made his way back to his company, refused medical treatment for a leg wound, and led his men in a successful counterattack, enabling his unit to save the woods that had been the Germans' objective; Lieutenant Murphy was credited with personally killing or wounding about 50 enemy combatants in that encounter, and his exceptional bravery earned him the Medal of Honor; and

WHEREAS, The following month, Audie Murphy was withdrawn from the front lines, promoted to first lieutenant, and made a liaison officer; he returned to the States in mid-June 1945, having earned 28 medals, including several from France and Belgium; he was not yet 21; and

WHEREAS, Lieutenant Murphy received his discharge from the army in September 1945; he joined the Texas National Guard in 1950, after the outbreak of the Korean War, and eventually attained the rank of major; assigned to inactive status in 1957, he transferred to the United States Army Reserve in 1966 and continued as a member of the reserve until his death in 1971; and

WHEREAS, Though his extraordinary record in the war brought him widespread fame, Audie Murphy remained profoundly humble, highlighting his comrades' courage, rather than his own, in his autobiography and requesting a plain government headstone for his grave, instead of one adorned with the gold gilt that typically signifies a Medal of Honor recipient; and

WHEREAS, Audie Murphy repeatedly risked his life to save the lives of his fellow soldiers and to help advance their mission, and for his remarkable heroism he is most assuredly deserving of this state's supreme military award; now, therefore, be it

RESOLVED, That the 83rd Legislature of the State of Texas, 2nd Called Session, hereby direct the governor of the State of Texas to award the Texas Legislative Medal of Honor posthumously to Audie Murphy in recognition of his valiant actions in World War II.

VAN DE PUTTE

HCR 3 was read.

On motion of Senator Estes, on behalf of Senator Van de Putte, and by unanimous consent, the resolution was considered immediately and was adopted by the following vote: Yeas 28, Nays 0.

Absent-excused: Carona, Davis, West.

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 7, HCR 14, HCR 16, HCR 18.**

HOUSE CONCURRENT RESOLUTION 6

The President laid before the Senate the following resolution:

HCR 6, In memory of Daniel Richard Haggerty.

RODRÍGUEZ

On motion of Senator Rodríguez, the resolution was considered immediately, was read, and was adopted by a rising vote of the Senate.

In honor of the memory of Daniel Richard Haggerty, the text of the resolution is printed at the end of today's *Senate Journal*.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Thursday, July 25, 2013 - 2

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 REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 16 (non-record vote)

House Conferees: Harper-Brown - Chair/Larson/Otto/Pickett/Thompson, Senfronia

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 16

Senator Nichols called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 16** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 16** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Nichols, Chair; Williams, Hinojosa, Eltife, and Whitmire.

CO-AUTHORS OF SENATE BILL 40

On motion of Senator Zaffirini, Senators Estes, Garcia, Lucio, Rodriguez, Uresti, and Watson will be shown as Co-authors of **SB 40**.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 5:16 p.m. agreed to recess, in memory of Daniel Richard Haggerty, pending the introduction of bills and resolutions on first reading, the receipt of messages, and the receipt of committee reports, until 4:00 p.m. tomorrow.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 72 by Davis, In memory of Sandra Kaye Corder Bell.

SR 73 by Davis, In memory of Brian Jennings.

SR 74 by Lucio, In memory of Jose Padron Munivez.

SR 75 by Hinojosa, In memory of James William Dyer.

SR 76 by Hinojosa, In memory of David Haddon Hockema.

SR 91 by Ellis, In memory of William H. Gray III.

SR 92 by Ellis, In memory of J. D. Nelson.

SR 94 by Nichols, In memory of Yancie J. Tolbert II.

HCR 5 (Campbell), In memory of U.S. Air Force Captain Mark Tyler Voss of Boerne.

HCR 9 (Eltife), In memory of Paul Gene Roden of Paris.

HCR 10 (Eltife), In memory of Gerald Glen Bawcum of Paris, Texas.

HCR 12 (Eltife), In memory of Franklin Joseph Homer, Sr., of Paris.

Congratulatory Resolutions

SR 77 by Hinojosa, Commending John Christopher Alanis for achieving the rank of Eagle Scout.

SR 78 by Rodríguez, Recognizing the State of Texas Anniversary Remembrance Day Foundation's Texas Bison Student Study Group.

SR 79 by Uresti, Recognizing Bob Falkner for his service to the Ozona Volunteer Fire Department.

SR 80 by Watson, Recognizing Rose Margaret Carroll on the occasion of her 80th birthday.

SR 81 by Duncan, Recognizing Mark Reynolds on the occasion of his retirement.

SR 82 by Lucio, Recognizing the Knockout Kings II boxing event.

SR 83 by West, Recognizing Morney-Berry Farm for its contributions to African American history in our state.

SR 84 by Hinojosa, Commending Aaron Joseph Garcia for achieving the rank of Eagle Scout.

SR 85 by Hinojosa, Recognizing Sharon G. Wilson for receiving a 2013 Outstanding Teaching of the Humanities Award.

SR 86 by Lucio, Recognizing Dean LaFever for his service in the Rio Grande Valley for Texas Gas Service.

SR 87 by Paxton, Recognizing Ken Helvey on the occasion of his retirement.

SR 88 by Williams, Recognizing Martha Gustavsen on the occasion of her retirement.

SR 89 by Ellis, Recognizing Deirdre Yvonne Holloway for being named Fort Bend Independent School District 2013 Elementary Principal of the Year.

SR 90 by Ellis, Recognizing the 2013 China National Day Celebration.

SR 93 by Paxton, Recognizing Joseph P. Brands for receiving the Billy Mitchell Award.

SR 95 by Nichols, Recognizing Eddie Lehr for being named the 2013 Texas Officer of the Year.

SR 96 by Hegar, Recognizing Emmett Gloyna on the occasion of his retirement.

SR 97 by Schwertner, Recognizing Elizabeth Schleder for her work on behalf of Honor Flight Austin.

HCR 19 (Watson), Commemorating the 40th anniversary of Austin Community College.

RECESS

Pursuant to a previously adopted motion, the Senate at 5:18 p.m. recessed, in memory of Daniel Richard Haggerty, until 4:00 p.m. Friday, July 26, 2013.

APPENDIX

COMMITTEE REPORT

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

July 25, 2013

FINANCE — **CSHB 16** (ordered not printed)

RESOLUTIONS ENROLLED

July 19, 2013

SR 60, SR 61, SR 62, SR 63, SR 64, SR 65, SR 66, SR 67, SR 68, SR 69, SR 70, SR 71

In Memory
of
Daniel Richard Haggerty
House Concurrent Resolution 6

WHEREAS, Citizens of El Paso County lost a dedicated community leader with the passing of County Commissioner Daniel Richard Haggerty on June 28, 2013, at the age of 64; and

WHEREAS, Born in Rochester, Minnesota, Dan Haggerty was the fifth child of Richard and Eleanor Haggerty, who instilled in each of their 11 children a deep respect for country, community, and the value of hard work; after his graduation from Cathedral High School in El Paso, he enlisted in the U.S. Army and later joined the Marine Corps, serving three tours in Vietnam; he retired from active duty with the rank of sergeant in 1972, but remained a Navy Reservist; and

WHEREAS, In the years following his return to civilian life, Mr. Haggerty owned an El Paso real estate firm; in 1994, he was elected county commissioner for Precinct 4, which encompasses parts of Northeast and West El Paso; although an outspoken fiscal conservative in a majority-Democratic county, he was returned to office for nearly two decades and won the respect of fellow commissioners from both sides of the aisle; he was known for his frankness as well as for his sense of humor, which could defuse any tense moments that would arise; and

WHEREAS, His ability to find levity in misfortune never faltered, even after he was diagnosed with cancer in 2011; when he lost his hair to chemotherapy treatments, he donned colorful wigs to wear to county commissioner meetings in an effort to raise cancer awareness; and

WHEREAS, A devout Catholic, Mr. Haggerty belonged to the Knights of Columbus and additionally shared his time with a group for marine veterans; he maintained close bonds with his brothers and sisters, a number of whom also went on to hold elected office, and was a cherished uncle to many nieces and nephews; and

WHEREAS, Admired for his courage, kindness, and sincerity, Dan Haggerty devoted himself wholeheartedly to his constituents in El Paso County, and he will be deeply missed by all those who had the good fortune to know him; now, therefore, be it

RESOLVED, That the 83rd Legislature of the State of Texas, 2nd Called Session, hereby pay tribute to the memory of Daniel Richard Haggerty and extend sincere sympathy to the members of his family: to his sisters, Kathleen Haggerty Burds, Mary Haggerty McLaughlin and her husband, Michael, Eileen Haggerty Hart and her husband, Brad, and Bridget Haggerty Maxwell and her husband, Michael; to his brothers, Patrick Haggerty,

Michael Haggerty and his wife, Cynthia, Brian Haggerty and his wife, Audrey, and Jeremiah Haggerty and his wife, Silvia; and to his other relatives and many friends; and, be it further

RESOLVED, That an official copy of this resolution be prepared for his family and that when the Texas House of Representatives and Senate adjourn this day, they do so in memory of Dan Haggerty.

RODRÍGUEZ