

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — THIRD CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIRST DAY

(Continued)

(Monday, August 5, 2013)

AFTER RECESS

The Senate met at 2:12 p.m. and was called to order by the President.

SENATORS ANNOUNCED PRESENT

Senators Eltife, Uresti, West, and Whitmire, who had previously been recorded as "Absent-excused," were announced "Present."

LEAVES OF ABSENCE

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

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

RECESS

On motion of Senator Whitmire, the Senate at 2:13 p.m. recessed until 3:30 p.m. today.

AFTER RECESS

The Senate met at 3:34 p.m. and was called to order by the President.

RECESS

On motion of Senator Eltife, the Senate at 3:35 p.m. recessed until 4:30 p.m. today.

AFTER RECESS

The Senate met at 4:33 p.m. and was called to order by the President.

RECESS

On motion of Senator Whitmire, the Senate at 4:34 p.m. recessed subject to the call of the Chair.

AFTER RECESS

The Senate met at 7:35 p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
 Austin, Texas
 Monday, August 5, 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 1 Pickett

Relating to transportation funding, expenditures, and finance and the preservation of a sufficient balance in the economic stabilization fund; making an appropriation.

SJR 1 Nichols

Sponsor: Pickett

Proposing a constitutional amendment to provide for the transfer of certain general revenue to the economic stabilization fund and to the state highway fund and for the dedication of the revenue transferred to the state highway fund.

Respectfully,

/s/Robert Haney, Chief Clerk
 House of Representatives

SENATE BILL ON FIRST READING

The following bill was introduced, read first time, and referred to the committee indicated:

SB 13 by Williams

Relating to the designation of a segment of Interstate Highway 45 in Montgomery County as the George P. Mitchell Memorial Highway.
 To Committee on Finance.

HOUSE BILL ON FIRST READING

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

HB 1 to Committee on Finance.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Williams 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 the following bills today: **SB 13**, **HB 1**.

RECESS

On motion of Senator Whitmire, the Senate at 7:37 p.m. recessed until 7:45 p.m. today.

AFTER RECESS

The Senate met at 8:58 p.m. and was called to order by the President.

RESOLUTION SIGNED

The President announced the signing of the following enrolled resolution in the presence of the Senate: **SJR 1**.

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

On motion of Senator Williams and by unanimous consent, Senate Rule 7.12(a) was suspended and the committee report for **SB 13** was ordered not printed.

SENATE BILL 13 ON SECOND READING

The President laid before the Senate **SB 13** by Senator Williams at this time on its second reading:

SB 13, Relating to the designation of a segment of Interstate Highway 45 in Montgomery County as the George P. Mitchell Memorial Highway.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Huffman, Schwertner, Van de Putte.

SENATE BILL 13 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 13** be placed on its third reading and final passage.

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

Absent-excused: Carona, Huffman, Schwertner, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

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

Senator Nichols moved that Senate Rule 7.12(a) be suspended and the committee report for **CSHB 1** be ordered not printed.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Nays: Seliger.

Absent-excused: Carona, Huffman, Schwertner, Van de Putte.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1 ON SECOND READING**

The President laid before the Senate **CSHB 1**, sponsored by Senator Nichols, at this time on its second reading:

CSHB 1, Relating to transportation funding, expenditures, and finance and the preservation of a sufficient balance in the economic stabilization fund; making an appropriation.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.6155 to read as follows:

Sec. 201.6155. CONVERSION OF PAVED ROAD OR HIGHWAY TO NON-PAVED SURFACE. (a) The department shall adopt and publish criteria to determine whether a segment of a road or highway in the state highway system may be converted from a paved surface to a non-paved surface, including a graveled surface. The criteria must require the department to calculate for a specific segment of road or highway proposed to be converted the annual cost to maintain the segment with:

(1) a paved surface; and

(2) a non-paved surface.

(b) The department shall adopt criteria to determine whether a segment of a road or highway in the state highway system that was converted from a paved surface to a non-paved surface under this section must be restored to a paved surface.

(c) The department shall conduct an assessment of the conditions of each road or highway in the state highway system using the criteria described by Subsection (a). If the department determines that the segment of a road or highway meets the criteria described by Subsection (a), the department shall send written notice that the road or highway is a candidate for conversion to a non-paved surface to:

(1) the legislator of each legislative district in which the road or highway is located; and

(2) the county judge of each county in which the road or highway is located.

(d) Not later than the 180th day after the date a county judge receives notice under Subsection (c), the county judge may submit a mitigation plan that does not require the conversion of the road or highway to a non-paved surface. A mitigation plan may include donations or contributions of funds from any source.

(e) The department may not convert a segment of a road or highway in the state highway system from a paved surface to a non-paved surface, including a graveled surface, unless the department:

(1) determines that a mitigation plan submitted under Subsection (d) is not feasible;

(2) adopts a written plan to restore the paved surface to the road or highway in accordance with the criteria described by Subsection (b); and

(3) provides notice that the department intends to convert the road or highway to a non-paved surface to:

(A) the legislator of each legislative district in which the road or highway is located; and

(B) the county judge of each county in which the road or highway is located.

The amendment to **CSHB 1** was read.

On motion of Senator Nichols, Floor Amendment No. 1 was tabled by the following vote: Yeas 16, Nays 11.

Yeas: Birdwell, Campbell, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Nelson, Nichols, Patrick, Paxton, Seliger, Taylor, Whitmire, Williams.

Nays: Davis, Ellis, Garcia, Hegar, Hinojosa, Lucio, Rodríguez, Uresti, Watson, West, Zaffirini.

Absent-excused: Carona, Huffman, Schwertner, Van de Putte.

CSHB 1 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:

Nays: Seliger.

Absent-excused: Carona, Huffman, Schwertner, Van de Putte.

COMMITTEE SUBSTITUTE HOUSE BILL 1 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 1** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Nays: Seliger.

Absent-excused: Carona, Huffman, Schwertner, Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 1. (Same as previous roll call)

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate Ann Hightower and Alison Suttle, daughters of the Honorable Jack Hightower.

The Senate welcomed its guests.

REMARKS ORDERED PRINTED

On motion of Senator Watson and by unanimous consent, the remarks by Senators Watson, Duncan, and Seliger were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Watson: Thank you very much, Mr. President. Thank you, Dean. It's my honor, on really a sad occasion, but it's my honor to recognize today as a part of a memorial, the passing of Justice Jack Hightower. Justice Hightower died this past Saturday at the age of eighty-six. He was born in Memphis, Texas, in 1926 and served our country in the Navy. He graduated from Baylor University, both with his undergraduate and his law school degree. And he was a very proud Baylor graduate.

He served on the Baylor Board of Regents, and he really loved that place. He was recognized as a distinguished alumnus and gave back great amounts of time to Baylor and to the students of Baylor University. One of my favorite scriptures is one that I was introduced to, where I really had some understanding of it, when I was at Baylor, by my father. It's Romans 12:6-8. And in it, it says, Since we have gifts that differ according to the grace given us, each of us is to exercise them accordingly; if prophesy, according to the proportion of his faith; if service, in his serving; for he who teaches, in his teaching; for he who exhorts, in his exhortation; he who gives, with liberality; he who leads, with diligence; he who shows mercy, with cheerfulness. Jack Hightower's gifts, and he exercised them very well, were in serving and in leading. When he led, he did it as Paul said to the Romans to do, which was to do it with diligence. After graduating from Baylor Law School, he went to Vernon where he set up his law practice. And within one year, he was elected to the Texas House of Representatives. After that, he served for many years as the District Attorney of Wilbarger County, and then he served for a decade under two different configurations of his Senate district here in the Texas Senate. Our Secretary told me earlier, when I indicated I was going to be doing this tonight, that when she first came to work for the Senate, he was Chair of the Administration Committee. He also was the President Pro Tempore of the Senate at one point. He then served as a Member of Congress for five terms, and subsequent to that, he served on the Supreme Court as a Justice, and he is the last member of the court that had any legislative experience when he went to the court. Justice Hightower was a great historian, and he loved books. He was a tremendous collector of books. You saw a real joy in any chance he had to share those books with you and show you the different books that he had. Part of his being an historian and loving books got him a presidential appointment to the National Commission of Libraries and Information Sciences, where he served for five years. By the way, one of the things he has done with his writings and his letters and his books is he has shared them at Baylor University in the Poage Library. Justice Hightower was a Freemason. In 1972, he was the grandmaster of the Grand Lodge of Texas, and until his passing on Saturday, he was the oldest living past grandmaster of the Grand Lodge of Texas. This was a man who loved politics and he loved policy. I was sharing in the lounge earlier tonight a story. I remember in 2002, when I was running for Attorney General, and somehow was back in Austin on a Friday night or a Saturday night, I don't remember what it was, and we were in the backyard, and by the way, I was going to introduce them in a minute, but I wanted to introduce two of his three daughters, Ann and Alison, that join us here tonight. We were in Alison's backyard, and Alison's husband, Richard, was cooking, and I was standing over there by where he was cooking, and Judge Hightower was there, and he was, not grilling me, but he was sure asking a lot of questions about what I'd been doing and where I'd been. And I must admit, things weren't going that great. I thought I was doing some major league whining about how hot it had been, or how little the crowd had been, or how many cities I'd had to be at. You might pay attention to this, Senator Paxton, and how many cities I'd had to go to. I really thought I'd put on a pretty good whine, and when I paused for a minute to catch my breath, I'll never forget, Judge Hightower looked me in the eye and he said, "I'm so envious." He just loved politics and he loved policy. I feel very good that just a couple of weeks ago, I had the opportunity to

go see him where he was living. He was asleep when we got there. Our loud voices woke him up. Once they had gotten him up out of bed and got him in a chair where he could take visitors, and we had the opportunity to visit, he wanted to know about the special session. He wanted to know about why we were in a special session and what was going on in that. He loved the policy of it. He also loved his family. He leaves his wife, Colleen, as I've introduced, two of his daughters that are with us, Ann and Alison, and also Amy. He was a great father-in-law and a wonderful grandfather. Jack Hightower was a gentleman who cared about Texas. He served it well and with diligence, and he loved its people. He was the kind of political figure that reveals the positive, the professionalism, the good that can be done by those who choose a life of positive public service. He has a legacy that those of us who've chosen this path, whether we've chosen it for a single term or many terms, whether we've chosen it for one office or multiple offices, he's left a legacy that we should all aspire to achieve. Mr. President, he had a great life and left an example for all of us. And tonight, when we hopefully adjourn, I'm going to ask that we do that in honor and in the memory of Justice Jack Hightower.

Senator Duncan: Thank you, Mr. President and Members. Thank you, Senator Watson, for bringing this amendment. Growing up in Vernon, Texas, Ann, as you know, we looked up to, and I was very fortunate to grow up in a town where my State Senator and where my Congressman was a man of honor and a role model for all of us young folks growing up in Vernon. I kept up with Jack all through his career on the Supreme Court. He worked for the Attorney General's office here in Austin, and I always enjoyed seeing him at the airport. He really was the type of person that us growing up in Vernon looked up to, and I am very proud to know that he was my Senator, my Congressman growing up, but also from Vernon, Texas. He will be well remembered. Kirk, you did a great job laying out his career. Just think about this, a House Member, he served as a District Attorney in the prosecutor role, in the Texas Senate, President Pro Tempore, U.S. Congress, and the Texas Supreme Court. You don't find many careers like that, and that says so much about not only his wisdom but also his integrity.

Senator Seliger: Thank you, Mr. President and Members. Senator Watson, your invitation raises an interesting sort of subject. As you look around this room, do we ever wonder about the people that sat in the chairs that we now sit and the desks that we now sit? What they did and what they brought to this, and what they left in this Chamber and in the State of Texas? Do we ever think, do we measure up to what has been done to this point? I say with some bias, I look around this room and see an awful lot of people I think do meet the standards set by distinguished Texans, not just distinguished ones, but people with the highest ideals and performance. And so, I occupy the seat that was once occupied by Jack Hightower and by Max Sherman and by Teel Bivins, and so when I look at my chair and I look at this desk, I think one of the challenges for me and for everybody else is, do we meet the standards of the chair and the desk? And it is a high aspiration in this case. If you talk to the people who knew Jack Hightower, of all of his accomplishments and his intellect and his integrity, I think what distinguished him maybe most of all, he was maybe first and foremost a real gentleman. Thank you, Senator Watson.

VIDEO RELEASE POLICY WAIVED

On motion of Senator Watson and by unanimous consent, the Senate policy that governs the release of recordings of the Senate proceedings was waived in order to grant his request for a DVD of today's session.

MOMENT OF SILENCE OBSERVED

At the request of Senator Patrick, the Senate observed a moment of silence to pray for the health of former State Representative Charlie Howard and Cindy Zerwas, wife of State Representative John Zerwas.

MOTION TO ADJOURN SINE DIE

On motion of Senator Whitmire, the Senate of the 83rd Legislature, 3rd Called Session, at 9:44 p.m. agreed to adjourn sine die, in memory of the Honorable Jack Hightower, subject to the completion of administrative duties.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
Monday, August 5, 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 CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1 (124 Yeas, 2 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

BILL SIGNED

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **HB 1** (Signed subject to Sec. 49-a, Art. III, Texas Constitution).

CO-AUTHORS OF SENATE BILL 3

On motion of Senator Seliger, Senators Garcia and West will be shown as Co-authors of **SB 3**.

CO-AUTHOR OF SENATE BILL 8

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

CO-AUTHOR OF SENATE BILL 9

On motion of Senator Patrick, Senator Campbell will be shown as Co-author of **SB 9**.

CO-AUTHOR OF SENATE BILL 18

On motion of Senator Patrick, Senator Campbell will be shown as Co-author of **SB 18**.

CO-AUTHOR OF SENATE BILL 21

On motion of Senator Campbell, Senator Patrick will be shown as Co-author of **SB 21**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 3 by Davis, In memory of Martha Lee Frazar Woolf.

SR 4 by West, In memory of Colin Coe.

SR 7 by Davis, In memory of Carmen Sotello Gonzalez.

SR 9 by Lucio, In memory of Andres "Andy" Muñiz, Jr.

SR 14 by Birdwell and Estes, In memory of John Graves.

SR 15 by Rodríguez, In memory of Karla Diaz Davalos.

Welcome and Congratulatory Resolutions

SR 1 by West, Commending Conner Beene for achieving the rank of Eagle Scout.

SR 2 by West, Recognizing Salem Institutional Baptist Church on the occasion of its 125th anniversary.

SR 5 by Birdwell, Recognizing the West Veterans Honor Guard for its contributions to the community.

SR 6 by Birdwell, Recognizing the Hillsboro Cotton Pickin' Fair and Barbecue Cook-off.

SR 8 by Davis, Recognizing the North Side High School Mariachi Espuelas de Plata.

SR 10 by Ellis, Recognizing Samuel E. Jackson, Jr., on the occasion of his retirement.

SR 11 by Ellis, Recognizing Ola V. Allen on the occasion of her 90th birthday.

SR 12 by Ellis, Recognizing Jodie Lee Jiles on the occasion of his retirement.

SR 13 by Duncan, Recognizing the 217th Training Squadron of the Texas Air National Guard.

SR 16 by West, Welcoming UniverSoul Circus to Texas.

SR 17 by Uresti, Recognizing Teleton USA for its work in the field of children's health care.

SR 18 by Hinojosa, Recognizing Armando Chapa on the occasion of his retirement.

ADJOURNMENT SINE DIE

The President announced that the hour for final adjournment of the 83rd Legislature, 3rd Called Session, had arrived and, in accordance with a previously adopted motion, declared the 83rd Legislature, 3rd Called Session, adjourned sine die, in memory of the Honorable Jack Hightower, at 2:00 p.m. Tuesday, August 6, 2013.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

August 5, 2013

FINANCE — **SB 13, CSHB 1**

BILL ENGROSSED

August 5, 2013

SB 13

RESOLUTIONS ENROLLED

August 5, 2013

SJR 1, SR 1, SR 2, SR 3, SR 4, SR 5, SR 6, SR 7, SR 8, SR 9, SR 10, SR 11, SR 12, SR 13, SR 14, SR 15, SR 16, SR 17, SR 18

SENT TO SECRETARY OF STATE

August 6, 2013

SJR 1