

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-FIRST DAY
(Monday, May 22, 2017)

The Senate met at 1:05 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

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

Senator Lucio offered the invocation as follows:

Teach us, good God, loving God, to serve You as You deserve, to give and not to count the cost, to fight and not to heed the wounds, to toil and not to seek for rest, to labor and not to ask for any reward, save that of knowing that we do Your will, dear Lord our God. Amen.

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

The motion prevailed without objection.

PHYSICIAN OF THE DAY

Senator Campbell was recognized and presented Dr. Charles Schwertner of Georgetown as the Physician of the Day.

The Senate welcomed Dr. Schwertner and thanked him for his participation as the Physician of the Day.

CONCLUSION OF MORNING CALL

The President at 1:08 a.m. announced the conclusion of morning call.

BIRTHDAY GREETINGS EXTENDED

The President, on behalf of the Senate, extended birthday greetings to his wife, Jan.

HOUSE BILL 3859 ON THIRD READING

Senator Perry moved to suspend the regular order of business to take up for consideration **HB 3859** at this time on its third reading and final passage:

HB 3859, Relating to protection of the rights of conscience for child welfare services providers.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 10. (Same as previous roll call)

STATEMENT REGARDING HOUSE BILL 3859

Senator Rodríguez submitted the following statement regarding **HB 3859**:

I submit this statement in opposition to H.B. 3859.

When we allow foster children to be denied access to a loving home in the name of religion, we are on the wrong path as a state.

H.B. 3859 is yet another example of a bill that has no public policy purpose other than to put into law discrimination against certain groups. In this case, to allow certain religious groups, using the public's money, to make potentially harmful judgments about children in their care.

H.B. 3859 would allow religious-based child welfare services providers, which are broadly defined, to deny a wide range of services to children in their care based on their own "sincerely held beliefs." Although they are receiving public funds to care for these vulnerable children, these providers will now be given broad latitude to refuse to provide certain services and to impose their religious beliefs on these children.

Examples allowed under the bill include:

- refusal to take in children of a different faith;
- refusal to place a child with an adoptive or foster family of a different faith;
- refusal to place a child with an LGBTQ family, or with previously divorced parents;
- refusal of medical care, such as reproductive care or contraception;
- refusal to provide family reunification services to a parent who does not go to church or was divorced; and
- placement of a child with strangers instead of a close relative because the relative is gay or transgender.

The bill leaves open the possibility that a child welfare agency that contracts with the state would not be able to enforce its own policies and procedures with an employee who claims to act on religious beliefs, or that a foster family could refuse emergency contraception to a teenager who has been sexually assaulted, or that agencies could place LGBTQ youth with adoptive parents who intend to force them into conversion therapy.

If an agency is receiving public money, it must serve the entire public. While religious beliefs must be balanced with vital public interests and other parties who do not share those beliefs, this bill goes far beyond reasonable accommodation.

It confers an unprecedented right of religious refusal to a broad class of providers that includes both agencies and foster parents. It fails to provide equality of access by not assuring that other providers will be available for children and families turned away by a provider for religious reasons. It fails to provide transparency by requiring child welfare providers who refuse service to report the refusal to the state, or to tell those whom they have refused about other available options.

About 7,000 children are waiting for placement, according to television station KXAN, which also reported earlier this year that H.B. 3859 would have violated the DFPS "Bill of Rights" for youth in Texas foster care. However, this bill of rights was recently changed.

From the report:

Clause 5 used to read: "I have the right to fair treatment, whatever my gender, gender identity, race, ethnicity, religion, national origin, disability, medical problems, or sexual orientation."

In February, the words "gender identity" and "sexual orientation" were removed. It's been shortened again to: "I have the right to be treated fairly."

Clause 11 – on religion – once promised foster children a choice to practice or "not to practice." It's been shortened to one line: to "have religious needs met."

H.B. 3859 does not protect religious conscience. It allows public money to be used to remove options for those of different faiths and orientations.

This might be good politics in a very narrow sense, but it is not good public policy.

It is for this reason that I voted in opposition to H.B. 3859.

RODRÍGUEZ

COMMITTEE SUBSTITUTE HOUSE BILL 2691 ON THIRD READING

Senator Huffman moved to suspend the regular order of business to take up for consideration **CSHB 2691** at this time on its third reading and final passage:

CSHB 2691, Relating to certain election practices and procedures.

The motion prevailed by the following vote: Yeas 20, Nays 11.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 20, Nays 11. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 21 ON THIRD READING

Senator Taylor of Galveston moved to suspend the regular order of business to take up for consideration **CSHB 21** at this time on its third reading and final passage:

CSHB 21, Relating to the funding of primary and secondary education.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 10. (Same as previous roll call)

STATEMENT REGARDING HOUSE BILL 21

Senator Rodríguez submitted the following statement regarding **HB 21**:

I submit this statement to explain my vote against H.B. 21.

A much-needed school funding opportunity in H.B. 21 has been overtaken by the pursuit of a voucher experiment in Texas.

The House bill included a modest increase in bilingual education funding; the Senate stripped it out and redirected half the amount, \$50 million, to charter school facilities. The Senate also eliminated the increase for the basic allotment, and uses "hold harmless" provisions to provide extra funding to wealthy school districts.

Texans recognize the value of public schools. That's why it's in our constitution as a state responsibility. But as it has in many areas, the state has pushed responsibilities onto local communities; it now pays less than 40 percent of the total spent on schools in Texas.

Despite the state's chronic underfunding, our teachers, administrators, and students do incredible work because of the local support. The Legislature shouldn't even consider redirecting public funds to private pockets until we meet our constitutional commitments to our kids and their schools.

Research concludes that vouchers, rebranded as "education savings accounts," consistently fail to deliver better teaching or student performance; siphon limited resources from local community schools; increase potential civil rights violations; hinder transparency and accountability; and lead to more schools being racially segregated. Some specifics:

First, students lose their federally protected rights under the Individual with Disabilities Education Act (IDEA) once they enroll in a private school. These rights include individual education plans, independent evaluations, written notices, language access protections, due process, civil actions, state level appeals, and state complaint processes.

Second, vouchers for students with disabilities don't help low-income families, because the high cost of specialized private tuition would not be fully covered. Annual tuition and fees for specialized therapeutic services for students can run in the tens of thousands of dollars annually. Even with a voucher, how will a middle class or low-income family afford that type of tuition?

Third, private schools receiving public funding via vouchers will not be subject to A-F ratings, financial accountability rates, voter accountability, or any other state oversight process put in place by the Legislature. Although I disagree with some of these measures, especially the A-F and over-reliance on testing, if this is what we

require of public schools, it ought to be required of schools that take public money. And without financial accountability and some form of transparent academic reporting, we have no way of knowing what we're getting for the public's dollar. We have continually failed our obligation to our children in general and to certain populations specifically, including students with disabilities. I adamantly oppose using that failure as an excuse to redirect public funds to private schools.

RODRÍGUEZ

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Schwertner and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Health and Human Services might meet at Senator Hinojosa's desk today.

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider **HB 2750** today.

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Kolkhorst and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Administration might meet and consider the following bills and resolutions today:

HB 553, HB 557, HB 1290, HB 1480, HB 1603, HB 1800, HB 2492, HB 2639, HB 2881, HB 2987, HB 3783, HB 4268, HB 4270, HB 4275, HB 4281, HB 4283, HB 4287, HB 4289, HB 4297, HB 4298, HB 4301, HB 4309, HB 4310, HB 4311, HB 4312, HB 4313, HB 4314, HB 4321, HB 4324, HB 4325, HB 4329, HB 4331, HB 4335, HB 4340, HB 4341, HCR 61, HCR 70, HCR 86, HCR 106.

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Taylor of Galveston and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Education might meet at Senator Hancock's desk today.

CO-SPONSOR OF HOUSE BILL 8

On motion of Senator Nelson, Senator Zaffirini will be shown as Co-sponsor of **HB 8**.

CO-SPONSOR OF HOUSE BILL 13

On motion of Senator Schwertner, Senator Rodríguez will be shown as Co-sponsor of **HB 13**.

CO-SPONSOR OF HOUSE BILL 45

On motion of Senator Huffman, Senator Huffines will be shown as Co-sponsor of **HB 45**.

CO-SPONSORS OF HOUSE BILL 357

On motion of Senator Huffman, Senators Lucio and Menéndez will be shown as Co-sponsors of **HB 357**.

CO-SPONSOR OF HOUSE BILL 1260

On motion of Senator Creighton, Senator Kolkhorst will be shown as Co-sponsor of **HB 1260**.

CO-SPONSOR OF HOUSE BILL 1492

On motion of Senator Buckingham, Senator Hinojosa will be shown as Co-sponsor of **HB 1492**.

CO-SPONSOR OF HOUSE BILL 2115

On motion of Senator Hancock, Senator Uresti will be shown as Co-sponsor of **HB 2115**.

CO-SPONSOR OF HOUSE BILL 2552

On motion of Senator Huffman, Senator Menéndez will be shown as Co-sponsor of **HB 2552**.

CO-SPONSORS OF HOUSE BILL 3859

On motion of Senator Perry, Senators Bettencourt and Huffines will be shown as Co-sponsors of **HB 3859**.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:19 a.m. adjourned until 11:00 a.m. today.

APPENDIX

COMMITTEE REPORTS

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

May 21, 2017

STATE AFFAIRS — **CSHB 214, CSHB 2703**

HIGHER EDUCATION — **CSHB 3083**

AGRICULTURE, WATER, AND RURAL AFFAIRS — **HB 2334**

EDUCATION — **HB 1560, HB 867** (Amended), **CSHB 674, CSHB 2263, CSHB 1569, HB 3593** (Amended)

CRIMINAL JUSTICE — **HB 162, CSHB 298, CSHB 322, HB 1574, HB 2619, HB 3690**

BUSINESS AND COMMERCE — **CSHB 91, HB 1284, HB 1944**

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT — **CSHB 4187, HB 108**

BUSINESS AND COMMERCE — **HB 1166, SR 712, HB 2119, HB 349, HB 451, HB 462, HB 1296, HB 1298, HB 1470, HB 1657, HB 1698, HB 1861, HB 1948, HB 1983, HB 1975, HB 2070, HB 2082, HB 2111, HB 2542, HB 2738, HB 2739, HB 2757, HB 2818, HB 2949, HB 3003, HB 3021, HB 3047, HB 3052, HB 3218, HB 3243**

CRIMINAL JUSTICE — **HB 3147, CSHB 1521, HB 3872, CSHB 34, CSHB 351**

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT — **CSHB 3360, CSHB 4029**

STATE AFFAIRS — **CSHB 3649**

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT — **CSHB 1300**

BILLS ENGROSSED

May 19, 2017

SB 95, SB 1117, SB 1173, SB 1405, SB 1424, SB 1822, SB 1939, SB 2210, SB 2276, SB 2280, SB 2292, SB 2293, SB 2295, SB 2296, SB 2297, SB 2298, SB 2299

BILLS AND RESOLUTIONS ENROLLED

May 19, 2017

SB 489, SB 573, SB 693, SB 720, SB 754, SB 966, SB 1096, SCR 48, SCR 49, SR 813, SR 814, SR 815, SR 816, SR 817, SR 818, SR 819, SR 820

