

# SENATE JOURNAL

EIGHTY-SEVENTH LEGISLATURE — SECOND CALLED SESSION

---

---

AUSTIN, TEXAS

---

---

PROCEEDINGS

---

## FIRST DAY

(Saturday, August 7, 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 7th day of August, 2021, at 12:28 p.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, Blanco, Buckingham, Campbell, Creighton, Eckhardt, Gutierrez, Hancock, Hinojosa, Huffman, Hughes, Johnson, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Paxton, Perry, Powell, Schwertner, Seliger, Springer, Taylor, West, Whitmire, Zaffirini.

Absent-excused: Hall.

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

Senator Campbell offered the invocation as follows:

Gracious heavenly Father, thank You so much for the blessings that You give us. Thank You that Your grace and Your mercy is new every day. Heavenly Father, I pray for the people in the gallery and the people of the great State of Texas. I pray for America. I pray for our leaders. And heavenly Father, I ask a special favor and blessing over all of our Senators: Senator Alvarado, Bettencourt, Birdwell, Blanco, Buckingham, 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. Thank You, heavenly Father, may we get our work done. In Jesus' name. Amen.

## 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 12:00 p.m. on Saturday, August 7, 2021, for the following purposes:

To consider and act upon the following:

Legislation reforming the bail system in Texas to protect the public from accused criminals who may be released on bail.

Legislation strengthening the integrity of elections in Texas.

Legislation providing appropriations from unappropriated available revenues for COVID-19-related healthcare expenses, such as those listed below, taking into consideration the approximately \$10.5 billion in funds received by local governments intended to be used on COVID-19 from the American Rescue Plan Act of 2021 (ARPA), Pub. L. No. 117-2:

healthcare staffing needs, including physicians, nurses, and other medical professionals;

establishing, staffing, and operating alternative care sites;

supporting the operations of nursing homes, state supported living centers, assisted living facilities, and long-term care facilities;

vaccine administration;

testing sites;

supplies and equipment, such as personal protective equipment (PPE) and ventilators; and

standing up and operating infusion centers.

Legislation providing strategies for public-school education in prekindergarten through twelfth grade during the COVID-19 pandemic, which ensures:

students receive a high-quality education and progress in their learning;

in-person learning is available for any student whose parent wants it;

the wearing of face coverings is not mandatory; and

COVID-19 vaccinations are always voluntary.

Legislation enhancing criminal laws or providing funding from unappropriated available revenues to support law-enforcement agencies, counties, and other strategies as part of Texas' comprehensive border security plan.

Legislation safeguarding the freedom of speech by protecting social-media and email users from being censored based on the user's expressed viewpoints, including by providing a legal remedy for those wrongfully excluded from a platform.

Legislation providing appropriations from unappropriated available revenues to the Legislature and legislative agencies in Article X of the General Appropriations Act.

Legislation similar to Senate Bill 1109 from the 87th Legislature, Regular Session, requiring schools to provide appropriate education to middle- and high-school students about dating violence, domestic violence, and child abuse, but that recognizes the right of parents to opt their children out of the instruction.

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 similar to Senate Bill 394 from the 87th Legislature, Regular Session, which prohibits people from providing abortion-inducing drugs by mail or delivery service, strengthens the laws applicable to the reporting of abortions and abortion complications, and ensures that no abortion-inducing drugs are provided unless there is voluntary and informed consent.

Legislation similar to House Bill 3507 from the 87th Legislature, Regular Session, relating to a "thirteenth check" or one-time supplemental payment of benefits under the Teacher Retirement System of Texas.

Legislation similar to House Bill 3979 concerning critical race theory as originally passed by the Texas Senate in the 87th Legislature, Regular Session.

Legislation providing appropriations from unappropriated available revenues for the following purposes:

- property-tax relief;

- enhanced protection for the safety of children in Texas' foster-care system by attracting and retaining private providers for the system; and

- to better safeguard the state from potential cybersecurity threats.

Legislation modifying the filing periods and related election dates, including any runoff, for primary elections held in Texas in 2022.

Legislation reforming the laws governing radioactive waste to protect the safety of Texans, including by further limiting the ability to store and transport high-level radioactive materials in this state.

Legislation shielding private employers and employees from political subdivision rules, regulations, ordinances, and other actions that require any terms of employment that exceed or conflict with federal or state law relating to any form of employment leave, hiring practices, employment benefits, or scheduling practices.

Legislation relating to legislative quorum requirements.

To consider and act upon 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 5th day of August, 2021.

(Seal)

/s/Greg Abbott  
Governor of Texas

Attested by:

/s/Joe A. Esparza  
Deputy Secretary of State

### **LEAVE OF ABSENCE**

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

### **SENATE BILLS AND RESOLUTIONS ON FIRST READING**

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

#### **SB 1** by Hughes

Relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increasing criminal penalties; creating criminal offenses; providing civil penalties.

To Committee on State Affairs.

#### **SB 2** 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 Lucio

Relating to abortion complication reporting and the regulation of drug-induced abortion procedures, providers, and facilities; creating a criminal offense.

To Committee on Health and Human Services.

**SB 5** by Hughes

Relating to complaint procedures and disclosure requirements for, and to the censorship of users' expressions by, social media platforms.

To Committee on State Affairs.

**SB 6** by Huffman

Relating to rules for setting the amount of bail, to the release of certain defendants on a monetary bond or personal bond, to related duties of certain officers taking bail bonds and of a magistrate in a criminal case, to charitable bail organizations, and to the reporting of information pertaining to bail bonds.

To Committee on Jurisprudence.

**SB 7** by Huffman

Relating to a one-time supplemental payment of benefits under the Teacher Retirement System of Texas.

To Committee on Finance.

**SB 8** by Bettencourt

Relating to the authority of a person who acquires a residence homestead to receive an ad valorem tax exemption for the homestead in the year in which the property is acquired and to the protection of school districts against the resulting loss in revenue.

To Committee on Local Government.

**SB 9** by Huffman, West

Relating to requiring public schools to provide instruction and materials and adopt policies relating to the prevention of child abuse, family violence, and dating violence.

To Committee on Jurisprudence.

**SB 10** by Nelson

Relating to making appropriations for the legislature and legislative agencies.

To Committee on Finance.

**SB 11** by Nelson

Relating to making supplemental appropriations and giving direction regarding appropriations.

To Committee on Finance.

**SB 12** by Bettencourt, Kolkhorst

Relating to the reduction of the amount of a limitation on the total amount of ad valorem taxes that may be imposed by a school district on the residence homestead of an individual who is elderly or disabled to reflect any reduction from the preceding tax year in the district's maximum compressed rate and to the protection of school districts against the resulting loss in local revenue.

To Committee on Local Government.

**SB 13** by Huffman

Relating to dates of certain elections to be held in 2022.

To Committee on Jurisprudence.

**SB 14** by Creighton

Relating to the regulation by a municipality or county of certain employment benefits and policies.

To Committee on Business and Commerce.

**SB 15** by Taylor

Relating to virtual and off-campus electronic instruction at a public school, the satisfaction of teacher certification requirements through an internship teaching certain virtual courses, and the allotment for certain special-purpose school districts under the Foundation School Program.

To Committee on Education.

**SJR 1** by Birdwell

Proposing a constitutional amendment relating to the determination of a quorum of the senate or house of representatives.

To Committee on Constitutional Issues.

**SJR 2** by Bettencourt, Kolkhorst

Proposing a constitutional amendment authorizing the legislature to provide for the reduction of the amount of a limitation on the total amount of ad valorem taxes that may be imposed for general elementary and secondary public school purposes on the residence homestead of a person who is elderly or disabled to reflect any statutory reduction from the preceding tax year in the maximum compressed rate of the maintenance and operations taxes imposed for those purposes on the homestead.

To Committee on Local Government.

**SJR 3** by Huffman

Proposing a constitutional amendment requiring a judge or magistrate to impose the least restrictive conditions of bail that may be necessary and authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons.

To Committee on Jurisprudence.

**SENATE RULE 11.19 SUSPENDED**

**(Tag Rule)**

**(Motion In Writing)**

Senator Schwertner offered the following Motion In Writing:

Mr. President:

I move to suspend Senate Rule 11.19 to permit the consideration of the following bills at public hearings held during the Second Called Session of the 87th Legislature, notwithstanding any requests for advance notice pursuant to the rule:

By the Committee on Business & Commerce:

SB 14 by Creighton

By the Special Committee on Constitutional Issues:

SJR 1 by Birdwell

By the Committee on Education:

SB 15 by Taylor

By the Committee on Finance:

SB 7 by Huffman

SB 10 by Nelson

SB 11 by Nelson

By the Committee on Health and Human Services:

SB 2 by Perry

SB 4 by Lucio

By the Committee Jurisprudence:

SB 6 by Huffman

SB 9 by Huffman

SB 13 by Huffman

SJR 3 by Huffman

By the Committee on Local Government:

SB 8 by Bettencourt

SB 12 by Bettencourt

SJR 2 by Bettencourt

By the Committee on State Affairs:

SB 1 by Hughes

SB 5 by Hughes

#### SCHWERTNER

The Motion In Writing was read and prevailed by the following vote: Yeas 17, Nays 12.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Lucio, Menéndez, Powell, West, Whitmire, Zaffirini.

Absent: Miles.

Absent-excused: Hall.

#### LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Miles was granted leave of absence for the remainder of the day on account of illness.

#### SENATE RESOLUTION 1

Senator Schwertner offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That the Temporary Rules of the Senate, 87th Legislature, be amended by amending Rule 11.14 to read as follows:

## CONSIDERATION OF HOUSE BILLS

Rule 11.14. (a) The Senate sponsor of a House measure shall be determined by the chair of the committee, in consultation with the House author of the measure.

(b) It shall be the duty of each committee of the Senate when there has been referred to it or is before it for consideration a Senate bill and a House bill containing the same subject to consider first and report upon the House bill.

(c) A committee is not required to hold a public hearing on a House bill which contains the same subject as a Senate bill that has previously been afforded a public hearing before the committee or a subcommittee.

**SR 1** was read and was adopted by the following vote: Yeas 17, Nays 12.

Yeas: Bettencourt, Birdwell, Buckingham, Campbell, Creighton, Hancock, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor.

Nays: Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Lucio, Menéndez, Powell, West, Whitmire, Zaffirini.

Absent-excused: Hall, Miles.

## REMARKS ORDERED PRINTED

On motion of Senator West and by unanimous consent, the remarks regarding **SR 1** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Schwertner:** Thank you, Mr. President. Mr. President and Members, this rule change would allow a Senate committee to consider a House bill and forego public testimony when that Senate committee has already held a full public hearing with testimony on a Senate bill with the same subject matter.

**President:** Senator Menéndez, for what purpose?

**Senator Menéndez:** Questions of the author, Mr. President.

**President:** Do you yield?

**Senator Schwertner:** I yield.

**Senator Menéndez:** Thank you, Mr. President. Thank you, Senator Schwertner. I was reading your resolution and my concern is that the two words that say, or let's say they contain same subject as the bill previously afforded a public hearing. My concern is that could be such a broad definition that the bill could essentially not be the same bill. I would be in complete favor of your resolution if the legislation were the legislation we heard in the Senate, that had been testified in the Senate, and came back from the House virtually the same, I could understand. But my concern is we just suspended in a Motion In Writing the Tag Rule, which in essence gives our constituents time to come down and testify. I'm concerned that even though some bills that we are going to be hearing this week have had multiple hearings, I'm worried that possibly there would still be people out there that would like to testify on maybe something that's new or nuanced or something different or they weren't aware of and that by passing this, we take away that ability. Question, don't the Senate Rules in Senate Rule 11.10, doesn't it require a public hearing, that we have a public hearing on every piece of legislation?



**Senator Schwertner:** On Senate Rule 11.10–

**Senator Menéndez:** Yes, .10–

**Senator Schwertner:** –is that what you're saying?

**Senator Menéndez:** –yes.

**Senator Schwertner:** Senator, I can look at that for you right here, but as you know currently when a House bill comes over and we've held a Senate bill up, we can swap that bill out and actually pass that.

**Senator Menéndez:** Right.

**Senator Schwertner:** This resolution will essentially allow us to do that if the Senate has already had a public hearing on that House bill. So, this offers maximum flexibility so that the work of the people that has been impeded over a period of time now can be accomplished. And so, I think this resolution with the wording "same subject" is the appropriate resolution to allow for the maximum amount of flexibility so that the chairs in this body can accomplish the work that's necessary to get this special session agenda accomplished.

**Senator Menéndez:** And I can understand that and appreciate the concern with getting through the agenda. My concern is that constituents who may not have had an opportunity, and now this summer once they review the bills that we passed in the Motion In Writing that could be heard on very little notice, that they, possibly that House bill coming over might be the only time that they have enough notice, and now we're taking that away by passing this resolution.

**Senator Schwertner:** Well this would require, again, a Senate hearing to have already occurred on a similar subject, and as you are fully aware, the agenda items of the special session have been through the legislative process, at least in this Chamber, a multitude of times, some five or six times over the last number of months. And so, the reason for this resolution is to allow for that flexibility because of the unknowns of the special session, the quorum issue that is associated with right now the House, and to allow for the work of the people to be fully moved in a timely manner.

**Senator Menéndez:** And I can appreciate that, I guess, and I'll finish with this, my only overarching concern with suspending the need for a second hearing on a bill on such a broad definition as same subject is that possibly we may not provide a constituent the ability to testify on something that is a passion to them or something near and dear and for whatever reason, they didn't have a chance. And so, for those reasons, I will respectfully be in opposition to your resolution. Thank you for your time.

**Senator Schwertner:** Thank you.

**Senator Menéndez:** Thank you, Mr. President.

**President:** Thank you, Senator Menéndez. Senator West, for what purpose?

**Senator West:** Question of the author.

**President:** Do you yield, Senator Schwertner?

**Senator Schwertner:** I yield, thank you Mr. President.

**Senator West:** Thank you, and I want to go back over some of the same areas that have already been treaded. Don't you think this is kind of vague, the way we just say same subject? Because I thought we were talking about something entirely different, but when you say same subject, that means that even if they make substantial changes, then the chair of a committee can decide whether or not to have a hearing.

**Senator Schwertner:** Well, same subject offers maximum flexibility. Same subject—

**Senator West:** When you say same subject—

**Senator Schwertner:** —same subject—

**Senator West:** —I'm sorry.

**Senator Schwertner:** —same subject, Senator, is at the discretion of the chair and ultimately the presiding officer if that bill were to pass that committee and get to the floor, subject to the point of order by any Senator at the committee level or on the floor if it is not the same subject. So, I think that offers flexibility. At the same time offers a voice to those who do not think it is the same subject. But again, the intent is to allow for House bills that come over to be heard, that have already had a public hearing in the Senate to be heard in a committee in a timely manner and to be passed out of that committee without the need for a second public hearing because a public hearing has already occurred during this session on the Senate side as well as the House side.

**Senator West:** Okay, let me just tell you what I'm, specifically the critical race theory bill and the election bills, those are my main concerns. And so, that would be up to the committee chair to make a determination as to whether or not a House bill coming back over on the same subject, that, consistent with what that committee report did, it made substantial changes to determine whether or not there needs to be a hearing on it. Correct?

**Senator Schwertner:** That is correct, it is the prerogative of the chair regarding the same subject aspect if this rule were to be adopted by this body.

**Senator West:** The same thing as the critical race theory bill. Correct?

**Senator Schwertner:** That's correct.

**Senator West:** Alright, with all due respect, I'll be voting "no" on this one.

**President:** Yes sir. Senator?

**Senator West:** I was wondering whether or not Senator Schwertner would accept an amendment to except out those two bills from this resolution?

**Senator Schwertner:** Senator, I think all the agenda items of the special session need to be handled in a similar manner with maximum flexibility afforded to make sure that the work of the people gets accomplished during this session.

**Senator West:** For the purpose of the record, your answer is, no?

**President:** Senator West, may I offer some clarification? Already in the rules, already in the rules that we've always operated under it says same subject. If we have a bill in committee in the Senate and don't pass the bill out of committee, currently and since you've been here, you can take the House bill in it's place without a second hearing.

That's already in the rules, we've done this for decades and for the 15 years I've been here. The only difference in this is if that committee actually passes that bill out, the Senate bill out, instead of holding it. It's the only difference because as you know, we often send Senate bills over there and we get the same bill coming back and we have to rehear the bill. So, it's the same language we have in the rules today, same subject.

**Senator West:** Mr. President, may I? And I agree with you, but the recent experiences with some of these bills has been very problematic to many people in this body. And so, more specifically as it relates to the election bill that came back with a committee report. Now I understand that that's a different—

**President:** Do you have a parliamentary inquiry? I just, I don't want to have a debate here.

**Senator West:** Okay.

**President:** I was just trying to send clarification.

**Senator West:** No, I understand. It's not my intent to debate who I respect, the President, of this body. I just had asked a question whether or not Senator Schwertner would consider an amendment to this as it relates to the election bill and the critical race theory bill. That was the question of the author.

**President:** And he answered.

**Senator West:** He did?

**Senator Schwertner:** I did, but the answer again is, no.

**Senator West:** Okay.

**President:** Thank you, Senator West.

**Senator West:** Alright, thank you.

**President:** Senator Eckhardt, for what purpose?

**Senator Eckhardt:** To ask questions of the author.

**Senator Schwertner:** I yield.

**President:** You yield?

**Senator Schwertner:** Yes, I yield.

**Senator Eckhardt:** Thank you so much, Senator Schwertner. I'm trying to understand this. The subject matter, if a bill were to come over, and the subject matter was identical, but there were substantial differences in the content, would the appropriate remedy for that be a point of order by a committee member?

**Senator Schwertner:** That would be at the committee level is what you're referring to? I believe that is a proper but I could be corrected on that, but I believe a committee member has to offer a point of order at the committee level if they were to choose to do so.

**Senator Eckhardt:** And then, if that were not to be sustained and no hearing were had and it comes to the floor, then there would be an opportunity for a Member of the Senate on the floor to raise a point of order that the content, that the subject matter was the same, but the content was substantially different?

**Senator Schwertner:** I believe a Member can raise a point of order, which is always adjudicated and finalized regarding its outcome by the presiding officer.

**Senator Eckhardt:** But given the language, if the subject matter were the same, it's very unlikely that that point of order would be sustained.

**Senator Schwertner:** Again, I cannot predict the future, Senator. The purpose of the resolution is to put in place a mechanism for House bills that have already had a Senate hearing, that are the same subject matter, to be expeditiously moved through the committee process on the Senate side, essentially swapping out a bill that we can already do on the Senate side. And the House, I would also add, already can do as well. And they can actually move a House bill and when a Senate bill goes over there, they can actually vote that bill out without a public hearing, and so we actually, on the Senate side have an extra layer of public input, which I think is a good aspect to this Chamber. But it is important during the special session that, and I know you being a new Senator and having experienced now one special session, you understand the dynamics of the special session and the time constraints and the need for increased flexibility amongst the committee and the Members and the presiding officer to get our work done that the people of Texas expect. And so, this resolution speaks to that, allowing for increased flexibility at the level of the committee to move bill without a second round of public hearing if that committee has already heard a similar bill as well as a House bill already having a public hearing as well. So, there would already have been two instances of public hearing for any piece of legislation that makes it on either Chamber's floor.

**Senator Eckhardt:** I very much appreciate that explanation, and after 20 years working in and around the judicial, executive, and legislative branches, I am well aware of procedural due process. And our goal here is to be effective, efficient, and fair, and all I'm asking is in those instances where we sacrifice fairness and transparency in order to be effective and efficient, what is the remedy here? And so, would you be amenable to saying, the same subject and substantially the same content? Because I believe that is your intent.

**Senator Schwertner:** The intent, again, is to offer that maximum flexibility which is afforded by the current language. And so, therefore I would not be amenable to any sort of amendment to this resolution.

**Senator Eckhardt:** Thank you for the good debate.

**Senator Schwertner:** Thank you.

**President:** Senator Lucio, for what purpose?

**Senator Lucio:** Will the gentleman yield?

**President:** Do you yield?

**Senator Schwertner:** I yield, Senator.

**Senator Lucio:** Thank you, Senator. Let's make it clear for those that are listening that it is not your intention or any one of us that might vote for this to keep the public from testifying on this particular bill in both Chambers. Correct?

**Senator Schwertner:** Absolutely not. Both Chambers will have opportunities to have public testimony and will be required to do so of that subject. And so, that is a vital and important part of the legislative process.

**Senator Lucio:** During the period of time this is happening, let's say the bill gets out of here first on, let's say voter reform.

**Senator Schwertner:** Right.

**Senator Lucio:** Which I did not support and will not be supporting, but let's say it gets out and goes to the House. They send over a House bill, all you're saying is that we already afforded the public of Texas an opportunity to come before us in committee or call us on the phone, email us, text us, just to do whatever it takes to get the message to us how they feel about this particular issue. Let me ask you a follow-up question. Would the public be afforded an opportunity to continue to send those messages and be able to have that as part of the overall testimony in the bill before we vote on it?

**Senator Schwertner:** Certainly, I think the chairs of committees handle their committees differently, but public input cannot just be by public testimony, but it can also be given by emails or written correspondence or even calling into the offices of your Senator or Representative or the chair of that committee to express a certain viewpoint. And so, that input happens in a number of ways which is oftentimes tallied and recorded by the various offices.

**Senator Lucio:** Well, I think that those of us who have concerns maybe with this resolution obviously do not support the voter reform legislation that's come before us or the CRT bill that is also going to be debated. However, I don't think that, if people just listen carefully, that anyone is going to be given or not given a chance to offer their position on these particular issues to us, to the committee, to us individually, collectively, including the leadership. We're going to hear from the people of Texas. There've been marches already. I mean, this is not a secretive type of legislation that is going to get by people. They have enough time between now and the end of the process for us to receive their input. Correct?

**Senator Schwertner:** That is absolutely correct, Sir. And as you know, talking in our caucus earlier, the various bills that are the most controversial that have actually gone through the legislative process now multiple times, will probably be posted today. And people will know very soon when those bills will be up in the Senate, at least. Now, the House will need to have a quorum and convene, but there are time constraints as there are with all legislative processes, including the special session. And we do not want to be at the end of a special session and have a situation in which we cannot, again, accomplish the legislative efforts that have been put forth by the special session call and get the work of the people fully done in a timely manner and have to come back here at the cost of the taxpayers for a third special session.

**Senator Lucio:** Well, lastly, I want to say my vote, quite frankly, is not going to be a partisan vote of any kind. It's going to be a vote, which I feel is necessary because I have a bill during this special session that I think is most important and I don't want to establish any kind of stumbling blocks. We had a hearing on Senate Bill 4 during the regular, another hearing during the first special, and now a hearing coming up tomorrow on the second special. So, I want the public to understand my position on this is to, let's go ahead and give the process a chance to go through. And let everyone know they have a chance, as of right this moment, to voice their concerns on any piece of legislation or support on legislation that will be taken up the second special session of the 87th. The last thing is, this resolution is just for this session, not for future sessions. Correct?

**Senator Schwertner:** That's correct, this is a resolution that would amend the Senate rules for this special session.

**Senator Lucio:** The temporary rules of the Senate, 87th Legislature.

**Senator Schwertner:** Yes, Sir.

**Senator Lucio:** Thank you. Thank you, Mr. President.

**President:** Thank you, Senator Lucio. Senator Bettencourt, for what purpose?

**Senator Bettencourt:** To ask questions of the author, Mr. President.

**President:** Do you yield?

**Senator Schwertner:** I yield, Senator.

**Senator Bettencourt:** Thank you for that, Senator Schwertner, because I think the public would obviously like to know three quick points. One, this is clearly at the chairman's discretion. Right? And it's really based upon what the practice has been in the Senate. And that it's been tightly controlled, because to my knowledge there haven't been any point of orders on this, at least since I've been in the Senate. Would you agree?

**Senator Schwertner:** I have not been aware of a point of order, not in my tenure here over 10 years. Again, this is about bills that are over and eligible by the House that have already had a full hearing in the Senate, not just in prior special sessions and regular sessions but also this special session—

**Senator Bettencourt:** Right.

**Senator Schwertner:** —of the same similar subject matter to be able to expeditiously handle a House bill sent at whatever particular time to be able to, to get that bill out of committee, and onto this floor to make sure that the work of the people gets accomplished.

**Senator Bettencourt:** Right, because from a practical perspective for those that are watching today, we have 30 days, the clock is ticking, we'll send bills to the House, and then we may actually get nearly the same bill back. And that's really the only practical change is when we get a House bill back, and that lets us discuss with the House author at the same time about what bill we are going to pass or not. True?

**Senator Schwertner:** That's obviously correct. And, of course, we have the uncertainties of the House regarding their time frames and being able to obtain a quorum and continue to have that quorum and get their work done. So, that maximum flexibility afforded by this change would basically mirror what the House is already able to do, to where we can as coequal Chambers get the legislative work accomplished.

**Senator Bettencourt:** Great, and thank you for your explanation. That's why I'll be voting for your resolution, for your motion. Thank you.

**Senator Schwertner:** Thank you, Senator.

**President:** Senator Gutierrez, for what purpose?

**Senator Gutierrez:** Will the gentleman yield for a couple of questions?

**President:** Do you yield?

**Senator Schwertner:** I yield, Senator.

**Senator Gutierrez:** Thank you, Senator, I appreciate it. You know, Senator, I know you're a physician. What type of physician are you?

**Senator Schwertner:** I'm an orthopedic surgeon.

**Senator Gutierrez:** That sounds very important and I don't pretend to know anything about orthopedic surgery, but you've been in the Legislature for some time and I can tell you that the first week of law school you have a whole session on due process. Right? And so, you're told over this phrase, over and over. Due process is notice and an opportunity to be heard, notice and an opportunity to be heard. So, I imagine in your years in the Legislature you are familiar with due process, notice and an opportunity to be heard. Are you familiar with that?

**Senator Schwertner:** Senator, I am quite aware of the legislative process. Yes, Sir.

**Senator Gutierrez:** Very good, because I noticed earlier you were questioning my colleague as to her experience in the legislative process. She's been an attorney, in the judiciary, and she can defend herself, and I believe she did quite well. But notice and an opportunity to be heard are so important especially when we're talking about elections bills that are about keeping people from voting.

**Senator Schwertner:** I agree with you 100 percent.

**Senator Gutierrez:** And yet, we aren't doing that in this amendment, are we? We're not giving people notice and an opportunity to be heard.

**Senator Schwertner:** Senator, we are absolutely giving people an opportunity not through, not just prior special sessions, prior regular sessions, but through a Senate bill that's heard and passed out of the Senate, as well as a House bill that's heard and has public testimony and passes out of the House. What we are doing in this is allowing the work of the people to be accomplished in a timely manner and allowing all opportunity to be undertaken to make sure that that work gets accomplished.

**Senator Gutierrez:** Maybe I'm a little—

**Senator Schwertner:** I think—

**Senator Gutierrez:** –maybe I'm a little simple. I didn't quite catch that. Are you suggesting to me that because we did this bill in the regular session and we did it in special session number one, that we've heard them already? Is that what you're suggesting?

**Senator Schwertner:** No, we're going to hear them again.

**Senator Gutierrez:** Okay, we're going to have a hearing again. And what if the House bill that comes over is, because you were asked if you would take an amendment that said would have substantially the same language, what if the House bill doesn't have substantially the same language? What if it has, you know, 10 different items that are about elections, but they're just different things altogether. What about then? What about that?

**Senator Schwertner:** As I discussed with Senator Eckhardt, and I'm sure you heard, anything like that would be subject to a point of order if it is not the same subject and would be adjudicated at the committee level by the chairman or on the floor of this Chamber by the presiding officer.

**Senator Gutierrez:** I respectfully disagree because your language says, which contains the same subject, so I imagine that folks that can interpret this in their own way can say, well, that's an elections bill that covers x, y, and z, and this is an elections bill that covers x, y, and z, but then it has another couple of options a, b, c. And so, then we get caught in the dilemma of how do we construe it, who is construing it, who are the referees calling the balls and strikes on points of order.

**Senator Schwertner:** Again, Senator–

**Senator Gutierrez:** I don't think we've had a point of order in the Senate sustained since 2017.

**Senator Schwertner:** Senator, this would be applicable to House bills that have already gone through the House committee process, gone on the House floor, been fully debated on the House floor, passed off the House floor, and sent over here. And so, that is an important notice to take place regarding a bill that has gone through that legislative process, that would then be considered the same subject matter as one that has already passed off the Senate floor as a Senate bill. It is important that those two bills be evaluated, and in this case by the chair, if any sort of discretion or concern was brought forth by a point of order, but that is the avenue that this resolution would allow for. For a House bill that comes over here to be moved expeditiously through the committee process to get it onto the Senate floor.

**Senator Gutierrez:** Well, maybe that's just a little out of my depth with my naivete of being a freshman Senator in the Texas Senate. But at the end of the day, I have a real concern with a bill that comes over here that you suggest, or others suggest, is substantially the same and yet the public doesn't have notice and an opportunity to be heard which is due process, which is due process. So, if you're okay with that, that's okay. I respectfully am not voting for your suggestion, your resolution. I have one last question. We heard from one of my colleagues just a second ago, he said this is just temporary. That's your suggestion?



**Senator Schwertner:** All Senate rules are reevaluated at the beginning of whatever session it is so they are called temporary in nature.

**Senator Gutierrez:** So, you're okay with people not having notice and an opportunity to be heard this summer, this session? Got it. Thank you.

**President:** Senator Schwertner, do you wish to close?

**Senator Schwertner:** Thank you, Mr. President. You've heard the debate, Members. I think it's important that the work of the people gets done this special session. This would allow us to mirror what happens in the House. It will allow us to expeditiously move House bills that come over through committee when they have already had a full Senate hearing on a similar Senate bill as well as a full House hearing and House floor deliberation on that same subject matter. So, with that, Mr. President, I move adoption of Senate Resolution 1.

### **STATEMENT REGARDING SENATE RESOLUTION 1**

Senator Schwertner submitted the following statement regarding **SR 1**:

I write to clarify a statement I made during my exchange with Senator Gutierrez on August 7, 2021, regarding Senate Resolution 1. Senator Gutierrez stated "notice and an opportunity to be heard are so important especially when we're talking about election bills that are keeping people from voting." I responded, "I agree with you 100 percent." Our discussion was fast-paced, and I was responding to the first portion of Senator Gutierrez's statement. I do agree 100 percent that notice and an opportunity are so important especially when talking about election bills. I disagree 100 percent that Senate Bill 1 and similar legislation are keeping people from voting.

SCHWERTNER

### **STATEMENT REGARDING SENATE RESOLUTION 1**

Senator Hughes submitted the following statement regarding **SR 1**:

I do not intend to use the rule change effected by SR 1 in the consideration or passage of Senate Bill 1.

HUGHES

### **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 the following bills at 1:30 p.m. today in Room E1.036: **SB 7, SB 10, SB 11.**

### **SENATE RULES SUSPENDED (Posting Rules)**

On motion of Senator Huffman and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) and all necessary rules were suspended in order that the Committee on Jurisprudence might meet and consider the following bills at 2:15 p.m. today in the Betty King Committee Room, 2E.20: **SB 6, SB 9, SB 13, SJR 3.**

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

On motion of Senator Bettencourt and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Local Government might meet and consider the following bills at 2:15 p.m. today in Room E1.028: **SB 8, SB 12, SJR 2.**

**CO-AUTHORS OF SENATE BILL 1**

On motion of Senator Hughes, Senators Bettencourt, Kolkhorst, Nichols, and Springer will be shown as Co-authors of **SB 1.**

**CO-AUTHOR OF SENATE BILL 2**

On motion of Senator Perry, Senator Springer will be shown as Co-author of **SB 2.**

**CO-AUTHOR OF SENATE BILL 4**

On motion of Senator Lucio, Senator Springer will be shown as Co-author of **SB 4.**

**CO-AUTHORS OF SENATE BILL 5**

On motion of Senator Hughes, Senators Bettencourt, Kolkhorst, and Springer will be shown as Co-authors of **SB 5.**

**CO-AUTHORS OF SENATE BILL 6**

On motion of Senator Huffman, Senators Bettencourt, Hinojosa, and Kolkhorst will be shown as Co-authors of **SB 6.**

**CO-AUTHORS OF SENATE BILL 8**

On motion of Senator Bettencourt, Senators Buckingham, Campbell, Hancock, Hinojosa, Huffman, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Paxton, Perry, Schwertner, Seliger, Springer, Taylor, and Whitmire will be shown as Co-authors of **SB 8.**

**CO-AUTHOR OF SENATE BILL 9**

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

**CO-AUTHORS OF SENATE BILL 12**

On motion of Senator Bettencourt, Senators Buckingham, Campbell, Eckhardt, Hancock, Hinojosa, Huffman, Lucio, Menéndez, Nelson, Nichols, Paxton, Perry, Seliger, Springer, Taylor, and Whitmire will be shown as Co-authors of **SB 12.**

**CO-AUTHORS OF SENATE JOINT RESOLUTION 2**

On motion of Senator Bettencourt, Senators Buckingham, Campbell, Eckhardt, Hancock, Huffman, Lucio, Menéndez, Nelson, Nichols, Paxton, Perry, Seliger, Springer, Taylor, and Whitmire will be shown as Co-authors of **SJR 2.**

**CO-AUTHORS OF SENATE JOINT RESOLUTION 3**

On motion of Senator Huffman, Senators Bettencourt and Hinojosa will be shown as Co-authors of **SJR 3**.

**ADJOURNMENT**

On motion of Senator Whitmire and by unanimous consent, the Senate at 1:23 p.m. agreed to adjourn, pending the receipt of committee reports, until 11:00 a.m. Monday, August 9, 2021.

---

**APPENDIX**

---

**COMMITTEE REPORTS**

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

August 7, 2021

FINANCE — **SB 7**

LOCAL GOVERNMENT — **SJR 2, SB 8, SB 12**

JURISPRUDENCE — **SJR 3, SB 6, SB 9, SB 13**

**RESOLUTION ENROLLED**

August 7, 2021

**SR 1**

