

THIRD DAY

THURSDAY, JANUARY 13, 2005

PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Ellis.

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

The Reverend Ricky Poe, The PromiseLand, Austin, offered the invocation as follows:

Our eternal Father, we praise You and worship You this day. In advance of us, You have arrived and we feel Your powerful presence. Bless this assembly today. The people have chosen these men and women through the democratic process. Now, You guide them as Your servants through the theocratic process. Empower them with wisdom and a sixth sense of understanding. Bless their families with special protection and provisions of your extravagance. Heavenly Father, bring ironclad unity among those who are chosen to work in this Legislature. Where there is unity, there is strength. May there never be division and petty aggrandizement during this session. Together we shall conquer. When a righteous man rules the people, rejoice. So may Your soft winds of favor continue to blow in the State of Texas. In the name of the Lord Jesus Christ. Amen.

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

The motion prevailed without objection.

LEAVE OF ABSENCE

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

CO-AUTHORS OF SENATE BILL 6

On motion of Senator Nelson, Senators Janek, Shapiro, Shapleigh, and Van de Putte will be shown as Co-authors of **SB 6**.

CO-AUTHOR OF SENATE BILL 29

On motion of Senator Zaffirini, Senator Lucio will be shown as Co-author of **SB 29**.

CO-AUTHOR OF SENATE BILL 85

On motion of Senator Ellis, Senator Lucio will be shown as Co-author of **SB 85**.

CO-AUTHOR OF SENATE BILL 86

On motion of Senator Ellis, Senator Lucio will be shown as Co-author of **SB 86**.

CO-AUTHOR OF SENATE BILL 87

On motion of Senator Ellis, Senator Lucio will be shown as Co-author of **SB 87**.

CO-AUTHORS OF SENATE JOINT RESOLUTION 6

On motion of Senator Carona, Senators Hinojosa and Wentworth will be shown as Co-authors of **SJR 6**.

PHYSICIAN OF THE DAY

Senator Barrientos was recognized and presented Dr. Mathis Blackstock of Austin as the Physician of the Day.

The Senate welcomed Dr. Blackstock and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

January 13, 2005

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 23, Honoring Thomas Clark Brown of Midland on his receipt of the 2004 Permian Basin Petroleum Association Top Hand Award.

HCR 25, Granting permission to adjourn for more than three days during the period beginning on Thursday, January 13, 2005, and ending on Monday, January 24, 2005.

HCR 26, Inviting the governor to address a joint session of the legislature on Wednesday, January 26, 2005.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

RECESS

On motion of Senator Whitmire, the Senate at 10:32 a.m. recessed until 11:30 a.m. today.

AFTER RECESS

The Senate met at 12:19 p.m. and was called to order by the President.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate members of the Aerospace and Aviation Advisory Committee: Richard Azar of El Paso, Arthur Rojas Emerson of San Antonio, Janie Haga of Cedar Hill, Greg Hayes of Houston, Holly Stevens of Georgetown, Richard Stevenson of Aledo, and Leland Williams of San Antonio.

The Senate welcomed its guests.

SENATE RESOLUTION 5

Senator West offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Martin Luther King, Jr., Day, which is being celebrated across our nation on January 17, 2005; and

WHEREAS, A famed orator and clergyman and one of America's most influential civil rights leaders, Dr. Martin Luther King, Jr., was awarded the 1964 Nobel Peace Prize for his commitment to nonviolence and his struggle for equal rights; and

WHEREAS, Martin Luther King, Jr., was born January 15, 1929; on January 17, people from all walks of life will commemorate his birthday and honor his commitment to the fight for civil rights, equal educational opportunity, and improved economic well-being for all Americans; and

WHEREAS, On this special day, we remember Dr. King's extraordinary legacy, from his successful leadership of the boycott that led to the desegregation of the Montgomery, Alabama, buses in 1956 to his bold leadership of the Southern Christian Leadership Conference, a major civil rights organization; and

WHEREAS, The eloquence of Dr. King's historic "I have a dream" speech still evokes emotions in Americans of every race and creed; we are also inspired to cherish and practice Dr. King's noble ideals of racial harmony and tolerance in our great nation; and

WHEREAS, This year's celebration of the birthday of Dr. Martin Luther King, Jr., is a reminder to all Texans of our nation's democratic ideals, and it will serve to inspire us to continue to create a more just and equitable society; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby urge all Texans to celebrate January 17, Martin Luther King, Jr., Day, in honor and in memory of Dr. Martin Luther King, Jr.; and, be it further

RESOLVED, That a copy of this Resolution be prepared as a memento of this day in our nation's history.

SR 5 was read and was adopted without objection.

HOUSE CONCURRENT RESOLUTION 25

The President laid before the Senate the following resolution:

HCR 25, Granting permission to adjourn for more than three days during the period beginning on Thursday, January 13, 2005, and ending on Monday, January 24, 2005.

WHITMIRE

HCR 25 was read.

On motion of Senator Whitmire and by unanimous consent, the resolution was considered immediately and was adopted without objection.

HOUSE CONCURRENT RESOLUTION 26

The President laid before the Senate the following resolution:

HCR 26, Inviting the governor to address a joint session of the legislature on Wednesday, January 26, 2005.

WHITMIRE

HCR 26 was read.

On motion of Senator Whitmire and by unanimous consent, the resolution was considered immediately and was adopted without objection.

SENATE RESOLUTION 11 **(Senate Rules)**

Senator Whitmire offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That the Rules of the Senate of the 78th Legislature, as amended, are adopted as the Permanent Rules of the Senate of the 79th Legislature with the following modifications:

1. Amend Rule 5.14 to read as follows:

INTENT CALENDAR

Rule 5.14. (a) During a regular session of the Legislature, any member who desires to suspend the regular order of business and take up a bill, joint resolution, or resolution out of its regular order shall give notice of such intent to the Secretary of the Senate, in a manner specified by the Secretary, not later than 3:00 p.m. on the last preceding calendar day that the Senate was in session. Unless the printing rule has been previously suspended, no bill, joint resolution, or resolution shall be eligible to be placed on the Intent Calendar unless at the time that the notice is given to the Secretary of the Senate the bill, joint resolution, or resolution has been printed and

furnished to each member of the Senate. Notice must be given from day to day. No member may give notice on more than three bills or resolutions prior to April 15 or on more than five bills or resolutions on or after April 15.

(b) Before the 130th calendar day of the regular session, the [The] Senate may not suspend the regular order of business and take up a bill, joint resolution, or resolution until the second day the bill, joint resolution, or resolution has been posted on the Intent Calendar.

(c) ~~(b)~~ The Secretary shall prepare a list of all legislation for which notice has been given. The list must be made available to each member of the Senate and to the press no later than 6:30 p.m. on the day the notice is filed.

(d) ~~(c)~~ No provision of this rule may be suspended except by vote of four-fifths of the members present.

2. Amend Rule 6.15 to read as follows:

CALLS FOR YEAS AND NAYS REQUIRED

Rule 6.15. (a) Upon the final passage of all amendments proposed to the Constitution, all bills appropriating money or lands for any purpose, all bills containing an immediate effect clause, all motions to suspend the constitutional three-day rule, and all questions requiring a vote of two-thirds of the members elected, the presiding officer shall call for the yeas and nays, and they shall be entered in the journal. Upon all other questions requiring a vote of two-thirds of the members present, including a motion to suspend the rules, the presiding officer shall determine if there is objection and, if so, call for the yeas and nays, but they shall not be entered into the journal unless required under Subsection (b) of this rule. If no objection is made, the journal entry shall reflect a unanimous consent vote of the members present without necessity of a roll call of yeas and nays.

(b) At the desire of any three members present, the yeas and nays shall be entered on the journal, and the names of the members present and not voting shall be recorded immediately after those voting in the affirmative and negative, and such members shall be counted in determining the presence of a quorum. (Constitution, Article III, Section 12)

(c) (1) Any nonprocedural motion adopted by voice vote, without objection, or with unanimous consent shall be reflected in the journal by showing members present as "yea", unless a member registers otherwise with the Secretary of the Senate.

(2) The following statement shall be entered in the journal after each vote taken as provided in Subdivision (1) of this subsection:

"All members are deemed to have voted 'Yea' except as follows:

Nays:

PNV:

Absent-Excused:

Absent:"

(d) A member must be on the floor of the Senate or in an adjacent room or hallway on the same level as the Senate floor or gallery in order to vote; but a member who is out of the Senate when a record vote is taken and who wishes to be recorded shall be permitted to do so provided:

(1) the member was out of the Senate temporarily, having been recorded earlier as present;

(2) the vote is submitted to the Secretary of the Senate prior to adjournment or recess to another calendar day; and

(3) the recording of the member's vote does not change the result as announced by the chair.

(e) [~~(d)~~] Once begun, a roll call may not be interrupted for any reason.

3. Amend Senate Rule 7.21 to read as follows:

HOUSE AMENDMENTS TO SENATE BILLS

Rule 7.21. If a Senate bill is returned with House amendments, all House amendments must be printed and a copy furnished to each member at least 48 [24] hours prior to a motion to concur prior to the last 72 hours of a regular session, and 24 hours prior to a motion to concur during a called session or the last 72 hours of a regular session.

SR 11 was read and was adopted by the following vote: Yeas 29, Nays 0.

Absent: Hinojosa.

Absent-excused: Ellis.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

January 13, 2005

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 22, Directing the legislative staff responsible for maintaining the Internet website for the Texas Legislature to provide improved public access to information on votes taken on legislation.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

RESOLUTION OF RECOGNITION

The following resolution was adopted by the Senate:

Congratulatory Resolution

SR 10 by Whitmire, Congratulating Judith Lahai-Momoh of Houston on her 50th birthday.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:57 p.m. adjourned until 1:30 p.m. Monday, January 24, 2005.