

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FOURTH DAY

(Monday, January 24, 2011)

The Senate met at 1:38 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Hegar.

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

Chaplain Steven Vaughn, Texas Army National Guard, offered the invocation as follows:

I will say of the Lord, He is my refuge and my fortress, my God, in whom I trust. (Psalm 91:2) Father, today we pause to honor a group of men and women who by their very sacrifice have set themselves apart from all others. We cannot bestow more honor and dignity upon them than they themselves have already earned, but we can say "thank you." We can and do ask Your hand of mercy and love be around them. For those still recovering we ask that You give the doctors the wisdom needed to assist these patriots in their recovery process. We ask also for their families that will walk this road alongside them. Grant them the wisdom and strength to be a pillar of support and love as their loved one makes his or her journey. Now, Father, we humbly ask Your blessings upon our country and our service members currently serving in harm's way. We ask that they might soon be returned to their loved ones. We ask in Your blessed and holy name. 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.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Hegar was granted leave of absence for today on account of illness.

RESOLUTION SIGNED

The President announced the signing of the following enrolled resolution in the presence of the Senate: **SCR 6**.

SENATE BILLS ON FIRST READING

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

SB 1 by Ogden

General Appropriations Bill.

To Committee on Finance.

SB 14 by Fraser, Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams

Relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

To Committee of the Whole Senate.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were filed with the Secretary of the Senate:

Austin, Texas

January 20, 2011

STATE OF TEXAS OFFICE OF THE GOVERNOR

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
EIGHTY-SECOND TEXAS LEGISLATURE, REGULAR SESSION:

I, RICK PERRY, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 82nd Legislature, now convened:

Legislation that requires a voter to present proof of identification when voting.

Respectfully submitted,

/s/Rick Perry

Governor

Austin, Texas

January 20, 2011

STATE OF TEXAS OFFICE OF THE GOVERNOR

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
EIGHTY-SECOND TEXAS LEGISLATURE, REGULAR SESSION:

I, RICK PERRY, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 82nd Legislature, now convened:

Legislation that will provide for a federal balanced budget amendment to the United States Constitution.

Respectfully submitted,

/s/Rick Perry
Governor

Austin, Texas
January 21, 2011

STATE OF TEXAS
OFFICE OF THE GOVERNOR

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
EIGHTY-SECOND TEXAS LEGISLATURE, REGULAR SESSION:

I, RICK PERRY, Governor of the State of Texas, pursuant to Article III, Section 5, of the Texas Constitution and by this special message, do hereby submit the following emergency matter for immediate consideration to the Senate and House of Representatives of the 82nd Legislature, now convened:

Legislation that requires a sonogram before a woman elects to have an abortion so that she may be fully medically informed.

Respectfully submitted,

/s/Rick Perry
Governor

SENATE RESOLUTION 31

Senator Uresti offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join the citizens of Real County and Texans across the state in celebrating Real County Day at the State Capitol on January 24, 2011; and

WHEREAS, Real County was established in 1913 from parts of Edwards, Bandera, and Kerr Counties, and it was named for Julius Real, the only Republican in the Texas Senate at that time; and

WHEREAS, Situated on the Balcones Escarpment, on the southern edge of the Edwards Plateau, Real County is marked by the rugged terrain and scenic canyons of the Frio and Nueces Rivers; and

WHEREAS, Anglo-American settlers first came to the area in the 1850s, and the military post Camp Wood was established in 1857; ranching soon came to dominate the local economy, with the raising of angora goats and sheep playing a major role; and

WHEREAS, Today, ranching continues to play a vital role in the economy of Real County, with tourism and hunting also contributing greatly to its prosperity; the county is also known for its pecans; Leakey, the county seat, annually hosts the July Jubilee; and

WHEREAS, Real County Day at the Capitol is an excellent opportunity to celebrate the history and the fine qualities of this area; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby commend the people of Real County on their many contributions to the rich historical legacy of our state and extend to them best wishes for a memorable Real County Day at the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for them as an expression of esteem from the Texas Senate.

SR 31 was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate Garry Merritt, Real County Judge; Charles Reagor, Trustee of Leakey ISD; Carl Jensen, Leakey City Councilmember; Charles Hunger, Trustee of Nueces Canyon Consolidated ISD; and Karen Dean, City of Camp Wood.

The Senate welcomed its guests.

PHYSICIANS OF THE DAY

Senator Watson was recognized and presented Drs. John and Judith Egerton of Austin as the Physicians of the Day.

The Senate welcomed the Egertons and thanked them for their participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate members of the Mariachi Los Tigres del Sur of Martin High School in Laredo.

The Senate welcomed its guests.

SENATE RESOLUTION 53

Senator Van de Putte offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize and pay tribute to the members of the United States military who have so honorably served our great nation and state in the armed services and join all Texans in observing January 24, 2011, as Wounded Warrior Day at the Texas State Capitol; and

WHEREAS, The soldiers, sailors, airmen, and Marines of the United States military and their families have made extraordinary sacrifices to serve our nation both abroad and within our own borders; and

WHEREAS, Of the 253,049 members of the United States military who are currently deployed around the world, 19,413 are from Texas, and of the 42,167 service members who have been wounded since 2001 in the Iraqi Freedom, Enduring Freedom, and New Dawn Conflicts, 3,622 have been from Texas; and

WHEREAS, We are blessed to honor today the wounded warriors who have returned from these conflicts, including Major John J. Ploch, Staff Sergeant Richard Groff, Staff Sergeant Frank Lamar, Sergeant Juan Carrion, Sergeant Chris Goebel, and Private First Class Kevin Macari; without their willingness to serve and the contributions made by them and their families, we could not enjoy many of the freedoms that make this nation great; and

WHEREAS, These veterans have bravely and selflessly served in defense of our nation and its democratic ideals; with silent dedication and unmatched grit, they ensure our safety and security, and it is indeed fitting that all Texans recognize, honor, and reaffirm their gratitude to these true American heroes; and

WHEREAS, Although these veterans represent many different hometowns and backgrounds, what unites them is greater than what divides them—a deep and abiding love of their country; it is for America and all Americans that they leave their homes and their family and friends in order to guarantee the continuation of those freedoms etched into the Declaration of Independence and ensured by our Constitution; and

WHEREAS, It is for our service members' willingness to serve to protect these freedoms that we honor them; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby commend the wounded warriors of our nation for their sacrifice, dedication, and patriotism, recognizing them, honoring them, and reaffirming the gratitude of all Texans to these true American heroes; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of the dedication and sacrifice of the men and women of the United States armed services and their families.

SR 53 was read and was adopted by a rising vote of the Senate.

GUESTS PRESENTED

Senator Van de Putte, joined by Senators Estes, Ogden, Davis, and Birdwell, was recognized and introduced to the Senate Sergeant Juan Carrion, Sergeant Chris Goebel, Staff Sergeant Frank Lamar, Private First Class Kevin Macari, and the Purple Heart Warriors present.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Wentworth was recognized and introduced to the Senate Staff Sergeant Richard Groff.

The Senate welcomed its guest.

GUEST PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Major John J. Ploch.

The Senate welcomed its guest.

GUEST PRESENTED

Senator Fraser was recognized and introduced to the Senate Staff Sergeant Floyd L. Hall.

The Senate welcomed its guest.

GUEST PRESENTED

Senator Birdwell was recognized and introduced to the Senate Lieutenant Colonel Tim Karcher of Copperas Cove.

The Senate welcomed its guest.

GUEST PRESENTED

Senator West was recognized and introduced to the Senate Chaplain Roger Benimoff of Dallas County.

The Senate welcomed its guest.

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate Army veterans Joel Jimenez, Paul Miller, and Paul VanLinder.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Van de Putte was again recognized and introduced to the Senate T. P. O'Mahoney, Chair, Texas Veterans Commission; Tom Palladino, Executive Director, Texas Veterans Commission; and Adjutant General Jose Mayorga.

The Senate welcomed its guests.

ACKNOWLEDGMENT

Senator Whitmire acknowledged the following Senators who are veterans: Senator Birdwell, United States Army; Senator Hinojosa, United States Marines; Senator Ogden, United States Marines; and Senator Uresti, United States Marines.

ACKNOWLEDGMENT

Senator Van de Putte acknowledged Lieutenant Governor David Dewhurst, a veteran of the United States Air Force.

SENATE RESOLUTION 41

Senator Williams offered the following resolution:

SR 41, Commending Sergeant James Eddie Wright on his service to our nation.

The resolution was read and was adopted without objection.

GUEST PRESENTED

Senator Williams was recognized and introduced to the Senate Sergeant James Eddie Wright of Conroe.

The Senate welcomed its guest.

SENATE RESOLUTIONS

Senator Hinojosa offered the following resolutions:

SR 75, Commending Ram Chavez on his service to our nation.

The resolution was read.

SR 76, Commending Frank Alaniz on his service to our nation.

The resolution was read.

SR 78, Commending Roberto Callejo on his service to our nation.

The resolution was read.

SR 75, **SR 76**, and **SR 78** were adopted without objection.

GUESTS PRESENTED

Senator Hinojosa was recognized and introduced to the Senate Ram Chavez, United States Army, and Frank Alaniz and Roberto Callejo, United States Marine Corps.

The Senate welcomed its guests.

SENATE RESOLUTION 49

Senator Davis offered the following resolution:

SR 49, Commending Master Sergeant Richard Ruffert on his service to our nation.

The resolution was read and was adopted without objection.

GUEST PRESENTED

Senator Davis was recognized and introduced to the Senate Richard Ruffert of Fort Worth, United States Army.

The Senate welcomed its guest.

SENATE RESOLUTION 69

Senator Uresti offered the following resolution:

SR 69, Commending First Sergeant Ruperto Cruz, Jr., on his service to our nation.

The resolution was read and was adopted without objection.

GUEST PRESENTED

Senator Uresti was recognized and introduced to the Senate Ruperto Cruz, Jr., United States Army, Retired, of San Antonio.

The Senate welcomed its guest.

STANDING COMMITTEE APPOINTED

The President announced the appointment of the following committee for the 82nd Legislature:

FINANCE

Ogden, Chair; Hinojosa, Vice-chair; Deuell, Duncan, Eltife, Estes, Lucio, Nelson, Patrick, Seliger, Shapiro, West, Whitmire, Williams, Zaffirini.

SENATE RESOLUTION 79

Senator Duncan offered the following resolution:

WHEREAS, Article III, Section 9, and Article IV, Section 16, of the Texas Constitution and Article XIII of the Senate Rules recognize the existence of the Committee of the Whole Senate; and

WHEREAS, Pursuant to Senate Rule 7.06, the President referred Senate Bill 14, relating to voter identification requirements, directly to the Committee of the Whole Senate; and

WHEREAS, Senate Rule 13.01 provides that it is in order for the Senate at any time after bills and resolutions have been called to resolve itself into a Committee of the Whole Senate; and

WHEREAS, The Senate may adopt by resolution specific procedures to govern the operation of the Committee of the Whole Senate during its consideration of Senate Bill 14; now, therefore, be it

RESOLVED, That the Senate resolve itself into a Committee of the Whole Senate on Monday, January 24, 2011, at the conclusion of the morning call for the consideration of Senate Bill 14; and

RESOLVED, That the Senate may meet as in Committee of the Whole Senate from day to day as necessary; and

RESOLVED, That the following procedures shall apply when in Committee of the Whole Senate for the duration of its consideration of Senate Bill 14:

1. The Committee shall afford reasonable opportunity to interested parties to appear and testify before the Committee.

2. The Chair shall require all parties appearing at the meeting to swear or affirm that the testimony they give to the Committee is true and correct.

3. The Chair may fix the order of appearance and time allotted for each witness unless a majority of the members present directs otherwise.

4. Senate Rules addressing access to the Senate Floor shall be enforced by the Chair while the Committee is meeting, except as follows:

(a) Witnesses appearing before the committee may be admitted to the floor of the Senate as their names are called by the Chair, and may remain only until their testimony is completed.

(b) Each Senator may be assisted by one employee of the Senate within the brass rail at any given time. The Sergeant-at-Arms shall provide seating next to a requesting senator for such authorized employees.

5. Senate Rule 3.04, relating to posters, placards, banners and signs, and Senate Rule 3.05, relating to applause, outbursts, and demonstrations, shall be strictly enforced by the Chair. Subject to approval by the Chair, witnesses may use visual aids as necessary in the presentation of their testimony.

6. Senate Rule 3.01, relating to attire, shall not apply to witnesses.

SR 79 was read and was adopted by the following vote: Yeas 18, Nays 12.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Hegar.

**NOTICE FILED BY LEGISLATOR CONCERNING
RELATIVE WHO IS A LOBBYIST**

Name of Legislator: John Whitmire

A legislator must file a notice before introducing, sponsoring, or voting on a measure or bill if the legislator's spouse, parent, or child is registered as a lobbyist with respect to the subject matter of the measure or bill. Gov't Code § 572.0531.

The notice must be filed with the Texas Ethics Commission and the chief clerk of the house or the secretary of the senate, as applicable. In addition, the spouse or relative must file a notice with the Texas Ethics Commission. A legislator uses this form to provide the notice. A spouse or relative uses FORM LOB-REL.

LOBBYIST NAME AND BILL/MEASURE INFORMATION

Name of registered lobbyist: Whitney Whitmire

Bill, measure, or class of bills or measures with respect to which this notice is required. See attached.

I give notice that I intend to introduce, sponsor, or vote on a bill or measure and my spouse, parent, or child is registered as a lobbyist under Chapter 305 of the Government Code with respect to the subject matter of the bill or measure.

/s/John Whitmire

January 10, 2011

Attachment:

amusements, games, sports; business and commerce; coastal affairs and beaches; communications and press; consumer protection; corporations and associations; disaster preparedness and relief; economic and industrial development; energy; environment; fees and other non-tax revenue; gambling; health and healthcare; highways and roads; insurance; oil and gas; product liability; property interests; taxation; transportation; utilities; vehicles and traffic.

Received by Texas Ethics Commission on January 20, 2011

COMMITTEE OF THE WHOLE SENATE

On motion of Senator Duncan and by unanimous consent, the Senate at 4:18 p.m. resolved into a Committee of the Whole Senate to consider **SB 14** with Senator Duncan presiding.

(Tuesday, January 25, 2011)

IN LEGISLATIVE SESSION

The President called the Senate to order at 10:44 a.m. as In Legislative Session.

COMMITTEE OF THE WHOLE SENATE REPORT

Senator Duncan was recognized and reported that the Committee of the Whole Senate had met and would continue consideration of **SB 14**.

CO-AUTHOR OF SENATE BILL 121

On motion of Senator Ellis, Senator Carona will be shown as Co-author of **SB 121**.

CO-AUTHORS OF SENATE BILL 124

On motion of Senator Patrick, Senators Carona and Nelson will be shown as Co-authors of **SB 124**.

CO-AUTHORS OF SENATE BILL 178

On motion of Senator Fraser, Senators Deuell, Hegar, and Nichols will be shown as Co-authors of **SB 178**.

CO-AUTHORS OF SENATE BILL 321

On motion of Senator Hegar, Senators Deuell and Eltife will be shown as Co-authors of **SB 321**.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 5

On motion of Senator Hinojosa, Senator Lucio will be shown as Co-author of **SCR 5**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 15

On motion of Senator Wentworth, Senator Eltife will be shown as Co-author of **SJR 15**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 51 by Van de Putte, In memory of Mary Espiritu of San Antonio.

SR 54 by West, In memory of Charles Key.

SR 57 by Watson, In memory of Hunter Mason Morris.

SR 61 by Uresti, In memory of Maria Rosa Pena of San Antonio.

Congratulatory Resolutions

SR 29 by Harris, Recognizing Danny F. Vance of Arlington on the occasion of his retirement from the Trinity River Authority of Texas.

SR 39 by Ellis, Recognizing East Bethel Missionary Baptist Church in Houston on the occasion of its 85th anniversary.

SR 42 by Van de Putte, Recognizing John J. Ploch for his service to his country.

SR 43 by Van de Putte, Recognizing Juan Carrion for his service to his country.

SR 44 by Van de Putte, Recognizing Frank Lamar for his service to his country.

SR 45 by Van de Putte, Recognizing Kevin Macari for his service to his country.

SR 46 by Van de Putte, Recognizing Chris Goebel for his service to his country.

SR 47 by Van de Putte, Recognizing Richard Groff for his service to his country.

SR 58 by Watson, Recognizing Carlota Vasquez of Austin on the occasion of her 90th birthday.

SR 59 by Ellis, Recognizing Minnie J. and Delbert Ray Jefferson for their 25 years of service to Christian Home Missionary Baptist Church.

SR 62 by Uresti, Recognizing Glenn Ratliff of Monahans on the occasion of his 100th birthday.

SR 63 by West, Recognizing Holy Cross Catholic Church in Dallas on the occasion of the dedication ceremony for the new church sanctuary.

SR 64 by West, Congratulating Travis T. Howard Lewis on being honored by the Alpha Xi Omega Chapter of Alpha Kappa Alpha Sorority, Incorporated.

SR 65 by Ogden, Recognizing Mark Evans on the occasion of his retirement as Trinity County Judge.

SR 67 by Nelson, Fraser, Huffman, and Lucio, Recognizing the Turquoise Council of Americans and Eurasians on the occasion of its Turkic-Texan Friendship Reception and Awards Dinner.

SR 68 by Ellis, Congratulating Kalamu Ryo Johnson and Jatoi Jones Johnson on the birth of their daughter, Kailah Ryonne Johnson.

SR 70 by Lucio, Recognizing Jose M. Mendoza on the occasion of his retirement from the Brownsville Police Department.

SR 77 by Hinojosa, Recognizing Richard Valent for his service to his country.

SR 80 by Davis, Recognizing James Cash, Jr., for his career as a leader in academia and business.

Official Designation Resolutions

SR 40 by Birdwell, Celebrating January 25, 2011, as Hewitt Day at the State Capitol.

SR 50 by West, Recognizing January of 2011 as National Slavery and Human Trafficking Prevention Month.

SR 66 by Whitmire, Recognizing the Texas Chapter of Paralyzed Veterans Annual BBQ Cook-Off as a Texas State Barbecue Championship competition.

SR 71 by Lucio, Celebrating January 30 through February 5, 2011, as Catholic Schools Week.

SR 73 by Nelson, Recognizing January 23 through January 29, 2011, as Texas Nurse Anesthetists Week.

SR 74 by Nelson, Proclaiming January, 2011, Communities In Schools Month and January 26, 2011, Communities In Schools Day at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 10:45 a.m. Tuesday, January 25, 2011, adjourned until 11:00 a.m. today.

APPENDIX

RESOLUTIONS ENROLLED

January 19, 2011

SCR 6, SR 24, SR 26, SR 27, SR 28, SR 30, SR 32, SR 33, SR 35, SR 36, SR 37, SR 38

SENT TO GOVERNOR

January 20, 2011

SCR 3

SENT TO SECRETARY OF STATE

January 24, 2011

SCR 6