

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

TENTH DAY — WEDNESDAY, FEBRUARY 2, 2005

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 19).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smith, T.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Kuempel; Puente; Reyna.

Absent — Castro; Corte; Dunnam; Olivo.

The invocation was offered by Steve Johnson, pastor, Family of Faith Church of Nazarene, Waco, as follows:

God and Father of us all, we thank you for granting us another day. We praise you for your creative and sustaining energy, for the beauty of all that surrounds us each day, and for the opportunity to be here today.

Father, our chief desire in the hours to come is to live our lives in a manner that is pleasing to you. And we believe that you've shown us the right way to live in the life of your son, Jesus Christ. Jesus was a great man, a great teacher, a healer, a miracle worker, a good son, a good brother, and a good friend. But the quality that makes him the best model for us today is the way he led people. He led by serving.

Father, your son, Jesus, gave the greatest seminar on leadership in the history of humanity when he knelt before 12 dusty, sweaty fisherman and washed their feet. He served these men when they should have been serving him. He served them with no expectation of return. He would serve them in an even more dramatic way in the days to come by laying down his life for them.

God, we come to you in need of your help. We ask first of all, that you would remind us of who we are and where we have come from. Some of the brightest and most talented men and women in the country are in this room today. Each of these representatives has distinguished themselves in some manner and made themselves a respected and admired leader. But help us to remember why we are here. We are here because farmers and lawyers, dentists and plumbers, soccer moms and janitors, 5-year-old preschoolers and 80-year-old pastors have asked us to come here and represent them, to put a voice to their dreams and a name to their hopes. God, in the face of this awesome responsibility and privilege, will you give these men and women the gift of a servant's heart?

Father, there are many important things that must be discussed and decided today and in the days to come. The tasks are large, the expectations are huge, and the problems are daunting. But God, if you empower each of these representatives to truly take upon them the heart and lifestyle of a servant, as modeled by Jesus himself, then nothing will be impossible for them. If you will remind them today that they represent the hopes and dreams of the citizens of the great State of Texas, and that their task here is to represent those hopes and dreams, not to push forward their own personal agenda, then great hopes and dreams will be accomplished indeed.

Lord, as we prepare to serve you and the people of Texas today, we take a moment to ask for your blessings on others who are in need of your strength. We pray for President Bush and his staff as they lead our great nation. Give them wisdom, stamina, and perseverance in the face of all that they must deal with today, and may they share our servant heart as they seek to lead this country. Be with those who have endured much hardship in Indonesia and the surrounding areas. Lay your hand of mercy upon them, and lend strength and courage to those who are giving of themselves in the restoration and recovery efforts there. Finally, be with the men and women of our armed forces who are serving us all over the world today, providing us with freedoms that we take for granted and safety that we can't live without. Fill them with hope and courage as they give their lives for their country and shield us with their honor and bravery.

Loving Father, one of your servants once said, "Use power to help people. For we are given power not to advance our own purposes nor to make a great show in the world, nor a name. There is but one just use of power, and it is to serve people." (George Bush, *Inspirational Quotes & Insights for Leaders*) May we indeed use the power, and the position, and the influence we have today to serve. We pray these things in the name of Jesus Christ, the one who serves and saves us. Amen.

The speaker recognized Representative Casteel who led the house in the pledges of allegiance to the United States and Texas flags.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today and tomorrow because of illness:

Reyna on motion of Truitt.

The following member was granted leave of absence for today because of important business in the district:

Kuempel on motion of Elkins.

CAPITOL PHYSICIAN

The speaker recognized Representative Uresti who presented Dr. Rodrigo David Cantu of San Antonio as the "Doctor for the Day."

The house welcomed Dr. Cantu and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Morrison in the chair)

(Dunnam now present)

HR 156 - ADOPTED (by Dunnam)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 156**.

The motion prevailed.

The following resolution was laid before the house:

HR 156, In memory of Pauline Rosas Gobeia of Waco.

HR 156 was unanimously adopted by a rising vote.

HR 141 - ADOPTED (by Coleman, et al.)

Representative Coleman moved to suspend all necessary rules to take up and consider at this time **HR 141**.

The motion prevailed.

The following resolution was laid before the house:

HR 141, Recognizing February 2, 2005, as Texas Southern University Day at the Capitol.

HR 141 was read and was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative Coleman who introduced a delegation from Texas Southern University.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Denny and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

**HR 84 - ADOPTED
(by Flynn)**

Representative Flynn moved to suspend all necessary rules to take up and consider at this time **HR 84**.

The motion prevailed.

The following resolution was laid before the house:

HR 84, Recognizing February 1 and 2, 2005, as Commerce Days at the State Capitol.

(B. Cook in the chair)

HR 84 was read and was adopted.

**HR 145 - ADOPTED
(by Vo)**

Representative Vo moved to suspend all necessary rules to take up and consider at this time **HR 145**.

The motion prevailed.

The following resolution was laid before the house:

HR 145, Honoring the Vietnamese American Community of Houston, Texas, on the occasion of the Vietnamese New Year on February 9, 2005.

HR 145 was adopted.

**HR 146 - ADOPTED
(by Vo)**

Representative Vo moved to suspend all necessary rules to take up and consider at this time **HR 146**.

The motion prevailed.

The following resolution was laid before the house:

HR 146, Honoring the Vietnamese American Community of Austin, Texas, on the occasion of the Vietnamese New Year on February 9, 2005.

HR 146 was adopted.

**HR 147 - ADOPTED
(by Vo)**

Representative Vo moved to suspend all necessary rules to take up and consider at this time **HR 147**.

The motion prevailed.

The following resolution was laid before the house:

HR 147, Honoring the Vietnamese American Community of San Antonio, Texas, on the occasion of the Vietnamese New Year on February 9, 2005.

HR 147 was adopted.

HR 148 - ADOPTED

(by Vo)

Representative Vo moved to suspend all necessary rules to take up and consider at this time **HR 148**.

The motion prevailed.

The following resolution was laid before the house:

HR 148, Honoring the Houston Independent School District-Vietnamese American Community on the occasion of the Vietnamese New Year on February 9, 2005.

HR 148 was adopted.

HR 149 - ADOPTED

(by Morrison)

Representative Morrison moved to suspend all necessary rules to take up and consider at this time **HR 149**.

The motion prevailed.

The following resolution was laid before the house:

HR 149, Recognizing February 2005 as Financial Aid Awareness Month.

HR 149 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business in the district:

Corte on motion of Hilderbran.

HR 132 - ADOPTED

(by Herrero)

Representative Herrero moved to suspend all necessary rules to take up and consider at this time **HR 132**.

The motion prevailed.

The following resolution was laid before the house:

HR 132, In memory of Ruben Garza, Sr., of Robstown.

HR 132 was read and was unanimously adopted by a rising vote.

On motion of Representative Hodge, the names of all the members of the house were added to **HR 132** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Herrero who introduced the family of Ruben Garza, Sr.

(Castro and Olivo now present)

**HR 166 - ADOPTED
(by Thompson)**

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 166**.

The motion prevailed.

The following resolution was laid before the house:

HR 166, In memory of Dexter S. Kimble of Houston.

HR 166 was read and was unanimously adopted by a rising vote.

**HR 133 - ADOPTED
(by Alonzo)**

Representative Alonzo moved to suspend all necessary rules to take up and consider at this time **HR 133**.

The motion prevailed.

The following resolution was laid before the house:

HR 133, Commemorating February 2, 1848, the date the Treaty of Guadalupe Hidalgo was signed, ending the Mexican War.

HR 133 was adopted.

**HR 160 - ADOPTED
(by Hunter)**

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 160**.

The motion prevailed.

The following resolution was laid before the house:

HR 160, Commending North's Funeral Home for its 100th year of operation.

HR 160 was read and was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative Hunter who introduced Jack and Sandie North.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 5).

HR 88 - ADOPTED
(by McClendon)

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 88**.

The motion prevailed.

The following resolution was laid before the house:

HR 88, Recognizing the Season for Nonviolence public march in San Antonio on February 5, 2005.

HR 88 was adopted.

HR 158 - ADOPTED
(by Y. Davis)

Representative Y. Davis moved to suspend all necessary rules to take up and consider at this time **HR 158**.

The motion prevailed.

The following resolution was laid before the house:

HR 158, Commemorating the opening of the George Washington Carver Museum and Cultural Center in Austin.

HR 158 was adopted.

HCR 43 - ADOPTED
(by Giddings)

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HCR 43**.

The motion prevailed.

The following resolution was laid before the house:

HCR 43, Commemorating the 20th anniversary of the creation of the Texas Silver-Haired Legislature.

HCR 43 was adopted.

PROVIDING FOR ADJOURNMENT

Representative Hardcastle moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow in memory of George Maxon, Jr., of Vernon.

The motion prevailed.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Agriculture and Livestock, upon adjournment today, E2.016, for an organizational meeting.

ADJOURNMENT

In accordance with a previous motion, the house, at 11:23 a.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 278 (By Rodriguez), Relating to air quality control measures proposed pursuant to an early action compact.

To Environmental Regulation.

HB 279 (By Pickett), Relating to compensatory time off for certain state employees.

To Law Enforcement.

HB 280 (By Hope), Relating to the impoundment of motor vehicle license plates for failure to maintain financial responsibility.

To Insurance.

HB 281 (By Hope), Relating to the authority of certain counties to apply a county fire code to certain buildings.

To County Affairs.

HB 282 (By Hope), Relating to the funding of alternative dispute resolution systems.

To Civil Practices.

HB 283 (By Hope), Relating to the transfer of public school students who are the victims of bullying.

To Public Education.

HB 284 (By Goolsby), Relating to the punishment for a capital offense.

To Criminal Jurisprudence.

HB 285 (By McClendon), Relating to the number of days and hours of annual instruction for public school students.

To Public Education.

HB 286 (By McClendon), Relating to a statewide student enrollment, attendance, and achievement tracking system.

To Public Education.

HB 287 (By McClendon), Relating to the establishment of a pilot program to provide local oversight of child protective services.

To Human Services.

HB 288 (By Chavez), Relating to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.

To Human Services.

HB 289 (By Deshotel), Relating to a requirement that jobs created as a condition for receipt of an ad valorem tax abatement or a limitation on the appraised value of property for ad valorem tax purposes be filled by local residents.

To Local Government Ways and Means.

HB 290 (By Chisum), Relating to the application of the motor vehicle sales tax emissions reduction surcharge on certain motor homes.

To Ways and Means.

HB 291 (By Goolsby), Relating to victim notification regarding the release of certain defendants following acquittal by reason of insanity.

To Corrections.

HB 292 (By McClendon), Relating to the creation of a donor education, awareness, and registry program and the establishment of an organ donor and tissue council.

To Public Health.

HB 293 (By McClendon), Relating to the timely transfer of student information to a school district in which the student enrolls.

To Public Education.

HB 294 (By McClendon), Relating to the removal of a member of a school district board of trustees for failure to attend board meetings.

To Public Education.

HB 295 (By McClendon), Relating to the removal of a member of a junior college district board of trustees for failure to attend board meetings.

To Higher Education.

HB 296 (By McClendon and Delisi), Relating to the extension of certain deadlines for public school educators serving on active duty in the military.

To Public Education.

HB 297 (By McClendon), Relating to changing the title of assistant secretary of state to deputy secretary of state.

To Government Reform.

HB 298 (By McClendon), Relating to forensic evidence training for students enrolled in certain medical or nursing degree programs.

To Higher Education.

HB 299 (By McClendon), Relating to the right of an employee to take time off from work to participate in certain activities of the employee's child.

To Economic Development.

HB 300 (By McClendon), Relating to the right of certain sexual assault victims to a forensic medical examination.

To Criminal Jurisprudence.

HB 301 (By McClendon), Relating to the purposes for which the system benefit fund may be used.

To Regulated Industries.

HB 302 (By McClendon), Relating to prohibiting certain health care providers from promoting infant formula.

To Public Health.

HB 303 (By McClendon), Relating to electronically monitoring certain veterans' and dependents' tuition exemptions.

To Defense Affairs and State-Federal Relations.

HB 304 (By Talton), Relating to conditions of employment for police officers employed by certain municipalities.

To Urban Affairs.

HB 305 (By Goodman), Relating to the prohibition against members of a governmental body meeting in numbers less than a quorum.

To State Affairs.

HB 306 (By Goodman), Relating to creation of a program to provide for timely replacement of child protective services caseworkers.

To Human Services.

HB 307 (By Goodman), Relating to court-ordered representation in suits affecting the parent-child relationship.

To Human Services.

HB 308 (By Hope), Relating to discipline in public schools and the assignment of certain public school students involved in a sexual assault.

To Public Education.

HB 310 (By McReynolds), Relating to faculty compensation policies at institutions of higher education.

To Higher Education.

HB 311 (By McReynolds), Relating to the prosecution and punishment of the offense of making a false report to a peace officer or law enforcement employee.

To Law Enforcement.

HB 312 (By McReynolds), Relating to the additional tax imposed on land appraised for ad valorem taxation as timber land that is claimed as part of a residence homestead or diverted to certain other uses.

To Ways and Means.

HB 313 (By Deshotel), Relating to supplemental environmental projects in local communities and site-specific air quality monitoring for certain facilities.

To Environmental Regulation.

HB 314 (By Dukes), Relating to the performance of a private commercial contractor that provides a service of a state agency.

To Government Reform.

HB 315 (By Olivo), Relating to criteria for voluntary admission to state schools for persons with mental retardation.

To Public Health.

HB 316 (By Grusendorf), Relating to a child's failure to attend school and the creation of the offense of running away from home.

To Public Education.

HB 317 (By Peña), Relating to designating May 5 as Tejano Heritage Day.

To State Affairs.

HB 318 (By Hupp), Relating to the confidentiality of certain records maintained by the Department of Public Safety regarding persons licensed to carry a concealed handgun.

To Law Enforcement.

HB 319 (By Hupp), Relating to designation of portions of United States Highway 190 and Interstate Highway 10 as the 1st Cavalry Division Memorial Highway.

To Culture, Recreation, and Tourism.

HB 320 (By Hupp), Relating to the student enrollment required for the operation of Texas A&M University–Central Texas as an independent general academic teaching institution.

To Higher Education.

HB 321 (By Hupp), Relating to authorizing the issuance of revenue bonds for Texas A&M University–Central Texas.

To Higher Education.

HB 322 (By Hupp), Relating to concealed handgun licenses for members and veterans of the United States armed forces.

To Law Enforcement.

HB 323 (By Mowery and Eissler), Relating to a revision of the procedures for municipal annexation.

To Land and Resource Management.

HB 324 (By Mowery), Relating to a state allotment to school districts for teacher salaries.

To Public Education.

HB 325 (By Casteel), Relating to duties of a landowner with respect to certain equine activities on the owner's land.

To Civil Practices.

HB 326 (By Goodman), Relating to the offense of cruelty to animals.
To Culture, Recreation, and Tourism.

HB 327 (By Goolsby, Jackson, et al.), Relating to the identification information required of applicants for a driver's license or for certain public benefits, public services, or governmental employment.
To Law Enforcement.

HB 328 (By Dukes), Relating to promoting the importance of higher education in public schools.
To Public Education.

HB 329 (By Raymond), Relating to civil actions against persons who file complaints with governmental agencies.
To Civil Practices.

HB 330 (By Berman), Relating to exempting health savings accounts from seizure for satisfaction of debts.
To Pensions and Investments.

HB 331 (By Burnam), Relating to creating a recognition day in honor of aviation maintenance technicians.
To State Affairs.

HB 332 (By Burnam), Relating to creating the offense of unlawful possession of certain firearms by a minor.
To Juvenile Justice and Family Issues.

HB 333 (By Burnam), Relating to the punishment for a capital felony committed by a person who is younger than 18 years of age at the time of committing the felony.
To Criminal Jurisprudence.

HB 334 (By Burnam), Relating to the minimum wage.
To Economic Development.

HB 335 (By Burnam), Relating to the issuance of a birth certificate for a birth resulting in stillbirth on request of a parent.
To Public Health.

HB 336 (By Smithee), Relating to the declination of compensation by a candidate for constable.
To County Affairs.

HB 337 (By Smithee), Relating to a landowner's liability for injuries incurred during certain recreational activities.
To Civil Practices.

HB 338 (By Naishtat), Relating to authorizing certain persons to make an oral statement regarding the impact of an offense on the victim before sentencing in certain cases.
To Criminal Jurisprudence.

HB 339 (By Naishtat), Relating to the administration of psychoactive medication to foster children.

To Human Services.

HB 340 (By Seaman), Relating to the authority of a navigation district to establish a volunteer police reserve force.

To Transportation.

HB 341 (By Seaman), Relating to regulation of motor carriers transporting household goods.

To Transportation.

HB 342 (By Deshotel and Peña), Relating to exempting certain individuals from general fishing license fees.

To Culture, Recreation, and Tourism.

HB 343 (By Deshotel), Relating to the regulation of convalescent homes, nursing homes, and related institutions.

To Human Services.

HB 344 (By Berman), Relating to the civil consequences of a conviction for certain offenses involving driving while a driver's license is invalid or driving without evidence of financial responsibility.

To Insurance.

HB 345 (By Solomons), Relating to the disclosure of certain information provided on a voter registration application.

To Elections.

HB 346 (By Escobar), Relating to the amounts to be appropriated for the state contribution to the teacher retirement program for fiscal years 2006 and 2007.

To Pensions and Investments.

HB 347 (By Chisum), Relating to the authority of a county to charge a fee for approving and directing the laying of certain pipes or pipelines.

To Environmental Regulation.

HB 348 (By Chisum), Relating to limiting the authority of a property owner to erect a gate on certain third-class and neighborhood roads.

To County Affairs.

HB 349 (By Hochberg), Relating to a credits program for the purchase of textbooks and related materials by a school district or open-enrollment charter school.

To Public Education.

HB 350 (By Hochberg), Relating to the filing of certain reports of political contributions and expenditures.

To Elections.

HB 351 (By Hochberg), Relating to prohibiting jury-recommended or deferred adjudication community supervision for a defendant convicted of murder.

To Criminal Jurisprudence.

HB 352 (By Goodman), Relating to the collection of municipal hotel occupancy taxes.

To Local Government Ways and Means.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 5

HCR 38

APPENDIX

ENROLLED

February 1 - HCR 39

SENT TO THE GOVERNOR

February 1 - HCR 23, HCR 32

SENT TO THE SECRETARY OF THE STATE

February 1 - HCR 33