

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

TWENTY-FIRST DAY — TUESDAY, FEBRUARY 22, 2005

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

The roll of the house was called and a quorum was announced present (Record 30).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; 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; Kuempel; 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; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Callegari; Farrar.

Absent — Deshotel.

The invocation was offered by Grady Cashion, pastor, First Baptist Church, Blooming Grove, as follows:

Our most gracious Heavenly Father, I come before you today with a humble heart thanking you for your many blessings on our country and our state. I thank you for the freedom we have to come before your presence in prayer. I praise you for all you have done in our lives. We are a blessed people, and I thank you for the privilege I have to call myself an American and a Christian.

Father, I ask you today to bless the leaders of our country and our state. I especially ask you to bless the members of the Texas House of Representatives and our senate as they make decisions that affect all of us in the State of Texas.

Lord, we are thankful for all of our military and their willingness to serve our country in whatever way is necessary for us to continue to enjoy the freedom that has been ours for over 200 years. Lord, I pray you will protect our troops all over the world as they defend this great nation. We ask you to give them a special blessing and take care of their families as they wait on their safe return.

Lord, you know we live in a time of uncertainty—a time where we are concerned about the safety of our children, grandchildren, and even ourselves. My prayer is that you will give us the wisdom to make the best choices for the future of our state and country. I also pray that we will find peace in the fact that you are still God and still in control. Father, I ask that you continue to bless our families, our lives, and our futures, and that we will always give you the praise and the glory.

Again, I thank you for the privilege of prayer and the wonderful gift of life you gave us in your son, Jesus Christ. I pray today will be a great day and that we will look for an opportunity to be a blessing to someone's life. All these things I ask in Jesus' precious name. Amen.

The chair recognized Representative B. Cook who led the house in the pledges of allegiance to the United States and Texas flags.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of important business in the district:

Callegari on motion of Miller.

Farrar on motion of Rodriguez.

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.

CAPITOL PHYSICIAN

The chair recognized Representative Corte who presented Dr. Francisco Barrera of San Antonio as the "Doctor for the Day."

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

HCR 72 - ADOPTED (by Hopson)

Representative Hopson moved to suspend all necessary rules to take up and consider at this time **HCR 72**.

The motion prevailed.

The following resolution was laid before the house:

HCR 72, Designating February 22, 2005, as Panola County Day at the Capitol.

HCR 72 was read and was adopted.

On motion of Representative Ritter, the names of all the members of the house were added to **HCR 72** as signers thereof.

HR 469 - ADOPTED
(by Hopson)

Representative Hopson moved to suspend all necessary rules to take up and consider at this time **HR 469**.

The motion prevailed.

The following resolution was laid before the house:

HR 469, Honoring Ouida Jane Boyd Wall of Carthage on her centennial.

HR 469 was adopted.

HR 450 - ADOPTED
(by Quintanilla and Chavez)

Representative Quintanilla moved to suspend all necessary rules to take up and consider at this time **HR 450**.

The motion prevailed.

The following resolution was laid before the house:

HR 450, Recognizing February 22 and 23, 2005, as Mission Valley Days in Austin.

HR 450 was read and was adopted.

HR 452 - ADOPTED
(by Hunter, et al.)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 452**.

The motion prevailed.

The following resolution was laid before the house:

HR 452, Recognizing Rotary International on the 100th anniversary of its founding.

HR 452 was read and was adopted.

On motion of Representative W. Smith, the names of all the members of the house were added to **HR 452** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Hunter who introduced members of Rotary International.

HR 262 - ADOPTED
(by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 262**.

The motion prevailed.

The following resolution was laid before the house:

HR 262, Honoring Project 2005 of The University of Texas at Austin.

HR 262 was read and was adopted.

HR 263 - ADOPTED
(by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 263**.

The motion prevailed.

The following resolution was laid before the house:

HR 263, Congratulating Communities in Schools-Central Texas, Inc., on the occasion of its 20th anniversary.

HR 263 was read and was adopted.

INTRODUCTION OF GUEST

The chair recognized Representative Swinford who introduced Lola Spradley, former speaker of the Colorado House of Representatives.

HR 237 - ADOPTED
(by Gonzalez Toureilles)

Representative Gonzalez Toureilles moved to suspend all necessary rules to take up and consider at this time **HR 237**.

The motion prevailed.

The following resolution was laid before the house:

HR 237, Recognizing February 22, 2005, as Goliad County Day at the State Capitol.

HR 237 was read and was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative Gonzalez Toureilles who introduced a delegation from Goliad County.

HR 287 - ADOPTED
(by Orr)

Representative Orr moved to suspend all necessary rules to take up and consider at this time **HR 287**.

The motion prevailed.

The following resolution was laid before the house:

HR 287, Honoring the Johnson County Junior Livestock Show and Youth Fair in its 45th year.

HR 287 was read and was adopted.

HR 379 - ADOPTED
(by B. Brown)

Representative B. Brown moved to suspend all necessary rules to take up and consider at this time **HR 379**.

The motion prevailed.

The following resolution was laid before the house:

HR 379, Recognizing February 22, 2005, as Cedar Creek Lake Area Day at the State Capitol.

HR 379 was read and was adopted.

**PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR**

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Thursday, February 24.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Edwards requested permission for the Committee on Rules and Resolutions to meet while the house is in session.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, during bill referral today, speaker's conference room 2W.25, for a formal meeting, to set a congratulatory and memorial calendar.

FIVE DAY POSTING RULE SUSPENDED

Representative Hochberg moved to suspend the five day posting rule to allow the Committee on Public Education, Subcommittee on Technical Formula Issues, to meet upon adjournment of the Public Education Committee meeting today.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Public Education, Subcommittee on Technical Formula Issues, upon adjournment of the Public Education Committee meeting today, E2.036, for a public hearing, to consider technical formula issues.

FIVE DAY POSTING RULE SUSPENDED

Representative Keel moved to suspend the five day posting rule to allow the Committee on Criminal Jurisprudence to consider **HB 1324** today at 2 p.m. in E2.016.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, 2 p.m. today, E2.016, for a public hearing, to consider **HB 1324**.

PROVIDING FOR ADJOURNMENT

Representatives T. Smith and Truitt moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 9:30 a.m. tomorrow in memory of Marci Ridgeway of Tarrant County.

The motion prevailed.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES CORRECTIONS IN REFERRAL

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Woolley in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 11:05 a.m., adjourned until 9:30 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 590 (By F. Brown), Relating to the offense of cruelty to animals. To Agriculture and Livestock.

HB 1167 (By Talton), Relating to the provision of housing in Texas and the continuation and functions of the Texas Department of Housing and Community Affairs and to other matters relating to housing or community development.

To Urban Affairs.

HB 1328 (By Naishtat), Relating to certificates of mold remediation.

To Insurance.

HB 1330 (By Chisum), Relating to the creation of a dispute resolution program for state building construction contracts.

To State Affairs.

HB 1331 (By Chavez), Relating to interagency cooperation.

To State Affairs.

HB 1332 (By McReynolds), Relating to the regional emergency medical dispatch resource center pilot program.

To Defense Affairs and State-Federal Relations.

HB 1333 (By McReynolds), Relating to the provision of state death benefits to certain employees of the Texas Forest Service.

To Appropriations.

HB 1334 (By Riddle), Relating to the election of the members of an appraisal review board.

To Local Government Ways and Means.

HB 1335 (By Van Arsdale), Relating to provision of notice to certain persons residing near a proposed housing development.

To Urban Affairs.

HB 1336 (By Isett), Relating to the regulation of pharmacy benefit managers; providing administrative and criminal penalties.

To Public Health.

HB 1337 (By Flores), Relating to the authorization and regulation of casino gambling and to the creation, powers, and duties of the Texas Gaming Commission; authorizing taxes; providing civil and criminal penalties.

To Ways and Means.

HB 1338 (By Naishtat), Relating to an analysis by the state auditor of the cost-effectiveness of the use of call centers for determining eligibility for health and human services programs.

To Human Services.

HB 1339 (By Strama), Relating to the appointment of a voting proxy by a legislative policy board member of a metropolitan planning organization.

To Transportation.

HB 1340 (By Naishtat), Relating to the funding of a telephone service for blind and visually impaired persons that provides the text of newspapers using synthetic speech.

To Regulated Industries.

HB 1341 (By Strama), Relating to the creation of an advisory committee to establish qualifications for certain health care translators and interpreters.

To Public Health.

HB 1342 (By Hochberg), Relating to the imposition of the sales and use tax on certain sales made by individuals.

To Ways and Means.

HB 1343 (By Gattis), Relating to the expiration or reduction in value of a gift certificate or gift card.

To Business and Industry.

HB 1344 (By Gattis), Relating to regulation by a property owners' association of certain political signs.

To Business and Industry.

HB 1345 (By Gattis), Relating to the removal of a sign on a state highway right-of-way by a local law enforcement agency; authorizing a removal fee.

To Law Enforcement.

HB 1346 (By Gattis), Relating to the creation of the CLL Municipal Utility District No. 1; providing authority to impose a tax and issue bonds.

To Natural Resources.

HB 1348 (By Eiland), Relating to political contributions and expenditures; providing civil and criminal penalties.

To Elections.

HB 1349 (By Denny), Relating to the use of a mobile telephone in a polling place.

To Elections.

HB 1350 (By Denny), Relating to the definition of a salvage motor vehicle.

To Transportation.

HB 1351 (By Peña), Relating to the installation, copying, or use of computer software for unauthorized purposes; providing a penalty.

To Business and Industry.

HB 1352 (By Peña), Relating to the state policy on fish and wildlife management and hunting and fishing.

To Culture, Recreation, and Tourism.

HB 1353 (By R. Cook), Relating to creation and maintenance of a guaranty fund for groups certified to self insure for workers' compensation under Chapter 407A, Labor Code.

To Business and Industry.

HB 1354 (By Villarreal), Relating to preventative health care services and educational programs to reduce unintended pregnancies, the need for abortion and infection rates of sexually-transmitted diseases.

To Public Health.

HB 1355 (By Peña), Relating to liability of certain persons for participation in the illegal drug market.

To Civil Practices.

HB 1356 (By Villarreal), Relating to a software system for providing a single point of access to government-funded child-care and education programs.

To Human Services.

HB 1357 (By Flores), Relating to the civil consequences of certain alcohol-related offenses.

To Licensing and Administrative Procedures.

HB 1358 (By Flores), Relating to the jurisdiction of the Texas Commission on Environmental Quality over certain water supply or sewer service corporations.

To Natural Resources.

HB 1359 (By Naishtat), Relating to the establishment of a program for the disposition of electronic equipment in a manner that protects the water and other natural resources of the state; providing a criminal penalty.

To Environmental Regulation.

HB 1360 (By Riddle), Relating to the prosecution of the offense of criminal trespass.

To Criminal Jurisprudence.

HB 1361 (By Hardcastle), Relating to the development of an animal identification program; providing a criminal penalty.

To Agriculture and Livestock.

HB 1362 (By Hardcastle), Relating to the inspection of livestock at livestock markets.

To Agriculture and Livestock.

HB 1363 (By Hardcastle), Relating to certificates of veterinary inspection.

To Agriculture and Livestock.

HB 1364 (By Mowery), Relating to municipal regulation of the discharge of firearms and certain other weapons.

To Land and Resource Management.

HB 1365 (By R. Allen), Relating to the provision of security and communication technology service to inmates and defendants confined in facilities operated by or under contract with the Texas Department of Criminal Justice.

To Corrections.

HB 1366 (By R. Allen), Relating to the enforcement of the regulation of nursing.

To Public Health.

HB 1367 (By R. Allen), Relating to the admissibility of evidence of other similar offenses in the prosecution of certain sexual offenses.

To Criminal Jurisprudence.

HB 1368 (By R. Allen), Relating to the confidentiality of and access to certain personal information in instruments recorded with a county clerk.

To State Affairs.

HB 1369 (By Flores), Relating to consumer choice for and disconnection from service of certain commercial electric service customers.

To Regulated Industries.

HB 1370 (By Van Arsdale), Relating to the liability of excavators for damage to certain underground facilities.

To Regulated Industries.

HB 1371 (By J. Jones), Relating to certain offenses that involve impersonating a peace officer or other public servant and misrepresenting the nature of certain property.

To Criminal Jurisprudence.

HB 1372 (By J. Jones), Relating to the operation of lawn mowers; providing a penalty.

To State Affairs.

HB 1373 (By J. Jones), Relating to the punishment for the offense of burglary of vehicles.

To Criminal Jurisprudence.

HB 1374 (By J. Jones), Relating to the referral of criminal cases to certain magistrates.

To Criminal Jurisprudence.

HB 1375 (By J. Jones), Relating to the manner of administering oaths for certain electronically transmitted documents in justice or municipal court.

To Criminal Jurisprudence.

HJR 48 (By Isett), Proposing a constitutional amendment concerning the restriction on the rate of growth of state appropriations and establishing three special funds to replace the economic stabilization fund.

To Appropriations.

HJR 49 (By Flores), Proposing a constitutional amendment authorizing casino gaming.

To Ways and Means.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

HB 1135 (By Delisi, Naishtat, and Luna), Relating to a Medicaid buy-in program for employed persons with disabilities.

To Public Health