

# HOUSE JOURNAL

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EIGHTIETH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

FOURTEENTH DAY — THURSDAY, FEBRUARY 1, 2007

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 45).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent, Excused — Darby; Davis, Y.; Elkins; Geren; Oliveira; Truitt.

Absent — Riddle; Rodriguez.

The invocation was offered by Reverend Michael Glaspie, Sr., minister of education, Mount Olive Baptist Church, Arlington, as follows:

Heavenly Father, we come before you this morning recognizing our limitations and your boundlessness. Accordingly, we approach you in humility and thanksgiving. We are humbled because of the great task that stands before this elected body. They have been chosen to represent the collective needs of the citizens of Texas. We are thankful this group has the desire and commitment to take on such a task. In addition, we are thankful that they are equipped with the knowledge and experience to perform this public trust.

Father, we pray that you would give them divine wisdom to sort through the maze of options and develop a consensus to benefit all Texans from the eldest to the youngest. Let them not be pressured by or submit to the will of special

interests but submit to the needs of our special state. Give them the resources and information necessary to see a clear picture of the issues. Then allow our legislators to carve out a foundation for prosperity that provides support for everyone today while setting in place the elements to provide a prosperous tomorrow for future generations.

Finally, we close by thanking you for the rich history and tradition you have allowed our state. We are a state that has been endowed with an incomparable legacy. We pray our leaders of today will stand on the shoulders of our great leaders of yesterday. This will elevate their view and help them see beyond the immediate. And, with this view, let them grasp a united vision for our future that builds on our great past.

In conclusion, Father, thank you once again for this august body that has been elected by the people of Texas to speak for them. Let every voice be heard and let every decision be reflective of their public trust. In your son's name we submit this petition. Amen.

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

### **REGULAR ORDER OF BUSINESS SUSPENDED**

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

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Christian who presented Dr. Keith Miller of Center as the "Doctor for the Day."

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

(Goolsby in the chair)

(Riddle now present)

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

### **LEAVES OF ABSENCE GRANTED**

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

Darby on motion of Flynn.

Y. Davis on motion of Dunnam.

The following member was granted leave of absence for today because of a doctor's appointment:

Elkins on motion of Flynn.

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

Thompson on motion of Hodge.

**HR 191 - ADOPTED**  
**(by R. Cook)**

Representative R. Cook moved to suspend all necessary rules to take up and consider at this time **HR 191**.

The motion prevailed.

The following resolution was laid before the house:

**HR 191**, Commemorating the 150th anniversary of Lyons Lodge No. 195, A.F. & A.M.

(Speaker in the chair)

**HR 191** was adopted.

**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, Senate List No. 5).

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of legislative business:

Eiland on motion of McCall.

**HR 114 - ADOPTED**  
**(by Zedler, Patrick, Pierson, and T. Smith)**

Representative Zedler moved to suspend all necessary rules to take up and consider at this time **HR 114**.

The motion prevailed.

The following resolution was laid before the house:

**HR 114**, Welcoming the members of Team Arlington to the Capitol on January 31 and February 1, 2007.

**HR 114** was read and was adopted.

(Garcia in the chair)

On motion of Representative Hodge, the names of all the members of the house were added to **HR 114** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representatives Patrick and Pierson who introduced a delegation from Arlington.

**HCR 53 - ADOPTED**  
**(by Dunnam)**

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HCR 53**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 53**, In memory of former Tenth Court of Appeals Justice Bob Cummings of Gatesville.

**HCR 53** was unanimously adopted by a rising vote.

(Rodriguez now present)

(Speaker in the chair)

**HR 201 - ADOPTED**  
**(by Bonnen)**

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HR 201**.

The motion prevailed.

The following resolution was laid before the house:

**HR 201**, In memory of Dr. Jessica Lynne Perryman of Angleton.

**HR 201** was read and was unanimously adopted by a rising vote.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Bonnen who introduced friends of Dr. Jessica Lynne Perryman.

**HR 202 - ADOPTED**  
**(by O'Day)**

Representative O'Day moved to suspend all necessary rules to take up and consider at this time **HR 202**.

The motion prevailed.

The following resolution was laid before the house:

**HR 202**, In memory of the Honorable Glenda Dawson of Pearland.

**HR 202** was read and was unanimously adopted by a rising vote.

On motion of Speaker Craddick, the names of all the members of the house were added to **HR 202** as signers thereof.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Bonnen who introduced the daughter and son-in-law and other family members of the Honorable Glenda Dawson.

(Garcia in the chair)

**HR 204 - ADOPTED**  
**(by Menendez)**

Representative Menendez moved to suspend all necessary rules to take up and consider at this time **HR 204**.

The motion prevailed.

The following resolution was laid before the house:

**HR 204**, Commemorating the 2007 Report to State and welcoming Texas Scouts to the State Capitol.

**HR 204** was adopted.

**HR 123 - ADOPTED**  
**(by Haggerty)**

Representative Haggerty moved to suspend all necessary rules to take up and consider at this time **HR 123**.

The motion prevailed.

The following resolution was laid before the house:

**HR 123**, In memory of Maria Luisa Vielledent of El Paso.

**HR 123** was unanimously adopted by a rising vote.

**HR 207 - ADOPTED**  
**(by Alonzo)**

Representative Alonzo moved to suspend all necessary rules to take up and consider at this time **HR 207**.

(McClendon in the chair)

The motion prevailed.

The following resolution was laid before the house:

**HR 207**, Honoring the 73rd anniversary of LULAC Council No. 272 in Dallas.

**HR 207** was adopted.

**HR 122 - ADOPTED**  
**(by Dukes and Harless)**

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 122**.

The motion prevailed.

The following resolution was laid before the house:

**HR 122**, Recognizing February 2, 2007, as Go Red for Women Day.

**HR 122** was read and was adopted.

On motion of Representative Harless, the names of all the members of the house were added to **HR 122** as signers thereof.

### INTRODUCTION OF GUESTS

The chair recognized Representative Dukes who introduced Midge Epstein, executive vice president of the American Heart Association Texas Affiliate.

#### **SCR 14 - ADOPTED (D. Howard - House Sponsor)**

Representative D. Howard moved to suspend all necessary rules to take up and consider at this time **SCR 14**.

The motion prevailed.

The following resolution was laid before the house:

**SCR 14**, Granting the legislature permission to adjourn for more than three days during the period beginning on Wednesday, January 31, 2007, and ending on Monday, February 5, 2007.

**SCR 14** was adopted.

### PROVIDING FOR ADJOURNMENT

Representative Farabee moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 2 p.m. Monday, February 5 in memory of Texas political columnist Molly Ivins of Austin.

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.)

(Zedler in the chair)

### ADJOURNMENT

In accordance with a previous motion, the house, at 11:30 a.m., adjourned until 2 p.m. Monday, February 5.

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### ADDENDUM

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#### 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 284** (By Driver), Relating to the use of force or deadly force in defense of a person.

To Criminal Jurisprudence.

**HB 318** (By Miller), Relating to the allocation and use of revenue from the sales tax imposed on sporting goods.

To Culture, Recreation, and Tourism.

**HB 346** (By Flynn), Relating to random testing of certain public school students for steroid use.

To Public Education.

**HB 347** (By Hamilton), Relating to the punishment for the offense of harboring a runaway child.

To Criminal Jurisprudence.

**HB 348** (By Callegari), Relating to an offense involving a motor vehicle with an altered or obscured license plate.

To Transportation.

**HB 349** (By Geren), Relating to political consultants who are, or who are associated with, registered lobbyists; providing a penalty.

To Elections.

**HB 350** (By Vo), Relating to retirement benefits for members of the elected class of the Employees Retirement System of Texas.

To Pensions and Investments.

**HB 351** (By Anchia), Relating to prohibiting a grant from the Texas Enterprise Fund to a recipient who employs an undocumented worker.

To Economic Development.

**HB 352** (By Anchia), Relating to a grant-writing coordination program for school district school-based health centers.

To Public Education.

**HB 353** (By Naishtat), Relating to the obtaining of criminal history record information in a guardianship matter or proceeding.

To Judiciary.

**HB 354** (By C. Howard), Relating to estimating the rate of growth of the state's economy for purposes of the constitutional spending limit.

To Appropriations.

**HB 355** (By Herrero), Relating to a franchise tax credit for wages paid to graduates of certain institutions of higher education.

To Ways and Means.

**HB 357** (By Riddle), Relating to the interception of or the collection of other information from certain communications in an investigation of criminal conduct.

To Criminal Jurisprudence.

**HB 359** (By McReynolds), Relating to expansion of the minimum salary schedule for certain professional public school employees.

To Public Education.

**HB 360** (By Straus), Relating to venue in civil actions brought under the federal Employer's Liability Act or the Jones Act.

To Civil Practices.

**HB 361** (By Pickett), Relating to listing certain small facilities furnishing care to residents.

To Human Services.

**HB 362** (By Eissler), Relating to the ability of public school employees to communicate with members of a school district board of trustees.

To Public Education.

**HB 363** (By Naishtat), Relating to the provision of case management services for children by the Department of Family and Protective Services.

To Human Services.

**HB 364** (By Jones), Relating to authority to conduct a closed meeting to discuss certain personnel matters involving a municipal advisory body.

To State Affairs.

**HB 365** (By Chisum), Relating to the exemption from regulation of certain charitable, religious, or civic organizations engaged in auction activities.

To Licensing and Administrative Procedures.

**HB 366** (By Villarreal), Relating to consideration of the importance of daily recess by local school health advisory councils.

To Public Education.

**HB 367** (By Hartnett), Relating to the fees paid by a relator in certain proceedings originating in a court of appeals.

To Judiciary.

**HB 368** (By Hartnett), Relating to disposition of surplus computer equipment and the grant of money by the Office of Court Administration.

To Judiciary.

**HB 369** (By Hardcastle), Relating to the appointment of bailiffs for the 97th Judicial District.

To Judiciary.

**HB 370** (By Dukes), Relating to environmental lead investigations by the Department of State Health Services.

To Public Health.

**HB 371** (By Dukes), Relating to a study regarding the conversion of certain Class C misdemeanors to civil infractions.

To Judiciary.

**HB 372** (By Hodge), Relating to the purchase of certain used motor vehicles.

To Licensing and Administrative Procedures.

**HB 373** (By Hochberg), Relating to the imposition of the sales and use tax on certain sales made by individuals.

To Ways and Means.

**HB 374** (By Pickett), Relating to use of state buildings and grounds by a television or film production company.

To State Affairs.

**HB 375** (By Anchia), Relating to the development of a state strategy for increasing the availability of low-emission automotive fuels for Texas drivers.

To Environmental Regulation.

**HB 376** (By Anderson), Relating to site-based public school discipline policy committees.

To Public Education.

**HB 377** (By Anderson), Relating to the appointment of magistrates in McLennan County.

To Judiciary.

**HB 378** (By Goolsby), Relating to the compensation and duties of Texas Lottery Commission members.

To Licensing and Administrative Procedures.

**HB 379** (By Allen), Relating to corporal punishment in public schools.

To Public Education.

**HB 380** (By Allen), Relating to an educational involvement agreement setting forth the respective responsibilities of students, parents, teachers, and principals in public schools.

To Public Education.

**HB 381** (By Allen), Relating to the use of public junior colleges to provide training to state agency employees.

To Higher Education.

**HB 382** (By Peña), Relating to a journalist's testimonial privilege.

To Judiciary.

**HB 383** (By Bonnen), Relating to providing for a student who qualifies for automatic admission to an institution of higher education to maintain that status for transferring between institutions in certain circumstances.

To Higher Education.

**HB 384** (By Kolkhorst), Relating to the use of direct recording electronic voting machines.

To Elections.

**HB 385** (By Callegari), Relating to condemnation of historical sites at the direction of the Commission of Control for Texas Centennial Celebrations.

To Government Reform.

**HB 386** (By Callegari), Relating to the repeal of the law creating the Texas Deepwater Port Authority.

To Government Reform.

**HB 387** (By Callegari), Relating to the repeal of the law relating to the Texas National Research Laboratory Commission.

To Government Reform.

**HB 389** (By Callegari), Relating to the eminent domain authority of Texas Woman's University.

To Government Reform.

**HB 390** (By Callegari), Relating to the eminent domain authority of The University of Texas System.

To Government Reform.

**HB 391** (By Hartnett), Relating to the estates of decedents.

To Judiciary.

**HB 392** (By Menendez), Relating to certain political activities by a labor organization or an affiliate of a labor organization that receives state funds; providing a criminal penalty.

To Elections.

**HB 393** (By Menendez), Relating to reporting of gifts to public officials; imposing a penalty.

To Elections.

**HB 394** (By Paxton), Relating to changing the name of the procedure for probating a will as a muniment of title.

To Judiciary.

**HB 395** (By Burnam), Relating to the possible development of a plan to reregulate the electric market in this state.

To Regulated Industries.

**HB 396** (By B. Cook), Relating to the development of a standard method of computing a student's high school grade point average.

To Public Education.

**HB 397** (By B. Cook), Relating to an offense of using a wireless communication device while operating a motor vehicle in a school crossing zone.

To Transportation.

**HB 398** (By B. Cook), Relating to designating a county official to file certain financial information with the county commissioners court.

To County Affairs.

**HB 399** (By Berman), Relating to interest and income earned on money deposited in the Texas cultural endowment fund.

To Appropriations.

**HB 400** (By Goolsby), Relating to the eligibility of a high school graduate for automatic admission to an institution of higher education.

To Higher Education.

**HB 401** (By B. Brown), Relating to the use of text messages and other electronic media to commit certain sexual offenses against minors or certain students.

To Criminal Jurisprudence.

**HB 402** (By Hill), Relating to a criminal violation of the open meetings law committed by a member of an appraisal district board of directors and to a prohibition on certain communications between the chief executive officer or a member of the governing body of a taxing unit and a chief appraiser or a member of an appraisal district board of directors; providing penalties.

To Local Government Ways and Means.

**HB 403** (By Hodge), Relating to the early termination of parole or mandatory supervision for certain releasees who successfully complete a residential substance abuse treatment program.

To Criminal Jurisprudence.

**HB 404** (By J. Davis), Relating to the additional exit conference required following inspection, survey, or investigation of certain facilities.

To Human Services.

**HB 405** (By J. Davis), Relating to emergency apprehension and detention of a person believed to have a mental illness.

To Human Services.

**HB 406** (By Hartnett), Relating to license requirements for preschool and after-school programs operated by public or private schools.

To Human Services.

**HB 407** (By Chisum), Relating to the establishment of a home-delivered meal grant program in the Department of Agriculture.

To Agriculture and Livestock.

**HB 408** (By Eissler), Relating to the regulation of barking dogs by certain counties as a nuisance.

To County Affairs.

**HB 409** (By Eissler), Relating to requiring certain inmates to receive a high school equivalency certificate before their release or as a condition of release on parole or to mandatory supervision.

To Corrections.

**HB 410** (By Eissler), Relating to erecting an off-premise sign adjacent to and visible from certain roads.

To Transportation.

**HB 411** (By Eissler), Relating to requiring the registration of certain containers of alcoholic beverages; providing criminal penalties.

To Licensing and Administrative Procedures.

**HB 412** (By Eissler), Relating to erecting or maintaining certain outdoor signs or advertising; creating an offense; providing penalties.

To Transportation.

**HB 413** (By Eissler), Relating to erecting certain signs on certain rights-of-way; providing penalties.

To Transportation.

**HB 414** (By Eissler), Relating to the removal of certain violations from a physician's medical board profile.

To Public Health.

**HB 415** (By Eissler), Relating to the automatic admission of undergraduate students to a general academic teaching institution that is a component institution of a university system.

To Higher Education.

**HB 416** (By Strama), Relating to providing for restroom access for persons with certain medical conditions; providing a criminal penalty.

To Public Health.

**HB 417** (By Hartnett), Relating to guardianship matters and proceedings.

To Judiciary.

**HB 418** (By Burnam), Relating to restricting the justified use of a Taser by a peace officer and certain other persons.

To Law Enforcement.

**HB 419** (By McClendon), Relating to divestment by the Employees Retirement System of Texas and the Teacher Retirement System of Texas of certain investments related to the Republic of Sudan.

To Pensions and Investments.

**HB 420** (By Veasey), Relating to fetal and infant mortality review and health warnings related to fetal and infant mortality; imposing a penalty.

To Public Health.

**HB 421** (By Phillips), Relating to the creation of the office of criminal district attorney of Fannin County and to the abolition of the office of county attorney of Fannin County.

To Judiciary.

**HB 422** (By Phillips), Relating to the revenue sources for and administration of the Texas mobility fund.

To Transportation.

**HB 423** (By Corte), Relating to requiring that medical examiners and justices of the peace report certain deaths that result from a motor vehicle accident to the Texas Department of Public Safety.

To Transportation.

**HB 424** (By Madden), Relating to a competitive grant program to fund nurse-family partnership programs in certain communities in this state.

To Public Health.

**HB 425** (By Madden), Relating to the instructional requirements for education services provided in a juvenile residential facility operated by a juvenile board.

To Corrections.

**HB 426** (By Madden), Relating to standards for the operation of school district disciplinary alternative education programs.

To Public Education.

**HB 427** (By Madden), Relating to the prosecution of certain crimes occurring in the Texas Youth Commission.

To Corrections.

**HB 428** (By Madden), Relating to the authority of the inspector general of the Texas Department of Criminal Justice to issue administrative subpoenas for certain communication records.

To Corrections.

**HB 429** (By Madden), Relating to a study of the expenses of health care for certain elderly inmates.

To Corrections.

**HB 430** (By Madden), Relating to the monitoring of certain high-risk sex offenders.

To Corrections.

**HB 431** (By Madden), Relating to the release of a defendant convicted of a state jail felony on medically recommended intensive supervision.

To Corrections.

**HB 432** (By Madden), Relating to the prosecution of the offense of the sale of prison-produced articles or products.

To Corrections.

**HB 433** (By Madden), Relating to disclosure by the inspector general of the Texas Department of Criminal Justice of the identifying information of victims of sex offenses who are confined in a facility operated by or under contract with the department.

To Corrections.

**HB 434** (By Madden), Relating to the appointment of certain employees of the Texas Department of Criminal Justice as peace officers for certain purposes.

To Corrections.

**HB 435** (By Madden), Relating to the detection and monitoring of a cellular telephone in the possession of or used by an inmate or state jail defendant.

To Corrections.

**HB 436** (By Madden), Relating to the creation of the offense of continuous sexual abuse of a child, the prosecution and punishment of that offense, and the consequences of a conviction for that offense.

To Criminal Jurisprudence.

**HB 437** (By McClendon), Relating to the establishment of pain management guidelines for physicians.

To Public Health.

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

**HB 185** (By Hochberg), Relating to gang-related activity in and around public schools; providing a criminal penalty.

To Public Education.

**HB 289** (By Delisi), Relating to the expansion of faith- and community-based health and human services initiatives.

To Public Health.

**HB 345** (By Flynn), Relating to the collateralization of certain public funds.

To Financial Institutions.

### **SIGNED BY THE SPEAKER**

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

**Senate List No. 5**

**SCR 13**

### **MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1**

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, February 1, 2007

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HCR 52**

Homer

SPONSOR: Eltife

Honoring Thomas and Louise Hagood of Paris on their 65th wedding anniversary.

**SCR 14**

Whitmire

SPONSOR: Howard, Donna

Granting the legislature permission to adjourn for more than three days during the period beginning on Wednesday, January 31, 2007, and ending on Monday, February 5, 2007.

Respectfully,

Patsy Spaw

Secretary of the Senate