

# HOUSE JOURNAL

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EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

ELEVENTH DAY — WEDNESDAY, FEBRUARY 4, 2009

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; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Absent, Excused — Alvarado.

Absent — Davis, J.; Smithee.

The invocation was offered by Reverend Ken Hackney, pastor, The Chapel of the Lake, Wills Point, as follows:

God whom we know by many names and traditions, we pray now. Lord, let our leaders have discerning minds to prioritize the precious minutes in the day. Let our government discern what is most important for our state and should be urgently attended to. Renew our government leaders by your spirit. Renew their vision and confidence. Protect our leaders from overwhelming spirits of this world in which we live.

I thank you, Father, that your eyes are on our elected officials. Your ears are attentive to our prayers. Please cause your face to shine upon them, that your way may be known upon earth, and that your saving strength will be available

among all people. I know that in all things you work for the good of your children who love you. In all things we are more than conquerors. We pray that we may have your guidance as we firmly uphold your great principles. I come to you at this time to ask your blessing on these sessions of our state legislature and upon each representative present. Thank you for our great country, our great state, and our great leaders. Help them with your wisdom to guide our state to greater heights. May we as citizens be willing to support them in their efforts and to do our part for the good of our county, state, and country. Give us patience with each other and our individual ideas. We come to you as a thankful people for all your many blessings. May what is accomplished in these sessions be helpful to each of us, our counties, and also our state.

Heavenly Father, grant Governor Perry, his counselors and advisors, and all who are entrusted with the guardianship of our rights, liberties, and freedom, such wisdom and understanding needed as they lead us in the path of justice and righteousness.

Blessed are you, O God, gracious giver of peace. We ask for your mercy as we work together for the common good of this great State of Texas. Amen.

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

#### **CAPITOL PHYSICIAN**

The speaker recognized Representative Otto who presented Dr. Jerry Wood of Livingston as the "Doctor for the Day."

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

#### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for today because of a family emergency:

Alvarado on motion of Sheffield.

#### **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. 3).

#### **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).

#### **INTRODUCTION OF GUESTS**

The speaker recognized Representative Flynn who introduced a delegation from Van Zandt County.

(Raymond in the chair)

**HR 181 - ADOPTED  
(by Flynn)**

Representative Flynn moved to suspend all necessary rules to take up and consider at this time **HR 181**.

The motion prevailed.

The following resolution was laid before the house:

**HR 181**, Recognizing February 4, 2009, as Van Zandt County Day at the State Capitol.

**HR 181** was adopted.

(J. Davis now present)

**HR 153 - ADOPTED  
(by Naishtat)**

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 153**.

The motion prevailed.

The following resolution was laid before the house:

**HR 153**, In memory of John Edward Davis, Jr., of Austin.

**HR 153** was read and was unanimously adopted by a rising vote.

On motion of Representative Naishtat, the names of all the members of the house were added to **HR 153** as signers thereof.

(Speaker in the chair)

**HR 248 - ADOPTED  
(by Rose)**

Representative Rose moved to suspend all necessary rules to take up and consider at this time **HR 248**.

The motion prevailed.

The following resolution was laid before the house:

**HR 248**, Recognizing February 4, 2009, as Susan G. Komen for the Cure Advocacy Day in Texas.

**HR 248** was read and was adopted.

On motion of Representatives Hodge and Kent, the names of all the members of the house were added to **HR 248** as signers thereof.

**HR 216 - ADOPTED  
(by Oliveira and Lucio)**

Representative Oliveira moved to suspend all necessary rules to take up and consider at this time **HR 216**.

The motion prevailed.

The following resolution was laid before the house:

**HR 216**, Recognizing February 4, 2009, as Brownsville Day at the State Capitol.

**HR 216** was read and was adopted.

(Bohac in the chair)

On motion of Representatives Hodge, Lucio, and Gonzales, the names of all the members of the house were added to **HR 216** as signers thereof.

#### **INTRODUCTION OF GUESTS**

The speaker recognized Representative Oliveira who introduced a delegation from Brownsville.

(Smithee now present)

(Thompson in the chair)

#### **HR 219 - ADOPTED**

**(by Crownover, Gonzales, and Harless)**

Representative Crownover moved to suspend all necessary rules to take up and consider at this time **HR 219**.

The motion prevailed.

The following resolution was laid before the house:

**HR 219**, Recognizing February 6, 2009, as National Wear Red Day.

**HR 219** was read and was adopted.

On motion of Representative Y. Davis, the names of all the members of the house were added to **HR 219** as signers thereof.

#### **HR 214 - ADOPTED**

**(by B. Brown)**

Representative B. Brown moved to suspend all necessary rules to take up and consider at this time **HR 214**.

The motion prevailed.

The following resolution was laid before the house:

**HR 214**, Honoring Helen Marie Davis of Terrell on her 90th birthday.

**HR 214** was adopted.

#### **HR 231 - ADOPTED**

**(by Branch, Herrero, Bonnen, and Morrison)**

Representative Branch moved to suspend all necessary rules to take up and consider at this time **HR 231**.

The motion prevailed.

The following resolution was laid before the house:

**HR 231**, Recognizing February 4, 2009, as Community College Student Day at the State Capitol.

**HR 231** was read and was adopted.

On motion of Representative Patrick, the names of all the members of the house were added to **HR 231** as signers thereof.

**HR 227 - ADOPTED**  
**(by Kuempel)**

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 227**.

The motion prevailed.

The following resolution was laid before the house:

**HR 227**, Recognizing Camp Okawehna for its outstanding service to children with chronic kidney disease and extending best wishes to the young Texans who are attending the camp this summer.

**HR 227** was read and was adopted.

On motion of Representative Hodge, the names of all the members of the house were added to **HR 227** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Kuempel who introduced representatives of Camp Okawehna.

**HR 157 - ADOPTED**  
**(by Strama)**

Representative Bolton moved to suspend all necessary rules to take up and consider at this time **HR 157**.

The motion prevailed.

The following resolution was laid before the house:

**HR 157**, Congratulating Charles Lewis Merriweather on attaining the rank of Eagle Scout.

**HR 157** was read and was adopted.

On motion of Representative Burnam, the names of all the members of the house were added to **HR 157** as signers thereof.

**HR 62 - ADOPTED**  
**(by Veasey)**

Representative Veasey moved to suspend all necessary rules to take up and consider at this time **HR 62**.

The motion prevailed.

The following resolution was laid before the house:

**HR 62**, Honoring the life of Timothy Brian Cole and recognizing his exoneration through DNA evidence.

**HR 62** was read and was unanimously adopted by a rising vote.

On motion of Representative Jones, the names of all the members of the house were added to **HR 62** as signers thereof.

#### **ADDRESS BY REPRESENTATIVE VEASEY**

The chair recognized Representative Veasey who addressed the house, speaking as follows:

Members, I first want to recognize Mrs. Ruby Session, who is the mother of Timothy Cole, and his uncle, Mr. Benny Cole, who is also here.

This was a really sad case that occurred back in the early 80s. I first read about this in the *Star Telegram*. The first thing that came to mind is, during the 80s in Fort Worth, we had something similar happen. There was a rapist in the TCU area, and I remember how it paralyzed the entire city. Everybody in Fort Worth was scared, and so I know that in Lubbock they really wanted to catch the perpetrator of this crime, and unfortunately the wrong person was convicted of a crime.

Timothy Cole was a veteran. He was someone that served his country. He was someone that wanted to live the American dream, and so he went to Texas Tech University to try to further that American dream by gaining a college degree. That goal was cut short by a wrongful conviction. He had a clean criminal record. Oftentimes, when you hear about people who are wrongly convicted, it's because they match some sort of MO or match some description. So, a person is wrongly convicted because of something they did in the past, but Timothy Cole had a zero record—completely clean. It was really unfortunate that he had to spend the rest of his life in the Texas penal system.

Upon his conviction, the real perpetrator happened to be in jail, and they were investigating him for another crime. He heard Timothy Cole crying in his jail cell because Timothy always thought that he would be proven innocent. He was actually offered a deal where he could have served no time in prison, and he turned that deal down. Every time he went before the parole board, he was told that he could probably get out on parole if he would just admit that he was the perpetrator, but he would never do it. He wanted to maintain his innocence. He always knew that one day he would be proven innocent, but unfortunately it was too late, and he died behind prison bars.

The person who admitted to doing the crime wrote letters to the district attorney's office. They were ignored. He finally wrote a letter to the family, and that's when this all came to light. There is an article today in *USA Today*, and there is also an editorial in the *Austin American-Statesman*.

#### **INTRODUCTION OF GUESTS**

The chair recognized Representative Veasey who introduced family members of Timothy Brian Cole.

**REMARKS ORDERED PRINTED**

Representative Burnam moved to print remarks by Representative Veasey.

The motion prevailed.

(Speaker in the chair)

**HCR 24 - ADOPTED  
(by Craddick and Lewis)**

Representative Lewis moved to suspend all necessary rules to take up and consider at this time **HCR 24**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 24**, Recognizing February 17, 2009, as Midland-Odessa Day at the State Capitol.

**HCR 24** was adopted.

**HR 242 - ADOPTED  
(by C. Turner, et al.)**

Representative C. Turner moved to suspend all necessary rules to take up and consider at this time **HR 242**.

The motion prevailed.

The following resolution was laid before the house:

**HR 242**, Welcoming the Tarrant County College students visiting the State Capitol on Community College Student Day.

**HR 242** was adopted.

**HR 212 - ADOPTED  
(by Pierson)**

Representative C. Turner moved to suspend all necessary rules to take up and consider at this time **HR 212**.

The motion prevailed.

The following resolution was laid before the house:

**HR 212**, Recognizing February 4, 2009, as Voices for Change Day and commending the organizations Texans Care For Children, the Texas Network of Youth Services, and Children at Risk.

**HR 212** was read and was adopted.

On motion of Representative Burnam, the names of all the members of the house were added to **HR 212** as signers thereof.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative C. Turner who introduced participants in Voices for Change Day.

**HR 251 - ADOPTED**  
**(by McClendon)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 251**.

The motion prevailed.

The following resolution was laid before the house:

**HR 251**, Honoring the Texas Council of Alpha Chapters of Alpha Phi Alpha Fraternity on the occasion of its 45th annual district convention.

**HR 251** was adopted.

**HR 256 - ADOPTED**  
**(by Eiland)**

Representative Eiland moved to suspend all necessary rules to take up and consider at this time **HR 256**.

The motion prevailed.

The following resolution was laid before the house:

**HR 256**, Honoring Shriners Hospitals for Children—Galveston for its outstanding service to children.

**HR 256** was adopted.

On motion of Representatives Branch and Riddle, the names of all the members of the house were added to **HR 256** as signers thereof.

**INTRODUCTION OF GUEST**

The speaker recognized Representative Chisum who introduced Brianna Vogel, founder of Pennies for Love.

(Y. Davis in the chair)

**HR 238 - ADOPTED**  
**(by S. King)**

Representative S. King moved to suspend all necessary rules to take up and consider at this time **HR 238**.

The motion prevailed.

The following resolution was laid before the house:

**HR 238**, Welcoming the Sweetwater Jaycees to the State Capitol for their Rattlesnake Roundup.

**HR 238** was adopted.

**INTRODUCTION OF GUESTS**

The chair recognized Representative S. King who introduced the Sweetwater Jaycees snake handlers.

(Speaker in the chair)



**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. 2).

**HR 255 - ADOPTED**  
**(by Riddle)**

Representative Riddle moved to suspend all necessary rules to take up and consider at this time **HR 255**.

The motion prevailed.

The following resolution was laid before the house:

**HR 255**, Honoring Eva Lee Perry Jatho of Austin on the occasion of her 80th birthday.

**HR 255** was adopted.

**ADJOURNMENT**

Representative Veasey moved that the house adjourn until 10 a.m. tomorrow in memory of Timothy Brian Cole of Brenham and Fort Worth.

The motion prevailed.

The house accordingly, at 12:06 p.m., adjourned until 10 a.m. tomorrow.

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**ADDENDUM**

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**SIGNED BY THE SPEAKER**

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

**Senate List No. 3**

**SCR 8**

**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  
Wednesday, February 4, 2009

The Honorable Speaker of the House  
House Chamber  
Austin, Texas  
Mr. Speaker:

