

# HOUSE JOURNAL

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EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

TWENTY-FIRST DAY — TUESDAY, FEBRUARY 24, 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 34).

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, J.; 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; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Absent, Excused — Alvarado; Olivo; Vaught.

Absent — Smith, W.

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

Gracious, merciful, and loving God, we are so thankful for your many blessings. Today we especially thank you for the privilege of living in this great country. We thank you for the many freedoms that we enjoy in our nation, including our freedom to come to you together and ask for your strength for this day.

And today we do need your strength, Heavenly Father, as we survey the many tasks before us this day. As the members of this house prepare to find ways to provide for the health, provision, safety, and education of its many constituents, I ask for two things from you for each person here today. I ask, Father, that you would give them a united vision and a selfless disposition.

Father, unite the hearts and minds of the women and men in this room today so that they might be able to collectively achieve what they never could as individuals. I ask that you will unite them, heart and mind, for the purpose of caring for the poor, the weak, the downtrodden, and the needy. Unite them to fulfill the high calling that they have received, and allow this unity of spirit to carry forth from this day on, that your name might be revered, and that the great State of Texas might prosper. May the members of this house be inspired and influenced by the Apostle Paul's message to the Church at Philippi: "Do nothing from selfish ambition or conceit, but in humility regard others as better than yourselves. Let each of you look not to your own interests, but to the interests of others. Let the same mind be in you that was in Christ Jesus." (Philippians 2:3-5)

God, you know that this vision of unity cannot happen unless each member of this house puts aside their own agendas, their own desires, their own vain seeking after reputation or power. May these, your servants, remember why they are here and to whom they are to give their service. May they serve you, the giver of all good gifts, with all the talents and abilities that they possess, and may they serve the people of Texas with the passion that ought to be inspired by the memory of the trust that has been placed with them by those same people. Instill within every man and woman in this Capitol building today that very same mind that was in Christ, the selfless mind which compelled our Lord to empty himself for us, as we are reminded by Paul. Let the same mind be in you that was in Christ Jesus, "who, though he was in the form of God, did not regard equality with God as something to be exploited, but emptied himself, taking the form of a slave, being born in human likeness. And being found in human form, he humbled himself and became obedient to the point of death—even death on a cross." (Philippians 2:6-8)

Father, compel each one of us to be willing to give our lives for you and to those that we are called upon to serve this day. Give us the strength, the unity of purpose, and the selflessness to be able to do and accomplish all that is necessary today, and may you bless us with a reminder of your sustaining presence each moment of this day. And now, may "the grace of the Lord Jesus Christ, the love of God, and the fellowship of the Holy Spirit be with all of you." (II Corinthians 13:13) Amen.

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

#### **CAPITOL PHYSICIAN**

The speaker recognized Representative Hughes who presented Dr. John McDonald of Marshall as the "Doctor for the Day."

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

**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 member was granted leave of absence for today because of a death in the family:

Alvarado on motion of Sheffield.

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

Olivo on motion of Miklos.

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

Vaught on motion of Raymond.

**REGULAR ORDER OF BUSINESS SUSPENDED**

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

**HR 162 - ADOPTED  
(by McClendon)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 162**.

The motion prevailed.

The following resolution was laid before the house:

**HR 162**, Recognizing February 24, 2009, as Multiple Sclerosis Day at the State Capitol and March 2 through 9, 2009, as Multiple Sclerosis Awareness Week in Texas.

**HR 162** was read and was adopted.

On motion of Representatives Hardcastle and J. Davis, the names of all the members of the house were added to **HR 162** as signers thereof.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative McClendon who introduced representatives of the National Multiple Sclerosis Society.

(Geren in the chair)

**HR 529 - ADOPTED  
(by Swinford, Smithee, and Chisum)**

Representative Swinford moved to suspend all necessary rules to take up and consider at this time **HR 529**.

The motion prevailed.

The following resolution was laid before the house:

**HR 529**, Honoring B&W Pantex on earning an outstanding performance rating from the National Nuclear Security Administration.

(Speaker in the chair)

**HR 529** was read and was adopted.

**HR 541 - ADOPTED**

**(by Swinford, Smithee, Chisum, and Heflin)**

Representative Swinford moved to suspend all necessary rules to take up and consider at this time **HR 541**.

The motion prevailed.

The following resolution was laid before the house:

**HR 541**, Recognizing February 24, 2009, as Panhandle Day at the State Capitol.

**HR 541** was read and was adopted.

(W. Smith now present)

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Swinford who introduced a delegation from the Panhandle.

(Geren in the chair)

**HR 575 - ADOPTED**

**(by Smithee)**

Representative Smithee moved to suspend all necessary rules to take up and consider at this time **HR 575**.

The motion prevailed.

The following resolution was laid before the house:

**HR 575**, Congratulating Elizabeth Marie Walterscheid of Hereford on her 100th birthday.

(Speaker in the chair)

**HR 575** was read and was adopted.

On motion of Representative Chisum, the names of all the members of the house were added to **HR 575** as signers thereof.

**HR 576 - ADOPTED**

**(by Smithee, Swinford, and Chisum)**

Representative Smithee moved to suspend all necessary rules to take up and consider at this time **HR 576**.

The motion prevailed.

The following resolution was laid before the house:

**HR 576**, In memory of U.S. Army Specialist Brandon A. Meyer of Canyon.

**HR 576** was read and was unanimously adopted by a rising vote.

On motion of Representatives Corte and Isett, the names of all the members of the house were added to **HR 576** as signers thereof.

(Bohac in the chair)

**HR 552 - ADOPTED**  
**(by Anderson)**

Representative Anderson moved to suspend all necessary rules to take up and consider at this time **HR 552**.

The motion prevailed.

The following resolution was laid before the house:

**HR 552**, Recognizing February 24, 2009, as Waco Day at the State Capitol.

**HR 552** was read and was adopted.

On motion of Representative Dunnam, the names of all the members of the house were added to **HR 552** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Anderson who introduced a delegation from Waco.

**HCR 51 - ADOPTED**  
**(by Otto)**

Representative Otto moved to suspend all necessary rules to take up and consider at this time **HCR 51**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 51**, Designating February 24, 2009, as Texas Transit Association Day at the State Capitol.

**HCR 51** was read and was adopted.

**HR 561 - ADOPTED**  
**(by Kolkhorst)**

Representative Kolkhorst moved to suspend all necessary rules to take up and consider at this time **HR 561**.

The motion prevailed.

The following resolution was laid before the house:

**HR 561**, Recognizing February 24, 2009, as Washington County Day at the State Capitol.

**HR 561** was read and was adopted.

On motion of Representatives Kuempel and Crabb, the names of all the members of the house were added to **HR 561** as signers thereof.

### **INTRODUCTION OF GUESTS**

The chair recognized Representative Kolkhorst who introduced a delegation from Washington County.

#### **HR 571 - ADOPTED (by Kleinschmidt)**

Representative Kleinschmidt moved to suspend all necessary rules to take up and consider at this time **HR 571**.

The motion prevailed.

The following resolution was laid before the house:

**HR 571**, Recognizing Jacob Warner of Elgin for winning the prize for the grand champion steer at the Bastrop County Livestock Show and Elgin Youth Fair.

**HR 571** was read and was adopted.

#### **HR 542 - ADOPTED (by Callegari)**

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 542**.

The motion prevailed.

The following resolution was laid before the house:

**HR 542**, Honoring Joel Davis Sugg, Jr., of Katy on his 80th birthday.

**HR 542** was read and was adopted.

(Speaker in the chair)

On motion of Representative Callegari, the names of all the members of the house were added to **HR 542** as signers thereof.

### **INTRODUCTION OF GUESTS**

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

#### **HR 512 - ADOPTED (by Flynn)**

Representative Flynn moved to suspend all necessary rules to take up and consider at this time **HR 512**.

The motion prevailed.

The following resolution was laid before the house:

**HR 512**, Recognizing February 24, 2009, as Rains County Day at the State Capitol.

**HR 512** was read and was adopted.

**HR 591 - ADOPTED**  
**(by Edwards)**

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 591**.

The motion prevailed.

The following resolution was laid before the house:

**HR 591**, Honoring Harold Cash of Texas City for his achievements as a rodeo rider and community leader.

**HR 591** was read and was adopted.

**HCR 55 - ADOPTED**  
**(by Rose and F. Brown)**

Representative Rose moved to suspend all necessary rules to take up and consider at this time **HCR 55**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 55**, Commemorating the International Year of Astronomy 2009 and the scientific achievements of The University of Texas at Austin McDonald Observatory and Texas A&M University.

**HCR 55** was read and was adopted.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Rose who introduced representatives of The University of Texas at Austin McDonald Observatory and Texas A&M University.

**FIVE-DAY POSTING RULE SUSPENDED**

Representative Kent moved to suspend the five-day posting rule and all necessary rules to allow the Select Committee on Federal Economic Stabilization Funding to consider invited testimony at 2 p.m. today in E2.010.

The motion prevailed.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Select Committee on Federal Economic Stabilization Funding, 2 p.m. today, E2.010, for a public hearing, to consider invited testimony.

**FIVE-DAY POSTING RULE SUSPENDED**

Representative Kent moved to suspend the five-day posting rule and all necessary rules to allow the Select Committee on Federal Economic Stabilization Funding to consider invited testimony at 2 p.m. tomorrow in E1.014.

The motion prevailed.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Select Committee on Federal Economic Stabilization Funding, 2 p.m. tomorrow, E1.014, for a public hearing, to consider invited testimony.

**FIVE-DAY POSTING RULE SUSPENDED**

Representative Kent moved to suspend the five-day posting rule and all necessary rules to allow the Select Committee on Federal Economic Stabilization Funding to consider invited testimony at 2 p.m. Thursday, February 26 in E1.014.

The motion prevailed.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Select Committee on Federal Economic Stabilization Funding, 2 p.m. Thursday, February 26, E1.014, for a public hearing, to consider invited testimony.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Phillips requested permission for the Committee on Transportation to meet while the house is in session, during bill referral today, in E2.014, to continue the recessed hearing.

Permission to meet was granted.

**FIVE-DAY POSTING RULE SUSPENDED**

Representative Zerwas moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Appropriations, Subcommittee on Health and Human Services, to meet Friday, February 27.

The motion prevailed.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Appropriations, Subcommittee on Health and Human Services, 7:30 a.m. Friday, February 27, JHR 120, for a public hearing, to consider LBB recommendations.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Licensing and Administrative Procedures, 3 p.m. today, E1.010, for a public hearing, to consider invited testimony.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative McClendon requested permission for the Committee on Rules and Resolutions to meet while the house is in session, during bill referral today, in 1W.14, to consider the congratulatory and memorial calendar.

Permission to meet was granted.



### PROVIDING FOR ADJOURNMENT

Representative Legler 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 Scott Talton of Pasadena.

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.)

(Creighton in the chair)

### ADJOURNMENT

In accordance with a previous motion, the house, at 11:47 a.m., adjourned until 10 a.m. tomorrow.

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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 1051** (By Farrar), Relating to public school accountability for bilingual education and English as a second language and other special language programs.  
To Public Education.

**HB 1052** (By Mallory Caraway), Relating to the creation, powers, and duties of film districts.  
To Urban Affairs.

**HB 1053** (By Mallory Caraway), Relating to a grace period from the statement issue date for payment of services to certain electric utilities and related entities.  
To State Affairs.

**HB 1055** (By Parker), Relating to the procedure for submitting certain plans and specifications of buildings or facilities for the purpose of eliminating architectural barriers encountered by persons with disabilities.  
To Human Services.

**HB 1056** (By Morrison), Relating to the course levels offered by the University of Houston-Victoria.  
To Higher Education.

**HB 1057** (By McClendon), Relating to family care leave for certain employees; providing a civil penalty.  
To Business and Industry.

**HB 1058** (By Solomons), Relating to the receipt of death benefits in the workers' compensation system.  
To Business and Industry.

**HB 1059** (By Ortiz), Relating to benefits under certain health benefit plans for prenatal care, birth of a child, and postdelivery care.  
To Insurance.

**HB 1060** (By Miklos), Relating to certain procedures for forwarding a warrant of arrest or a complaint in a criminal case.  
To Criminal Jurisprudence.

**HB 1061** (By Jackson), Relating to the requirement of citizenship or lawful presence in the United States for issuance or renewal of certain occupational licenses, driver's licenses, and identification certificates.  
To State Affairs.

**HB 1062** (By Burnam), Relating to the sale of ale and malt liquor by brewer's permit holders.  
To Licensing and Administrative Procedures.

**HB 1063** (By Farias), Relating to emergency vehicle access to certain gated communities and multiunit housing projects.  
To County Affairs.

**HB 1064** (By Farias), Relating to the length of time an eligibility list remains in effect for beginning positions in a fire department in certain municipalities under municipal civil service.  
To Urban Affairs.

**HB 1065** (By Farias), Relating to the use of the term "engineer" by certain fire department employees.  
To Licensing and Administrative Procedures.

**HB 1066** (By Naishtat), Relating to eligibility to participate in the Texas Health Insurance Risk Pool by individuals whose employers participate in certain regional or local health care programs.  
To Insurance.

**HB 1067** (By Naishtat), Relating to a memorandum of understanding between certain authorized entities to share suicide data that does not identify any individual.  
To Public Health.

**HB 1068** (By Naishtat), Relating to information regarding the relative or designated caregivers for a child in the managing conservatorship of the state.  
To Human Services.

**HB 1069** (By Flynn), Relating to service of process in this state.  
To Judiciary and Civil Jurisprudence.

**HB 1070** (By Truitt), Relating to audits of certain public retirement system actuarial valuations, studies, and reports.  
To Pensions, Investments, and Financial Services.

**HB 1071** (By Vo), Relating to controlling the emissions of certain hazardous air contaminants in identified areas of this state under the Texas Clean Air Act.  
To Environmental Regulation.

**HB 1072** (By Burnam), Relating to unemployment compensation benefit eligibility.  
To Technology, Economic Development, and Workforce.

**HB 1073** (By Guillen), Relating to a franchise tax credit for certain research and development activities.  
To Ways and Means.

**HB 1074** (By Frost), Relating to the use of bulletproof glass in certain vehicles purchased by the Department of Public Safety.  
To Public Safety.

**HB 1075** (By Frost), Relating to service of process at the registered office of certain registered agents.  
To Business and Industry.

**HB 1076** (By Frost), Relating to the creation of the offense of obstruction of or retaliation against a process server.  
To Criminal Jurisprudence.

**HB 1077** (By Chisum), Relating to the operation of health care sharing ministries.  
To Insurance.

**HB 1078** (By Truitt), Relating to increasing the penalty for illegal ground transportation solicitation at certain airports.  
To Transportation.

**HB 1079** (By Kolkhorst), Relating to the appellate process for the community development block grant program.  
To Agriculture and Livestock.

**HB 1081** (By Herrero), Relating to requiring posting of certain information regarding nursing homes and related institutions on the Department of Aging and Disability Services website.  
To Human Services.

**HB 1082** (By Laubenberg), Relating to the North Texas Municipal Water District.  
To Natural Resources.

**HB 1083** (By Elkins), Relating to mediation orders in certain arbitration proceedings.

To Judiciary and Civil Jurisprudence.

**HB 1084** (By Truitt), Relating to shipment of wine to ultimate consumers.

To Licensing and Administrative Procedures.

**HB 1085** (By Edwards), Relating to an after-school pilot program offered by school districts to middle and junior high school students and their parents to prepare students for postsecondary education and training.

To Public Education.

**HB 1086** (By Harper-Brown), Relating to the development, construction, and operation of a toll project located in the boundaries of a local toll project entity.

To Transportation.

**HB 1087** (By Peña), Relating to the prosecution and punishment of the offense of criminal trespass.

To Criminal Jurisprudence.

**HB 1088** (By Veasey), Relating to the appointment of an Executive Director in the Texas Legislative Council.

To State Affairs.

**HB 1089** (By Parker), Relating to the powers and duties of the Denton County Municipal Utility District No. 4 and the Denton County Municipal Utility District No. 5; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Natural Resources.

**HB 1090** (By Parker), Relating to the powers and duties of the Oak Point Water Control and Improvement District No. 4 of Denton County; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Natural Resources.

**HB 1092** (By Parker), Relating to the authority of the voters of a county to allow the owners of certain real property to require that county and any municipal ad valorem taxes be imposed on that real property on the basis of a five-year average of the property's value.

To Ways and Means.

**HB 1093** (By Pickett), Relating to oversight of regional poison control centers.

To Public Safety.

**HB 1094** (By Vo), Relating to the composition of the board of trustees of the Teacher Retirement System of Texas.

To Pensions, Investments, and Financial Services.

**HB 1095** (By Vo), Relating to regulation of residential property insurance; providing penalties.

To Insurance.

**HB 1096** (By Vo), Relating to the provision of notice regarding the availability of higher education textbooks through multiple retailers.

To Higher Education.

**HB 1097** (By Vo), Relating to contract expiration dates on electric bills.

To State Affairs.

**HB 1098** (By Vo), Relating to certain information that a commercial mobile service provider shall include in a billing statement.

To State Affairs.

**HB 1099** (By Vo), Relating to measures to increase the affordability of textbooks used for courses at public institutions of higher education.

To Higher Education.

**HB 1100** (By Vo), Relating to the date of payment for retail electric services.

To State Affairs.

**HB 1101** (By Vo), Relating to economic impact reviews conducted by the Texas Transportation Commission.

To Transportation.

**HB 1102** (By Vo), Relating to the requirements for the recommended and advanced public high school programs.

To Public Education.

**HB 1103** (By Guillen), Relating to a study regarding uniform election dates.

To Elections.

**HB 1104** (By Guillen), Relating to discovery in a criminal case and the consequences of a failure to disclose certain discoverable evidence in a timely manner.

To Criminal Jurisprudence.

**HJR 55** (By Parker), Proposing a constitutional amendment authorizing the legislature to permit the voters of a county to allow county and any municipal ad valorem taxes to be imposed on certain real property on the basis of a five-year average taxable value.

To Ways and Means.

### 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

Tuesday, February 24, 2009

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:

**SCR 25** Deuell  
Congratulating Linda Muhl on her retirement from John Horn High School in Mesquite.

**SCR 26** Averitt  
Recognizing Ipswich, Queensland, Australia, on the occasion of the 40th Anniversary Memorial Service in honor of the crew of the USS Frank E. Evans.

**SCR 29** Watson  
In memory of Coach Patrick Honeycutt of Austin.

**SCR 30** Watson  
In memory of Jess M. Irwin, Jr.

**SCR 31** Seliger  
Recognizing Bell Helicopter Textron on the occasion of the 10th anniversary of its Amarillo Military Aircraft Assembly Center.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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**APPENDIX**

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**SENT TO THE GOVERNOR**

**February 23 - HCR 33, HCR 39, HCR 42, HCR 48**