

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, FOURTH CALLED SESSION

PROCEEDINGS

SEVENTH DAY — FRIDAY, MAY 14, 2004

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 38).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, F.; Burnam; Callegari; Campbell; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Taylor; Telford; Thompson; Truitt; Turner; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent, Excused — Denny; Reyna; Talton.

Absent — Brown, B.; Canales; Elkins; Gutierrez; Kuempel; Peña; Uresti.

The invocation was offered by Rabbi Hazzan Neil Blumofe, Congregation Agudas Achim, Austin, as follows:

Mr. Speaker, Representative Baxter, esteemed representatives, this morning you sit and deliberate in exalted status, in a vaunted chamber, endowed with the confidence and the votes of the people you represent. Together we stand renewed by the many gifts of Texas and our districts as you make decisions motivated by public interest. You set back thoughts of acquisition, of personal gain, as you reach for the highest heavens.

We hope to think back to this time as a time received in holiness, infused with meaning, made special by our presence, and by your lawmaking. Indeed, what special gifts do we bring?

What lasting effect do we have on this world? As we bundle our dreams of accomplishment together, truly, what is our purpose? What is our legacy?

What is our defined life—are we living for someone or through someone else's gains?

As our traditions teach—our beginning is from dust and ends in dust. Among us, there are those who risk their life to get bread. We are like a broken pot, grass that withers, we are a fading flower, a passing shadow, a vanishing cloud. We are a blowing wind, flying dust, and our lives are a fleeting dream.

We teach through our children and our lives are defined by how we raise up our community. We are sustained and remembered by the company we keep and those whom we exalt. We exalt through teaching and personal acts of intention.

May your influence linger in this world past favors and political high-mindedness. Let us achieve a basic goodness in this world and bring God's glory forward. May you continue in strength and in pursuit of nobility in the privilege of service.

May your important decisions, deliberations, and intentions be blessed and exalted.

LEAVES OF ABSENCE GRANTED

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

Talton on motion of Hunter.

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

Denny on motion of Hill.

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

Reyna on motion of Hill.

CAPITOL PHYSICIAN

The speaker recognized Representative Smithee who presented Dr. Padmaneel Kanase of Dalhart as the "Doctor for the Day."

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

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 1 and 2).

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. 2).

LEAVE OF ABSENCE GRANTED

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

Kuempel on motion of Merritt.

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

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

LEAVE OF ABSENCE GRANTED

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

B. Brown on motion of F. Brown.

**ADDRESS BY REPRESENTATIVE J. MORENO
ON A MATTER OF PERSONAL PRIVILEGE**

The speaker recognized Representative J. Moreno who addressed the house on a matter of personal privilege.

**ADDRESS BY REPRESENTATIVE NORIEGA
ON A MATTER OF PERSONAL PRIVILEGE**

The speaker recognized Representative Noriega who addressed the house on a matter of personal privilege.

**ADDRESS BY REPRESENTATIVE TRUITT
ON A MATTER OF PERSONAL PRIVILEGE**

The speaker recognized Representative Truitt who addressed the house on a matter of personal privilege.

**PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR**

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Monday, May 17.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Rules and Resolutions, upon adjournment today, Desk 133, for a formal meeting, to consider the calendar.

Appropriations, Subcommittee on Interim Charge No. 4, upon adjournment today, E1.030, for a public hearing, to discuss Interim Charge No. 4.

PROVIDING FOR ADJOURNMENT

Representative Heflin moved that, pending receipt of messages from the senate, the house adjourn until 10 a.m. Monday, May 17.

The motion prevailed without objection.

ADJOURNMENT

In accordance with a previous motion, the house, at 2:18 p.m., adjourned until 10 a.m. Monday, May 17.

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 76 (By Kuempel), Relating to designating a portion of State Highway 123 as the Senator John Traeger Memorial Highway.

To Transportation.

HB 77 (By Callegari), Relating to the annexation of territory by a junior college district.

To Higher Education.

HB 78 (By Burnam), Relating to imposition of an income tax on income that exceeds \$1 million.

To Ways and Means.

HB 79 (By Naishtat), Relating to an exemption for a school district employee from certain mold regulation requirements.

To Licensing and Administrative Procedures.

HB 80 (By Bohac, Callegari, E. Jones, and Kolkhorst), Relating to limiting the maximum average annual increase in the appraised value of residential real property for ad valorem tax purposes to three percent.

To Public School Finance, Select.

HCR 20 (By Gallego), Honoring Coach Doug Davalos and the Sul Ross State University men's basketball team on their outstanding 2003-2004 season.

To Rules and Resolutions.

HCR 21 (By Madden, Hope, and et al.), Commemorating the sesquicentennial of the founding of the Republican Party.

To Rules and Resolutions.

HCR 22 (By Smithee), In memory of Betty Barrett of Hereford.

To Rules and Resolutions.

HCR 23 (By Isett), Honoring Thomas Gregory Umstattd, Jr., on his high school graduation.

To Rules and Resolutions.

HJR 16 (By Van Arsdale), Proposing a constitutional amendment providing for funding public education, providing for school district property tax rate limitation and reduction, authorizing a school district ad valorem tax for educational program enrichment, creating the Texas education fund, dedicating certain sales and use tax revenue to funding public education, increasing the amount of the residence homestead exemption from school taxation, and authorizing the legislature to establish a five percent limit on annual increases in the appraised value for ad valorem tax purposes of residence homesteads and other owner-occupied residential real property.

To Public School Finance, Select.

HJR 17 (By Bohac, E. Jones, Callegari, and Kolkhorst), Proposing a constitutional amendment authorizing the legislature to establish a three percent limit on annual increases in the appraised value for ad valorem tax purposes of residential real property.

To Public School Finance, Select.

HR 236 (By Ellis, Dan), In memory of Ewald Ernest "Ernie" Zieschang of Liberty.

To Rules and Resolutions.

HR 237 (By Dawson), Honoring the Thundering Hooves equestrian drill team of Matagorda County.

To Rules and Resolutions.

HR 238 (By Puente), Honoring Santos A. Encina, Sr., on his retirement as bailiff of the 37th State District Court.

To Rules and Resolutions.

HR 239 (By Hegar), Congratulating Kimberley and Christopher Buzard of Richmond on the birth of their son, Lathen Christopher Buzard.

To Rules and Resolutions.

HR 240 (By Hegar), Congratulating James and Jennifer Watkins on the birth of their son, James Owen Watkins III.

To Rules and Resolutions.

HR 243 (By Oliveira), Congratulating the boys soccer team of Lopez High School for winning the Class 4A state championship title.

To Rules and Resolutions.

HR 245 (By Mercer), In memory of Ardath Jeanne "Jean" Combs Yates.

To Rules and Resolutions.

HR 246 (By Bonnen), Honoring the Angleton Lions Club on its 75th anniversary.

To Rules and Resolutions.

HR 247 (By Bonnen), In honor of Majors Ron and Ruth Draper of Freeport on their retirement from the Salvation Army.

To Rules and Resolutions.

HR 249 (By Dunnam), Recognizing October 16, 2004, as Madisonville Mushroom Festival Day.

To Rules and Resolutions.

HR 250 (By Hodge), Honoring Debbie Godwin of Tyler on her 50th birthday.

To Rules and Resolutions.

HR 251 (By Pickett), Honoring the 2004 Coca-Cola scholars from Texas for their academic achievements.

To Rules and Resolutions.

HR 252 (By Harper-Brown), Honoring Irving organizations and businesses for their support of employees who have been called to active duty since September 11, 2001.

To Rules and Resolutions.

HR 255 (By Menendez), In memory of Moriah McNeil of San Antonio.

To Rules and Resolutions.

HR 256 (By Hughes), Honoring the First Christian Church (Disciples of Christ) in Marshall on its sesquicentennial.

To Rules and Resolutions.

HR 257 (By Hughes), Honoring John and Marvel Rushfeldt on their 60th wedding anniversary.

To Rules and Resolutions.

HR 258 (By Giddings, Hill, Madden, and et al.), Honoring Franklyn Jenifer on his retirement as president of The University of Texas at Dallas.

To Rules and Resolutions.

HR 259 (By McClendon), Honoring the life of Doris Rayford Scott of San Antonio.

To Rules and Resolutions.

HR 260 (By McClendon), Honoring the life of Theresa Rose "Tess" Giolma of San Antonio.

To Rules and Resolutions.

HR 261 (By McClendon), Honoring the San Antonio Chapter of the Huston-Tillotson College Alumni Association.

To Rules and Resolutions.

HR 262 (By McClendon), Honoring Miss America 2004 Ericka Dunlap for her presentation at the Delta Sigma Theta Founders Day luncheon in San Antonio.

To Rules and Resolutions.

HR 263 (By Bohac), Honoring Janice Gabriel of Houston for her myriad contributions to the community.

To Rules and Resolutions.

HR 264 (By Bohac), Honoring Joy and Jim Garner of Houston on their 50th wedding anniversary.

To Rules and Resolutions.

HR 265 (By Bohac), Honoring the life of Metford E. Mountford of Houston.

To Rules and Resolutions.

HR 266 (By Bohac), Honoring William A. Stephens III of Houston for earning the rank of Eagle Scout.

To Rules and Resolutions.

HR 267 (By Taylor), Congratulating the 2004 Friendswood High School Academic Decathlon team.

To Rules and Resolutions.

HR 268 (By Baxter), Congratulating Mobile Loaves and Fishes of Austin on its selection for a 2004 Governor's Volunteer Award.

To Rules and Resolutions.

HR 269 (By Escobar), Welcoming the H. M. King High School Key Club from Kingsville to the State Capitol.

To Rules and Resolutions.

HR 270 (By Garza), Congratulating Veronica Janette Cerna on her graduation from The University of Texas at Austin and commending her for her outstanding service as a legislative aide in the office of State Representative Timoteo Garza.

To Rules and Resolutions.

HR 271 (By McClendon), Honoring Lillie Wilson Harris of San Antonio for her invaluable contributions to her city.

To Rules and Resolutions.

HR 272 (By McClendon), Honoring Mildred Orville Guilmenot Gipson on her 90th birthday.

To Rules and Resolutions.

HR 273 (By McClendon), Honoring the life of Olivia Marie Harrison Dixon.

To Rules and Resolutions.

HR 274 (By McClendon), Honoring the Texas Alliance of Black School Educators and its 19th Annual Conference.

To Rules and Resolutions.

HR 275 (By McClendon), Honoring Jacob Green on his retirement from the Texas Department of Human Services.

To Rules and Resolutions.

HR 276 (By McClendon), Honoring the Black Business Expo of San Antonio, Inc., on its annual exposition.

To Rules and Resolutions.

HR 277 (By McClendon), Congratulating the Reverend R. L. Archfield, Sr., of San Antonio on his 40th anniversary with Friendship Missionary Baptist Church.

To Rules and Resolutions.

HR 278 (By McClendon), Honoring Alice M. Allen of San Antonio for her contributions to her community.

To Rules and Resolutions.

HR 279 (By McClendon), Honoring Dr. Leonard E. Lawrence of San Antonio on his retirement as board chairman of the Texas Youth Commission in February 2004.

To Rules and Resolutions.

HR 280 (By McClendon), Honoring the San Antonio Youth Council of the NAACP on the occasion of the fifth annual Youth Image Awards Banquet.

To Rules and Resolutions.

HR 281 (By McClendon), Honoring Willie D. Barnett on his 92nd birthday.

To Rules and Resolutions.

HR 282 (By McClendon), Honoring Colonel Charles W. Edwards, Jr., for his service to his state and country.

To Rules and Resolutions.

HR 283 (By McClendon), Recognizing the U.S. Army Medical Command at Fort Sam Houston and Black History Month.

To Rules and Resolutions.

HR 284 (By McClendon), Honoring Charles and Marie Thurston of San Antonio on their 50th anniversary.

To Rules and Resolutions.

HR 285 (By McClendon), Recognizing the dedication of The Steward Center in San Antonio in honor of the late Rev. Shelly Edward Steward, Sr.

To Rules and Resolutions.

HR 286 (By McClendon), Honoring Winston Martin of San Antonio for six decades of service to the city.

To Rules and Resolutions.

HR 287 (By McClendon), Honoring Linda Brown Thompson and Cheryl Brown Henderson on the 50th anniversary of the Brown v. Board of Education decision.

To Rules and Resolutions.

HR 288 (By McClendon), Recognizing BEAT-AIDS, Inc., of San Antonio.
To Rules and Resolutions.

HR 289 (By Paxton), Honoring the first graduating class of McKinney North High School.
To Rules and Resolutions.

HR 290 (By Keel), Recognizing the 400th anniversary of the Sikh scripture.
To Rules and Resolutions.

HR 291 (By McClendon), Congratulating Sherry Louise Logan of San Antonio on her retirement from Sam Houston High School.
To Rules and Resolutions.

HR 292 (By Martinez Fischer), Honoring James Allen "Jim" Terrell on his retirement from Holmes High School.
To Rules and Resolutions.

HR 293 (By Ellis, Dan), Honoring the life of U.S. Army Private First Class Stuart Westley Moore of Livingston.
To Rules and Resolutions.

HR 294 (By Gattis), Honoring Sgt. Giovanni Bennett for his service in Iraq.
To Rules and Resolutions.

HR 295 (By Madden, Hope, and et al.), Commemorating the sesquicentennial of the founding of the Republican Party.
To Rules and Resolutions.

HR 296 (By J. Jones), In memory of Annie Williams Pipkin of Fair Play.
To Rules and Resolutions.

HR 297 (By Hodge), Congratulating Dr. J. B. Gassaway of Dallas on his retirement as assistant general manager of Fair Park.
To Rules and Resolutions.

HR 298 (By Dutton), Recognizing Miles Chapel Christian Methodist Episcopal Church in Houston on the occasion of the 100th anniversary of its founding.
To Rules and Resolutions.

HR 299 (By Gallego), Honoring Annabel Holguin of Alpine for her 25 years of service as city secretary.
To Rules and Resolutions.

HR 300 (By Gallego), Honoring Deputy Frank Campos of Reeves County.
To Rules and Resolutions.

HR 301 (By J. Moreno and Noriega), Honoring the Milby High School boys basketball team as the 2003-2004 UIL State Champions.
To Rules and Resolutions.

HR 302 (By Homer), Honoring the Joseph Ligon Chapter of Daughters of the American Revolution on the occasion of its 90th anniversary.
To Rules and Resolutions.

HR 303 (By Homer), Honoring the NeTseO Trails Council, Inc., of the Boy Scouts of America on its 75th anniversary.

To Rules and Resolutions.

HR 304 (By Homer), Honoring the Reverend R. L. Gray of Paris on his 50th anniversary in the ministry.

To Rules and Resolutions.

HR 305 (By Rose), In memory of William Maurice "Bill" Watson of Johnson City.

To Rules and Resolutions.

HR 306 (By Madden), Honoring Dr. Franklyn Jenifer on the occasion of the announcement of his retirement as president of The University of Texas at Dallas.

To Rules and Resolutions.

HR 307 (By Wise), Honoring Humberto Saénz on his retirement from the Weslaco Independent School District.

To Rules and Resolutions.

HR 308 (By Wise), Honoring Brittany Givilancz of Weslaco High School for her achievements in the sport of golf.

To Rules and Resolutions.

HR 309 (By Wise), Honoring Weslaco High School junior field shot-putter Wendy Wells for qualifying for regional competition.

To Rules and Resolutions.

HR 310 (By Wise), Congratulating Catherine Lynn Treviño on receiving a \$20,000 scholarship from the Coca-Cola Scholars Foundation.

To Rules and Resolutions.

HR 311 (By Mercer), Recognizing Barbara Galland on her retirement from the Helotes City Council.

To Rules and Resolutions.

HR 312 (By Pitts), In memory of Glen A. Pickett of El Paso.

To Rules and Resolutions.

HR 313 (By Stick), Honoring Will Tarrant of Pflugerville on being named High Point University's sophomore Male of the Year.

To Rules and Resolutions.

HR 314 (By Stick), Honoring Chris Parker and Jeff Offield of Pflugerville for their courageous efforts in rescuing Chante Davis.

To Rules and Resolutions.

HR 315 (By Stick), Honoring Katherine Ryan of Park Crest Middle School in Pflugerville for earning an outstanding score on the SAT.

To Rules and Resolutions.

HR 316 (By Stick), Honoring Taylor Huff of Park Crest Middle School in Pflugerville for earning an outstanding score on the SAT.

To Rules and Resolutions.

HR 317 (By Stick), Honoring Karen Benzel-Evans of Park Crest Middle School in Pflugerville for earning an outstanding score on the SAT.

To Rules and Resolutions.

HR 318 (By Stick), Honoring Laura Chambers of Park Crest Middle School in Pflugerville for earning an outstanding score on the SAT.

To Rules and Resolutions.

HR 319 (By Ritter), Honoring Sheila Beckett on the occasion of her retirement as executive director of the Employees Retirement System of Texas.

To Rules and Resolutions.

HR 320 (By Chavez, P. Moreno, Haggerty, Pickett, and Quintanilla), In memory of Sergeant Isela Rubalcava of El Paso.

To Rules and Resolutions.

HR 321 (By Craddick), Congratulating First Baptist Church of Midland on its 50th anniversary.

To Rules and Resolutions.

SCR 7 to Rules and Resolutions.

SIGNED BY THE SPEAKER

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

House List No. 2

HCR 19

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

Friday, May 14, 2004

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 2 Davis, John SPONSOR: Jackson
Honoring Larry Forehand on the 30th anniversary of his Casa Olé restaurant chain.

HCR 6 Craddick SPONSOR: Seliger
Honoring James Ellis "Jim" Hall and his Chaparrals for their motor sports accomplishments.

HCR 13 Driver SPONSOR: Deuell
Honoring the Coyle Middle School Band of the Garland Independent School District on its receipt of the Sudler Silver Cup award for 2003.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 14, 2004 - 2

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 3 Eissler SPONSOR: Williams
Congratulating Weldon Willig on being named the Schutt Sports Southwest Region National Coach of the Year.

HCR 4 Nixon SPONSOR: Janek
Honoring John McDivitt of Houston on his retirement from the American Red Cross.

SCR 7 Hinojosa
Recognizing Dr. Richard R. Moore on his retirement from Del Mar College in Corpus Christi.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 12

Urban Affairs - **HB 39**

ENROLLED

May 12 - HCR 19

