

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, FIRST CALLED SESSION

PROCEEDINGS

SEVENTH DAY — MONDAY, JULY 11, 2005

The house met at 12 p.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, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Solis; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Griggs; Smithee; Talton.

The invocation was offered by Representative Hunter, as follows:

We begin this session, Lord, by invoking your blessings on all that we do for the people each of us represents and for our great State of Texas.

Especially this day do we ask you to be with our friends in Great Britain, who have suffered the shock of death and horror at the hands of those who despise and hate.

Also we ask that you comfort those who have lost loved ones, as well as properties, from the ravages of Hurricane Dennis.

Help each of us to remember that all that we might achieve in this life pales into insignificance if we do not live as you would have us to live, if we do not serve others more than we serve ourselves, and, finally, if we decline to be what you would have us to be as we journey through this brief life on Earth.

We look to you and your Holy Word as we find in the wise book of Micah where the prophet inquires: "And what does the Lord require of you?" And answers: "To act justly, to love mercy, and to walk humbly with your God." Amen.

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

LEAVES OF ABSENCE GRANTED

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

Griggs on motion of Eissler.

Smithee on motion of Nixon.

Talton on motion of Denny.

PROCLAMATION BY THE GOVERNOR OF THE STATE OF TEXAS

The chair laid before the house and had read the following proclamation by the governor:

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
SEVENTY-NINTH TEXAS LEGISLATURE, FIRST CALLED SESSION:

WHEREAS, the people of Texas through their state constitution have placed the power to call the legislature into special session in the hands of the chief executive officer of the state; and

WHEREAS, the members of the Seventy-Ninth Texas Legislature, First Called Session, have now convened to consider items presented to them by the governor;

NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following subject matter to the Seventy-Ninth Texas Legislature, First Called Session for consideration:

Legislation relating to limiting the use of eminent domain to
take private property for private parties or economic
development purposes.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 8th day of July, 2005.

Rick Perry
Governor of Texas

(SEAL)
Roger Williams
Secretary of State

CAPITOL PHYSICIAN

The speaker recognized Representative W. Smith who presented Dr. P. J. Mock of La Porte as the "Doctor for the Day."

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

STATEMENT OF LEGISLATIVE INTENT

Mr. Speaker and members, most of you are aware that for over 30 years I have been involved in legislation related to the Tuition Equalization Grant Program. As an advocate of the program, I helped legislators fashion the original bill that passed in 1971. As a college administrator, I helped make certain the program was administered properly and efficiently. As a legislator, I have authored technical amendments to the program as they have been needed.

It is in this last role that I seek your understanding today. In 2001, I authored **HB 488**, which the 77th Legislature passed as **SB 149**. The purpose of the bill was to tighten the language of the TEG statute regarding institutions approved to participate in the program.

Since the TEG's inception, institutions whose students could receive TEGs were required to achieve the same accreditation as public institutions of higher education, which is to successfully complete the rigorous review of the Commission on Colleges of the Southern Association of Colleges and Schools. Where SACS accreditation was not appropriate, other accreditors of Texas public institutions, such as the American Bar Association and the Liaison Committee on Medical Education, were acceptable alternatives.

In the months before the 77th Legislature convened, the Texas Higher Education Coordinating Board began to "recognize" a wide range of accrediting agencies including all of the regional accrediting bodies across the country, few of which match the thoroughness of our SACS accreditation. That recognition allowed institutions that were not SACS accredited to award degrees in Texas without securing a certificate of authority to grant degrees from the coordinating board. During those months, I became concerned that at some future time the coordinating board might approve an institution accredited by one of its recognized entities for participation in TEG rather than requiring the tougher SACS accreditation. I carried **SB 149** to prevent the coordinating board using other accrediting bodies for the purpose of TEG participation.

SB 149 amended Section 61.222 of the Education Code to specify that institutions whose students participate in TEG must have the same accreditation as Texas public institutions. That was the current practice, and the coordinating board staff with whom I worked on **SB 149** understood that we were codifying the existing practice. We did this to ensure that any student receiving a TEG would receive a higher education that would meet the same standards that a student at our public institutions would receive.

With the passing of the years and changes in staff, I have learned that the coordinating board is beginning to interpret Section 61.222, as I amended it, differently than I intended and differently than I explained it to the house when I

passed it. That is, the coordinating board is considering approving institutions that are not SACS accredited for participation in TEG. This is the exact opposite of what we understood we were doing and what we intended under **SB 149**.

Members, I have made these comments today and wish to place them in the House Journal as a statement of legislative intent that: No institution should be approved to participate in the TEG program unless it has been accredited by an accrediting agency that accredits Texas public institutions of higher education.

Hunter

REMARKS ORDERED PRINTED

Representative Hopson moved to print remarks by Representative Hunter.

The motion prevailed.

HR 241 - ADOPTED (by Hill)

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 241**.

The motion prevailed.

The following resolution was laid before the house:

HR 241, Honoring Robert B. Nusser for his exemplary tenure on the Richardson City Council.

HR 241 was adopted.

HR 242 - ADOPTED (by Hill)

Representative Hill 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, Honoring Carol Wilson for her exemplary tenure on the Richardson City Council.

HR 242 was adopted.

HR 243 - ADOPTED (by Hill)

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 243**.

The motion prevailed.

The following resolution was laid before the house:

HR 243, Honoring Tom Rohm for his exemplary tenure on the Richardson City Council.

HR 243 was adopted.

HR 244 - ADOPTED
(by Hill)

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 244**.

The motion prevailed.

The following resolution was laid before the house:

HR 244, Congratulating Rhea Allison on his election to the Richardson City Council.

HR 244 was adopted.

HR 245 - ADOPTED
(by Hill)

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 245**.

The motion prevailed.

The following resolution was laid before the house:

HR 245, Congratulating Steve Mitchell on his election to the Richardson City Council.

HR 245 was adopted.

HR 246 - ADOPTED
(by Hill)

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 246**.

The motion prevailed.

The following resolution was laid before the house:

HR 246, Congratulating John F. Sweeden on his election to the Richardson City Council.

HR 246 was adopted.

HR 249 - ADOPTED
(by Jackson)

Representative Jackson moved to suspend all necessary rules to take up and consider at this time **HR 249**.

The motion prevailed.

The following resolution was laid before the house:

HR 249, Honoring Buddy and Norma Jo Cole on the occasion of their 50th wedding anniversary.

HR 249 was adopted.

HR 250 - ADOPTED
(by Jackson)

Representative Jackson moved to suspend all necessary rules to take up and consider at this time **HR 250**.

The motion prevailed.

The following resolution was laid before the house:

HR 250, Honoring Joe and Shirley Mac Reiman on the occasion of their 50th wedding anniversary.

HR 250 was adopted.

HR 253 - ADOPTED
(by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 253**.

The motion prevailed.

The following resolution was laid before the house:

HR 253, Honoring Ron Chapman of Dallas on the occasion of his retirement from radio broadcasting.

HR 253 was adopted.

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.)

PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Wednesday, July 13.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Judiciary, upon adjournment today, Desk 70, for a formal meeting, to consider **HB 34**.

Calendars, upon adjournment today, 3W.9, for a formal meeting.

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

ADJOURNMENT

Representative F. Brown moved that the house adjourn until 1 p.m. tomorrow in memory of the victims of the terrorist attacks in London, England.

The motion prevailed.

The house accordingly, at 12:39 p.m., adjourned until 1 p.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 84 (By Coleman), Relating to the exercise of eminent domain authority or purchase of certain real property by certain nonprofit charitable corporations.

To Land and Resource Management.

HB 85 (By R. Allen), Relating to the election and duties of a chief appraiser of an appraisal district.

To Ways and Means.

HB 86 (By Van Arsdale), Relating to the use of the power of eminent domain.

To Land and Resource Management.

HB 87 (By Edwards), Relating to the location of concrete stockpiles at certain portable concrete crushing facilities.

To Environmental Regulation.

HB 88 (By Mowery), Relating to the jurisdiction of certain home-rule municipalities on a barrier island in the Gulf of Mexico.

To Land and Resource Management.

HB 89 (By Hupp), Relating to a fee to support the appointment of attorneys ad litem in certain civil suits.

To Judiciary.

HB 90 (By Escobar), Relating to the creation of a judicial district in Kenedy and Kleberg Counties and to the composition of the 105th Judicial District.

To Judiciary.

HB 91 (By Escobar), Relating to the creation of the Kleberg County Groundwater Conservation District; providing authority to impose a tax and issue bonds and granting the power of eminent domain.

To Natural Resources.

HB 93 (By Madden), Relating to a loan secured by personal property with limited recourse against the borrower.

To Financial Institutions.

HB 94 (By Coleman), Relating to authorizing the issuance of revenue bonds for the University of Houston.

To Higher Education.

HB 95 (By Coleman), Relating to authorizing the issuance of revenue bonds for the University of Houston–Downtown.

To Higher Education.

HB 96 (By Coleman), Relating to authorizing the issuance of revenue bonds for Texas Southern University.

To Higher Education.

HB 97 (By Riddle), Relating to the authorization of a local option election in a county to set a limit of less than 10 percent but not less than three percent on the maximum average annual increase in the appraised value of residence homesteads for ad valorem tax purposes.

To Ways and Means.

HB 98 (By Howard), Relating to prohibiting discrimination based on a student's secondary school in awarding certain financial aid for higher education.

To Higher Education.

HCR 15 (By Homer), In memory of Thelma Jeane Day of Brookston.

To Rules and Resolutions.

HCR 16 (By Homer), In memory of Grady W. Elmore of Paris.

To Rules and Resolutions.

HCR 17 (By Homer), In memory of William A. Ressler of Paris.

To Rules and Resolutions.

HCR 18 (By Dutton), Requesting the lieutenant governor and speaker of the house of representatives to create a select committee on education to conduct an interim study on the creation, consolidation, and abolition of school districts in Texas.

To Public Education.

HCR 19 (By Craddick), In memory of Patricia Warren Innerarity of Midland.

To Rules and Resolutions.

HCR 20 (By Homer), In memory of Joe Paul Cobb of Paris, Texas.

To Rules and Resolutions.

HR 192 (By Woolley), In memory of Nancy Keith Wencke Crouch of Houston.

To Rules and Resolutions.

HR 195 (By Bohac), Congratulating Richard and Darlene Rabe of Houston on their 42nd wedding anniversary.

To Rules and Resolutions.

HR 196 (By Miller), Honoring the Tarleton State University rodeo teams for winning the 2005 national collegiate rodeo championships.

To Rules and Resolutions.

HR 197 (By Castro), Honoring Zachery Ryan Olson of San Antonio on attaining the rank of Eagle Scout.

To Rules and Resolutions.

HR 198 (By Castro), Honoring Joshua Troy Rathbun of San Antonio on attaining the Eagle Scout insignia.

To Rules and Resolutions.

HR 200 (By Giddings, Hill, Veasey, and A. Allen), Urging Texas community colleges to offer an associate's degree with an emphasis on African American/Black Studies.

To Higher Education.

HR 205 (By Craddick), Honoring Desiree Childs of Lamesa on her receipt of the High-Academic Achievement Award.

To Rules and Resolutions.

HR 206 (By Craddick), Congratulating Herman and Velera Jones of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

HR 207 (By Craddick), Honoring Jerry and Peggy Hertel of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

HR 208 (By Craddick), Honoring Loren and Bobbie Roberts of Abilene on their 50th wedding anniversary.

To Rules and Resolutions.

HR 209 (By Craddick), Honoring Leroy and Evelyn Stewart of Midland on their 55th wedding anniversary.

To Rules and Resolutions.

HR 210 (By Hughes), In memory of Martha Louise Raynes of Mineola.

To Rules and Resolutions.

HR 211 (By Hughes), Congratulating Jean Perry Birmingham of Marshall for being named the 2005 Top Lady of the Year by the Marshall chapter of the Top Ladies of Distinction.

To Rules and Resolutions.

HR 212 (By Hughes), Honoring George and Maxine Nafe of Mineola on their 50th wedding anniversary.

To Rules and Resolutions.

HR 214 (By Hunter), Congratulating Lynn Barnett for her 25 years of work to advance the arts in Texas.

To Rules and Resolutions.

HR 215 (By Howard), In memory of Gene Dinges of Houston.

To Rules and Resolutions.

HR 216 (By Howard), In memory of Rufus Paul King of Houston.
To Rules and Resolutions.

HR 217 (By Escobar), Commending Mayor Carlos Cantu of La Feria on his years of service to the city.
To Rules and Resolutions.

HR 218 (By Branch), Congratulating the Highland Park High School girls cross country team on winning the state championship title.
To Rules and Resolutions.

HR 219 (By Branch), Congratulating Carly Bender of Dallas for winning the 2005 Junior Texas State Grand Twirling Championship and recognizing July 20-26, 2005, as National Baton Twirling Week in Texas.
To Rules and Resolutions.

HR 220 (By Rodriguez), Honoring Raman Gill and Robert Doggett of Austin on the birth of their daughter, Reva Rose Gill.
To Rules and Resolutions.

HR 221 (By Rodriguez), Congratulating Jed and Leslie Lackman on the birth of their daughter, Sadye Jane Lackman, and recognizing her as an honorary Texan.
To Rules and Resolutions.

HR 222 (By Bonnen), Honoring executive director A. J. "Pete" Reixach, Jr., on his 20th anniversary with Port Freeport.
To Rules and Resolutions.

SB 5 to Appropriations.

SB 6 to Appropriations.