

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, THIRD CALLED SESSION

PROCEEDINGS

FIRST DAY — MONDAY, APRIL 17, 2006

In obedience of the proclamation of His Excellency, Rick Perry, Governor of the State of Texas, convening the 79th Legislature, Third Called Session, to meet in special session at Austin, Texas, the seat of government, on this the 17th day of April 2006, the members of the House of Representatives assembled in the hall of the House of Representatives, and at 2 p.m. the house was called to order by the Honorable Tom Craddick, speaker.

The roll of the house was called and a quorum was announced present (Record 1).

Present — Mr. Speaker; Allen, A.; Alonzo; Anchia; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Hupp; 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, R.; Oliveira; Olivo; Orr; Otto; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Corte, F.; Crabb; Isett, C.H.

Absent — Hope; Paxton.

The invocation was offered by Reverend Jon Stouffer, First United Methodist Church, Dayton, as follows:

Almighty and everlasting. Alpha and Omega. Beginning and end. We adore your most holy name. You alone are sovereign of all creation and you alone are light and life and love. We rejoice in your holy presence.

Dear Lord, we confess that we often put ourselves first to receive benefits, though we know you have called us to a life of service. Forgive our selfishness so that we might freely serve the least, last, and lost. Send us as your agents of mercy and grace to all your children.

As we gather today in this house of representatives, there is essential and important work before this body. With your people, we lift these representatives to your throne of love so that they may be of one mind and one purpose as they seek to fulfill their responsibilities. Help us all to work in a spirit of peacefulness and partnership for the greater good of all people.

We pray to you for the students, teachers, and administrators in our schools, that they may learn and grow as you have designed. Remind us to hold the littlest of all at the heart of our thoughts in all that we do. We humbly pray for your direction and blessing on these proceedings that we might live in the midst of your will. I pray in the name of Jesus Christ. And may we all as God's children say together, Amen.

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

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today because of military duty in Iraq:

F. Corte on motion of Hilderbran.

The following member was granted leave of absence for today because of military duty in Kuwait:

C. H. Isett on motion of D. Jones.

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

Crabb on motion of Denny.

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

Escobar on motion of Gonzalez Toureilles.

CAPITOL PHYSICIAN

The speaker recognized Representative Laney who presented Dr. Kevin Stennett of Lockney as the "Doctor for the Day."

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

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 ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, education is the foundation for the economic and cultural future of the State of Texas and the constitutional responsibility for the development of an efficient system of public education rests with the legislature; and

WHEREAS, the current state of public school finance requires immediate action by the legislature to ensure the continued efficient and effective operation of Texas schools due to the Texas Supreme Court's conclusion that the public education finance system violates Article VIII, Section 1(e) of the Texas Constitution and the Texas Supreme Court has given the legislature until June 1, 2006, to change the public education finance system; and

WHEREAS, the people have placed the constitutional power to call and convene the legislature into special session in the hands of the Chief Executive Officer of the State;

NOW, THEREFORE, I, RICK PERRY, GOVERNOR OF THE STATE OF TEXAS, by the authority vested in me by Article IV, Section 8 of the Texas Constitution, do hereby call an extraordinary session of the 79th Legislature, to be convened in the city of Austin, commencing at 2 p.m. on Monday the 17th day of April 2006, for the following purposes:

To consider legislation that provides for school district property tax relief.

To consider legislation that provides for modification of the franchise tax.

To consider legislation that provides for modification of the motor vehicle sales and use tax.

To consider legislation that provides for modification of the tax on tobacco products.

To consider legislation that provides for an appropriation to the Texas Education Agency.

The Secretary of State will take notice of this action and will notify the members of the legislature of my action.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my Office in the city of Austin, Texas, this the 17th day of April 2006.

Rick Perry
Governor of Texas

(SEAL)
ATTESTED BY:
Roger Williams
Secretary of State

REGULAR ORDER OF BUSINESS SUSPENDED

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

STATEMENT BY THE SPEAKER

The speaker announced in accordance with Article XVI, Section 72 of the Texas Constitution, a selection of temporary acting representatives was in order and must be approved by the house by resolution.

**HR 35 - ADOPTED
(by Hilderbran)**

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 35**.

The motion prevailed.

The following resolution was laid before the house:

HR 35

WHEREAS, The Honorable Frank Corte, Jr., duly elected to serve as state representative for House District 122 for the 79th Legislature, is serving on active duty in the armed forces of the United States as a colonel in the United States Marine Corps stationed in Iraq, and under the terms of his activation will be on active duty for longer than 30 days; and

WHEREAS, Representative Frank Corte, Jr., has taken the oath of office from an officer authorized by Texas law to give the oath and has begun serving his term as a member of the House of Representatives of the 79th Texas Legislature; and

WHEREAS, Pursuant to Section 72, Article XVI, Texas Constitution, Representative Frank Corte, Jr., has selected Valerie Ryder Corte to serve as temporary acting representative for House District 122; now, therefore, be it

RESOLVED, That the House of Representatives of the 79th Texas Legislature, 3rd Called Session, hereby approves Representative Frank Corte, Jr.'s, selection of Valerie Ryder Corte to serve as temporary acting representative for House District 122 for the shorter period of:

(1) the term of Representative Frank Corte, Jr.'s, active military service;

or

(2) the term of office to which Representative Frank Corte, Jr., was elected; and, be it further

RESOLVED, That Temporary Acting Representative Valerie Ryder Corte has all the powers, privileges, and duties of the office and is entitled to the same compensation, payable in the same manner and from the same source, as Representative Frank Corte, Jr., the member of the house whom Temporary Acting Representative Valerie Ryder Corte is temporarily replacing.

HR 35 was adopted.

HR 36 - ADOPTED
(by D. Jones)

Representative D. Jones moved to suspend all necessary rules to take up and consider at this time **HR 36**.

The motion prevailed.

The following resolution was laid before the house:

HR 36

WHEREAS, The Honorable Carl Isett, duly elected to serve as state representative for House District 84 for the 79th Legislature, has been called up from the United States Navy Reserve to serve as the Executive Officer of Navy Customs Battalion QUEBEC, along with over 400 Navy reservists, to perform a U.S. Customs and Border Protection mission to clear equipment and soldiers as they come home from the war in Iraq, and under the terms of his activation will be on active duty for longer than 30 days; and

WHEREAS, Representative Carl Isett has taken the oath of office from an officer authorized by Texas law to give the oath and has begun serving his term as a member of the House of Representatives of the 79th Texas Legislature; and

WHEREAS, Pursuant to Section 72, Article XVI, Texas Constitution, Representative Carl Isett has selected Cheri Nannette Isett to serve as temporary acting representative for House District 84; now, therefore, be it

RESOLVED, That the House of Representatives of the 79th Texas Legislature, 3rd Called Session, hereby approves Representative Carl Isett's selection of Cheri Nannette Isett to serve as temporary acting representative for House District 84 for the shorter period of:

(1) the term of Representative Carl Isett's active military service; or

(2) the term of office to which Representative Carl Isett was elected; and, be it further

RESOLVED, That Temporary Acting Representative Cheri Nannette Isett has all the powers, privileges, and duties of the office and is entitled to the same compensation, payable in the same manner and from the same source, as Representative Carl Isett, the member of the house whom Temporary Acting Representative Cheri Nannette Isett is temporarily replacing.

HR 36 was adopted.

(Paxton now present)

OATH OF OFFICE ADMINISTERED

Valerie Ryder Corte and Cheri Nannette Isett took the constitutional oath of office as temporary acting state representatives, which was administered by Speaker Craddick, as follows:

"I, _____, as a duly selected temporary acting representative, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of State Representative, District ____, of the State of Texas, and will to the best of my ability preserve, protect, and defend the constitution and laws of the United States and of this state. So help me God."

HR 12 - ADOPTED
(by Swinford)

Representative Swinford moved to suspend all necessary rules to take up and consider at this time **HR 12**.

The motion prevailed.

The following resolution was laid before the house:

HR 12, Honoring the lives lost in the 1956 Shamrock McKee Plant fire and commemorating the dedication of Station 19, at the site of that tragedy.

HR 12 was unanimously adopted by a rising vote.

HR 13 - ADOPTED
(by Branch)

Representative Branch moved to suspend all necessary rules to take up and consider at this time **HR 13**.

The motion prevailed.

The following resolution was laid before the house:

HR 13, Welcoming James P. Moore, Jr., the author of the book One Nation Under God: The History of Prayer in America, to the Texas State Capitol.

HR 13 was read and was adopted.

INTRODUCTION OF GUEST

The speaker recognized Representative Branch who introduced James P. Moore, Jr.

HCR 11 - ADOPTED
(by Craddick)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HCR 11**.

The motion prevailed.

The following resolution was laid before the house:

HCR 11, Honoring Jo and Fred Nayfa of Sweetwater on their 60th wedding anniversary.

HCR 11 was read and was adopted.

On motion of Representative Hunter, the names of all the members of the house were added to **HCR 11** as signers thereof.

HR 38 - ADOPTED
(by Gattis)

Representative Gattis moved to suspend all necessary rules to take up and consider at this time **HR 38**.

The motion prevailed.

The following resolution was laid before the house:

HR 38, Granting permission to Texas Aggie Muster to use the chamber of the Texas House of Representatives on April 21, 2006, between the hours of 7 p.m. and 11 p.m., unless the house is in session.

HR 38 was adopted.

(Hope now present)

PROVIDING FOR ADJOURNMENT

The speaker stated that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees and notification from the senate, the house would adjourn until 10 a.m. tomorrow in memory of Royce Wesley Poinsett of Austin and in honor of the 60th wedding anniversary of Jo and Fred Nayfa of Sweetwater.

The motion prevailed.

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.)

HOUSE NOTIFIED

A committee from the senate was announced at the door of the house and, being admitted, notified the house that the senate is organized and ready to transact business.

ADJOURNMENT

In accordance with a previous motion, the house, at 2:57 p.m., adjourned until 10 a.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 1 (By Chisum, Eissler, and Branch), Relating to public school finance and property tax rate compression; making an appropriation.

To Ways and Means.

HB 2 (By Pitts), Relating to the allocation of certain revenue from franchise taxes, motor vehicle sales and use taxes, and taxes on cigarettes and other tobacco products to provide property tax relief.

To Ways and Means.

HB 3 (By J. Keffer, Luna, and Otto), Relating to the franchise tax; making an appropriation; providing penalties.

To Ways and Means.

HB 4 (By Swinford), Relating to motor vehicle sales and use taxes.

To Ways and Means.

HB 5 (By Hamric), Relating to increases in the taxes on cigarettes and other tobacco products.

To Ways and Means

HB 11 (By Peña), Relating to the salary paid to certain professional employees of public schools.

To Public Education.

HB 12 (By Peña), Relating to privacy of wireless telecommunications customer information; providing a civil penalty.

To Regulated Industries.

HB 13 (By Peña), Relating to authorizing the issuance of revenue bonds for The University of Texas–Pan American.

To Higher Education.

HB 14 (By Riddle), Relating to the appraisal of property for ad valorem tax purposes.

To Ways and Means.

HB 15 (By Bohac, Nixon, et al.), Relating to the limitation on the maximum average annual percentage increase in the appraised value of residence homesteads for ad valorem tax purposes.

To Ways and Means.

HB 16 (By Bohac), Relating to the imposition of the motor vehicle sales tax on certain motor vehicles using alternative fuels.

To Ways and Means.

HB 17 (By Bohac), Relating to increasing the maximum amount of the local option residence homestead exemption from ad valorem taxation by a taxing unit from 20 percent to 30 percent.

To Ways and Means.

HB 18 (By Bohac), Relating to exemptions from the sales tax for school supplies.

To Ways and Means.

HB 19 (By Bohac), Relating to the punishment of certain assaults committed against employees of primary and secondary schools.

To Public Education.

HB 20 (By Rodriguez), Relating to the imposition of an income tax and the funding of public education through that tax; providing penalties.

To Ways and Means.

HB 21 (By Phillips and Leibowitz), Relating to the salary paid to certain professional employees of public schools.

To Public Education.

HB 22 (By Solomons), Relating to state support of the public school system.

To Public Education.

HB 23 (By Delisi), Relating to providing mentors for certain classroom teachers.

To Public Education.

HB 24 (By Callegari), Relating to the limitation on the maximum average annual percentage increase in the appraised value of a residence homestead for ad valorem tax purposes.

To Ways and Means.

HB 25 (By Hopson), Relating to compensation supplementation for certain educational employees.

To Public Education.

HB 26 (By Burnam), Relating to the imposition of an income tax on income that exceeds \$100,000 to provide property tax relief and fund public education; providing penalties.

To Ways and Means.

HB 27 (By Burnam), Relating to the imposition of an energy efficiency tax and to the use of the proceeds to fund education; providing penalties.

To Ways and Means.

HB 28 (By Burnam), Relating to the imposition of a tax on mercury emissions and to the use of the proceeds to fund education; providing penalties.

To Ways and Means.

HB 29 (By Burnam), Relating to the imposition of a tax on the use of coal and to the use of the revenue from the tax for public education; providing penalties.

To Ways and Means.

HB 30 (By Burnam), Relating to the imposition of a tax on carcinogenic, developmental, and reproductive toxicants and to the use of the proceeds to fund education; providing penalties.

To Ways and Means.

HB 31 (By Turner), Relating to adjusting the "price to beat" for electric utility services to reflect reduced natural gas fuel prices.

To Regulated Industries.

HB 32 (By Turner), Relating to the system benefit fund and to eligibility for and enrollment for benefits under the fund.

To Regulated Industries.

HB 33 (By Hochberg), Relating to an optional flexible school day program for students in grades nine through twelve who have dropped out of school or who are at-risk of dropping out.

To Public Education.

HB 34 (By Hochberg), Relating to the assignment of students to classroom teachers.

To Public Education.

HB 35 (By Hochberg), Relating to school district internal auditors.

To Public Education.

HB 36 (By Hochberg), Relating to a credits program for the purchase of textbooks and related materials by a school district or open-enrollment charter school.

To Public Education.

HB 37 (By Hochberg), Relating to outside employment by school district superintendents.

To Public Education.

HB 38 (By Hochberg), Relating to adjustments in charter school funding.

To Public Education.

HB 39 (By Hochberg), Relating to instruments adopted for use in the public school accountability system.

To Public Education.

HB 40 (By Hamric), Relating to the salary and benefits of certain employees of public schools.

To Public Education.

HB 42 (By Casteel), Relating to the salary paid to certain professional employees of public schools.

To Public Education.

HB 43 (By Casteel), Relating to health coverage or compensation supplementation for certain education employees.

To Public Education.

HB 44 (By Casteel), Relating to enhanced retirement benefits for certain members of the Teacher Retirement System of Texas.

To Public Education.

HCR 1 (By Van Arsdale), Congratulating The University of Texas Longhorn football team and Coach Mack Brown and his staff on winning the 2005 National Championship.

To Rules and Resolutions.

HCR 13 (By Keel), Congratulating Coach Mack Brown and The University of Texas Longhorn football team on winning the 2005 National Championship.

To Rules and Resolutions.

HJR 11 (By Riddle), Proposing a constitutional amendment authorizing the legislature to provide for 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.

HJR 12 (By Bohac), Proposing a constitutional amendment to increase the maximum amount of the local option residence homestead exemption from ad valorem taxation by a political subdivision from 20 percent to 30 percent.

To Ways and Means.

HJR 13 (By Bohac, Nixon, et al.), Proposing a constitutional amendment authorizing the legislature to establish for purposes of ad valorem taxation by a school district a limit on the annual increase in the appraised value of residence homesteads of five percent or more, and to permit other political subdivisions to adopt a five percent limit on those appraisal increases.

To Ways and Means.

HJR 14 (By Rodriguez), Proposing a constitutional amendment that provides for the approval of an income tax adopted by the legislature, requires that a deduction or exemption to the tax that redistributes the combined tax liability be approved in a statewide referendum, and allows revenue from the tax to be spent on education and any other purpose.

To Ways and Means.

HJR 15 (By Solomons), Proposing a constitutional amendment requiring the state to pay at least 50 percent of the cost of maintaining and operating the public school system and prohibiting the comptroller from certifying legislation containing an appropriation unless the requirement is met.

To Ways and Means.

HJR 16 (By Callegari), Proposing a constitutional amendment to authorize the legislature to set a lower limit on the maximum average annual percentage increase in the appraised value of a residence homestead for ad valorem tax purposes.

To Ways and Means.

HJR 17 (By Hopson), Proposing a constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes to \$22,500 and providing for an adjustment of the limitation on the total amount of taxes that may be imposed for those purposes on the homesteads of the elderly or disabled to reflect the increased exemption amount and changes in the rate of the tax imposed for those purposes.

To Ways and Means.

HJR 18 (By Anderson), Proposing a constitutional amendment requiring any increase in the rate of the franchise tax be approved by two-thirds of all the members elected to each house of the legislature.

To Ways and Means.

HR 11 (By Chavez), Paying tribute to the life of Cesar Chavez on the occasion of the thirteenth anniversary of his death.

To Rules and Resolutions.

HR 14 (By Goolsby), Honoring Dallas on the 150th anniversary of its incorporation.

To Rules and Resolutions.

HR 15 (By Goolsby), In memory of Juanita Lewis Miller of Dallas.

To Rules and Resolutions.

HR 16 (By Goolsby), In memory of broadcast journalist Anthony Otis Garrett of Dallas.

To Rules and Resolutions.

HR 17 (By Goolsby), In memory of Officer Brian Howard Jackson of the Dallas Police Department.

To Rules and Resolutions.

HR 18 (By Goolsby), In memory of R. C. "Ted" Bibby of Dallas.

To Rules and Resolutions.

HR 19 (By Goolsby), Recognizing Pavillion Bank of Richardson.

To Rules and Resolutions.

HR 20 (By Goolsby), In memory of James Lindsay Embrey, Jr., of Dallas.

To Rules and Resolutions.

HR 21 (By Goolsby), Honoring All Saints Catholic Church and School on the occasion of the parish's 30th anniversary.

To Rules and Resolutions.

HR 22 (By Goolsby), Honoring President George Herbert Walker Bush and former First Lady Barbara Bush on their receipt of the Allan Shivers Public Service Award from the Headliners Foundation of Texas.

To Rules and Resolutions.

HR 23 (By Goolsby), Honoring the Greater Dallas Asian American Chamber of Commerce on its 20th anniversary.

To Rules and Resolutions.

HR 24 (By Goolsby), Commending Larry Foles and Guy Villavaso for their commitment to providing Central Texans with exceptional seafood at Eddie V's Edgewater Grille.

To Rules and Resolutions.

HR 25 (By Goolsby), In memory of Modyne Baity-Boatwright of Austin.

To Rules and Resolutions.

HR 26 (By Goolsby), In memory of John Carl Heft of Richardson.

To Rules and Resolutions.

HR 27 (By Goolsby), Honoring Karl Rove on his roast at Headliners Club in Austin.

To Rules and Resolutions.

HR 28 (By Goolsby), Honoring Sergeant Joe A. DeCorte on his retirement from the Dallas Police Department.

To Rules and Resolutions.

HR 30 (By Woolley), In memory of Ben Love of Houston.

To Rules and Resolutions.

HR 31 (By Woolley), In memory of Richard J. V. Johnson of Houston.

To Rules and Resolutions.

HR 32 (By Woolley), In memory of Walter M. Mischer of Houston.

To Rules and Resolutions.

HR 33 (By Dunnam, Gallego, and Coleman), Amending the House Rules to provide for transparency and ethical leadership in the operation of the House.

To Rules and Resolutions.

HR 34 (By Hill), Congratulating the Richardson Berkner Rams basketball team for reaching the Class 5A final four in the 2006 UIL state tournament.

To Rules and Resolutions.

