

HOUSE JOURNAL

EIGHTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

TWENTY-FOURTH DAY — TUESDAY, FEBRUARY 20, 2007

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 61).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent, Excused — O'Day.

Absent — Anderson; Corte; Hartnett; Hill; Mowery; Noriega; Oliveira; Smith, T.

The invocation was offered by Reverend Loyd Morris, St. Anthony Catholic Church, Wylie, as follows:

Lord of all power and might, from whom comes every good and perfect gift. Pour out your blessing upon this great State of Texas, that we may have grace to use your rich gifts according to your holy will, and strengthen us to seek peace and justice for all mankind.

O God, we beg you to endow the legislators of this great State of Texas with your continual blessing, that they, worthily exercising the power which you have given them, may truly and righteously govern the people committed to their charge.

O God, the fountain of all wisdom, whose statutes are good and gracious, and whose law is truth, we beg you so to guide and bless our legislature, that it may ordain for our governance only such things as please you, to the glory of your name and the welfare of your people. Through Jesus Christ our Lord. Amen.

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

CAPITOL PHYSICIAN

The speaker recognized Representative Paxton who presented Dr. Christopher Lawrence of McKinney as the "Doctor for the Day."

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

(Anderson, Corte, and Hill now present)

(Goolsby in the chair)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today and the remainder of the week because of illness:

O'Day on motion of Aycock.

(Noriega now present)

HR 478 - ADOPTED (by McCall)

Representative McCall moved to suspend all necessary rules to take up and consider at this time **HR 478**.

The motion prevailed.

The following resolution was laid before the house:

HR 478, Recognizing February 20, 2007, as Collin County Day at the State Capitol.

HR 478 was read and was adopted.

(Mowery and T. Smith now present)

(Speaker in the chair)

HR 182 - ADOPTED (by Dutton)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 182**.

The motion prevailed.

The following resolution was laid before the house:

HR 182, Honoring Houston native Vince Young for being named the 2006 Associated Press NFL Offensive Rookie of the Year.

HR 182 was read and was adopted.

On motion of Representative Turner, the names of all the members of the house were added to **HR 182** as signers thereof.

INTRODUCTION OF GUEST

The speaker recognized Representative Dutton who introduced Vince Young who briefly addressed the house.

(McClendon in the chair)

HR 457 - ADOPTED (by Noriega)

Representative Noriega moved to suspend all necessary rules to take up and consider at this time **HR 457**.

The motion prevailed.

The following resolution was laid before the house:

HR 457, Honoring Claude Richard and Lillian Elise Hazel of Houston on their 51st wedding anniversary.

(Speaker in the chair)

HR 457 was adopted.

HR 476 - ADOPTED (by McClendon)

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 476**.

The motion prevailed.

The following resolution was laid before the house:

HR 476, Recognizing March 2-11, 2007, as Multiple Sclerosis Awareness Week.

HR 476 was read and was adopted.

On motion of Representatives Hardcastle and Miller, the names of all the members of the house were added to **HR 476** as signers thereof.

INTRODUCTION OF GUESTS

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

(Harper-Brown in the chair)

HCR 84 - ADOPTED (by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HCR 84**.

The motion prevailed.

The following resolution was laid before the house:

HCR 84, Welcoming Leadership Kerr County to the State Capitol.

HCR 84 was read and was adopted.

HR 479 - ADOPTED
(by Dukes)

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 479**.

The motion prevailed.

The following resolution was laid before the house:

HR 479, Honoring Montel Williams for his work with the Partnership for Prescription Assistance.

(Speaker in the chair)

HR 479 was read and was adopted.

On motion of Representative Hardcastle, the names of all the members of the house were added to **HR 479** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hardcastle who introduced Montel Williams and Ken Johnson. Mr. Williams and Mr. Johnson briefly addressed the house.

HR 157 - ADOPTED
(by Zedler and Pierson)

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

The motion prevailed.

The following resolution was laid before the house:

HR 157, Recognizing February 20, 2007, as Mansfield Day at the State Capitol.

HR 157 was read and was adopted.

(Taylor in the chair)

HR 188 - ADOPTED
(by Zedler)

Representative Zedler moved to suspend all necessary rules to take up and consider at this time **HR 188**.

The motion prevailed.

The following resolution was laid before the house:

HR 188, Recognizing the Mansfield ISD Board of Trustees on its first-place award in the 2006 Digital School Boards Survey.

HR 188 was read and was adopted.

**HCR 85 - ADOPTED
(by Hopson)**

Representative Hopson moved to suspend all necessary rules to take up and consider at this time **HCR 85**.

The motion prevailed.

The following resolution was laid before the house:

HCR 85, Declaring February 20, 2007, as Panola County Day at the State Capitol.

HCR 85 was read and was adopted.

On motion of Representative Bonnen, the names of all the members of the house were added to **HCR 85** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Hopson who introduced a delegation from Panola County.

**HR 464 - ADOPTED
(by Flores)**

Representative Flores moved to suspend all necessary rules to take up and consider at this time **HR 464**.

The motion prevailed.

The following resolution was laid before the house:

HR 464, Welcoming the Texas Association of Fairs and Events delegation to the State Capitol.

HR 464 was read and was adopted.

On motion of Representative Noriega, the names of all the members of the house were added to **HR 464** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Flores who introduced representatives of the Texas Association of Fairs and Events.

**HR 442 - ADOPTED
(by Flores)**

Representative Flores moved to suspend all necessary rules to take up and consider at this time **HR 442**.

The motion prevailed.

The following resolution was laid before the house:

HR 442, Honoring BorderFest in Hidalgo for its cultural and civic contributions to its community.

HR 442 was read and was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative Flores who introduced representatives of BorderFest and the City of Hidalgo.

(Hartnett now present)

COMMITTEE APPOINTED

The chair announced the appointment of the following committee to escort Chief Justice Wallace B. Jefferson to the speaker's rostrum: Representatives Hartnett, chair; Gonzales, Riddle, Mallory Caraway, and Goolsby.

HOUSE AT EASE

At 11:15 a.m., the chair announced that the house would stand at ease.

The speaker called the house to order at 11:38 a.m.

ADDRESS BY THE HONORABLE WALLACE B. JEFFERSON (The House of Representatives and the Senate in Joint Session)

In accordance with the provisions of **SCR 13**, providing for a joint session of the senate and house of representatives for the purpose of hearing an address by the Honorable Wallace B. Jefferson, Chief Justice of the Supreme Court of Texas, Governor Rick Perry, Lieutenant Governor David Dewhurst, and the honorable senators were announced at the door of the house and were admitted.

The senators occupied seats arranged for them.

Governor Rick Perry and Lieutenant Governor David Dewhurst were escorted to the speaker's rostrum.

The Honorable Wallace B. Jefferson, announced at the door of the house and, being admitted, was escorted by Senators Wentworth, chair; Duncan, Ellis, Seliger, and Watson, committee on part of the senate; and Representatives Hartnett, chair; Gonzales, Riddle, Mallory Caraway, and Goolsby, committee on part of the house.

Lieutenant Governor Dewhurst called the senate to order and a quorum of the senate was announced present.

Speaker Craddick stated that a quorum of the house was present.

Speaker Craddick announced that the two houses were in joint session pursuant to **SCR 13** for the purpose of hearing an address by the Honorable Wallace B. Jefferson, Chief Justice of the Supreme Court of Texas.

Speaker Craddick recognized members of the Supreme Court of Texas, presiding Judge Sharon Keller, members of the Court of Criminal Appeals of Texas, former Chief Justice Joe Greenhill, former Chief Justice Jack Pope, former Chief Justice Tom Phillips, former Justice Jack Hightower, former Justice Craig Enoch, and Rhonda Jefferson, wife of Chief Justice Jefferson, and her parents.

Speaker Craddick recognized Lieutenant Governor Dewhurst who introduced Chief Justice Jefferson to the joint session. Chief Justice Jefferson presented the State of the Judiciary address, speaking as follows:

Governor Perry, Lieutenant Governor Dewhurst, Speaker Craddick, distinguished members of the senate and the house of representatives, ladies and gentlemen. I am honored to appear before you for my biennial State of the Judiciary address,⁽¹⁾ one of the unique privileges afforded the Chief Justice of Texas. It provides an occasion for an independent branch of government to speak directly to the legislative and executive branches about ideas for improving the administration of justice in our great state. The presence this morning of Lieutenant Governor Dewhurst, Speaker Craddick, and Governor Perry is testament to the respect that the legislature and the executive bestow on our judiciary.

The state of our judiciary is strong. It is strong because of the public servants sitting before me—judges who have devoted their lives to ensuring that Texans have a fair and impartial forum to resolve grievances, who insist that the guilty be convicted and the innocent freed. It is strong due to the leadership of the public servants sitting behind me. Last session the governor, concerned that our best and brightest judges could no longer afford to serve, called for an increase in judicial compensation. The speaker and lieutenant governor, the house and the senate, ushered in a judicial pay increase that has extended the tenure of our most talented judges.

In order to maintain the strength of our judicial system in the years and decades to come, we must begin to consider what changes may be required to meet the evolving needs of our state. I urge you, as legislators and policymakers, and you, as citizens and opinion leaders, to take a hard look at every aspect of our judicial system—its structure, its funding, its effectiveness at meeting our citizens' needs—to ensure that our judicial system remains strong and reliable well into the future.

The Structure of the Judiciary

What will the structure of the judiciary look like in the next 10 to 20 years? If current trends continue, only a small fraction of the courts' workload will include traditional jury trials. Although the number of civil cases filed in our trial courts has steadily increased in recent years,⁽²⁾ the number of jury trials has decreased as parties insist on the right to arbitrate their claims. Growing numbers of civil litigants are turning away from the court system to resolve their disputes this way, in private, without judges or jurors.⁽³⁾ They opt out of our courts because they believe the private sector offers a simplified, streamlined process, a quick resolution of their disputes at an efficient price, and a decisionmaker with specialized experience.

When citizens flee our judicial system, however, we lose the public component of justice. The courts of Texas are open and accessible. Cases that are litigated in our courts (even those involving private conflicts) often affect public interests—jobs, the environment, technological or medical development, land use, a stable legal environment promoting investment in the Texas market. An

open court system ensures that the people of Texas benefit from a full public airing of the issues, and it allows innovations and solutions learned from today's cases to help resolve tomorrow's disputes. A deliberate progression in the law ensures that similar cases are treated similarly and that litigants can count on fair and even-handed justice. And when the law does change, court decisions evolve with that change in a principled and considered manner. Careful application of the law at the trial level and a guaranteed right to appellate review allow the judicial system to avoid arbitrary results.

I have no doubt that private dispute resolution plays a valuable role as an alternative to the traditional justice system, but there are hidden costs. The outcomes in a private system need not be consistent, because there is no public record of the proceedings and therefore no requirement that similar cases yield similar results. When a significant error is committed in a private setting, there is little hope of correcting the resulting injustice because appellate review is virtually non-existent. And without appellate review, there is no mechanism to resolve varying and contradictory interpretations of the law. Finally, a privately litigated matter may well affect public rights. Its resolution may ultimately harm the public good or, because the decision is secret, impede an innovation to a recurring problem, much to the detriment of Texas citizens.

Of course, litigants will always have the right to seek private dispute resolution, but we should take care to make the court system responsive to people's needs so that we do not lose the benefit of a vibrant public court system, one that can provide justice at a fraction of the private cost and can ensure that the state maintains a principled and public development of the law. I therefore recommend that the legislature consider ways in which the structure of our judicial system may be modified to incorporate the benefits of private dispute resolution while still maintaining the advantages of our public judicial system.

What would such structural changes look like? It may be time to update the statutory framework for the state's trial courts. Texas's patchwork court system has developed over many decades, resulting in a current structure that "has gone from elaborate to Byzantine."⁽⁴⁾ Some counties share a multi-county district court, while others have multiple districts within the county. And some counties are a part of more than one district, creating a shifting target for litigants who may not know which court's rules prevail. Overlapping geographical jurisdiction creates confusion for litigants and increases the risk of conflicting rulings in a single area. It is time to consider reapportioning the judicial districts to achieve greater consistency. The Texas Constitution provides a mechanism by which representatives from the three branches of government can work together to address reapportionment. It is time to invoke it.

The legislature should consider other ways to simplify the current trial court system. For example, it is worth examining whether Texans are best served by the current (and often redundant) complex system of county courts at law, district courts, and statutory probate courts, or whether streamlining some of these trial courts may create a simpler system.

Although civil jury trials have been declining in certain types of cases, this has not been true across the board. Resources previously committed to jury trials in cases overtaken by private dispute resolution could be reallocated to focus on areas where there has been no such decline. The legislature should consider creating more specialization in the district courts, allowing them to focus exclusively on family law issues, business litigation, mass tort litigation, or criminal trials. Family law cases, for example, have grown steadily throughout the last decade.⁽⁵⁾ Concentrating our efforts there will help hasten a child's adoption, assist courts in the quick resolution of custody battles, and place more resources at the hands of court personnel whose mission it is to place children in safe and loving households.

Other types of specialization are also possible. More than a dozen other states have adopted specialized business courts to handle the complex commercial litigation docket. These states have found that adopting a specialized docket creates greater judicial expertise, enhances procedural innovation and consistency, and reduces the burden on non-specialized courts by removing these time-consuming cases from their dockets. The legislature has already taken the first step by creating multidistrict litigation procedures. These procedures could be expanded to include other complex litigation. Greater specialization may be one way to ensure that the court system remains responsive to the public's needs, both by concentrating resources where they are most needed and by developing specialized expertise in the public court system that can compete with what is currently offered in the private sector.

These ideas will require further study; in the next biennium, legislative committees may choose to explore these issues in greater depth. I am confident that, together, we can develop a system to serve the needs of each and every litigant.

Ensuring Justice for our Most Vulnerable Citizens

Another challenge facing the judicial system is the need to keep justice accessible to all. In the last biennium, the Texas judiciary continued to make strides in reaching out to the state's most vulnerable population—abused and neglected children, persons with mental illness, and the indigent. The supreme court appointed a task force to accurately track and analyze child protection cases. The task force has recommended a statewide commission for children and families, and that recommendation has received overwhelming support. Under Justice O'Neill's leadership, and with the collaboration of the best minds and most compassionate hearts in the field, we will soon have a commission that places Texas children first. The judicial branch can play a central role in securing for our children—the future of our great State—a safe and healthy home.

Texas is a national leader in the provision of legal services to the poor. The supreme court recently approved a rule that requires lawyers who have accounts generating interest for legal services (known as IOLTA accounts) to place those funds in financial institutions that bear interest rates comparable to other accounts. That one simple change should significantly increase the revenue

available for basic civil legal services. In addition, I hope the legislature will reauthorize the \$65 fee in **SB 168**, devoted to legal services, which supports the impressive work of our Access to Justice Commission and Foundation.

There are two crucial areas facing the criminal justice system. One is developing a means to manage the large number of cases involving defendants with mental illness. Estimates show that approximately 15 percent of criminal defendants have been diagnosed with that disease. Although every jail inmate is cross-referenced with the state's mental health database, there currently exists no formal system for jails to notify the courts of a defendant's mental health disorder. As a result of this information gap, a defendant who might be eligible for specialized supervision and treatment may instead be incarcerated. Sharon Keller, Presiding Judge of the Texas Court of Criminal Appeals, has recently created a Mental Health Task Force. I am proud to report that as a result of Judge Keller's and the task force's efforts, the Court of Criminal Appeals has just been selected to participate in a national project to improve our efforts to identify those in our criminal justice system who are suffering from mental illness and to address, as appropriate to the particular case, the mental health needs of this population.

The second crucial need—one that I also mentioned in my 2005 address—concerns the unfortunate reality that our criminal justice system, on rare occasions, convicts the innocent. I recognize that the convicted often falsely claim to be innocent, but we know, right here in Texas, that some of our inmates have been exonerated by DNA testing. I cannot imagine wasting away in prison for a crime I did not commit. Can you? The legislature should establish a commission to study ways to free the innocent.

Such a commission would be a strong complement to efforts already underway to ensure that our criminal justice system complies with our constitutional mandate to provide adequate representation for the accused. For that reason, I continue to support funding for public defender programs and the work of Judge Keller's statewide indigent defense program.

Funding the Judiciary

Funding for indigent defense is part of a larger challenge that the state faces in funding the judiciary as a whole. The state's funding for the entire judicial branch of government is less than four-tenths of one percent of the entire state budget. When considering how much the judicial branch accomplishes, and how many people are able to resolve their disputes through our court system each year, it is truly extraordinary how much the court system can accomplish on such limited means. In recent years, however, it has become clear that funding limitations are restricting the court system's ability to dispense justice fairly and efficiently. Ensuring that the judiciary is sufficiently funded would have an insignificant effect on the state's budget overall, but would have a tremendous impact on all the Texas citizens who seek justice through our courts.

Chief Justice John Roberts' annual report on the federal judiciary discussed the importance of judicial compensation at the federal level. He pointed out that a revolving door on the bench can lead to a less effective judiciary. He said: "[i]f

judicial appointment ceases to be the capstone of a distinguished career and instead becomes a stepping stone to a lucrative private practice, the framers' goal of a truly independent judiciary will be placed in serious jeopardy."

A revolving-door judiciary is less of a threat to Texas than it was two years ago; the governor, the legislature, the business community, and editorial boards all worked together to give the judiciary the first salary increase in several years. That collaborative effort marks the first crucial step toward attracting and retaining experienced judges. It is important that we do not allow the efforts made last session to be eroded in the years to come. Chief Justice Roberts warns of the difficulties that ensue when annual costs rise while salaries remain stagnant for years or even decades. I strongly recommend, therefore, that the legislature adopt a systematic process for reviewing judicial compensation on a regular basis.

More than half of the states currently benefit from systematic review of judicial salaries. Maryland, for example, established a Judicial Compensation Commission "to ensure that highly qualified persons are attracted to the bench and judges may serve without economic hardship." Every four years, the commission reviews judicial salaries and pensions and submits its recommendations to the governor and general assembly. Iowa, Maine, and many other states have similar commissions that make biennial recommendations. Still other states, like New York, recognize the importance of systematic review and are working toward implementing similar programs. We should adopt a similar plan of systematic review that meets the needs of our state. Planning now to systematically address judicial salaries and adjust them as needed to maintain the strength and independence of the judicial branch allows us to avoid operating in crisis mode later. We should take advantage of this opportunity and not allow Texas to be left behind.

Maintaining Judicial Independence

Judicial independence is another cornerstone of our democratic system, and, in the decades to come, it will be important to maintain a fair and independent court system. Former Chief Justice William H. Rehnquist once said that a judge must be like "a referee in a basketball game who is obliged to call a foul against a member of the home team at a critical moment in the game: he will be soundly booed, but he is nonetheless obliged to call it as he saw it, not as the home crowd wants him to call it."⁽⁹⁾ Fair and independent courts rely on that referee instinct. The court system is an integral part of our democratic system and provides an important check and balance in our government. Judges, therefore, have a responsibility to rule fairly, impartially, and in accordance with the law—even if it means calling a foul against the home team.

A proposed constitutional amendment in South Dakota would have turned back the clock more than 400 years to allow aggrieved litigants to sue judges, making judges face civil liability for issuing judgments that are later determined to be incorrect.⁽¹⁰⁾ In Colorado, there was a proposal to impose term limits on judges, and there are other efforts underway in other states and in the nation's Capitol that would call into question our founders' vision of a judiciary unaffected by political currents.⁽¹¹⁾ Had the South Dakota or Colorado proposals been adopted, they would have had a grave impact on the judiciary's ability to

perform its essential function as a third, co-equal branch of the government. Fortunately, wiser heads prevailed and the proposals were soundly rejected. I am proud that Texas has not seen this level of attack on the judiciary. We must remain vigilant.

Courts have a key role as guardians of individual rights under the Constitution. Maintaining a fair and impartial court system requires an independent judiciary—one that respects the rule of law and places the rule of law ahead of personal or political considerations. But an independent judiciary is still an accountable judiciary: judges must be accountable to the Constitution, the law, and, in Texas, directly to the people through their right to vote for judges. Criticism of the judiciary and of particular decisions is an important right—even a responsibility—in our free and democratic system. But unlike constructive criticism, threats of violence and attempts to restructure our government to eliminate or minimize the protections offered by the courts threaten our democracy. We must not allow the rule of law to be subsumed by popular whim, or we will lose the very system that we rely on to protect our constitutional rights.

Conclusion

The state of the judiciary will remain strong long into the future if we are willing to adapt the current court system to meet the changing needs of Texas. Together the three branches of government can work to ensure that the people of Texas continue to have access to a fair, impartial, accessible, and accountable justice system that resolves disputes, adjudicates guilt, protects our children, and serves the public. Before I conclude, I would ask that all members of the armed forces, past and present, stand. I have spoken a long time this morning, but the reality is that, ultimately, the rule of law, the strength of the judiciary and of our democracy, are secured by these men and women. Let us thank them for their service.

¹TEX.GOV'T CODE§ 21.004.

²Trends in Cases Added, Disposed, and Pending per District Court, Fiscal Years 2002 through 2006, <http://www.courts.state.tx.us/pubs/AR2006/trends/trends-cases-added-disposed-and-pending-per-dc-fy02-06.pdf>.

³ See e.g., Justice Nathan L. Hecht, *The Vanishing Jury Trial: Trends in Texas Courts and an Uncertain Future*, 47 S. TEX. L. REV. 163, 172-81 (2005); Justice Scott Brister, *The Decline in Jury Trials: What Would Wal-Mart Do?*, 47 S. TEX. L. REV. 191 (2005).

⁴ *Sultan v. Mathew*, 178 S.W.3d 747, 753 (Tex. 2005) (Hecht, J., dissenting).

⁵<http://www.courts.state.tx.us/pubs/AR2006/trends/family-in-law-cases-fy97-06.pdf>.

⁶<http://www.ncsconline.org/wc/CourTopics/statelinks.asp?id=43>.

⁷<http://archive1.mdarchives.state.md.us/msa/mdmanual/26excom/html/22jcomp.html>.

⁸<http://www.legis.state.ia.us/aspx/Committees/Committee.aspx?id=56>;

<http://www.maine.gov/legis/ofpr/judicialcomp.htm>.

⁹Hon. Ruth Bader Ginsburg, *Judicial Independence: The Situation of the U.S. Federal Judiciary*, 85 Neb. L. Rev. 1, 1 (2006).

¹⁰ See Proposed Amendment E, available at <http://www.sdsos.gov/>.

¹¹ Stephanie Simon, *Call of the West: Rein in the Judges*, L.A. Times, Oct. 15, 2006.

REMARKS ORDERED PRINTED

Representative Hartnett and Senator Wentworth moved to print remarks by Chief Justice Jefferson.

The motion prevailed.

INTERPRETER FOR THE DEAF

The interpretation of the proceedings of the house was provided today by Buddy Bauer.

SENATE ADJOURNMENT

At 12:06 p.m., Lieutenant Governor Dewhurst stated that the business of the joint session had been accomplished and that the senate would, in accordance with a previous motion, stand adjourned until 11 a.m. tomorrow.

HOUSE AT EASE

At 12:06 p.m., the speaker announced that the house would stand at ease pending the departure of guests.

The speaker called the house to order at 12:20 p.m.

(C. Howard in the chair)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a funeral:

Driver on motion of Delisi.

(Branch in the chair)

HCR 105 - ADOPTED

(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 105**.

The motion prevailed.

The following resolution was laid before the house:

HCR 105, In memory of Richard Lamoine "Dick" Cunningham of Paris.

HCR 105 was unanimously adopted by a rising vote.

HR 423 - ADOPTED

(by Dukes)

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 423**.

The motion prevailed.

The following resolution was laid before the house:

HR 423, Honoring the Reverend Dr. G. V. Clark on his 37th anniversary as pastor of Mount Zion Baptist Church in Austin.

HR 423 was adopted.

HR 486 - ADOPTED
(by Puente)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 486**.

The motion prevailed.

The following resolution was laid before the house:

HR 486, Recognizing February 20, 2007, as Viva San Antonio Day at the State Capitol.

HR 486 was adopted.

HR 424 - ADOPTED
(by Kuempel)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 424**.

The motion prevailed.

The following resolution was laid before the house:

HR 424, Recognizing February 26, 2007, as Relay For Life-Light Up the Dome Day at the State Capitol.

HR 424 was read and was adopted.

HR 241 - ADOPTED
(by Lucio)

Representative Lucio 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 former County Judge Gilberto Hinojosa of Brownsville on his outstanding public service.

HR 241 was adopted.

On motion of Representative Escobar, the names of all the members of the house were added to **HR 241** as signers thereof.

HR 446 - ADOPTED
(by Dutton)

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 446**.

The motion prevailed.

The following resolution was laid before the house:

HR 446, Honoring The Houston Citizens Chamber of Commerce for 71 years of service to the city's African American business community.

HR 446 was adopted.

(Speaker in the chair)

**HR 467 - ADOPTED
(by Coleman, et al.)**

Representative Coleman moved to suspend all necessary rules to take up and consider at this time **HR 467**.

The motion prevailed.

The following resolution was laid before the house:

HR 467, Recognizing University of Houston System Day at the State Capitol on February 20, 2007.

HR 467 was adopted.

**EMERGENCY CALENDAR
SENATE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**SCR 20
(Chisum - House Sponsor)**

SCR 20, Relating to the appropriation of state tax revenues for the purpose of funding of school district property tax rate reductions.

(Kolkhorst in the chair)

Representative Eiland moved to postpone consideration of **SCR 20** until one hour after the passage to engrossment of **HB 1**.

(Oliveira now present)

Representative Chisum moved to table the motion to postpone.

A record vote was requested.

The motion to table prevailed by (Record 62): 79 Yeas, 68 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Eissler; Elkins; England; Flynn; Gattis; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Howard, C.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; Morrison; Mowery; Murphy;

Orr; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Quintanilla; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jones; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Moreno; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Peña; Pierson; Pitts; Puente; Raymond; Rodriguez; Strama; Talton; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

Absent, Excused — Driver; O'Day.

Absent — Miller.

STATEMENT OF VOTE

When Record No. 62 was taken, my vote failed to register. I would have voted yes.

Miller

SCR 20 - POINTS OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **SCR 20** under Rule 4, Section 32(c)(2) of the House Rules on the grounds that the bill analysis is incorrect.

The speaker overruled the point of order, speaking as follows:

The chair finds that the bill analysis at issue is not materially misleading and that it contains sufficient information to inform the reader of its substance. This is especially the case with respect to the resolving clause.

Therefore, for the reasons stated above, the point of order is respectfully overruled.

Representative Y. Davis raised a point of order against further consideration of **SCR 20** under Rule 6, Section 1; Rule 6, Section 7; and Rule 6, Section 17 of the House Rules on the grounds that it violates the regular order of business.

The speaker overruled the point of order, and had read the following statement:

Representative Y. Davis raised a point of order against **SCR 20** on the grounds that it violates Rule 6, Sections 1, 7, and 17. Representative Y. Davis argues that the rules should have been suspended to take up **SCR 20** before **HB 2**. The chair overrules the point of order for the following reasons:

The chair notes that the House Rules give the Calendars Committee broad discretion in interpreting its system of calendars and authorizes it to do so in "whatever order is necessary and desirable under the circumstances. . ." The

constitutional nature and procedural requirements of **HB 2** and **SCR 20** require that **SCR 20** be taken up prior to the final passage of **HB 2**. Accordingly, the point of order is respectfully overruled.

It is clear that **HB 2** entitled "An Act relating to making appropriations to the Texas Education Agency for the purpose of school district property tax rate reductions" falls within both of these emergency proclamations. It is on the emergency calendar. **SCR 20** is the procedural companion to **HB 2** in which the legislature expressly finds that the existing need for lower school district property taxes constitutes an emergency for the people of Texas. It is also on the emergency calendar. The resolution also authorizes the 80th Legislature to appropriate state tax revenues not dedicated by the Texas Constitution for the state fiscal biennium ending August 31, 2009, in an amount not to exceed \$14,191,100,000 more than the amount authorized by Subsection (a), Section 22, Article VIII, Texas Constitution.

Under Article VIII, Section 22, Texas Constitution, the method for making appropriations in excess of the amount authorized under Article VIII, Section 22(a), is described. The legislature must adopt a resolution outlining an emergency and must identify the amount of appropriations in excess of the amount authorized by Article VIII, Section 22(a). **SCR 20** clearly is a resolution contemplated by Article VIII, Section 22, of the Texas Constitution. Without **SCR 20**, **HB 2** would be ineffective because **SCR 20** is constitutionally required in order to implement **HB 2**. Therefore, an interpretation which would require consideration of **HB 2** before **SCR 20** would render **SCR 20** incapable of being acted and would render Article VIII, Section 22(b), a nullity. The chair declines to adopt such an interpretation.

Further under Rule 8, Section 21(f), of the House Rules, unless **SCR 20** is considered and passed, it is not in order for the house to consider for final passage on third reading, **HB 2**. Thus, without consideration of **SCR 20**, under the House Rules, **HB 2**, an emergency matter identified by the governor in two emergency proclamations, could never be passed.

The chair is of the opinion that such an interpretation would frustrate both the purpose and spirit of the House Rules and Article VIII, Section 22, of the Texas Constitution.

Representative Dunnam raised a point of order against further consideration of **SCR 20** under Rule 6, Section 17 of the House Rules on the grounds that it violates the position on a calendar.

The speaker overruled the point of order, and had read the following statement:

The chair overrules the point of order.

All parties agree that at some point the spending cap will be exceeded. In fact, **SCR 20** encompasses language or similar legislation which clearly anticipates the spending cap will be exceeded at some point, most likely on the passage of **HB 1**. This point was raised several times today during the debate on **SCR 20**, including the debates regarding motions to postpone to review final consideration of **HB 2** to a later date.

HB 2 is the type of bill described in both Article VIII, Section 22, and Rule 8, Section 21, of the House Rules. Bills of this type require, regardless of when passed, before third reading a resolution outlining an emergency and setting a dollar amount to be passed.

Under the current system of calendars, there was no method of calendars for setting an **SCR** required under the Constitution and House Rules on second reading that is specific to the engrossed version of **HB 2**. This is a blind spot in our rules. The rules require the resolution but don't give us a system of calendars to accomplish it. In fact, the rules specifically exclude the placement of emergency concurrent resolutions, like **SCR 20**, on any other calendar but the emergency calendar.

Accordingly, the chair has two choices: agree with Mr. Dunnam and not have an appropriate calendar to place it on, even if passed at a later date, or place **SCR 20** before **HB 2**. Likewise, if we had taken up **HB 2** first, members could have raised an objection that it was improper to move forward because both the House Rules and the Constitution require a second reading concurrent resolution (**SCR 20**), which could not have been placed in front of **HB 2** on third reading because the two matters were placed equally on the calendar.

The chair declines to sustain a point of order in such a situation and it is in the chair's opinion that the interpretation does the least violence to the House Rules and is in line with our rules and the Constitution.

A record vote was requested.

SCR 20 was adopted by (Record 63): 95 Yeas, 50 Nays, 1 Present, not voting.

Yeas — Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chavez; Chisum; Christian; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Dukes; Dutton; Eissler; England; Escobar; Farabee; Flores; Flynn; Gattis; Geren; Giddings; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hill; Howard, C.; Howard, D.; Hughes; Jackson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Lucio; Macias; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Miller; Morrison; Mowery; Murphy; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Turner; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bolton; Burnam; Castro; Cohen; Coleman; Crabb; Davis, Y.; Dunnam; Eiland; Elkins; Farias; Farrar; Frost; Gallego; Garcia; Gonzales; Gonzalez Tourelles; Haggerty; Harless; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Jones; Leibowitz; Mallory Caraway; Martinez Fischer; Miles; Moreno; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Pierson; Raymond; Riddle; Rodriguez; Talton; Thompson; Vaught; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Driver; O'Day.

Absent — Isett; Merritt.

STATEMENTS OF VOTE

I was shown voting no on Record No. 63. I intended to vote yes.

Haggerty

When Record No. 63 was taken, my vote failed to register. I would have voted yes.

Isett

I was shown voting yes on Record No. 63. I intended to vote no.

Martinez

When Record No. 63 was taken, my vote failed to register. I would have voted no.

Merritt

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).

(Driver now present)

**EMERGENCY CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**HB 2 ON THIRD READING
(by Chisum and Hartnett)**

HB 2, A bill to be entitled An Act relating to making appropriations to the Texas Education Agency for the purpose of school district property tax rate reductions.

Amendment No. 1

Representatives Hochberg and Coleman offered the following amendment to **HB 2**:

Amend **HB 2** on third reading on page 3, between lines 5 and 6, by inserting the following:

(d) Notwithstanding any other provision of this Act, the amounts appropriated by this Act from the Foundation School Fund may not exceed the amount necessary to achieve a state compression percentage, as defined by Section 42.2516, Education Code, equal to 66.67 percent.

AMENDMENT NO. 1 - REMARKS

REPRESENTATIVE CHISUM: Mr. Speaker and members, this is a third reading amendment. This has been around a long time. We passed this in front of all the lawyers that ever wanted to look at it. I don't think it does what Scott said it does. I don't see in here, where the Commissioner of Education has to do anything with the money, and the only place it has in here that she has to get approval from the Legislative Budget Board, the governor, and everything to do anything with this and quite honestly I'm okay if we buy down the tax rate just a little bit more. But like any bill we pass, they have to have an estimate of how much money comes in. I suspect what would happen is we're going to buy this tax rate down sixty-six and two-thirds percent, just like we said we would, and then that money would remain in that fund until—because you couldn't go in there and do a tax cut and then another tax cut. So it'll just remain in that fund until we come back down here and then we'd have to appropriate less money from general revenue the next budget cycle. So for that reason I move to table.

AMENDMENT NO. 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOCHBERG: Thank you, Mr. Speaker, members. You know, with respect to Mr. Chisum, he's absolutely right. There is nothing in this bill. That clever argument. There is nothing in **HB 2** that says if we have more money than we need, that the tax rate needs to be run down further. There is nothing in this bill, but as Mr. Chisum knows, the reason that it's a problem and the reason no one found it until now is that it doesn't say it in this bill, it says it in the Education Code. If you want to look on your computers right now, members—and because I thought this was an agreed to deal—sorry if I made an assumption I shouldn't have made. If you want to look in the Education Code, Section 42.2516—I've said it to the attorneys so many times today and to the budget board so many times that I know the number. It says exactly: once money is appropriated for tax relief, the commissioner shall use it for additional tax relief if it's surplus to getting us to a dollar in the second year of this biennium. It doesn't happen in the first year of this biennium, it happens only the second year of this biennium. It says it explicitly and anyone of you can look it up on your computer in the statutes. It's there. I have no desire to get up here on this front mic and play games with anybody. I've had more than enough mic time today. So, if it wasn't there I wouldn't have said it, okay? It's there. It's a problem. We've talked to attorneys, the Legislative Council wrote this stuff, okay? It's not made up. It's not illusory. And all we're trying to do—I voted for the bill! I'm going to vote for the bill again today. I just want to make the bill do what it was intended to do, which was to appropriate the money to get us down to a dollar, which I heard Mr. Chisum stand at this mic time and time and time again yesterday and tell us that's what the bill does. So let's—it's a technical issue. It's a legal issue. Let's just fix it.

REPRESENTATIVE COLEMAN: Mr. Hochberg, we have heard the discussion about fulfilling promises for property tax relief down to a dollar. Would this amendment prohibit that from happening?

HOCHBERG: No sir, this amendment would preserve that that has to happen.

COLEMAN: That's correct. And also, would it make sure that money that was dedicated to the purposes of property tax relief fully goes to accomplish that property tax relief even if it goes below a dollar?

HOCHBERG: Absolutely. Because that was the addition that Mr. Speaker actually thought of and we wanted to make sure that that would happen.

COLEMAN: If the franchise tax and the cigarette tax and the used car tax come in enough to drop it below a dollar, to say 90 cents, you can do that?

HOCHBERG: Absolutely, and I would expect we would do that rather than letting that money just sit in the treasury.

COLEMAN: However, what you are saying with this amendment is that if you have general revenue that is now being used to make sure that the tax cut actually goes to a dollar when you have more dollars from the property tax relief dedicated tax—

HOCHBERG: Right. Because, the commissioner is required without any further authorization that what is there. Because, Mr. Chisum, that's talking about moving money forward within the biennium but this is a provision in the statutes that talks about in '09, in fiscal '09, if there is more money in the pot from any appropriated source, which is what this is, that it has to be used to drive the rate down further. Even if it didn't come from the things we pass to do that. This is a protection on the estimates of the budget board made to the best of their abilities.

COLEMAN: And that means that in the next biennium, there would be general revenue available for prisons.

HOCHBERG: And not even just the next biennium. But, frankly, when the legislature comes back here in two years, as a supplemental.

COLEMAN: Right, it would be available as—becomes then surplus general revenue for the next biennium. And can be used for whatever purposes there's a need for. Even at that time, property tax relief if that's what's needed.

HOCHBERG: And I think there's one thing that's important for members to understand. Just because there's money that's underestimated and drives down the tax rates in '09, there's nothing to say that that money would be there in the next year, so you may well be in the situation that if you don't put this on, driving the tax rate down only to have it pop up again because there's not any reason to believe that there will be the money there in the following year to do the thing you've just done.

COLEMAN: So this preserves the intention by this legislature by its vote to lower property tax to a dollar and even go further than that if there are enough funds that come in from those dedicated taxes and still have general revenue available for a supplemental appropriation, and in the next biennium if someone decided they wanted to lower the tax rate more, they could take this money then and make that decision, but in this case what it does is it makes sure there is money available for whatever the decisions are of the next legislature.

HOCHBERG: That's right and I don't believe that that was the intent of this. I don't believe that it was the intent of the bill to put the power into the commissioner to have to bring tax rates down if an estimate was overly pessimistic.

COLEMAN: And so this amendment completely fulfills the promise made to the taxpayers to the State of Texas in **HB 3**, I believe it was from the special session, and **HB 2** that we're hearing right now?

HOCHBERG: Yeah, otherwise we'll need to come back and break the spending cap again. You already moved to table, so I'm through. Members, please vote no on the motion to table and we'll get this little thing fixed and move on down the road and vote for this bill.

Representative Chisum moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 64): 80 Yeas, 64 Nays, 1 Present, not voting.

Yeas — Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Dukes; Eissler; Elkins; England; Flores; Flynn; Gattis; Goolsby; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Howard, C.; Hughes; Isett; Jackson; Keffer; King, P.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Lucio; Macias; Madden; McClendon; Merritt; Miller; Morrison; Mowery; Murphy; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pitts; Quintanilla; Riddle; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Cook, R.; Davis, Y.; Deshotel; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; King, T.; Leibowitz; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Miles; Moreno; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Puente; Raymond; Ritter; Rodriguez; Strama; Straus; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — O'Day.

Absent — Farias; Hamilton; Jones; King, S.

STATEMENTS OF VOTE

When Record No. 64 was taken, my vote failed to register. I would have voted no.

Farias

When Record No. 64 was taken, I was temporarily out of the house chamber. I would have voted yes.

S. King

HB 2 - REMARKS

REPRESENTATIVE COLEMAN: Thank you, Mr. Speaker. I just want to make a couple of points, to speak on the bill for very few minutes because I think these are some important things for all of us to understand. If I can have your attention, I'll probably speak less time than I would if I don't. Hey, you know, I only get to come up here every now and then. I think these are some important items to go over and that's why I'm only speaking on the bill.

One of the things that Governor Dewhurst laid out in his press conference was that we had \$14.2 billion in general revenue and that we would have to use \$6.1 billion of that in order to pay for the tax cut, plus the dollars that would be necessary to deal with other priorities in the budget. So we had \$12 billion. \$14.3 billion. We used \$8.1 billion from the property tax relief fund, \$6.1 billion from general revenue. Then after we did that, we had approximately \$12 billion that was needed to buy down the property taxes, \$3.8 billion to pay back the deferrals, to pay back the Rainy Day Fund, and to pay for the items that were funded in the appropriations for the special session. Then we had \$1.1 billion for new enrollment, and then there's \$3 billion that Mr. Chisum talked about a little bit earlier that would be set aside and not appropriated. And what that would leave us, and this is based on the information that was laid out by Lieutenant Governor Dewhurst, that would leave us \$2.5 billion for appropriation for the biennium.

HB 2 takes money and dedicates it to something else. We have other obligations that we have. And then at the end of the day, if you take \$3 billion and set it aside for 2010 and 2011 tax cuts, you have \$2.5 billion left after you meet the current obligations. That's \$1.25 billion a year. Now, the appropriations bill has a cut in it from current services or current expenditures. And that cut is at least, approximately \$410 million or more. Then if you go back and look at having dollars to build a new prison, fix the System Benefits Fund, restore CHIP, cut the waiting list for CommuniCare. Mr. Hilderbran's deal with restoring the dollars for the state parks, homeland security is \$100 million, and dealing with the privatization issues. That would be, alone, \$2.97 billion that we would have to spend. Again add \$410 million to that, you would need \$3.38 billion to cover what we should be spending or need to spend.

And so all I would say to you today, by this action what we end up doing as a legislature is making sure that the only amount of money we have to deal with our priorities in the state is \$1.25 billion a year over the commitment that's been made today. So that's the reason I wanted to speak on the bill, because I thought it was very important for people to understand that whatever the priorities are, we're only left with \$1.25 billion to deal with them per year and with that I close.

REMARKS ORDERED PRINTED

Representative Thompson moved to print remarks by Representative Chisum, Representative Hochberg, and Representative Coleman.

The motion prevailed.

A record vote was requested.

HB 2 was passed by (Record 65): 138 Yeas, 8 Nays, 1 Present, not voting.

Yeas — Allen; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Alonzo; Burnam; Coleman; Davis, Y.; Farias; Farrar; Garcia; Olivo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — O'Day.

Absent — Gallego; Riddle.

The speaker stated that **HB 2** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

STATEMENTS OF VOTE

I was shown voting no on Record No. 65. I intended to vote yes.

Farias

When Record No. 65 was taken, my vote failed to register. I would have voted yes.

Gallego

I was shown voting no on Record No. 65. I intended to vote yes.

Garcia

I was shown voting yes on Record No. 65. I intended to vote no.

Moreno

When Record No. 65 was taken, my vote failed to register. I would have voted yes.

Riddle

**HR 491 - ADOPTED
(by Hughes)**

Representative Hughes moved to suspend all necessary rules to take up and consider at this time **HR 491**.

The motion prevailed.

The following resolution was laid before the house:

HR 491, Honoring the East Texas African American History Celebration in Hawkins.

HR 491 was adopted.

On motion of Representative Hilderbran, the names of all the members of the house were added to **HR 491** as signers thereof.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Culture, Recreation, and Tourism, upon adjournment today, E2.014, for a public hearing, to consider **HB 6** and other pending business.

COMMITTEES GRANTED PERMISSION TO MEET

Representative Krusee requested permission for the Committee on Transportation to meet while the house is in session, during bill referral today, in E2.012, for a public hearing, to consider the remainder of the agenda.

Permission to meet was granted.

Representative Eissler requested permission for the Committee on Public Education to meet while the house is in session, during bill referral today, in E2.036, for a public hearing, to consider the previously posted schedule.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Education, 8 a.m. tomorrow, members lounge in extension, E2.1002, for a work session.

Licensing and Administrative Procedures is cancelled.

FIVE DAY POSTING RULE SUSPENDED

Representative Chisum moved to suspend the five day posting rule to allow the Committee on Appropriations to consider the Office of the Attorney General and Forensic Science Commission in addition to the previously posted agencies.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Appropriations, 8 a.m. tomorrow, E1.030, for a public hearing, to consider the completion of the Tuesday, February 20 posted agenda.

Business and Industry, upon adjournment as scheduled for a public hearing.

Appropriations, 8 a.m. Thursday, February 22 and Friday, February 23, E1.030, for a public hearing, to consider the Office of the Attorney General and Forensic Science Commission in addition to previously posted agencies.

Appropriations, Subcommittee on Education, upon adjournment today as posted.

PROVIDING FOR ADJOURNMENT

Representative Harper-Brown 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.

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.)

(Hochberg in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 5:08 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 1306 (By Taylor), Relating to workers' compensation subclaims.
To Business and Industry.

HB 1457 (By McReynolds), Relating to the acceptable methods for disposal of poultry carcasses.
To Environmental Regulation.

HB 1458 (By Macias), Relating to the allocation of revenue from the state hotel tax for certain purposes in certain municipalities located in counties in a park and recreation district.

To Local Government Ways and Means.

HB 1459 (By Guillen), Relating to the application of the sales and use tax to certain telecommunications services provided through the use of a pay phone.

To Ways and Means.

HB 1460 (By Haggerty), Relating to the licensing, acquisition, and regulation of manufactured housing.

To Licensing and Administrative Procedures.

HB 1461 (By Zedler), Relating to state funding for certain students subject to school district disciplinary action.

To Public Education.

HB 1462 (By Zedler), Relating to the investigation of certain criminal conduct in election matters.

To Elections.

HB 1463 (By Zedler), Relating to increasing the penalties for certain criminal offenses involving an election.

To Elections.

HB 1464 (By Zedler), Relating to peer reviews of health care services performed under the workers' compensation system.

To Business and Industry.

HB 1465 (By Zedler), Relating to the payment of benefits under an interlocutory order under the workers' compensation system.

To Business and Industry.

HB 1466 (By Zedler), Relating to the regulation of owners, operators, employees, and independent contractors of sexually oriented businesses; providing penalties.

To Licensing and Administrative Procedures.

HB 1467 (By Deshotel), Relating to reservations of the state ceiling and priority carryforward classifications for certain projects under the private activity bond allocation program.

To Economic Development.

HB 1468 (By Darby), Relating to considering for school district accountability purposes the performance of students confined by court order in a residential program or facility.

To Public Education.

HB 1469 (By Geren), Relating to local regulation of distance requirements for businesses selling alcoholic beverages near a public school.

To Licensing and Administrative Procedures.

HB 1470 (By Eissler), Relating to the continuation of the Texas Economic Development Act and to the duties of the comptroller of public accounts and the Texas Education Agency under that Act.

To Ways and Means.

HB 1471 (By Hancock), Relating to resource sharing among certain political subdivisions, including regional planning commissions, during a disaster.

To Border and International Affairs.

HB 1472 (By Miller), Relating to the annexation of land for which property taxes are imposed based on the land's value for agricultural or wildlife management purposes.

To Land and Resource Management.

HB 1473 (By Turner), Relating to the waiver of sovereign immunity of a political subdivision for claims arising under employment law.

To Urban Affairs.

HB 1474 (By Turner), Relating to the exclusion of certain costs from income and resources in determining eligibility for financial assistance.

To Human Services.

HB 1475 (By Turner), Relating to the exclusion of certain costs from income and resources in determining eligibility for nutritional assistance.

To Human Services.

HB 1476 (By Turner), Relating to the enhancement of punishment in criminal cases.

To Criminal Jurisprudence.

HB 1477 (By Turner), Relating to reimbursement under preferred provider benefit plans for services provided by licensed podiatrists.

To Insurance.

HB 1478 (By Turner), Relating to the waiver of immunity from suit of certain local government entities for claims arising under employment law.

To Urban Affairs.

HB 1479 (By Castro), Relating to the regulation of retail rebates.

To Business and Industry.

HB 1480 (By Castro), Relating to the contents of the sex offender registration form.

To Criminal Jurisprudence.

HB 1481 (By Castro), Relating to standing for certain individuals to file a suit affecting the parent-child relationship.

To Juvenile Justice and Family Issues.

HB 1482 (By Guillen), Relating to the creation of municipal courts of record in the city of Laredo.

To Judiciary.

HB 1483 (By Naishtat), Relating to access to criminal history record information by the Guardianship Certification Board.

To Judiciary.

HB 1484 (By Naishtat), Relating to provisional certification for certain guardians.

To Judiciary.

HB 1485 (By Naishtat), Relating to reimbursement of members of the Guardianship Certification Board for certain expenses.

To Judiciary.

HB 1486 (By Naishtat), Relating to the establishment of the stem cell research program.

To State Affairs.

HB 1487 (By Guillen), Relating to the system benefit fund and to eligibility for and enrollment for benefits provided under the system benefit fund programs.

To Regulated Industries.

HB 1488 (By Naishtat), Relating to the creation of an additional statutory county court in Travis County.

To Judiciary.

HB 1489 (By Woolley), Relating to the use of certain surplus revenue in the unemployment compensation fund.

To Economic Development.

HB 1490 (By Woolley), Relating to initial claims under the unemployment compensation system.

To Economic Development.

HB 1491 (By Woolley), Relating to disclosure of certain relationships with local government officers.

To Urban Affairs.

HB 1492 (By Darby), Relating to the penalty for theft from a nonprofit organization.

To Criminal Jurisprudence.

HB 1493 (By Bonnen), Relating to the establishment and operation of a severe storm research and planning center.

To Higher Education.

HB 1494 (By Bonnen), Relating to calculation of the ad valorem taxes on the residence homestead of an elderly or disabled person.

To Ways and Means.

HB 1495 (By Callegari), Relating to a bill of rights for property owners whose property may be acquired by governmental or private entities through the use of eminent domain authority.

To Land and Resource Management.

HB 1496 (By Pitts), Relating to incentives for the film, television, and multimedia production industries.

To Culture, Recreation, and Tourism.

HB 1497 (By Van Arsdale), Relating to the consequences of the failure by a person requesting information under the public information law to timely respond to certain written communications from a governmental body.

To State Affairs.

HB 1498 (By Hopson), Relating to the creation of the Panola County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

To Natural Resources.

HB 1499 (By Martinez Fischer), Relating to the speed limits on a highway adjacent to a park or recreational area.

To Transportation.

HB 1500 (By Frost), Relating to the composition of the Cass County Juvenile Board.

To Juvenile Justice and Family Issues.

HB 1501 (By Frost), Relating to the issuance of specialty license plates for justices of the peace.

To Transportation.

HB 1502 (By Frost), Relating to the resolution by the Texas Water Development Board of certain conflicts between regional water plans.
To Natural Resources.

HB 1503 (By Lucio), Relating to allowing certain assistant district and county attorneys to carry weapons.
To Law Enforcement.

HB 1504 (By Lucio), Relating to the funding and promotion of the Save Texas History and Adopt-A-Beach programs of the General Land Office.
To Land and Resource Management.

HB 1505 (By Lucio), Relating to a fee to support intercollegiate athletics at The University of Texas at Brownsville.
To Higher Education.

HB 1506 (By Y. Davis), Relating to requiring Spanish language instruction in public elementary schools.
To Public Education.

HB 1507 (By Y. Davis), Relating to participation by certain students in bilingual and special language programs provided by school districts.
To Public Education.

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 20, 2007

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 84 Hilderbran SPONSOR: Fraser
Welcoming Leadership Kerr County to the State Capitol.

SCR 22 Ellis
Congratulating the University of Houston System community and declaring February 20, 2007, University of Houston System Day at the Capitol.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

February 19

Urban Affairs - **HB 239, HB 605, HB 679, HB 680**

SIGNED BY THE GOVERNOR

February 19 - HCR 33, HCR 55, HCR 69

