

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FORTY-THIRD DAY — TUESDAY, APRIL 5, 2005

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 198).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; 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 — Bailey; Gonzalez Toureilles.

Absent — Riddle.

The invocation was offered by Dr. Mark Denison, pastor, First Baptist Church, Gainesville, as follows:

Our Father, we approach your throne of grace aware of your authority over the affairs of man. We recognize your sovereignty in areas of governance and daily life. We offer our gratitude for the opportunity to step, however briefly, out of the complexities of this world, into the holiness of your presence.

We beseech you today, O Lord, on behalf of our world that is in turmoil, our nation that is at war, and our state that is at work, seeking to do that which will provide leadership and blessing to our 22 million citizens. We thank you for these women and men who serve faithfully in their elected position. We pray for our

governor, lieutenant governor, speaker of the house, and all those who fill these historic halls. We pray that they may truly seek the guidance that is offered freely from above.

In our differences, may we celebrate our diversity. In our various views, may we discover unity. In all things, may we practice love. Now, dear God, we pray for the activities of this day. For those who represent us, we pray a special portion of wisdom, civility, and godliness. Bless these who lead our great State of Texas in all that they do this day. This I pray, with respect to those of all faiths, in the name of our precious and risen Lord. Amen.

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

LEAVE OF ABSENCE GRANTED

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

Bailey on motion of Keel.

CAPITOL PHYSICIAN

The speaker recognized Representative Morrison who presented Dr. Fred Merian of Victoria as the "Doctor for the Day."

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

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 2).

HCR 140 - ADOPTED (by Branch)

Representative Branch moved to suspend all necessary rules to take up and consider at this time **HCR 140**.

The motion prevailed.

The following resolution was laid before the house:

HCR 140, Honoring the medical students, medical schools, residents, and teaching hospitals of Texas for their contributions to the health and well-being of the citizens of Texas and welcoming the medical personnel visiting the State Capitol on April 5, 2005.

HCR 140 was read and was adopted.

(Riddle now present)

HR 1000 - ADOPTED
(by Eissler)

Representative Eissler moved to suspend all necessary rules to take up and consider at this time **HR 1000**.

The motion prevailed.

The following resolution was laid before the house:

HR 1000, Congratulating Kym Victoria Jackson of The Woodlands on earning the title of Mrs. Texas 2005.

HR 1000 was read and was adopted.

INTRODUCTION OF GUEST

The speaker recognized Representative Eissler who introduced Kym Victoria Jackson, Mrs. Texas 2005.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hilderbran who introduced Texas Medal of Arts inductees: Ben Stevenson, Lyle Lovett, Phylicia Rashad, Naomi Shihab Nye, Jose Cisneros, Robert Wilson, Ginger Head-Gearheart, Joe R. Long, Teresa Lozano Long, Raymond D. Nasher, and Vikki Carr.

HR 995 - ADOPTED
(by Rodriguez)

Representative Rodriguez moved to suspend all necessary rules to take up and consider at this time **HR 995**.

The motion prevailed.

The following resolution was laid before the house:

HR 995, Welcoming Carmen Lomas Garza of San Francisco on her visit to Austin and congratulating her on the 15th anniversary of her first book.

HR 995 was adopted.

HCR 128 - ADOPTED
(by Dunnam)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HCR 128**.

The motion prevailed.

The following resolution was laid before the house:

HCR 128, Designating Madisonville the Mushroom Capital of Texas.

HCR 128 was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hardcastle who introduced Eagle Scouts Jacob, Jayden, Jarod, and Jordan Root and their parents Raymond and Chris Root.

HB 3519 - PERMISSION TO INTRODUCE

Representative Naishtat requested permission to introduce and have placed on first reading **HB 3519**.

A record vote was requested.

Permission to introduce was granted by (Record 199): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chisum; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Gonzalez Toureilles.

Absent — Chavez; Corte; Madden; Martinez Fischer; Riddle.

HB 26 - RECOMMITTED

Representative Delisi moved to recommit **HB 26** to the Committee on Government Reform.

The motion prevailed.

**GENERAL STATE CALENDAR
HOUSE BILLS
THIRD READING**

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

**HB 70 ON THIRD READING
(by McClendon and Escobar)**

HB 70, A bill to be entitled An Act relating to the expedited payment of the lump-sum death benefit for members of the Employees Retirement System of Texas.

A record vote was requested.

HB 70 was passed by (Record 200): 147 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Gonzalez Toureilles.

HB 752 ON THIRD READING

(by Giddings, Gonzalez Toureilles, Branch, Bohac, Rose, et al.)

HB 752, A bill to be entitled An Act relating to the penalty for theft of identifying information.

HB 752 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 801 ON THIRD READING

(by Uresti, Chavez, and Branch)

HB 801, A bill to be entitled An Act relating to training for Department of Family and Protective Services personnel receiving reports of child abuse and neglect.

HB 801 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 802 ON THIRD READING
(by Uresti, et al.)

HB 802, A bill to be entitled An Act relating to the investigation of certain reports of child abuse and neglect.

A record vote was requested.

HB 802 was passed by (Record 201): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Gonzalez Toureilles.

Absent — Callegari; Davis, Y.; Luna; Miller; Riddle.

STATEMENTS OF VOTE

When Record No. 201 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

When Record No. 201 was taken, I was temporarily out of the house chamber. I would have voted yes.

Miller

HB 976 ON THIRD READING
(by Madden)

HB 976, A bill to be entitled An Act relating to allowing the Texas Building and Procurement Commission to deliberate in a closed meeting regarding business and financial considerations of a contract being negotiated.

A record vote was requested.

HB 976 was passed by (Record 202): 127 Yeas, 14 Nays, 1 Present, not voting.

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

Nays — Allen, A.; Castro; Dutton; Escobar; Farrar; Gonzales; Herrero; Hodge; Leibowitz; Martinez; Moreno, J.; Rose; Solis; Uresti.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Gonzalez Toureilles.

Absent — Callegari; Delisi; Hughes; Luna; McClendon; Moreno, P.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 202. I intended to vote no.

Berman

When Record No. 202 was taken, I was in the house but away from my desk. I would have voted yes.

Delisi

I was shown voting yes on Record No. 202. I intended to vote no.

T. King

I was shown voting yes on Record No. 202. I intended to vote no.

Peña

HB 982 ON THIRD READING (by Reyna)

HB 982, A bill to be entitled An Act relating to posting a sign warning restaurant or bar employees against fraudulent use or possession of identifying information; providing a criminal penalty.

HB 982 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1096 ON THIRD READING
(by Edwards)

HB 1096, A bill to be entitled An Act relating to the regulation of dogs; creating an offense.

HB 1096 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Hodge recorded voting no.)

HB 1098 ON THIRD READING
(by McCall and Branch)

HB 1098, A bill to be entitled An Act relating to using the Internet to obtain identifying information of another person for a fraudulent purpose; providing penalties.

HB 1098 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1114 ON THIRD READING
(by Nixon)

HB 1114, A bill to be entitled An Act relating to contributions by and benefits for certain members and retirees under the Judicial Retirement System of Texas Plan Two.

A record vote was requested.

HB 1114 was passed by (Record 203): 142 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Paxton; 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.

Present, not voting — Mr. Speaker(C); Goodman; Keel.

Absent, Excused — Bailey; Gonzalez Toureilles.

Absent — McReynolds; Moreno, P.; Noriega, M.

HB 1161 ON THIRD READING

(by Farabee)

HB 1161, A bill to be entitled An Act relating to the provision of certain information to owners of oil or gas royalty interests by the Railroad Commission of Texas.

HB 1161 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1429 ON THIRD READING

(by Kuempel)

HB 1429, A bill to be entitled An Act relating to the enforcement of the prohibition on constructing or operating certain rock crushers or concrete plants without the necessary Clean Air Act permit.

Representative Kuempel moved to postpone consideration of **HB 1429** until 10 a.m. June 3.

The motion prevailed.

GENERAL STATE CALENDAR

SENATE BILLS

THIRD READING

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

SB 252 ON THIRD READING

(Delisi - House Sponsor)

SB 252, A bill to be entitled An Act relating to a project of a development corporation in connection with a military base or facility.

A record vote was requested.

SB 252 was passed by (Record 204): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson;

Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C); Chavez.

Absent, Excused — Bailey; Gonzalez Toureilles.

Absent — Moreno, P.

STATEMENT OF VOTE

I was shown voting present, not voting on Record No. 204. I intended to vote yes.

Chavez

GENERAL STATE CALENDAR HOUSE BILLS SECOND READING

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

CSHB 25 ON SECOND READING (by Delisi, Escobar, et al.)

CSHB 25, A bill to be entitled An Act relating to transition assistance within the public school system for school-age dependents of military personnel and other students.

Amendment No. 1

Representative Keel offered the following amendment to **CSHB 25**:

Amend **CSHB 25** by adding the following appropriately numbered section to the bill and renumbering the subsequent sections accordingly:

SECTION _____. Section 25.001(b), Education Code, is amended to read as follows:

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought if:

(1) the person and either parent of the person reside in the school district;

(2) the person does not reside in the school district but a parent of the person resides in the school district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person;

(3) the person and the person's guardian or other person having lawful control of the person under a court order reside within the school district;

(4) the person has established a separate residence under Subsection (d);

(5) the person is homeless, as defined by 42 U.S.C. Section 11302, regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;

(6) the person is a foreign exchange student placed with a host family that resides in the school district by a nationally recognized foreign exchange program, unless the school district has applied for and been granted a waiver by the commissioner under Subsection (e);

(7) the person resides at a residential facility located in the district; ~~or~~

(8) the person resides in the school district and is 18 years of age or older or the person's disabilities of minority have been removed; or

(9) the person does not reside in the school district but the grandparent of the person:

(A) resides in the school district; and

(B) provides a substantial amount of after-school care for the person as determined by the board.

Amendment No. 1 was adopted.

CSHB 25, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 157 ON SECOND READING
(by B. Cook, Peña, Paxton, et al.)

HB 157, A bill to be entitled An Act relating to the conditions of community supervision for certain persons convicted of an intoxication offense.

HB 157 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 207 ON SECOND READING
(by Goodman and Guillen)

HB 207, A bill to be entitled An Act relating to the reduction of registration, license, and renewal fees required to be paid by certain land surveyors.

HB 207 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 417 ON SECOND READING
(by Delisi, et al.)

HB 417, A bill to be entitled An Act relating to a supplemental health coverage program under the Texas Employees Group Benefits Act for certain persons.

HB 417 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 484 ON SECOND READING
(by West)

HB 484, A bill to be entitled An Act relating to the filing of electric logs with the Railroad Commission of Texas.

HB 484 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 551 ON SECOND READING
(by Phillips)

HB 551, A bill to be entitled An Act relating to a project of a development corporation in connection with a primary job.

HB 551 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 773 ON SECOND READING
(by West)

HB 773, A bill to be entitled An Act relating to certain purchases by the Railroad Commission of Texas.

HB 773 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 872 ON SECOND READING
(by West)

HB 872, A bill to be entitled An Act relating to the imposition of the pipeline safety annual inspection fee by the Railroad Commission of Texas.

HB 872 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 918 ON SECOND READING
(by Krusee)

HB 918, A bill to be entitled An Act relating to the authority of a municipality to establish economic development programs in certain areas.

HB 918 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Keel recorded voting no.)

HB 933 ON SECOND READING
(by Taylor)

HB 933, A bill to be entitled An Act relating to certain insurance for officers and employees of state agencies.

Representative Geren moved to postpone consideration of **HB 933** until the end of today's calendar.

The motion prevailed.

CSHB 1025 ON SECOND READING
(by Solomons)

CSHB 1025, A bill to be entitled An Act relating to the powers and duties of the Texas Optometry Board and to contact lens prescriptions and the dispensing of contact lenses.

CSHB 1025 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE MCREYNOLDS: Burt, I'd like to ask you a question about this bill. On pages five and six of the bill we add a new section, 351.1575, that says that the optometry board can enter and inspect a facility operated by a person engaged in any activity regulated under this chapter and inspect and review any record, including a patient record, maintained by a person engaged in any activity regulated under this chapter. Does that mean that the optometry board can go into the office of an ophthalmologist, a position licensed by the medical board, and inspect the facilities of the patient files?

REPRESENTATIVE SOLOMONS: In short, no. Section 351.005 of that same chapter says that this chapter does not prevent or interfere with the right of a physician licensed by the Texas State Board of Medical Examiners to treat or prescribe for a patient or direct or instruct a person under the physician's control, supervision, or direction to aid or attend to the needs of a patient according to a physician's direct instructions—specific direct instruction—or prescriptions.

MCREYNOLDS: Can the optometry board go into the office of an optician registered under the Opticians Registry Act and inspect the facilities or files there?

SOLOMONS: No. Section 351.005 also says this chapter does not prevent or interfere with the right of a dispensing optician registered under Chapter 352 to engage in spectacle or contact lens dispensing under that chapter, however, unless there is a good faith reasonable belief that the dispensing optician is practicing optometry beyond the scope of their authority under existing law.

REMARKS ORDERED PRINTED

Representative McReynolds moved to print remarks between Representative Solomons and Representative McReynolds.

The motion prevailed.

CSHB 1025 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1076 ON SECOND READING (by Crabb, Guillen, et al.)

HB 1076, A bill to be entitled An Act relating to reduced hunting and fishing license fees for certain military personnel.

Amendment No. 1

Representative Hodge offered the following amendment to **HB 1076**:

Amend **HB 1076** as follows:

(1) On page 1, lines 9 and 10, strike "serving on active duty as a member of the United States military forces".

(2) On page 1, line 13, between "veteran" and the period, insert "and for a resident on active duty as a member of the United States military forces".

(3) On page 1, line 14, through page 2, line 3, strike SECTION 2 of the bill and substitute the following:

"SECTION 2. Section 46.004(c), Parks and Wildlife Code, is amended to read as follows:

(c) The commission shall waive the fee for a qualified disabled veteran as defined by Section 42.012 and for a resident on active duty as a member of the United States military forces."

Representative Crabb moved to table Amendment No. 1.

A record vote was requested.

The motion to table was lost by (Record 205): 9 Yeas, 128 Nays, 1 Present, not voting.

Yeas — Allen, R.; Corte; Crabb; Harper-Brown; Hilderbran; Hope; King, P.; Nixon; Taylor.

Nays — Allen, A.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; McClendon; McReynolds;

Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Gonzalez Toureilles.

Absent — Burnam; Crownover; Eiland; Geren; Hardcastle; Keffer, J.; Kolkhorst; Madden; Noriega, M.; Oliveira.

STATEMENTS OF VOTE

When Record No. 205 was taken, I was in the house but away from my desk. I would have voted no.

Crownover

When Record No. 205 was taken, I was temporarily out of the house chamber. I would have voted no.

Eiland

I was shown voting yes on Record No. 205. I intended to vote no.

Harper-Brown

I was shown voting yes on Record No. 205. I intended to vote no.

Hope

When Record No. 205 was taken, I was in the house but away from my desk. I would have voted no.

J. Keffer

When Record No. 205 was taken, I was in the house but away from my desk. I would have voted no.

Madden

I was shown voting yes on Record No. 205. I intended to vote no.

Taylor

Amendment No. 1 was adopted.

HB 1076, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1162 ON SECOND READING
(by Farabee)

CSHB 1162, A bill to be entitled An Act relating to the training, examination, and seminar attendance requirements for applicants for or holders of licenses or registrations to perform certain activities pertaining to compressed natural gas or liquefied natural gas.

CSHB 1162 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1170 ON SECOND READING
(by Miller, Delisi, Hupp, Pickett, Hunter, et al.)

HB 1170, A bill to be entitled An Act relating to readmission to a public institution of higher education of students who withdraw to perform active military service.

HB 1170 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1328 ON SECOND READING
(by Naishtat, Madden, and Seaman)

HB 1328, A bill to be entitled An Act relating to certificates of mold remediation.

Amendment No. 1

Representatives Madden and Naishtat offered the following amendment to **HB 1328**:

Amend **HB 1328** on page 1, between lines 22 and 23, by adding the following appropriately numbered section and renumbering the sections of the bill accordingly:

SECTION _____. Section 1958.154(b), Occupations Code, is amended to read as follows:

(b) If a property owner sells property, the property owner shall provide to the buyer a copy of each certificate ~~[that has been]~~ issued for the property under this section during the five years preceding the date the property owner sells the property.

Amendment No. 1 was adopted.

HB 1328, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1367 ON SECOND READING
(by R. Allen, Keel, and Talton)

HB 1367, A bill to be entitled An Act relating to the admissibility of evidence of other similar offenses in the prosecution of certain sexual offenses.

HB 1367 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1489 ON SECOND READING
(by Turner)

HB 1489, A bill to be entitled An Act relating to the certification of the amount of excess money in the compensation to victims of crime fund.

Amendment No. 1

Representative Keel offered the following amendment to **HB 1489**:

Amend **HB 1489** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 56.01, Code of Criminal Procedure, is amended to read as follows:

Art. 56.01. DEFINITIONS. In this chapter:

(1) "Close relative of a deceased victim" means a person who was the spouse of a deceased victim at the time of the victim's death or who is a parent or adult brother, sister, or child of the deceased victim.

(2) "Guardian of a victim" means a person who is the legal guardian of the victim, whether or not the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental incompetency of the victim.

(3) "Victim" means a person who is the victim of sexual assault, kidnapping, or aggravated robbery or who has suffered personal ~~[bodily]~~ injury or death as a result of the criminal conduct of another.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Keel offered the following amendment to **HB 1489**:

Amend **HB 1489** by adding the following appropriately numbered section and renumbering the subsequent sections of the bill accordingly:

SECTION _____. Article 56.32(a), Code of Criminal Procedure, is amended by adding Subdivision (13) to read as follows:

(13) "Victim-related services or assistance" means compensation, services, or assistance provided directly to a victim or claimant for the purpose of supporting or assisting the recovery of the victim or claimant from the consequences of criminally injurious conduct.

Amendment No. 2 was adopted.

HB 1489, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1596 ON SECOND READING
(by Paxton)

CSHB 1596, A bill to be entitled An Act relating to the regulation of motor-assisted scooters.

CSHB 1596 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1924 ON SECOND READING
(by Chavez)

CSHB 1924, A bill to be entitled An Act relating to the certification of certain health organizations by the Texas State Board of Medical Examiners.

CSHB 1924 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2104 ON SECOND READING
(by Delisi)

HB 2104, A bill to be entitled An Act relating to the prosecution of the offense of hindering apprehension or prosecution.

Amendment No. 1

Representative Dutton offered the following amendment to **HB 2104**:

Amend **HB 2104** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION __. Section 38.05, Penal Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) It is a defense to prosecution under Subsection (a)(2) that:

(1) the person has contacted an appropriate law enforcement official to make arrangements to bring the suspect to the official or to a designated law enforcement agency;

(2) the person and the law enforcement official have agreed to the time and the manner in which the person is to bring the suspect to the official or designated agency; and

(3) the person's actions after contacting the law enforcement official indicate that the person is complying with the terms of the agreement described by Subdivision (2).

Amendment No. 1 was withdrawn.

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. 2).

HB 2104 - (consideration continued)**Amendment No. 2**

Representative Dutton offered the following amendment to **HB 2104**:

Amend **HB 2104** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION __. Section 38.05, Penal Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) It is an affirmative defense to prosecution under Subsection (a)(2) that:

(1) the person has contacted an appropriate law enforcement official to make arrangements to bring the suspect to the official or to a designated law enforcement agency;

(2) the person and the law enforcement official have agreed to the time and the manner in which the person is to bring the suspect to the official or designated agency; and

(3) the person's actions after contacting the law enforcement official indicate that the person is complying with the terms of the agreement described by Subdivision (2).

Amendment No. 2 was adopted.

HB 2104, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2273 ON SECOND READING

(by B. Cook)

HB 2273, A bill to be entitled An Act relating to the administration of the unemployment compensation system by the Texas Workforce Commission.

HB 2273 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2307 ON SECOND READING

(by B. Cook)

HB 2307, A bill to be entitled An Act relating to the terms of office of the Product Development and Small Business Incubator Board.

HB 2307 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

**HB 933 ON SECOND READING
(by Taylor)**

HB 933, A bill to be entitled An Act relating to certain insurance for officers and employees of state agencies.

HB 933 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representative Geren offered the following amendment to **HB 933**:

Amend **HB 933** to read as follows:

On page 1 line 13 after the word "2." insert "Section 412.052, Labor Code, is amended to read as follows:

Sec. 412.052. EXEMPTION OF CERTAIN STATE AGENCIES. This chapter does not apply to a state agency that had medical malpractice insurance coverage, workers' compensation insurance coverage, or other self-insurance coverage with associated risk management programs before January 1, 1989.

(b) This chapter does not apply to a state system of higher education with an associated health related institution.

SECTION 3."

Amendment No. 1 was adopted.

HB 933, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Insurance, upon adjournment today, Desk 24, for a formal meeting, to consider pending business.

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

(Elkins in the chair)

FIVE DAY POSTING RULE SUSPENDED

Representative Bonnen moved to suspend the five day posting rule to allow the Committee on Environmental Regulation to consider **HB 2887** and **HB 2896** five minutes after adjournment today in E1.014 in a public hearing.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Environmental Regulation, five minutes after adjournment today, E1.014, for a public hearing, to consider **HB 2887**, **HB 2896**, and all other previously posted bills.

**PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR**

Representative Edwards moved to set a congratulatory and memorial calendar for 9 a.m. Thursday, April 7.

The motion prevailed.

FIVE DAY POSTING RULE SUSPENDED

Representative West moved to suspend the five day posting rule to allow the Committee on Energy Resources to meet at 7 a.m. instead of 8 a.m. tomorrow in E1.014.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Energy Resources, 7 a.m. tomorrow, E1.014, for a public hearing, to consider bills previously posted for the 8 a.m. meeting.

ADJOURNMENT

Representative Haggerty moved that the house adjourn until 9 a.m. tomorrow in memory of Army Sergeant Paul Ray Smith of El Paso.

The motion prevailed.

The house accordingly, at 12:05 p.m., adjourned until 9 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

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

Senate List No. 2

SB 88

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
Monday, April 4, 2005

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 127 Craddick SPONSOR: Seliger
In memory of Dorothy Turner Scharbauer of Midland.

SB 46 Nelson
Relating to the establishment of a method to integrate benefits issuance and recipient identification for health and human services programs.

SB 87 Ellis
Relating to the administrative procedure for compensation for wrongful imprisonment.

SB 221 Zaffirini
Relating to the possession and self-administration of certain prescription medications by public school students while on school property or at a school-related event or activity.

SB 702 Deuell
Relating to authorizing certain uses for student center complex fees charged to students enrolled in component institutions of The Texas A&M University System.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, April 5, 2005

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 74 Solomons SPONSOR: Harris
Honoring the 56th Brigade Combat Team of the 36th Infantry Division, Texas National Guard, for its courageous service in Iraq.

HCR 139 Dunnam SPONSOR: Lucio
In memory of His Holiness Pope John Paul II.

HCR 140 Branch SPONSOR: West, Royce
Honoring the medical students, medical schools, residents, and teaching hospitals of Texas for their contributions to the health and well-being of the citizens of Texas and welcoming the medical personnel visiting the State Capitol on April 5, 2005.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 4

Corrections - **HB 291, HB 1681**

County Affairs - **HB 667, HB 731, HB 950, HB 960, HB 1231, HB 1287, HB 2814**

Criminal Jurisprudence - **HB 27, HB 360, HB 480, HB 746, HB 823, HB 1239, HB 1371, HB 2297, HB 3289**

Defense Affairs and State-Federal Relations - **HB 303, HB 1009**

Economic Development - **HB 1982**

Juvenile Justice and Family Issues - **HB 201, HB 202, HB 203, , HB 248, HB 383, HB 409, HB 594, HB 678, HB 706, HB 956, HB 1685, HB 2231**

Licensing and Administrative Procedures - **HB 1020, HB 1357, HB 2179**

Local Government Ways and Means - **HB 3016**

ENGROSSED

April 4 - HB 224

RECOMMENDATIONS FILED WITH THE SPEAKER

**April 4 - HB 812, HB 813, HB 1054, HB 1055, HB 1403, HB 1458,
HB 1680, HB 1819, HB 1902, HB 1903, HB 3476**