

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FORTY-SIXTH DAY — MONDAY, APRIL 11, 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 263).

Present — Mr. Speaker; Allen, A.; 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; Gonzalez Toureilles; 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; Orr; Otto; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; 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 — Allen, R.; Bailey; Olivo; Smith, T.

Absent — Paxton.

The invocation was offered by Reverend Charles G. Tucker, Tree of Life Ministries, International, Farmersville, as follows:

Most holy and gracious Heavenly Father, we give you thanks for each of these state representatives and their ministry through public service to our state and communities. May the mantle of your wisdom and discernment be upon them and guide their decisions. Continue to grant them favor with their constituents and fellow public servants. I pray blessings over their health, their marriages, and their family members. I pray the blessings over those who provide assistance and counsel to these public servants. I pray the blessings of your presence over this house chamber, Lord, that it will be a place of peace and a lighthouse of truth, hope, and encouragement to all who work and visit here.

And now, Lord, we pray for our president, the members of his cabinet, and all the leaders of our state, county, and city governments. May they lead us into the fullness of every blessing and every good and perfect work you have ordained for our nation. May your divine direction and protection be upon the men and women of our armed forces who stand in harm's way around the Earth today insuring that freedom and liberty shall be won and maintained for all mankind.

We bless you and thank you for your goodness upon our great state and our nation. And this morning we devote ourselves again to giving thanks and praise to you for your love and mercy to each of us. As we pray this in your most holy name. Amen.

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

LEAVES OF ABSENCE GRANTED

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

T. Smith on motion of Talton.

R. Allen on motion of Ritter.

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

Bailey on motion of Keel.

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

Olivo on motion of Chavez.

CAPITOL PHYSICIAN

The speaker recognized Representative Hardcastle who presented Dr. T. David Greer of Henrietta as the "Doctor for the Day."

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

HB 3540 - PERMISSION TO INTRODUCE

Representative Pitts requested permission to introduce and have placed on first reading **HB 3540**.

Permission to introduce was granted.

LEAVE OF ABSENCE GRANTED

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

Eiland on motion of McCall.

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).

REGULAR ORDER OF BUSINESS SUSPENDED

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

HR 965 - ADOPTED
(by McClendon)

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 965**.

The motion prevailed.

The following resolution was laid before the house:

HR 965, Recognizing April 11, 2005, as Delta Sigma Theta Sorority, Inc., Red and White Day at the State Capitol.

HR 965 was read and was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative McClendon who introduced members of Delta Sigma Theta Sorority, Inc.

HR 1083 - ADOPTED
(by Flores)

Representative Flores moved to suspend all necessary rules to take up and consider at this time **HR 1083**.

The motion prevailed.

The following resolution was laid before the house:

HR 1083, Honoring members of Leadership Mission on their visit to the State Capitol.

HR 1083 was read and was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative Flores who introduced members of Leadership Mission.

HR 1082 - ADOPTED
(by Coleman)

Representative Coleman moved to suspend all necessary rules to take up and consider at this time **HR 1082**.

The motion prevailed.

The following resolution was laid before the house:

HR 1082, Welcoming Paul Rusesabagina to the State Capitol on April 11, 2005.

HR 1082 was read and was adopted.

On motion of Representative Hodge, the names of all the members of the house were added to **HR 1082** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Coleman who introduced Paul Rusesabagina and members of the Distinguished Speakers Committee of The University of Texas at Austin.

HR 1009 - ADOPTED (by Chisum)

Representative Chisum moved to suspend all necessary rules to take up and consider at this time **HR 1009**.

The motion prevailed.

The following resolution was laid before the house:

HR 1009, In memory of James B. Settle of Littlefield.

HR 1009 was read and was unanimously adopted by a rising vote.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 1009** as signers thereof.

HB 3541 - PERMISSION TO INTRODUCE

Representative R. Cook requested permission to introduce and have placed on first reading **HB 3541**.

Permission to introduce was granted.

HCR 141 - ADOPTED (by Guillen)

Representative Guillen moved to suspend all necessary rules to take up and consider at this time **HCR 141**.

The motion prevailed.

The following resolution was laid before the house:

HCR 141, Commemorating the opening of the Fidel and Andrea R. Villarreal Elementary School in Zapata County and honoring the memory of Fidel and Andrea R. Villarreal.

HCR 141 was read and was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative Guillen who introduced the family of Fidel and Andrea R. Villarreal.

HCR 8 - ADOPTED
(by Merritt)

Representative Merritt moved to suspend all necessary rules to take up and consider at this time **HCR 8**.

The motion prevailed.

The following resolution was laid before the house:

HCR 8, Designating April 29, 2005, as Dale Earnhardt Day in Texas and paying special tribute to his life.

HCR 8 was adopted.

HR 1111 - ADOPTED
(by Chavez)

Representative Chavez moved to suspend all necessary rules to take up and consider at this time **HR 1111**.

The motion prevailed.

The following resolution was laid before the house:

HR 1111, Recognizing the China Center for Adoption Affairs and its deputy director, Chu Xiao Ying.

HR 1111 was adopted.

On motion of Representative Goolsby, the names of all the members of the house were added to **HR 1111** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Chavez who introduced representatives of the China Center of Adoption Affairs.

POSTPONED BUSINESS

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

CSHB 807 ON SECOND READING
(by Driver)

CSHB 807, A bill to be entitled An Act relating to reporting the outcome of alcohol and drug tests of holders of commercial driver's licenses.

CSHB 807 was read second time on March 16, postponed until March 29, and was again postponed until 10 a.m. today.

Representative Driver moved to postpone consideration of **CSHB 807** until 10 a.m. April 18.

The motion prevailed.

CSHB 1364 ON SECOND READING
(by Mowery, Hupp, Hardcastle, McReynolds, Geren, et al.)

CSHB 1364, A bill to be entitled An Act relating to municipal regulation of the discharge of firearms and certain other weapons.

CSHB 1364 was read second time on April 4 and was postponed until 10 a.m. today.

Representative Mowery moved to postpone consideration of **CSHB 1364** until 10 a.m. April 18.

The motion prevailed.

**GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING**

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

**HB 178 ON SECOND READING
(by Denny)**

HB 178, A bill to be entitled An Act relating to the use of electronically readable information from a driver's license or personal identification card in an election.

(J. Davis in the chair)

HB 178 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: Castro recorded voting no.)

REASON FOR VOTE

This piece of legislation has the potential to make it more difficult for Texans to exercise their right to vote. I cannot support that.

Castro

**HB 233 ON SECOND READING
(by Martinez, Escobar, Gonzales, Peña, et al.)**

HB 233, A bill to be entitled An Act relating to the securing by municipal police officers of a scene to which the municipality's emergency ambulance service responds.

HB 233 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 340 ON SECOND READING
(by Seaman and Herrero)**

HB 340, A bill to be entitled An Act relating to the authority of a navigation district to establish a volunteer police reserve force.

HB 340 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 345 ON SECOND READING**(by Solomons)**

CSHB 345, A bill to be entitled An Act relating to the disclosure of certain information provided on a voter registration application.

CSHB 345 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 550 ON SECOND READING**(by Phillips)**

HB 550, A bill to be entitled An Act relating to the preparation of a presentence report in a felony case.

(Speaker in the chair)

Amendment No. 1

Representative Alonzo offered the following amendment to **HB 550**:

Amend **HB 550** as follows:

(1) On page 1, strike lines 5-6 and substitute the following:

SECTION 1. Sections 9(d) and (g), Article 42.12, code of Criminal Procedure, are amended to read as follows:

(2) On page 1, between lines 16 and 17, insert the following:

(d) Unless waived by the defendant, at least 48 hours before [Before] sentencing a defendant, the judge shall permit the defendant or his counsel to read the presentence report.

Amendment No. 1 was adopted.

HB 550, 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.)

(Paxton now present)

CSHB 654 ON SECOND READING**(by Goolsby)**

CSHB 654, A bill to be entitled An Act relating to professional liability insurance for volunteer health care providers.

CSHB 654 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 824 ON SECOND READING
(by Talton and Riddle)

HB 824, A bill to be entitled An Act relating to a requirement that appraisal review board members complete a training and education course annually.

Amendment No. 1

Representative Talton offered the following amendment to **HB 824**:

Amend **HB 824** by adding the following appropriately numbered section and renumbering the subsequent sections of the bill accordingly:

SECTION 1. (a) Sections 5.041(b) and (c), Tax Code, are amended to read as follows:

(b) A member of the appraisal review board established for an appraisal district must biennially complete the course established under Subsection (a). A member of the appraisal review board may not participate in a hearing conducted by the board unless the person has completed the course [~~established under Subsection (a)~~] and received a certificate of course completion. In a tax year after the tax year in which a member of the appraisal review board initially completes the course and in which the member is required to complete the course, the member may not participate in a hearing conducted by the board after May 1 unless the member has completed the course and received a certificate of course completion in the current tax year.

(c) The comptroller may contract with service providers to assist with the duties imposed under Subsection (a), but the course required may not be provided by an appraisal district or a taxing unit. The comptroller may assess a fee to recover a portion of the costs incurred for the training course, but the fee may not exceed \$50 per person trained. A service provider shall provide public notice of a training course in the manner required by the comptroller. The notice must include the date, time, and location of the training course.

(b) This section takes effect January 1, 2006.

Amendment No. 1 was adopted.

HB 824, 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 900 ON SECOND READING
(by Chavez, Woolley, Veasey, B. Cook, and Castro)

CSHB 900, A bill to be entitled An Act relating to the requirement that workforce development programs provide training in financial literacy.

CSHB 900 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 975 ON SECOND READING
(by Madden)

HB 975, A bill to be entitled An Act relating to a deposition taken of a witness in a criminal action.

HB 975 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 1041 ON SECOND READING
(by Gattis, et al.)

HB 1041, A bill to be entitled An Act relating to vacancies on municipal utility district boards.

Representative Gattis moved to postpone consideration of **HB 1041** until 10 a.m. April 18.

The motion prevailed.

HB 1116 ON SECOND READING
(by Solomons)

HB 1116, A bill to be entitled An Act relating to the governmental entities subject to the sunset review process.

Amendment No. 1

Representative Chisum offered the following amendment to **HB 1116**:

Amend **HB 1116** on page 1, between lines 4 and 5 (house committee printing), by inserting the following new ARTICLE 1 and renumbering existing ARTICLES and SECTIONS of the bill accordingly:

ARTICLE 1. ENTITIES GIVEN 2007 SUNSET DATE

SECTION 1.01. TEXAS DEPARTMENT OF TRANSPORTATION.

Section 201.204, Transportation Code, is amended to read as follows:

Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2007 [~~2009~~].

Amendment No. 1 was adopted.

HB 1116, 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 1271 ON SECOND READING
(by Bohac)

HB 1271, A bill to be entitled An Act relating to the voter registration of certain persons disqualified from jury service.

Amendment No. 1

Representative Deshotel offered the following amendment to **HB 1271**:

Amend **HB 1271** on page 1, line 24, between "county" and the period, by inserting "and shall send notice send notice of the removal of a person's name to the person at the address shown on the person's jury summons".

Amendment No. 1 was adopted.

HB 1271, 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. Members registering votes are as follows: Castro recorded voting no.)

HB 1528 ON SECOND READING
(by Woolley and Menendez)

HB 1528, A bill to be entitled An Act relating to the expiration of the other events trust fund established to support local efforts to recruit or retain certain sports events.

HB 1528 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 1540 ON SECOND READING
(by Bonnen)

CSHB 1540, A bill to be entitled An Act relating to the regulation by the Texas Commission on Environmental Quality of the idling of a motor vehicle while the driver is using the vehicle's sleeper berth.

Amendment No. 1

Representative Thompson offered the following amendment to **CSHB 1540**:

Amend **CSHB 1540** on page, following line 15, by adding a new subsection (c) to read as follows and renumbering subsection (c) as subsection (d):

"(c) No driver using the vehicle's sleeper berth may idle the vehicle in a school zone or within 1000 feet of a public school. An offense under this subsection shall be punishable by a fine not to exceed \$500."

Amendment No. 1 was adopted.

Amendment No. 2

Representative Farrar offered the following amendment to **CSHB 1540**:

Amend **CSHB 1540** as follows:

(b) The commission may not prohibit or limit the idling of a motor vehicle, except where prohibited by state or federal law or regulations in non-attainment areas, when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period.

(Hardcastle in the chair)

Representative Bonnen moved to table Amendment No. 2.

A record vote was requested.

The motion to table prevailed by (Record 264): 95 Yeas, 40 Nays, 2 Present, not voting.

Yeas — Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; McCall; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Puente; Reyna; Riddle; Ritter; Seaman; Smith, W.; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Escobar; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Herrero; Hochberg; Hodge; Leibowitz; Martinez; Martinez Fischer; McClendon; Moreno, J.; Naishtat; Noriega, M.; Peña; Quintanilla; Raymond; Rodriguez; Rose; Solis; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

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

Absent, Excused — Allen, R.; Bailey; Eiland; Olivo; Smith, T.

Absent — Anchia; Chavez; Jones, J.; Luna; Moreno, P.; Oliveira; Smithee; Strama.

CSHB 1540, 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. Members registering votes are as follows: Rose recorded voting no.)

CSHB 1587 ON SECOND READING
(by West)

CSHB 1587, A bill to be entitled An Act relating to liability and validation issues of the Downtown Midland Management District.

CSHB 1587 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 1938 ON SECOND READING
(by Ritter, Menendez, Anchia, and Branch)

HB 1938, A bill to be entitled An Act relating to the award of a grant and reporting requirements under the Texas Enterprise Fund.

Amendment No. 1

Representative Coleman offered the following amendment to **HB 1938**:

Amend **HB 1938** as follows:

(1) On page 1, line 6, strike "adding Subsections (g)-(j)" and substitute "adding Subsections (f-1) and (g)-(j)".

(2) On page 2, between lines 23 and 24, insert the following:

(f-1) A grant awarded under this section must be awarded in at least four installments not less frequently than quarterly, with each installment not exceeding 25 percent of the total amount of the grant.

(3) On page 2, line 24, strike "may" and substitute "shall".

(4) On page 3, lines 7 and 8, strike "if the grant agreement includes the provision authorized by Subsection (g), the percentage of grant money required to be withheld" and substitute "the percentage of grant money required to be withheld under Subsection (g)".

(Speaker in the chair)

Representative Ritter moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 265): 104 Yeas, 32 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Eissler; Elkins; Farabee; Flynn; Frost; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Luna; Madden; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Reyna; Riddle; Ritter; Rodriguez; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Villarreal; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Castro; Coleman; Davis, Y.; Dukes; Escobar; Farrar; Gallego; Gonzales; Gonzalez Toureilles; Herrero; Hochberg; Hodge; Jones, J.; King, T.; Laney; Leibowitz; Martinez; Martinez Fischer; Moreno, J.; Naishtat; Noriega, M.; Oliveira; Quintanilla; Rose; Solis; Thompson; Uresti; Veasey; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Allen, R.; Bailey; Eiland; Olivo; Smith, T.

Absent — Baxter; Branch; Chavez; Flores; Keffer, J.; Moreno, P.; Raymond; Seaman.

STATEMENTS OF VOTE

When Record No. 265 was taken, I was in the house but away from my desk. I would have voted yes.

Baxter

I was shown voting yes on Record No. 265. I intended to vote no.

Burnam

When Record No. 265 was taken, I was in the house but away from my desk. I would have voted yes.

J. Keffer

I was shown voting yes on Record No. 265. I intended to vote no.

Rodriguez

Amendment No. 2

Representative Coleman offered the following amendment to **HB 1938**:

Amend **HB 1938** as follows:

(1) On page 1, line 6, strike "adding Subsections (g)-(j)" and substitute "adding Subsections (e-1) and (g)-(j)".

(2) On page 1, between lines 7 and 8, insert the following:

(e-1) To be eligible to receive a grant under this section, the entity must:

(1) be in good standing under the laws of the state in which the entity was formed or organized, as evidenced by a certificate issued by the secretary of state or the state official having custody of the records pertaining to entities or other organizations formed under the laws of that state;

(2) owe no delinquent taxes to a taxing unit of this state; and

(3) be in compliance with:

(A) any applicable rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, control, or reduction of air, water, or land pollution;

(B) any applicable rules or regulations adopted by the Occupational Safety and Health Administration; and

(C) any applicable state or federal laws applying to employment issues, including Chapters 21 and 61, Labor Code, and the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.).

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Y. Davis offered the following amendment to **HB 1938**:

Amend **HB 1938** as follows:

(1) On page 1, line 6, strike "(j)" and substitute "(k)".

(2) On page 3, between lines 17 and 18, insert the following new subsection:

(k) The governor may not award a grant under this section to a business or other similar entity that has relocated substantial components of the business to a foreign country in the four-year period preceding the date of the application for a grant under this section.

(Puente in the chair)

Representative Ritter moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 266): 90 Yeas, 47 Nays, 2 Present, not voting.

Yeas — Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Eissler; Elkins; Farabee; Flynn; Frost; Gattis; Geren; Goodman; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Laubenberg; Madden; McCall; McReynolds; Miller; Morrison; Mowery; Orr; Otto; Paxton; Peña; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Castro; Chavez; Chisum; Coleman; Davis, Y.; Dukes; Dunnam; Dutton; Escobar; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hartnett; Herrero; Hochberg; Hodge; Jones, D.; Jones, J.; King, T.; Kuempel; Laney; Leibowitz; Martinez; Martinez Fischer; McClendon; Menendez; Moreno, J.; Naishtat; Noriega, M.; Pickett; Quintanilla; Raymond; Rodriguez; Thompson; Turner; Uresti; Veasey; Vo.

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

Absent, Excused — Allen, R.; Bailey; Eiland; Olivo; Smith, T.

Absent — Edwards; Luna; Merritt; Moreno, P.; Nixon; Oliveira.

Amendment No. 4

Representative Coleman offered the following amendment to **HB 1938**:

Amend **HB 1938** as follows:

(1) On page 1, line 6, strike "adding Subsections (g)-(j)" and substitute "adding Subsections (e-1) and (g)-(j)".

(2) On page 1, between lines 7 and 8, insert the following:

(e-1) To be eligible to receive a grant under this section, the entity must:

(1) be in good standing under the laws of the state in which the entity was formed or organized, as evidenced by a certificate issued by the secretary of state or the state official having custody of the records pertaining to entities or other organizations formed under the laws of that state; and

(2) owe no delinquent taxes to a taxing unit of this state.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Y. Davis offered the following amendment to **HB 1938**:

Amend **HB 1938** as follows:

(1) On page 1, line 6, strike "(j)" and substitute "(k)".

(2) On page 3, between lines 17 and 18, insert the following new subsection:

(k) The governor may not award a grant under this section to a business or other similar entity that operates one or more sweatshops in a foreign country.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Farrar offered the following amendment to **HB 1938**:

Amend **HB 1938** as follows:

Sec. 481.079. REPORT ON USE OF MONEY IN TEXAS ENTERPRISE FUND. (a) Before the beginning of each regular session of the legislature, the governor shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on grants made under Section 481.078 that states:

(1) the number of direct jobs each recipient promised to create in this state;

(2) the number of direct jobs each recipient created in this state;

(3) the median wage of the jobs each recipient created in this state;

(4) the amount of capital investment each recipient promised to expend or allocate per project in this state;

(5) the amount of capital investment each recipient expended or allocated per project in this state;

(6) the total amount of grants made to each recipient;

(7) the total amount of tax credits, local incentives, and other money or credits distributed to each recipient by governmental entities of this state;

(8) the percentage of money granted to recipients with fewer than 100 employees;

(9) the geographical distribution of grants by county;

(10) the average amount of money granted in this state for each job created in this state by grant recipients;

(11) the number of jobs created in this state by grant recipients in each sector of the North American Industry Classification System (NAICS); and

(12) the effect of grants on employment, personal income, and capital investment in this state and in each regional planning commission area.

(13) of the number of direct jobs each recipient created in this state, the number of positions created that provide health benefits for employees and their families;

(b) The report may not include information that is made confidential by law.

(c) The governor may require a recipient of a grant under Section 481.078 to submit, on a form the governor provides, information required to complete the report.

Amendment No. 6 was adopted.

(Speaker in the chair)

A record vote was requested.

HB 1938, as amended, was passed to engrossment by (Record 267): 138 Yeas, 4 Nays, 1 Present, not voting.

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

Nays — Callegari; Chisum; Hunter; Miller.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Allen, R.; Bailey; Eiland; Olivo; Smith, T.

Absent — Merritt; Moreno, P.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 267. I intended to vote no.

Anderson

When Record No. 267 was taken, my vote failed to register. I would have voted yes.

Merritt

CSHB 2228 ON SECOND READING (by McCall, Hegar, Woolley, Eiland, Keel, et al.)

CSHB 2228, A bill to be entitled An Act relating to the creation of the offense of online sexual solicitation of a minor.

Amendment No. 1

Representative McCall offered the following amendment to **CSHB 2228**:

Amend **CSHB 2228** on page 1, between lines 16 and 17, by inserting the following:

(3) "Sexually explicit" means any communication, language, or material, including a photographic or video image, that relates to or describes sexual conduct, as defined by Section 43.25.

Amendment No. 1 was adopted.

Amendment No. 2

Representative McCall offered the following amendment to **CSHB 2228**:

Amend **CSHB 2228**, on page 1, line 17, between "person" and "commits", by inserting "who is 17 years of age or older".

Amendment No. 2 was adopted.

Amendment No. 3

Representative McCall offered the following amendment to **CSHB 2228**:

Amend **CSHB 2228** by striking SECTION 3 of this bill and substituting the following:

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Martinez Fischer offered the following amendment to **CSHB 2228**:

Amend **CSHB 2228** as follows:

(1) On page 2, line 8, strike "or".

(2) On page 2, line 9, between "occur" and the period, insert the following:
": or

(3) the actor was engaged in a fantasy at the time of commission of the offense".

Amendment No. 4 was adopted.

CSHB 2228, 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 2795 ON SECOND READING (by Hartnett)

HB 2795, A bill to be entitled An Act relating to certain appointments made by the governor and the chief justice of the supreme court.

HB 2795 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: Gallego recorded voting no.)

FIVE DAY POSTING RULE SUSPENDED

Representative Ritter moved to suspend the five day posting rule to allow the Committee on Economic Development to consider **HB 3247**.

The motion prevailed.

**PROVIDING FOR A LOCAL, CONSENT,
AND RESOLUTIONS CALENDAR**

Representative Reyna moved to set a local, consent, and resolutions calendar for 9 a.m. Thursday, April 14.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Criminal Jurisprudence, upon adjournment today, Desk 59, for a formal meeting, to consider pending business and the formation of a subcommittee and referral of bills to subcommittee.

Local Government Ways and Means, upon adjournment today, Desk 73, for a formal meeting, to consider bills previously heard in committee.

Calendars, upon adjournment today, Desk 49, for a formal meeting, to set the calendar.

Local and Consent Calendars, 4 p.m. or upon adjournment today, E2.024, for a formal meeting, to consider a local and consent calendar.

State Affairs will reconvene at 2 p.m. today, E2.010.

FIVE DAY POSTING RULE SUSPENDED

Representative Chavez moved to suspend the five day posting rule to allow the Committee on Border and International Affairs to consider **HB 2240** at a public hearing posted for 8 a.m. Wednesday, April 13 in E2.028.

The motion prevailed.

Representative Morrison moved to suspend the five day posting rule to allow the Committee on Higher Education to consider **HB 1624** and **HB 3001** upon adjournment tomorrow in JHR 120.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Licensing and Administrative Procedures, upon adjournment today, Desk 99, for a formal meeting, to consider **HB 175**, **HB 428**, **HB 541**, **HB 659**, **SB 571**, and **SB 877**.

ADJOURNMENT

Representative Farabee moved that the house adjourn until 10 a.m. tomorrow in memory of the 42 people killed by a tornado in Wichita Falls 26 years ago today.

The motion prevailed.

The house accordingly, at 12:48 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, April 8, 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:

SB 282 Madla
Relating to disclosure and use of sales price information for ad valorem tax purposes.

SB 310 Deuell
Relating to certain diseases or illnesses suffered by firefighters and emergency medical technicians.

SB 568 Deuell
Relating to personal emergency response system providers; providing penalties.

SB 599 Staples
Relating to the eligibility of a criminal defendant for release from jail after a delay in prosecution.

SB 716 Gallegos
Relating to payroll deductions for certain employees who are peace officers.

SB 747 Carona
Relating to establishing a demonstration project for women's health care services.

SJR 17

Staples

Proposing a constitutional amendment authorizing the denial of bail to a criminal defendant who violates a condition of the defendant's release pending trial.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 7

Corrections - **HB 2194, HB 2195, HB 2196, HB 2197, HB 2384**

County Affairs - **HB 348, HB 549, HB 571, HB 1455, HB 1456**

Criminal Jurisprudence - **HB 1759, HB 1871**

Culture, Recreation, and Tourism - **HB 632, HB 2025**

Economic Development - **HB 3036**

Elections - **HB 56, HB 758, HB 1945, HB 2068, HB 2069, HB 2199, HB 2202, HB 2322, HB 2405**

Financial Institutions - **HB 635, HB 1089, HB 1726, HB 1901, HB 1935**

Law Enforcement - **HB 311, HB 370, HB 468, HB 504, HB 546, HB 896, HB 1038, HB 1262, HB 1483, HB 1531**

Licensing and Administrative Procedures - **HB 1813, HB 2746**

Natural Resources - **HB 841, HB 881**

Public Education - **HB 308**

State Affairs - **HB 1965**

Transportation - **HB 1480, HB 1546, HB 2134, HB 2623, HB 2650, HB 2652, HB 2660, HJR 54, HJR 81**

April 8

Border and International Affairs - **HB 805, HB 3333, HCR 13**

County Affairs - **HB 663, HB 2584, HB 2587, HB 2626**

Defense Affairs and State-Federal Relations - **SB 523**

Environmental Regulation - **HB 3469**

Higher Education - **HB 495, HB 1214, HB 2274**

Judiciary - **HB 1186, HB 1189, HB 1191, HB 1586, HB 1951, SB 235, SB 346, SB 524**

Land and Resource Management - **HB 116**

Natural Resources - **HB 356, HB 856, HB 1207, HB 1229**

Transportation - **HB 2051, HB 2139, HB 2257, HB 2704, HB 2894**

ENGROSSED

April 7 - HB 258, HB 503, HB 598, HB 604, HB 646, HB 780, HB 994, HB 1062, HB 1142, HB 1201, HB 1224, HB 1225, HB 1339, HB 1350, HB 1412, HB 1470, HB 1501, HB 1509, HB 1622, HB 1657, HB 2108, HB 2212, HB 2441, HCR 36

April 8 - HB 10, HB 993, HB 1045, HB 1063, HB 2272

RECOMMENDATIONS FILED WITH THE SPEAKER

April 8 - HB 365, HB 791, HB 856, HB 881, HB 1115, HB 1141, HB 1229, HB 1230, HB 1241, HB 1346, HB 1904, HB 1906, HB 1907, HB 1908, HB 1909, HB 1996, HB 2079, HB 2214, HB 2267, HB 2373, HB 2601, HB 2602, HB 2707, HB 3181, HB 3423, HB 3477, HB 3478, HB 3479

