

EIGHTH DAY

FRIDAY, MAY 12, 2006

PROCEEDINGS

The Senate met at 10:06 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend Rick McCall, Westover Hills Church of Christ, Austin, offered the invocation as follows:

Dear Father in heaven, we stand before You as people who have been incredibly blessed. We are blessed to be able to have shelter to keep us safe. We are blessed to be able to have food to sustain our bodies. We are blessed to be able to have clothes to cover us. We are blessed to be able to have transportation to get where we need to go and where we want to go. This morning, Lord, we are keenly aware that everyone in the world does not enjoy these same blessings. As a matter of fact, we are keenly aware that everyone in this city does not enjoy these same blessings. As these men and women who help govern this state meet today, Father, we ask You to bless them with wisdom. We ask that You would place in their hearts Your agenda. We ask that You would lead them to the decisions You would want made in the issues they will be deciding. And we ask that You would use them to help those here in this state and in this city who cannot help themselves. Father, we are so very thankful for these women and men who serve others. Please bless them and their families as they strive to faithfully carry out the task they have been chosen to do. We are so thankful to You today that we live in a country where You can be worshiped freely. Please let us never take for granted these blessings and please keep in us a heart that will feel called to share them with others. Father, please pour Your blessings on this meeting today and hold close to You these women and men who lead us. In Jesus' name we pray. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **SCR 5, SCR 6.**

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

SB 44 by Hinojosa

Relating to temporary eligibility requirements for and administration of the child health plan program.

To Committee on Health and Human Services.

SB 45 by Janek

Relating to the designation of the Galveston Causeway as the Purple Heart Memorial Bridge.

To Committee on Transportation and Homeland Security.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were filed with the Secretary of the Senate:

OFFICIAL MEMORANDUM
STATE OF TEXAS
OFFICE OF THE GOVERNOR

MESSAGE

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

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

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

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

Legislation preserving the dignity and respect of funeral services by prohibiting certain disruptive behavior.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 12th day of May, 2006.

/s/Rick Perry
Governor of Texas

(seal)

ATTESTED BY:

/s/Roger Williams
Secretary of State

OFFICIAL MEMORANDUM
STATE OF TEXAS
OFFICE OF THE GOVERNOR

MESSAGE

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

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

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

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

Legislation transferring the administration of the Irma Rangel School of Pharmacy from Texas A&M University–Kingsville to The Texas A&M University System Health Science Center.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 12th day of May, 2006.

/s/Rick Perry
Governor of Texas

(seal)

ATTESTED BY:

/s/Roger Williams
Secretary of State

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 12, 2006

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:**HB 5**

The House hereby returns House Bill 5 to the Senate for further consideration on the grounds that the Senate Amendments are not germane to the original bill.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RULES SUSPENDED**(Posting Rules)**

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Criminal Justice might meet and consider **SB 14** today.

SENATE RULE 11.13 SUSPENDED**(Consideration of Bills in Committees)**

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate was meeting today.

PHYSICIAN OF THE DAY

Senator Averitt was recognized and presented Dr. Joe Michael White of Joshua as the Physician of the Day.

The Senate welcomed Dr. White and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

AT EASE

The President at 10:35 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 11:00 a.m. called the Senate to order as In Legislative Session.

**SENATE RULE 2.02 SUSPENDED
(Restrictions on Admission)**

On motion of Senator Barrientos and by unanimous consent, Senate Rule 2.02 was suspended to grant floor privileges to AFL-CIO lobbyist Walter Hinojosa as a guest of the Senate.

SENATE RESOLUTION 142

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Walter Hinojosa, who is retiring after 10 years of meritorious service as legislative and political director of the Texas American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); and

WHEREAS, Walter has long been a leading voice for the labor movement, and his advocacy for the rights of workers has left a lasting impact on conditions for the working men and women of Texas; and

WHEREAS, Walter began his career as a teacher of government, economics, history, and Mexican American studies in Houston, where he helped hundreds of high school students participate in the Close Up Program, a week-long, intensive look at the federal government; he was named the 1980-1981 Outstanding Young Educator for the City of Houston; and

WHEREAS, Drawing on his experience as an educator, Walter served as legislative director for the Texas Federation of Teachers from 1987 to 1995; he then assumed the position of legislative and political director of the Texas AFL-CIO; and

WHEREAS, Walter has served as a national executive board member of the Labor Council for Latin American Advancement, the Hispanic support group of the AFL-CIO; he was a charter member of its Houston-Gulf Coast chapter and is currently secretary and treasurer for the Texas Labor Council for Latin American Advancement; and

WHEREAS, Walter has advanced the cause of labor for over 30 years, connecting workers to their representatives in the legislature, and organizing rallies and get-out-the-vote activities; his leadership will be missed by his colleagues and the Capitol community and by the millions of working Texas men and women whose lives he has improved; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, 3rd Called Session, hereby commend Walter Hinojosa for his outstanding service to the Texas American Federation of Labor and Congress of Industrial Organizations and extend to him best wishes for the retirement years ahead; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

SR 142 was again read.

On motion of Senator Gallegos and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was previously adopted on Thursday, May 4, 2006.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate Walter Hinojosa and his wife, Sally.

The Senate welcomed Mr. and Mrs. Hinojosa.

VIDEO RELEASE POLICY WAIVED

On motion of Senator Shapleigh and by unanimous consent, the Senate policy that governs the release of videotapes of the Senate proceedings was waived in order to grant the request of Walter Hinojosa for a videotape of today's session.

**MOTION TO RECONSIDER VOTE ON
COMMITTEE SUBSTITUTE HOUSE BILL 5**

Senator Armbrister moved that the vote by which **CSHB 5** was finally passed be reconsidered:

CSHB 5, Relating to increases in the taxes on cigarettes and other tobacco products.

Question — Shall the vote by which **CSHB 5** as amended was finally passed be reconsidered?

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 27, HCR 35.**

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

OFFICIAL MEMORANDUM
STATE OF TEXAS
OFFICE OF THE GOVERNOR

MESSAGE

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

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

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

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

Legislation permitting the railroad commission to acquire title to carbon dioxide captured by a clean coal project that meets the FutureGen project profile including the transfer costs, liability issues, and sale of carbon dioxide for beneficial use.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 12th day of May, 2006.

/s/Rick Perry
Governor of Texas

(seal)

ATTESTED BY:

/s/Roger Williams
Secretary of State

Question — Shall the vote by which **CSHB 5** as amended was finally passed be reconsidered?

Senator Armbrister temporarily withdrew the motion to reconsider the vote by which **CSHB 5** was finally passed.

**SENATE RULE 11.18(a) SUSPENDED
(Public Hearings)**

On motion of Senator Ogden and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on Finance might consider the following bills today: **HB 63, HB 154.**

AT EASE

The President at 12:39 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 2:20 p.m. called the Senate to order as In Legislative Session.

**VOTES RECONSIDERED ON
COMMITTEE SUBSTITUTE HOUSE BILL 5**

Senator Armbrister again moved to reconsider the vote by which **CSHB 5** was finally passed:

CSHB 5, Relating to increases in the taxes on cigarettes and other tobacco products.

The motion prevailed by the following vote: Yeas 13, Nays 11.

Yeas: Armbrister, Brimer, Duncan, Estes, Fraser, Harris, Janek, Madla, Ogden, Seliger, Staples, Wentworth, Williams.

Nays: Averitt, Barrientos, Deuell, Eltife, Gallegos, Jackson, Nelson, Shapiro, Shapleigh, Whitmire, Zaffirini.

Absent: Carona, Ellis, Hinojosa, Lindsay, Lucio, Van de Putte, West.

Question — Shall **CSHB 5** as amended be again finally passed?

Senator Armbrister moved to reconsider the vote by which **CSHB 5** was passed to third reading.

The motion prevailed by the following vote: Yeas 15, Nays 13.

Yeas: Armbrister, Averitt, Brimer, Duncan, Estes, Fraser, Harris, Janek, Lucio, Madla, Ogden, Seliger, Staples, Wentworth, Williams.

Nays: Barrientos, Deuell, Ellis, Eltife, Gallegos, Hinojosa, Jackson, Nelson, Shapiro, Shapleigh, Van de Putte, Whitmire, Zaffirini.

Absent: Carona, Lindsay, West.

Question — Shall **CSHB 5** as amended be again passed to third reading?

On motion of Senator Armbrister and by unanimous consent, the vote by which Floor Amendment No. 2 was adopted was reconsidered.

Question — Shall Floor Amendment No. 2 to **CSHB 5** be adopted?

Senator Madla withdrew Floor Amendment No. 2.

Question — Shall **CSHB 5** as amended be again passed to third reading?

On motion of Senator Armbrister and by unanimous consent, the vote by which Floor Amendment No. 1 was adopted was reconsidered.

Question — Shall Floor Amendment No. 1 to **CSHB 5** be adopted?

Senator Nelson withdrew Floor Amendment No. 1.

Question — Shall **CSHB 5** be again passed to third reading?

CSHB 5 was again passed to third reading by the following vote: Yeas 15, Nays 13.

Yeas: Armbrister, Averitt, Brimer, Duncan, Estes, Fraser, Harris, Jackson, Janek, Madla, Ogden, Seliger, Staples, Wentworth, Williams.

Nays: Barrientos, Deuell, Ellis, Eltife, Gallegos, Hinojosa, Lucio, Nelson, Shapiro, Shapleigh, Van de Putte, Whitmire, Zaffirini.

Absent: Carona, Lindsay, West.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 12, 2006

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 38, Honoring David Barton on his outstanding tenure as vice chair of the Republican Party of Texas.

HCR 42, Congratulating Visit Lubbock on its receipt of the Texas Travel Industry Association's Excellence in Photography Award for Tourism.

HCR 45, In memory of Sam L. Huggins of Paris.

HCR 46, In memory of Phillip Zachary "Foots" Rutherford of Roxton.

HCR 47, Congratulating the 2006 State Champion Waxahachie High School Lady Indian basketball team.

HCR 48, Instructing the enrolling clerk of the house to make corrections in H.B. No. 1.

SCR 7, In memory of Bobby Smith of Onalaska.

SCR 8, Commending James Barto Arnold III for his work in the field of underwater archaeology and preserving our state's past.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1 (136 Yeas, 8 Nays)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 12, 2006

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 163, Relating to the recovery and securitization of hurricane reconstruction costs incurred by certain electric utilities outside of the Electric Reliability Council of Texas area.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE BILL ON FIRST READING

The following bill was introduced, read first time, and referred to the committee indicated:

SB 2 by Averitt

Relating to the ownership and use of carbon dioxide captured by a clean coal project.
To Committee on Finance.

HOUSE BILL ON FIRST READING

The following bill received from the House was read first time and referred to the committee indicated:

HB 163 to Committee on Business and Commerce.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Subcommittee on Capital Funding for Higher Education might meet and consider **HB 153** today and tomorrow.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2**

Senator Williams submitted the following Conference Committee Report:

Austin, Texas
May 12, 2006

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WILLIAMS

BRIMER

ARMBRISTER

HINOJOSA

PITTS

KOLKHORST

CHISUM

WOOLLEY

ROSE

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SCR 7 by Staples, In memory of Bobby Smith of Onalaska.

SR 213 by Barrientos, In memory of James Douglas Shear, Jr., of Austin.

SR 217 by Lucio, In memory of Abel Toscano, Jr.

SR 219 by Staples, In memory of Jeff McNeil.

SR 226 by Van de Putte, In memory of Ruth Estelle Kele Bellamah of Corpus Christi.

SR 233 by Barrientos and West, In memory of LaToya Lynette Finley.

HCR 37 (Madla), In memory of Officer Billy J. Zachary.

Congratulatory Resolutions

SCR 8 by Madla, Commending James Barto Arnold III for his work in the field of underwater archaeology.

SR 201 by Gallegos, Congratulating Hugo Rubio of Baytown for his selection as a 2006 Exemplary Migrant Student.

SR 202 by Shapleigh, Commending John Fife for his efforts in the sanctuary movement.

SR 203 by Shapleigh, Congratulating Eric Fernandez on winning the title of Fort Bliss Drill Sergeant of the Year.

SR 204 by Shapleigh, Recognizing Sandra Day O'Connor for her achievements and her contributions to this country.

SR 206 by Shapleigh, Congratulating Max Higgs of El Paso for receiving the Bravo Award from the El Paso League of Women Voters.

SR 208 by Nelson, Commending the Birdville Historical Society for its contributions to historical preservation in our state.

SR 209 by Nelson, Commending the JPS Health Network for 100 years of dedication to health care in Tarrant County.

SR 210 by Nelson, Recognizing the girls' basketball team of Argyle High School in Argyle for winning a state championship.

SR 211 by Nelson, Congratulating the boys' basketball team of Lake Country Christian School in Fort Worth for winning a state championship.

SR 212 by Nelson, Congratulating the boys' swim team of Frisco High School in Frisco for winning a state championship.

SR 214 by Barrientos, Commending Miriam Panzer for her dedication to the teaching profession.

SR 215 by Barrientos, Recognizing Jim Mayfield for his service to Tarrytown United Methodist Church in Austin.

SR 216 by Lucio, Commending Tommy Garcia of McAllen for his contributions to the Texas citrus industry.

SR 218 by Madla, Commending the First Baptist Church of Del Rio on the occasion of its 110th anniversary.

SR 220 by Staples, Commending George N. Bowers for 50 years of service as Mayor of Tenaha.

SR 227 by Ellis, Congratulating Tracye McDaniel for being named chief operations officer for the Greater Houston Partnership.

SR 228 by Ellis, Recognizing Mount Zion Baptist Church in Houston on the occasion of its 140th anniversary.

SR 229 by Ellis, Recognizing the American Stroke Association's "Power to End Stroke" campaign.

SR 230 by Madla, Recognizing The Boeing Company for its accomplishments.

SR 234 by Zaffirini, Commending the United Longhorn Team Inspiring Mental Attitudes Towards Engineering for its accomplishments.

HCR 38 (Nelson), Honoring David Barton on his outstanding tenure as vice chair of the Republican Party of Texas.

HCR 47 (Averitt), Congratulating the 2006 State Champion Waxahachie High School Lady Indian basketball team.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 3:48 p.m. adjourned until 3:50 p.m. today.