

FIRST DAY

TUESDAY, JUNE 21, 2005

PROCEEDINGS

In obedience to the Proclamation of the Honorable Rick Perry, Governor of the State of Texas, the Senate met in the Senate Chamber of the State Capitol at Austin, Texas, on the 21st day of June, 2005, at 12:00 noon and was called to order by the Honorable David Dewhurst, Lieutenant Governor and President of the Senate.

The President directed the Secretary of the Senate to call the roll of the Senate.

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

Absent-excused: Ellis, Estes, Shapleigh.

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

The Reverend Charles Whitmire, Crestview Baptist Church, Austin, offered the invocation as follows:

O great and merciful God, we thank You for the ways in which You have blessed us in Texas. We thank You for the opportunity to serve this great state and we humbly ask for Your wisdom. Your prophet Micah told us what pleases You: to love mercy, to act justly, and to walk humbly with our God. Help us to lead while looking out for those less fortunate. Guide our actions so that we can stand proudly as people who do what is right, and help us to humbly walk in Your path. As we begin this session today, we are reminded of our families we left behind. Place Your hedge of protection around our homes and our loved ones, and help them to know the depth of our love. We ask this of You, the alpha and omega, our beginning and our end. Amen.

LEAVES OF ABSENCE

On motion of Senator Whitmire, Senator Ellis was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Estes was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Shapleigh was granted leave of absence for today on account of important business.

PROCLAMATIONS BY THE GOVERNOR

The following Proclamations by the Governor were read and were filed with the Secretary of the Senate:

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS
41-2996

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, education is the foundation for the economic and cultural future of the state of Texas; and

WHEREAS, the constitutional responsibility for the development of an efficient system of public education rests with the legislature; and

WHEREAS, Texas must maintain a system of school finance that ensures student performance and accountability are the primary goals; and

WHEREAS, educational excellence requires that the state provide resources to reward higher levels of student performance; and

WHEREAS, the state's system of accountability must include new measures of financial accountability and transparency in budgeting; and

WHEREAS, the current state of public school finance requires immediate action by the legislature to ensure the continued efficient and effective operation of Texas schools; and

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

NOW, THEREFORE, I, RICK PERRY, GOVERNOR OF THE STATE OF TEXAS, by the authority vested in me by Article IV, Section 8, of the Texas Constitution, do hereby call an extraordinary session of the 79th Legislature, to be convened in the city of Austin, commencing at noon on Tuesday the 21st day of June 2005, for the following purposes:

To consider legislation that addresses educator compensation, benefits and certification.

To consider legislation that provides for public school financial accountability and that increases transparency in school district financial reporting.

To consider legislation that provides for performance-based incentives to educators and schools that attain higher levels of student achievement.

To consider legislation that funds textbooks and that creates the instructional materials allotment for public schools.

To consider legislation that provides for charter school funding and reform.

To consider legislation that provides for modifications to the recapture provisions of the public school finance system.

To consider legislation that provides for November elections for public school boards of trustees.

To consider legislation providing funding for the public school finance system and the continuation of the Texas Education Agency.

To consider legislation providing for end-of-course examinations to be used in public schools.

To consider legislation that provides for increased accountability and intervention for schools failing to meet state standards.

To consider legislation that provides for local property tax rate compression and voter approval of local property tax rates.

To consider legislation that establishes indicators of college readiness and higher levels of student achievement in the public school accountability system.

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

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 18th day of June 2005.

/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, FIRST 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, First 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, First Called Session for consideration:

Legislation to limit the ad valorem tax rates of certain taxing units.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 21st day of June, 2005.

/s/Rick Perry
Governor of Texas

(seal)

ATTESTED BY:

/s/Roger Williams
Secretary of State

SENATE RESOLUTION 1
(Caucus Report)

Senator Whitmire offered the following resolution:

BE IT RESOLVED BY THE SENATE OF THE STATE OF TEXAS:

SECTION 1. CAUCUS REPORT. At a caucus held in the offices of the senate attended by 26 members of the senate, the caucus made the recommendations for the operation of the senate contained in this resolution.

SECTION 2. SENATE OFFICERS. (a) Senate officers for the 79th Legislature are:

- (1) Secretary of the Senate—Patsy Spaw;
- (2) Calendar Clerk—Linda Tubbs;
- (3) Enrolling Clerk—Mardi Alexander;
- (4) Journal Clerk—Dianne Arrington; and
- (5) Sergeant-at-arms—Carleton Turner.

(b) Officers named in this section serve at the will of the senate.

SECTION 3. PARLIAMENTARIAN. The parliamentarian, Karina Casari Davis, is named by the lieutenant governor and serves at the will of the lieutenant governor. The parliamentarian is a senate officer.

SECTION 4. EMPLOYEES. (a) The lieutenant governor may employ staff for the office of the lieutenant governor at salaries set by the lieutenant governor.

(b) Each senator may employ staff for the senator's office at salaries set by the senator.

(c) The chairman of each committee may employ staff of the chair's selection as needed by the committee. A committee employee shall be compensated in amounts similar to the compensation paid to persons in similar senate positions.

(d) The secretary of the senate may employ other staff necessary for the operation of the senate at salaries approved by the administration committee.

(e) The lieutenant governor, the secretary of the senate, and each senator may use the assistance of any assistant sergeant-at-arms or other available senate employee for any and all services needed in and about the senate.

(f) In this resolution, "senate employee" includes an employee of the lieutenant governor, the secretary of the senate, a senator, a senate committee, and any other person compensated from funds appropriated for the operation of the senate.

SECTION 5. DUTIES OF ADMINISTRATION COMMITTEE. (a) In addition to the duties of the administration committee expressly imposed by this resolution, the committee shall take actions necessary to ensure that the administrative operations of the senate comply with applicable law and are conducted effectively and efficiently.

(b) The committee shall establish appropriate and necessary controls over contracts, inventory, and property management.

(c) The committee may delegate any of its responsibilities to the committee chair or to the secretary of the senate to be performed under the general supervision of the committee.

(d) Policies adopted by the administration committee must be consistent with the provisions of this resolution. To the extent of a conflict between a policy and this resolution, this resolution prevails.

(e) Policies adopted by the administration committee are subject to the will of the senate, and a majority of the senate may reject or modify any policy adopted by the committee.

SECTION 6. EMPLOYMENT AND PERSONNEL POLICIES. (a) The administration committee may adopt and enforce personnel and employment policies governing senate employees.

(b) The administration committee may not adopt a policy that limits the salary of an employee of the lieutenant governor, a senator, or a senate committee, except that the administration committee may require approval by that committee of any senate committee employee salary that is proposed to exceed \$5,000 a month.

SECTION 7. MEMBER'S EMPLOYEE LEAVE POLICY. (a) An employee of a senator accrues vacation leave, compensatory leave, or sick leave in accordance with policies adopted by the senator consistent with the requirements of this section.

(b) An employee may accrue vacation leave, compensatory leave, or sick leave only if the employee files a monthly time record with the senate human resources office. Time records are due not later than the 10th day of the following month.

(c) Compensatory time must be used not later than the last day of the 12th month following the month in which the time was accrued.

(d) An employee is not entitled to compensation for accrued but unused compensatory time.

SECTION 8. OUTSIDE EMPLOYMENT. An employee of the senate may not be employed by and receive compensation from any other person during the term of senate employment without the permission of the employee's senate employer.

SECTION 9. WORK HOURS. An employee shall report to work at the time, and work for the number of hours, set by the employee's senate employer.

SECTION 10. LIMIT ON MONTHLY STAFF SALARY AND TRAVEL EXPENSES. (a) The total amount of staff salaries and intrastate staff travel expenses for each senator may not exceed \$36,000 per month.

(b) Any unexpended portion of this monthly amount may be carried forward from one month to the next and expended until the end of the fiscal year.

SECTION 11. SENATORS' EXPENSE REIMBURSEMENT AND PER DIEM. The secretary of the senate shall provide for the reimbursement of the expenses of each senator and the payment of each senator's per diem in accordance with law, this resolution, and the rules of the Texas Ethics Commission.

SECTION 12. OTHER SENATE EXPENSES. (a) The lieutenant governor, the secretary of the senate, and each senator may incur expenses for carrying out official duties, including expenses for items such as subscriptions, stationery, postage, and telecommunications.

(b) Expenses under this section shall be paid from the contingent expense fund of the senate.

SECTION 13. PAYMENT OF SALARIES AND EXPENSES. (a) Salaries and expenses authorized by this resolution shall be paid from the contingent expense fund as provided by this section.

(b) Vouchers for payment of any expense, including salaries and travel expenses, must be signed by the chair of the administration committee and the secretary of the senate.

(c) The administration committee shall adopt policies regarding the presentation of timely, properly completed, and signed vouchers.

SECTION 14. DESIGNATION FOR ATTENDANCE AT MEETINGS AND FUNCTIONS. (a) The administration committee shall designate a senator or any employee to attend an official meeting of a national governmental organization during a session of the 79th Legislature. The person designated is entitled to reimbursement for actual and necessary expenses.

(b) The lieutenant governor may designate a senator to represent the senate at ceremonies and ceremonial functions. The necessary expenses of the senator and necessary staff for this purpose shall be paid pursuant to a budget adopted by the administration committee.

SECTION 15. ELECTRONIC RECORDING BY MEMBER PROHIBITED. No member of the senate may electronically record a private conversation held within the brass rail on the senate floor during a legislative session without the knowledge and consent of all participants to the conversation.

SECTION 16. JOURNAL. The secretary of the senate shall provide for the printing of not more than 500 copies of the daily journal. Of that number:

(1) 175 shall be furnished to the house of representatives;

(2) 60 shall be furnished to the Legislative Reference Library; and

(3) the remainder shall be apportioned among the senators and the lieutenant governor.

SR 1 was read and was adopted without objection.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

June 21, 2005

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 11, Granting permission for the legislature to adjourn for more than three days during the period beginning on Tuesday, June 21, 2005, and ending on Monday, June 27, 2005.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**ELECTION OF PRESIDENT PRO TEMPORE
SEVENTY-NINTH LEGISLATURE, FIRST CALLED SESSION**

The President announced that the time had arrived for the election of President Pro Tempore of the 79th Legislature, 1st Called Session.

Senator Lucio placed in nomination the name of Senator Frank Madla of San Antonio for the office of President Pro Tempore of the 79th Legislature, 1st Called Session.

Senator Madla was elected President Pro Tempore of the 79th Legislature, 1st Called Session, by a rising vote.

The President called the Honorable Frank Madla to the President's Rostrum and administered the Oath of Office as follows:

I, Frank Madla, do solemnly swear, that I will faithfully execute the duties of the office of President Pro Tempore of the Senate of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this state, so help me God.

HOUSE CONCURRENT RESOLUTION 11

The President laid before the Senate the following resolution:

HCR 11, Granting the legislature permission to adjourn for more than three days during the period beginning on Tuesday, June 21, 2005, and ending on Monday, June 27, 2005.

ARMBRISTER

The resolution was read.

On motion of Senator Armbrister and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution except as follows:

Absent-excused: Ellis, Estes, Shapleigh.

PRESENTATION

Proud parents-to-be, Karina Casari Davis, Senate Parliamentarian, and Doug Davis, Senior Advisor for Policy to the Lieutenant Governor, were presented with a gift from Senators Nelson, Shapiro, Van de Putte, and Zaffirini.

MOTION IN WRITING

Senator Whitmire offered the following Motion In Writing:

Mr. President:

I move that the President be authorized to appoint a committee of five (5) Members to notify the Governor that the Senate is organized and ready to transact business.

WHITMIRE

The Motion In Writing was read and was adopted without objection.

Accordingly, the President appointed the following Committee to Notify the Governor: Senators Shapiro, Ogden, Zaffirini, Whitmire, and Duncan.

SENATE BILLS AND RESOLUTION ON FIRST READING

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

SB 11 by Duncan

Relating to the compensation of state judges and county judges, to the computation of retirement benefits for state judges and for members of the elected class of the Employees Retirement System of Texas, and to providing funds for court-related purposes.

To Committee on State Affairs.

SB 12 by Harris

Relating to the creation, purpose, implementation, and funding of the County Park Beautification and Improvement Program.

To Committee on Administration.

SJR 11 by Harris

Proposing a constitutional amendment relating to appropriations for the preservation and perpetuation of certain items of historical value; allowing the legislature and state agencies to accept on behalf of the state gifts of items of historical value and contributions to purchase such items.

To Committee on Administration.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Harris and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Administration might meet and consider the following bill and resolution today:

SB 12, SJR 11.

SENATE BILL ON FIRST READING

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

SB 2 by Shapiro

Relating to public education and public school finance matters; making an appropriation; imposing criminal penalties.
To Committee on Education.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Education might meet and consider **SB 2** tomorrow.

SENATE RULE 11.13 SUSPENDED
(Consideration of Bills in Committees)

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

REMARKS

Senator Barrientos was recognized by the President, and his remarks were reduced to writing and printed in the *Senate Journal* as follows:

Members, we lost a great person, a great Texan, and a magnificent public servant this weekend, Congressman Jake Pickle. I had the honor to work with him throughout my career, and I viewed him as a role model in two major ways: first, be honest and ethical, and, second, serve your constituents with diligence and dignity. That is Jake Pickle's legacy. We should all strive to live up to that. He was a terrific supporter of The University of Texas, where he came from his home in tiny Roscoe, Texas, and rose to be student body president. He has an entire research campus named after him because of what he did for the university. He honed his political skills with two other great Texans of the 20th century, Lyndon Johnson and John Connally. He was a great campaigner. He was elected to Congress in 1963 and rarely again faced a challenger. When he was challenged, he won handily. Jake is best noted for his reforms of the Social Security Act in 1983, an effort that has served our country for 22 years. But his most courageous vote was in 1964, as a freshman Congressman, when he voted for the Civil Rights Act. He was one of only six Congressmen

from the South to vote for the most landmark legislation of our time. Jake Pickle served in Congress for 31 years. But he supported our country, our state, his university, and, most importantly, his family, for 91 years. To his wife, Beryl, his daughter, and stepchildren, my heart goes out to you, and so do the hearts of all people whose lives Jake Pickle has touched. And those people number in the hundreds of millions. I move we adjourn today in memory of the Most Honorable James Jarrell "Jake" Pickle.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 1:20 p.m. agreed to recess, in memory of former Congressman James Jarrell "Jake" Pickle of Austin, Dwayne Tyner of Brownsville, and Alfonso Jose Alamia, Jr., of Edinburg, pending receipt of committee reports and completion of the introduction of bills and resolutions on first reading, until 1:30 p.m. Monday, June 27, 2005.

AT EASE

The President at 1:21 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 6:28 p.m. called the Senate to order as In Legislative Session.

SENATE BILLS ON FIRST READING

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

SB 4 by Williams

Relating to the calculation and imposition of an ad valorem tax by a taxing unit.
To Committee on Finance.

SB 13 by Gallegos

Relating to taxes, assessments, and impact fees imposed on residential property by the Greater East End Management District.
To Committee on Finance.

SB 14 by Zaffirini

Relating to contracting and ethics issues of governmental entities; providing a civil penalty.
To Committee on Finance.

SB 15 by Armbrister

Relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows.
To Committee on Natural Resources.

SB 16 by Lucio

Relating to authorizing certain counties and municipalities to regulate land development; providing a penalty.
To Committee on International Relations and Trade.

SB 17 by Shapleigh

Relating to additional funding to school districts for teacher salaries.
To Committee on Education.

SB 18 by Lucio

Relating to a statewide initiative regarding the prevention and treatment of obesity-related health concerns.
To Committee on Health and Human Services.

SB 19 by Lucio

Relating to a risk assessment program for Type 2 diabetes and the creation of the Type 2 Diabetes Risk Assessment Program Advisory Committee.
To Committee on Health and Human Services.

SB 20 by Fraser

Relating to this state's goal for renewable energy.
To Committee on Business and Commerce.

SB 21 by Fraser

Relating to furthering competition in the communications industry.
To Committee on Business and Commerce.

SB 22 by Shapleigh

Relating to a Texas teacher leadership initiative.
To Committee on Education.

AT EASE

The President at 6:30 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION**(Thursday, June 23, 2005)**

Senator Duncan at 4:53 p.m. called the Senate to order as In Legislative Session.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

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

SB 3 by Ogden

Relating to financing public schools in this state and reducing school property taxes.
To Committee on Finance.

SB 5 by Ogden

Relating to certain fiscal matters affecting governmental entities.
To Committee on Finance.

SB 23 by Duncan

Relating to the remedy provided for failure to disclose certain information in certain residential construction transactions.
To Committee on State Affairs.

SB 24 by Armbrister

Relating to the maximum permitted withdrawals and critical period management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.

To Committee on Natural Resources.

SB 25 by Janek

Relating to authorizing the governing body of a taxing unit to establish for purposes of ad valorem taxation by the taxing unit a lower limit on increases in the appraised value of residence homesteads in the taxing unit.

To Committee on Finance.

SB 26 by Shapleigh

Relating to national certification of public school teachers.

To Committee on Education.

SB 27 by Shapleigh

Relating to exemptions from the sales tax.

To Committee on Finance.

SB 28 by Nelson

Relating to authorizing the issuance of revenue bonds for the University of North Texas Health Science Center at Fort Worth.

To Committee on Finance.

SJR 6 by Janek

Proposing a constitutional amendment authorizing the legislature to authorize the governing body of a political subdivision to establish for purposes of ad valorem taxation by the political subdivision a lower limit on the maximum average annual percentage increase in the appraised value of residence homesteads in the political subdivision.

To Committee on Finance.

SJR 12 by Lucio

Proposing a constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board to provide assistance to economically distressed areas.

To Committee on International Relations and Trade.

AT EASE

The Presiding Officer, Senator Duncan in Chair, at 4:56 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION**(Friday, June 24, 2005)**

Senator Averitt at 12:23 p.m. called the Senate to order as In Legislative Session.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

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

SB 29 by Shapleigh

Relating to a bonus for certain new public school classroom teachers.
To Committee on Education.

SB 30 by Shapleigh

Relating to an analysis of the effects of certain tax policies.
To Committee on Finance.

SB 31 by Shapleigh

Relating to tuition exemptions granted by public institutions of higher education to children of certain classroom teachers.
To Committee on Education.

SB 32 by Shapleigh

Relating to a dual language education pilot project in certain school districts.
To Committee on Education.

SB 33 by Madla

Relating to the small and mid-sized district adjustments under the Foundation School Program for certain school districts.
To Committee on Education.

SB 34 by Madla

Relating to the taxable property value under the public school finance system of school districts not offering all grade levels.
To Committee on Education.

SB 35 by Madla

Relating to the taxable value of property for school finance purposes of certain school districts.
To Committee on Education.

SB 36 by Ellis

Relating to the compensation of state judges and to providing funds for other court-related purposes.
To Committee on State Affairs.

SB 37 by Ellis

Relating to providing funds for the fair defense account.
To Committee on Criminal Justice.

SB 38 by Armbrister

Relating to the authorization and regulation of electronic pull-tab bingo; not authorizing the use of slot machines or video lottery terminals.
To Committee on State Affairs.

SB 39 by Duncan

Relating to responsibilities of certain state agencies concerning radioactive substances; imposing fees and surcharges; providing administrative and civil penalties.
To Committee on Natural Resources.

SB 40 by Averitt

Relating to a comprehensive study of right-of-way use compensation paid to governmental entities by communications and technology providers.

To Committee on Business and Commerce.

SJR 5 by Ogden

Proposing a constitutional amendment authorizing a uniform statewide property tax for public education, abolishing school district property taxes for maintenance purposes, and authorizing a limited school district property tax for educational enrichment if approved by the voters of the district.

To Committee on Finance.

SJR 7 by Ellis

Proposing a constitutional amendment authorizing casino gaming and requiring creation of a Texas Gaming Commission to regulate gaming and casino-based development projects in this state.

To Committee on State Affairs.

RECESS

Pursuant to a previously adopted motion, the Senate at 12:25 p.m. Friday, June 24, 2005, recessed, in memory of former Congressman James Jarrell "Jake" Pickle of Austin, Dwayne Tyner of Brownsville, and Alfonso Jose Alamia, Jr., of Edinburg, until 1:30 p.m. Monday, June 27, 2005.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

June 21, 2005

ADMINISTRATION — **SJR 11, SB 12**

June 23, 2005

EDUCATION — **CSSB 2**