

# SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE — FIRST CALLED SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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## THIRD DAY

(Thursday, July 20, 2017)

The Senate met at 12:09 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Garcia, Hall, Hancock, Hinojosa, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Miles, Nelson, Nichols, Perry, Rodríguez, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, Watson, West, Whitmire, Zaffirini.

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

Senator Kolkhorst offered the invocation as follows:

Father, we come to You tonight, today, a new day, in which we ask for Your guidance. We thank You, Father, for the ability to serve, to serve You, to serve the people of Texas, to serve the millions of voices that have trusted in us, to come together, to find resolve. We know, Father, that You are our leader, and in You we put our trust. As said in Isaiah, surely God is my salvation, I will trust and not be afraid. The Lord, the Lord is my strength and my song. He has become my salvation. Father, again, thank You, for we are not self-serving leaders, but leaders that serve, serve the people and serve You. Amen.

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

The motion prevailed without objection.

## GUESTS PRESENTED

Senator Huffman was recognized and introduced to the Senate her son, Luke Lawyer, accompanied by his friend, Will Kaspari.

The Senate welcomed its guests.

## PHYSICIAN OF THE DAY

Senator Campbell was recognized and presented Dr. Dawn Buckingham of Lakeway, accompanied by her daughter, Hannah, as the Physician of the Day.

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

**INTRODUCTION OF  
BILLS AND RESOLUTIONS POSTPONED**

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

**CONCLUSION OF MORNING CALL**

The President at 12:30 a.m. announced the conclusion of morning call.

**SENATE BILL 20 ON THIRD READING**

The President laid before the Senate **SB 20** by Senator Taylor of Collin at this time on its third reading and final passage:

**SB 20**, Relating to avoiding the abolishment of certain agencies subject to the Texas Sunset Act.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE BILL 60 ON THIRD READING**

The President laid before the Senate **SB 60** by Senator Taylor of Collin at this time on its third reading and final passage:

**SB 60**, Relating to the repeal of certain riders for the Texas Medical Board and the Texas State Board of Examiners of Psychologists from the General Appropriations Act that are contingent upon the approval of certain Acts continuing those agencies during the 85th Regular Session.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**MESSAGE FROM THE GOVERNOR**

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

STATE OF TEXAS  
OFFICE OF THE GOVERNOR

MESSAGE

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTY-FIFTH 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 governor; and

WHEREAS, the members of the 85th Texas Legislature, First Called Session, have now convened to consider items presented to them by the governor;

NOW, THEREFORE, I, GREG ABBOTT, 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 subjects to the 85th Texas Legislature, First Called Session, for consideration:

Legislation to increase the average salary and benefits (including TRS-Care) of Texas teachers; and legislation to provide a more flexible and rewarding salary and benefit system for Texas teachers.

Legislation establishing a statewide commission to study and recommend improvements to the current public school finance system; and other legislation relating to school finance, including Additional State Aid for Tax Reduction (ASATR).

Legislation to empower parents of children with special needs or educational disadvantages to choose an educational provider that is best for their child.

Legislation reforming the laws governing ad valorem property taxes.

Legislation using population growth and inflation to establish a spending limit for state government.

Legislation using population growth and inflation to establish a spending limit for political subdivisions.

Legislation protecting the private property rights of land owners from political subdivision rules, regulations, or ordinances that interfere with, delay, or restrict private property owners' ability to use or enjoy their property.

Legislation expediting the issuance of permits by political subdivisions and reforming the laws governing the issuance of permits by political subdivisions.

Legislation preventing political subdivisions from imposing on private property additional or enhanced regulations that did not exist at the time the property was acquired.

Legislation preempting local regulation of the use of hand-held mobile communication devices while driving.

Legislation regarding the use of multi-occupancy showers, locker rooms, restrooms, and changing rooms.

Legislation prohibiting state or local government entities from deducting labor union or employee organization membership fees or dues from the wages of public employees.

Legislation prohibiting financial transactions between a governmental entity and an abortion provider or affiliate of the abortion provider.

Legislation restricting health plan and health benefit plan coverage for abortions.

Legislation strengthening the laws applicable to the reporting of abortions and abortion complications to the State.

Legislation enhancing patient protections contained in the procedures and requirements for do-not-resuscitate orders.

Legislation enhancing the detection, prosecution, and elimination of mail-in ballot fraud.

Legislation continuing the operation and expanding the duties of the Maternal Mortality and Morbidity Task Force to ensure action is taken to reduce the maternal mortality rate in Texas.

Legislation adjusting the scheduling of Sunset Commission review of state agencies.

Respectively submitted,  
/s/Greg Abbott  
Governor

Austin, Texas  
July 20, 2017

### SENATE BILLS ON FIRST READING

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

**SB 1** by Bettencourt, Creighton, Hancock, Taylor of Collin  
Relating to ad valorem taxation.  
To Select Committee on Government Reform.

**SB 2** by Taylor of Galveston, Bettencourt, Campbell, Huffines, Nelson, Taylor of Collin  
Relating to public school finance, including the establishment of a tax credit scholarship and educational expense assistance program.  
To Committee on Education.

**SB 3** by Kolkhorst  
Relating to the regulation of certain facilities and activities of political subdivisions, including public school districts, and open-enrollment charter schools.  
To Committee on State Affairs.

**SB 4** by Schwertner, Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Nelson, Perry, Seliger, Taylor of Galveston, Taylor of Collin  
Relating to prohibiting certain transactions between a governmental entity and an abortion provider or affiliate of the provider.  
To Committee on Health and Human Services.

**SB 5** by Hancock, Bettencourt, Buckingham, Burton, Estes, Huffines, Hughes, Kolkhorst, Nelson, Seliger, Taylor of Galveston

Relating to the prevention of fraud in the conduct of an election; creating a criminal offense; increasing criminal penalties.

To Committee on State Affairs.

**SB 6** by Campbell, Buckingham, Schwertner

Relating to municipal annexation.

To Committee on State Affairs.

**SB 7** by Hughes, Bettencourt, Birdwell, Burton, Campbell, Hancock, Huffines, Nelson

Relating to payroll deductions for state and local government employee organizations.

To Committee on Business and Commerce.

**SB 8** by Creighton, Bettencourt, Birdwell, Buckingham, Burton, Campbell, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin

Relating to health plan and health benefit plan coverage for elective abortion.

To Committee on Business and Commerce.

**SB 9** by Hancock, Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Huffines, Nelson, Seliger, Taylor of Galveston, Taylor of Collin

Relating to the constitutional limit on the rate of growth of appropriations.

To Committee on Finance.

**SB 10** by Campbell, Creighton, Huffines, Hughes, Perry, Schwertner

Relating to reporting requirements by certain physicians and health care facilities for abortion complications; authorizing a civil penalty.

To Committee on Health and Human Services.

**SB 11** by Perry

Relating to general procedures and requirements for do-not-resuscitate orders.

To Committee on Health and Human Services.

**SB 12** by Buckingham

Relating to limiting the applicability of municipal and county regulations affecting real property.

To Committee on Business and Commerce.

**SB 13** by Burton

Relating to the issuance of a permit by a political subdivision.

To Committee on Business and Commerce.

**SB 14** by Hall

Relating to a property owner's right to remove a tree or vegetation.

To Committee on Business and Commerce.

**SB 15** by Huffines, Creighton, Hall, Hughes, Perry, Taylor of Collin

Relating to prosecution of certain offenses involving and preemption of local regulation of the use of a wireless communication device while operating a motor vehicle.

To Committee on Business and Commerce.

**SB 16** by Taylor of Galveston, Bettencourt, Burton, Campbell, Garcia, Hall, Hancock, Kolkhorst, Lucio, Nelson, Nichols, Seliger, Taylor of Collin, West

Relating to the creation of a commission to recommend improvements to the public school finance system.

To Committee on Education.

**SB 17** by Kolkhorst, Huffman, Nelson

Relating to maternal health and safety, pregnancy-related deaths, and maternal morbidity, including postpartum depression.

To Committee on Health and Human Services.

**SB 18** by Estes, Campbell, Huffines, Hughes, Schwertner

Relating to a limit on local government expenditures.

To Select Committee on Government Reform.

**SB 19** by Nelson, Campbell, Estes, Huffman, Hughes, Kolkhorst, Taylor of Galveston

Relating to bonuses and salaries for public school classroom teachers and state assistance for the Texas Public School Employees Group Insurance Program.

To Committee on Finance.

**SB 73** by Hughes, Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin

Relating to reporting and certification requirements by certain physicians regarding certain abortions.

To Committee on Health and Human Services.

**SB 77** by Schwertner

Relating to prohibiting certain transactions between a governmental entity and an abortion provider or affiliate of the provider.

To Committee on Health and Human Services.

**SB 80** by Perry

Relating to general procedures and requirements for do-not-resuscitate orders.

To Committee on Health and Human Services.

**SB 82** by Kolkhorst

Relating to pregnancy-related deaths and maternal morbidity, including postpartum depression.

To Committee on Health and Human Services.

**SB 85** by Campbell

Relating to reporting requirements by certain physicians and health care facilities for abortion complications; authorizing a civil penalty.

To Committee on Health and Human Services.

**SB 87** by Hughes

Relating to reporting and certification requirements by certain physicians regarding certain abortions.

To Committee on Health and Human Services.

**SB 91** by Kolkhorst

Relating to the regulation of certain facilities and activities of political subdivisions, including public school districts, and open-enrollment charter schools.

To Committee on State Affairs.

**SB 93** by Bettencourt

Relating to ad valorem taxation.

To Select Committee on Government Reform.

**SB 94** by Hughes

Relating to payroll deductions for state and local government employee organizations.

To Committee on Business and Commerce.

**SB 96** by Bettencourt

Relating to ad valorem taxation.

To Select Committee on Government Reform.

**MOTION IN WRITING**

Senator Hancock offered the following Motion In Writing:

Mr. President:

I move to suspend Senate Rule 11.19 to permit the consideration of the following bills at public hearings held on Friday, July 21, notwithstanding any requests for advance notice pursuant to the rule by the:

Committee on Health and Human Services:

SB 4 by Schwertner

SB 10 by Campbell

SB 11 by Perry

SB 17 by Kolkhorst

SB 73 by Hughes

SB 77 by Schwertner

SB 80 by Perry

SB 82 by Kolkhorst

SB 85 by Campbell

SB 87 by Hughes

Committee on Education:

SB 2 by L. Taylor

SB 16 by L. Taylor

Committee on State Affairs:

SB 3 by Kolkhorst

SB 91 by Kolkhorst.

HANCOCK

The Motion In Writing was read.

Question: Shall the Motion In Writing prevail?

### POINT OF ORDER

Senator Rodríguez raised a point of order that once the action to tag a bill has been taken, the motion to suspend Senate Rule 11.19 was out of order.

### POINT OF ORDER RULING

The President stated that the point of order was respectfully overruled.

Question: Shall the Motion In Writing prevail?

The Motion In Writing prevailed by the following vote: Yeas 20, Nays 11.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

### REMARKS ORDERED PRINTED

On motion of Senator Rodríguez and by unanimous consent, remarks regarding Senate Rule 11.19 were ordered reduced to writing and printed in the *Senate Journal* as follows:

**President:** Senator Rodríguez, for what purpose?

**Senator Rodríguez:** Parliamentary inquiry, Mr. President.

**President:** State your inquiry.

**Senator Rodríguez:** Well, I, Mr. President and Members, you know, just yesterday I called a point of order because the majority chose to suspend this tag rule retroactively, which is, sounds like that's what we're doing again today. We filed the, uh, the tag documents a while ago, and now we are, again, raising a motion to retroactively suspend the tag rule, 11.19, something that I insist this body has never done before. Isn't that correct? Applying it retroactively.

**President:** Senator, as yesterday, with the greatest respect, this is, you're not stating a parliamentary inquiry. You're asking a question and kind of having a debate. Do you have an inquiry?

**Senator Rodríguez:** Well, is, is there a precedent, Mr. President? Parliamentary inquiry, is there a precedent for suspending Senate Rule 11.19—

**President:** Senator—

**Senator Rodríguez:** —retroactively?

**President:** —yeah, Senator, you asked this question thoroughly the other day, and it was answered thoroughly the other day.

**Senator Rodríguez:** Well, I want for the record, we have a new, we have new, new tags, new bills, and so I want to, on the record—



**President:** Your question is, has it been—

**Senator Rodríguez:** —inquire—

**President:** —I'm sorry?

**Senator Rodríguez:** —inquire about whether or not we are, again, retroactively suspending a rule without any precedents.

**President:** We have done this before and it is allowed.

**Senator Rodríguez:** It is, parliamentary inquiry, Mr. President.

**President:** State your inquiry, Sir.

**Senator Rodríguez:** The, the tag rule provides for 48-hours notice to an individual Senator that tags a bill so that that Senator can prepare, and for the public to have sufficient notice, as well, that might be interested, might want to come and testify. These bills that this motion to suspend addresses, which were tagged, relate to a hearing that is going to take place this Friday, day after tomorrow, and there is not 48-hours notice before those hearings are held. And so, isn't, is, is the purpose of this motion to suspend to deprive me and any of the other Senators that signed these tag rule, tag documents, under Rule 11.19, to prevent us from having sufficient time to study these bills? Why, some of them were just filed just a few minutes ago. I haven't seen them.

**President:** Senator Hancock.

**Senator Rodríguez:** The public hasn't seen them. We're not going to have enough time, Mr. President. Is, it, wouldn't that be the case, if this motion to suspend the tag rule is adopted?

**President:** Senator Hancock.

**Senator Hancock:** Yes, thank you, Mr. President. Parliamentary inquiry.

**President:** State your inquiry.

**Senator Hancock:** Is the motion before the body a debatable motion?

**President:** It is not.

**Senator Hancock:** Parliamentary inquiry.

**President:** State your inquiry.

**Senator Hancock:** Is there precedent for tagging bills before they're referred to committee? Mr. President, let me restate that. Are the rules silent on when a tag can be applied?

**President:** Senator, from yesterday, the day before, I guess, Tuesday, the 1939 precedent that we cited clearly showed that that was the case. Yeah, the bill had been tagged before.

**Senator Hancock:** Before referral.

**President:** Right, before referral. Well, let me, before referral, be— be— before the rule, yeah, was suspended. Yeah, before the rule was suspended, excuse me.

**Senator Hancock:** Correct. Were the bills tagged prior to referral?

**President:** Yeah. Senator, these tags were just brought up, after referral.

**Senator Hancock:** Thank you. I believe we have a motion on the floor.

**Senator Rodríguez:** Parliamentary inquiry, Mr. President.

**President:** State your inquiry.

**Senator Rodríguez:** Well, isn't it the case, as I said earlier, Mr. President, that, even though some of these issues have been discussed before, we have new bills that Members and the public have not had enough time to study and to consider?

**President:** Senator, as I said yesterday, I'm not going to debate Members on the floor. I haven't as Lieutenant Governor, last session or this session. I'm not going to do it this special session. If you have questions, you can ask for Senator Hancock to yield as to the purpose.

**Senator Rodríguez:** Well, I—

**President:** But your parliamentary inquiry was not an inquiry, it was debating this issue, which is not a debatable motion, and even if it were, it wouldn't be debatable with me. I'm—

**Senator Rodríguez:** Well, I—

**President:** —sure you respect that and understand that.

**Senator Rodríguez:** —no, I understand that, and I'm not trying to debate it. I'm just asking, making a parliamentary inquiry about whether this motion is appropriate when, under the tag rule, we have filed the tags after the bills have been referred. And once those tags are filed, the individual rights are vested in getting, because the rule says, shall provide 48-hour notice to the Senator that tagged the bill, and we've got tags on all of these bills that were referred. And so, is this motion, again, an appropriate motion, is my parliamentary inquiry, to retroactively suspend a rule like Rule 11.19?

**President:** Yeah, the motion is in order.

**Senator Rodríguez:** Mr. President, at this point I'd like to raise a point of order on the motion to suspend filed by Senator Hancock. And, and I raise the point of order against further consideration of Senate Bill 4, Senate Bill 10, Senate Bill 11, Senate Bill 73, Senate Bill 77, Senate Bill 80, Senate Bill 85, Senate Bill 87, Senate Bill 2, Senate Bill 3, and Senate Bill 91. And I raise this point of order under Senate Rule 11.19 on the grounds that once a Senator has invoked the right to notice, the body cannot retroactively suspend the rule to deprive the individual Senator of his right. I move to suspend the rules to hear these bills that I just mentioned as being improper since the tag rule was invoked after the bills were referred.

**President:** Senator, the point of order is respectively overruled.

**Senator Rodríguez:** Thank you, Mr. President.

**MOTION TO ADJOURN**

On motion of Senator Whitmire and by unanimous consent, the Senate at 1:25 a.m. agreed to adjourn, pending the receipt of messages and committee reports and the introduction of bills and resolutions on first reading, until 9:00 a.m. Monday, July 24, 2017.

**CO-AUTHOR OF SENATE BILL 6**

On motion of Senator Campbell, Senator Hancock will be shown as Co-author of **SB 6**.

**CO-AUTHOR OF SENATE BILL 11**

On motion of Senator Perry, Senator Hancock will be shown as Co-author of **SB 11**.

**CO-AUTHOR OF SENATE BILL 20**

On motion of Senator Taylor of Collin, Senator Schwertner will be shown as Co-author of **SB 20**.

The President at 1:02 p.m. called the Senate to order.

**SENATE BILL AND RESOLUTION ON FIRST READING**

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

**SB 97** by Perry

Relating to the dedication of a portion of state lottery proceeds to the funding of salary increases and bonuses for experienced public school classroom teachers and costs associated with school district teacher retirement contributions.

To Committee on Education.

**SJR 1** by Burton, Hughes, Nelson

Proposing a constitutional amendment to dedicate the net revenue from the state lottery to the foundation school fund, including a portion dedicated to funding salary increases and bonuses for experienced public school classroom teachers and costs associated with school district teacher retirement contributions.

To Committee on Education.

**MESSAGE FROM THE GOVERNOR**

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

STATE OF TEXAS  
OFFICE OF THE GOVERNOR

## MESSAGE

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTY-FIFTH TEXAS LEGISLATURE, FIRST CALLED SESSION:

WHEREAS, the members of the 85th Texas Legislature, First Called Session, have now convened to consider items presented to them by the governor;

WHEREAS, the previous message sent by the governor to the Senate and House of Representatives of the 85th Texas Legislature, First Called Session, contained subjects that include the item stated below; and

WHEREAS, for the sake of clarity, I am issuing this message.

NOW, THEREFORE, I, GREG ABBOTT, 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 to the 85th Texas Legislature, First Called Session, for consideration:

Legislation reforming the authority of municipalities to annex territory, to exert control over territory, or to regulate the use of annexed land or land in a municipality's extraterritorial jurisdiction.

Respectively submitted,

/s/Greg Abbott  
Governor

Austin, Texas  
July 20, 2017

### **MOTION TO ADJOURN**

The Senate at 1:04 p.m. again agreed to adjourn, pending the receipt of messages and committee reports and the introduction of bills and resolutions on first reading, until 9:00 a.m. Monday, July 24, 2017.

### **RESOLUTION OF RECOGNITION**

The following resolution was adopted by the Senate:

#### **Congratulatory Resolution**

**SR 35** by West, Recognizing Rosa Whitehorse on the occasion of her retirement.

**(Sunday, July 23, 2017)**

The President at 7:48 p.m. called the Senate to order.

### **ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 7:49 p.m. adjourned until 9:00 a.m. tomorrow.

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## **APPENDIX**

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### **COMMITTEE REPORTS**

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

July 22, 2017

HEALTH AND HUMAN SERVICES — **SB 17**

EDUCATION — **SB 2, SB 16**

GOVERNMENT REFORM — **SB 1**

HEALTH AND HUMAN SERVICES — **SB 4, SB 10, SB 73, SB 11**

July 23, 2017

BUSINESS AND COMMERCE — **SB 8**

FINANCE — **SB 9**

STATE AFFAIRS — **SB 3**

BUSINESS AND COMMERCE — **SB 7**

STATE AFFAIRS — **SB 5, SB 6**

FINANCE — **SB 19**

GOVERNMENT REFORM — **SB 18**

**RESOLUTIONS ENROLLED**

July 19, 2017

**SR 23, SR 24, SR 25, SR 26, SR 27, SR 28, SR 29, SR 30, SR 31, SR 32, SR 33, SR 34**

