ADDRESS BY THE HONORABLE PRICE DANIEL, GOVERNOR

(The Senate and the House of Representatives in Joint Session).

In accordance with the provisions of House Concurrent Resolution No. 1, providing for a Joint Session of the Senate and House at 10:30 o'clock a.m., today, for the purpose of hearing the message of Honorable Price Daniel, Governor, the Honorable Senators, at 10:30 o'clock a.m., were announced at the Bar of the House, and being duly admitted, occupied seats prepared for them.

Lieutenant Governor Ben Ramsey was escorted to a seat on the Speaker's Rostrum.

Honorable Price Daniel, Governor, and party, escorted by Senators Aikin, Krueger, Kasen, Roberts and Moffett, Committee on the part of the Senate; and Meuser, Bates, Cannon, Parish, Foreman and Winston, Committee on the part of the House, were announced at the Bar of the House and being admitted, were escorted to seats on the Speaker's Rostrum.

Honorable Waggoner Carr, Speaker, called the Joint Session to order and stated that the two Houses were in Joint Session for the purpose of hearing an address by Honorable Price Daniel, Governor.

Lieutenant Governor Ben Ramsey called the Senate to order and announced a quorum of the Senate present.

Speaker Waggoner Carr called the House to order.

A quorum of the House was announced present.

Speaker Waggoner Carr presented Honorable Price Daniel, Governor of Texas, to the Joint Session.

Governor Daniel then addressed the Joint Session, as follows:

MESSAGE OF GOVERNOR PRICE DANIEL TO THE 56TH LEGISLATURE THIRD CALLED SESSION JULY 17, 1959

To the Members of The 56th Legislature, Third Called Session:

Last night I received a message, apparently intended for encouragement and consolation. It read as follows:

"If at first you don't succeed, try, try again.

Remember Governor Dan Moody had to call five special sessions to meet the financial needs of his administration."

I appreciate the thoughtfulness of that message but I hope it won't put ideas in anybody's head. I am perfectly willing for Governor Moody's record to stand. I am sure you and I share the same hope that the unfinished business of the Regular Session and two Called Sessions can be completed in less than the 30 days which are set aside for this session.

As you know, this State's financial crisis grows greater with every day of delay in the effective date of a new tax bill. If it takes the entire 30 days of this Third Called Session to enact a tax bill, the total bill must contain about $7 million in higher rates or additional taxes than would have been necessary last night—assuming that it is a 00 day bill—effective 90 days after adjournment.

On the other hand, action and adjournment of this session in 10 days or two weeks would lessen your total tax rates or items anywhere from $2.3 million to $3.5 million.

Since you have had exhaustive hearings in the Regular Session and two Called Sessions on practically every type of tax proposed, I hope that expediency action is within the realm of possibility. Time is truly of the essence.

There are many present State services, payments, salaries and pensions which cannot be continued on schedule after August 31st unless a general appropriation bill and an
adequate tax bill are enacted within
30 days from this date.

For instance, there is no time for
another Special Session if 225,000
Old Age Pension checks are to be
written and mailed on schedule as
of September 1st. For these checks
to go out on time, the new appropri-
ation bill must be in effect on August
15th—30 days from today. This is
because the Federal share of Old
Age Pension checks cannot be ob-
tained from Washington until the
new State Appropriation Bill is cer-
tified, transmitted and accepted in
Washington. Mr. John Winters, Di-
rector of the Department of Public
Welfare, advises that he should have
a minimum of two weeks to provide
for the 225,000 checks scheduled to
be mailed to old age pensioners on
September 1.

Furthermore, unless a general ap-
propriation bill is enacted before
September 1st, there is not one State
salary, pension, or payment to the
public schools, colleges, or hospitals,
that can be made. The present two-
year appropriation bill expires at mid-
night August 31st. Our Constitution
prohibits appropriations for a period
of more than two years and there-
fore all salaries and functions of
State government will be cut off
until a new general appropriation bill
is enacted.

I have been surprised to find that
some members of the Legislature
were led to believe, in speeches dur-
ing the recent tax debates, that high-
way construction, farm to market
roads, old age pensions, and the mini-
mum foundation school program, as
well as all other services with ear-
marked funds should continue regard-
less of the status of the general re-
venue fund, or the failure to enact
a new appropriation bill. As most
of you know, this simply is not true.
Even earmarked funds cannot be
spent after August 31st unless there
is a new appropriation bill authorizing
such expenditures. A new general
appropriation bill cannot become ef-
fective until the Comptroller certi-
fies that funds will be available to
pay the entire bill.

Such is the extent of the financial
crisis which faces this Third Special
Session. I had hoped that we would
never allow delay and differences
of opinion to push this State so near
the brink of financial disaster or so
near to comparison with the State of
Michigan, which is already without
funds to operate its colleges and
other services.

As we meet in this precarious posi-
tion, I hope and pray that personali-
ties and differences of the past will
be laid aside and that all officials
and citizens alike will cooperate in
seeing that we meet the responsibil-
ity which is so important to the peo-
ple of our State. I pledge you my
cooperation and assistance in every
way possible.

There is not much more that I
can say on this occasion. I have pre-
viously made detailed recommenda-
tions for a budget and a tax program.
It is entirely up to the Legislature to
accept or reject part or all of these
recommendations. A year before this
Legislature convened in January,
with the assistance of an able staff,
I began a study of a revenue pro-
gram which would be as fair as
possible to all concerned and at the
same time meet the needs of a grow-
ing State. For many months I studied
the tax structures of the other States,
as well as our own. After this in-
tensive study, and having the benefit
of the work of the Texas Research
League and the Tax Study Commis-
sion, I made recommendations to you
in January and again in the First
Called Session which I am still con-
vinced are fair and reasonable. To-
gether with some of the additions
agreed upon by both Houses, they
are certainly adequate and almost
as good to me now as they did when I
first recommended them to you
over six months ago. Therefore, with
one exception, I renew these recom-
mandations and hope that some of
them will be of assistance in arriving
at the final decision which is years
alone to make.

The single change in my recom-
mandations is that the severance
beneficiary tax on natural gas be
set at one-half cent per thousand
cubic foot and that no fall-back be
included on producers of gas. This
flat rate per M.C.P. rather than 3%,
is a higher tax on average priced gas
than previously recommended. It
would raise $40 million for the
biennum.

I think the higher rate is fully
justified in view of the fact that the
producers would be relieved of li-
ability and the entire tax would fall
on natural gas pipelines and other severance beneficiaries whom I con-
sider more responsible for the long delay and the need for additional
taxes than anyone else.

Many segments of business and in-
dustry have opposed the taxes which
would apply to them, but through
the past six months and throughout
the history of Texas I doubt that
there has ever been a more power-
ful or more arrogant group of lobby-
ists than those who have declared
that Texas shall not have a tax bill
if it includes anything levied directly
on the gas pipeline companies.

Their main cry has been "Tax the
people—not the pipeline." As for me,
I think pipelines ought to be taxed
as much as people, and I repeat to
you again that I believe a vast major-
ity of the citizens of this State agree
with this position.

I know of no reason why gas pipe-
line companies should hold a more
safe and sacred position in the halls
of this Capitol than the people who
buy automobiles, cigarettes, radios,
and air conditioners.

The pipeline lobby's alternative plea
is—if you are not going to put all
the tax on the people, you must put
gas's share on the producers instead
of the pipelines.

Everyone knows that natural gas
should bear a heavier load of the
tax burden of this State. There are
very few members of either House
who would want to vote for final
passage of a tax bill of the magnitude
now under consideration without
placing part of the burdens on natural
gas. Even the lobbyists for the long-
line pipeline companies know this.
However, they plead, "Put the tax
on the producers and royalty owners
and not on the pipeline companies.
Here we have the biggest issue which
has contributed to the delay and
disagreement in arriving at a tax bill.

I do not want to widen the breach
which now exists between those who
differ as to whether the tax
should be placed on the producers
or the pipelines, but I cannot pass
this opportunity to once again tell
you that I have recommended that the
pipeline companies and other sever-
ance beneficiaries are the ones who
shall bear the new tax.

In the first place, Texas already
has a 7% tax on natural gas pro-
ducers and royalty owners. There are
literally thousands of these producers
and landowners who have been pay-
ing the production tax for many
years.

On the other hand, the natural
gas pipeline companies which have
tied up most of the gas reserves of
this State for as long as 20 years,
have gone scot free of any direct
taxation, except for a puny enforce-
ment tax which raises less than $1
million per year. Their billions of dol-
ars worth of dedicated reserves held
under Texas soil constitute valuable
property rights, and their occupation
of obtaining production from these
reserves is a valuable occupation
which is not being taxed.

As early as 1951 the Texas Legis-
lateure attempted to place a tax on
these pipelines—the same identical
tax as was levied by the State of
Louisiana. They contested the Texas
law and had it declared unconstitu-
tional, but they did not contest the
Louisiana law. Texas was required
to refund these companies over $31
million, but many of the same com-
panies continued to pay this same
tax to Louisiana even after it had
been doubled to 1 cent per MCF.
Texas and Louisiana laws were the
same, but the long-line gas com-
panies did not treat Texas and Louisi-
ana the same. While they were
making our State refund $31 million
they continued to pay the same tax
to Louisiana at twice the Texas
rate. If they had continued to pay
Texas at its lower rate, we would
have collected from this tax more
than $133 million during the past
seven years.

Is this the kind of treatment that
entitles these gas pipeline companies
and their lobbyists to hold such a
hallowed place in these halls that no
tax shall be placed directly upon their
business?

My predecessor in this office did
not think so. Governor Shivers re-
commended to both the Regular
Session in 1953 and to the First Cal-
led Session in 1954 the levy of the
same tax which I recommend to you
today. In his message on March 16,
1954, Governor Shivers said:

"To replace that unconstitutional
gas-gathering tax, I recommend the
enactment of a similar tax carefully
revised to eliminate legal pitfalls, in
the amount of one-half cent per
thousand cubic feet..."
"This new gas-gathering tax will be presented for your study in a form prepared and approved by some of the best legal minds in the State of Texas. They think it is constitutional, and so do I."

The bill which I have recommended was taken from the draft referred to by my predecessor and from a draft introduced in the Senate by Senator Hardeman and revised in light of more recent court decisions. A chief objection raised by the pipeline companies is that the tax is unconstitutional. If that be true, why on earth have they fought us so hard for these past six months? The truth is that they fear that the tax is constitutional and simply do not want to pay it. The Attorney General of Texas has held the bill to be constitutional, and that is the highest authority to guide our consideration until after the bill is enacted.

For six months the gas pipeline companies have also hidden behind the skirts of a few Texas chemical, aluminum, and other industries which have dedicated gas reserves and are, therefore, severance beneficiaries. They have intimated that this tax would keep them from expanding or make them locate their new plants in other States. Never has a Legislature been more completely deceived. A one-half cent per thousand cubic feet on natural gas would still leave this Texas fuel so much cheaper for local industries that no other State except New Mexico could even compare with us.

Some of these concerns named Louisiana, Alabama, and South Dakota as States in which they might locate. It is interesting to note that the average price paid for industrial gas in Texas in 1927 was 12.4¢ per MCF. In Louisiana it was 14.8¢; in Alabama, 25.6¢; and in South Dakota, 28.4¢. I have attached to this message and will have copies available for all of you a chart prepared by the United States Bureau of Mines showing the average cost of gas for industrial use in every State in the Union. A mere reading of this report will satisfy you that a one-half cent per thousand cubic feet on the industries which hold dedicated gas reserves would still leave them with the cheapest gas in the Nation, except for New Mexico whose volume and competition are not even comparable.

The main thing is that industrial users here in Texas have only a small percentage of the natural gas reserves of this State and are under dedicated contract and would pay only a small percentage of this tax. The natural gas pipeline companies have over 80% of Texas gas reserves tied up under contract and are now transporting over 83% of our total marketed production into other States which collect from three to nine times as much on this gas as we collect here in Texas.

Should we add more tax on Texas producers and royalty owners, or should it be levied on the pipeline companies which will collect over half of it from other States?

If the people have elected to this Legislature a majority in either House who believe that this portion of our new taxes should be levied on Texas consumers and on Texas producers and royalty owners instead of the gas pipeline companies, I shall respect, though disagree, with the majority view.

In that event, the necessary taxes must be raised from Texas people instead of interstate pipelines.

It was only during the last session when both Houses of the Legislature voted against the severance and severance beneficiary tax that I reluctantly said that an alternative levy should be accepted in order that the State government might continue to function. I did not for one minute abandon my determination that the gas pipeline tax should be enacted at a future date. Another opportunity is now before us. I solicit your consideration and hope that it will be accepted. I shall continue my fight for this tax at every opportunity until it is enacted. The will of the people of Texas on this subject will not be defeated forever.

I further call to your attention and urge your consideration of the Abandoned Property-Cheeseman Bill which, if enacted, would bring in a minimum of $25 million during the next biennium. By merely collecting the money which now belongs to the State under the present escheat law and is being used by banks, oil companies, and
other institutions, you will save the taxpayers of this State $12 1/2 million per year. I sincerely hope that in our present financial condition you will no longer neglect or ignore this State money which it is our duty to collect and preserve as much as any other funds which belong to the State. I appeal to those who have opposed and defeated this measure in the House to revive it in your own language and at least provide for this money to be reported to the State and give the Attorney General the necessary authority to collect it through court judgments.

These recommendations merely supplement what I have heretofore presented. Whatever may be your opinion or decision, I assure you of my cooperation and will hold myself and my staff available to assist in any manner toward finally arriving at a solution which will meet the needs of our State and our people.
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1. Preliminary. Includes gas other than natural gas sold and therefore shown separately.
2. 7,719 million cubic feet and 8,278 in value included in field use to avoid condensate; included in total shown above.
3. 4,938 million cubic feet included in other industrial to avoid condensate; included in total shown above. Also includes gas used by Portland-cement industry.