

# HOUSE JOURNAL

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SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

FIFTY-EIGHTH DAY — THURSDAY, APRIL 24, 1997

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 222).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent — Danburg.

The invocation was offered by Reverend Bernie Sandburg, First United Methodist Church, San Marcos, as follows:

O Lord our God, you give us with each new day the gift of life. And with the gift of life you give each of us responsibilities. Help us in the decisions of this day, to see the needs of others. Make us responsive to the hungers and hurts of our world. Teach us humility. Grant us wisdom. Surround us with your loving kindness. Amen.

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 39).

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today because of illness:

Danburg on motion of Gray.

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

**SCR 72 - ADOPTED  
(Glaze - House Sponsor)**

Representative Glaze moved to suspend all necessary rules to take up and consider at this time **SCR 72**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**SCR 72**, Recognizing the Wesley Chapel Cemetery as it receives an Official Texas Historical Marker.

**SCR 72** was adopted without objection.

**HCR 208 - ADOPTED  
(by Goolsby)**

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HCR 208**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 208**, Honoring the memory of those members of the Dallas Police Department who have been killed in the line of duty.

**HCR 208** was unanimously adopted by a rising vote.

**HCR 212 - ADOPTED  
(by Goolsby)**

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HCR 212**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 212**, Authorizing the lieutenant governor and speaker to appoint interim joint committees.

**HCR 212** was adopted without objection.

**HR 682 - ADOPTED  
(by Driver)**

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HR 682**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 682**, In memory of Winona LaQuey Cooper.

**HR 682** was read and was unanimously adopted by a rising vote.

On motion of Representative Cook, the names of all the members of the house were added to **HR 682** as signers thereof.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Driver, who introduced members of Winona LaQuey Cooper's family.

#### **HR 710 - ADOPTED** (by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 710**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 710**, In memory of Watkins Reynolds "Watt" Matthews.

**HR 710** was unanimously adopted by a rising vote.

#### **HR 684 - ADOPTED** (by Driver)

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HR 684**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 684**, In memory of Earl Luna.

**HR 684** was read and was unanimously adopted by a rising vote.

On motion of Representative Staples, the names of all the members of the house were added to **HR 684** as signers thereof.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Driver, who introduced members of Earl Luna's family.

#### **HR 685 - ADOPTED** (by Driver)

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HR 685**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 685**, In memory of Luther Nicholson.

**HR 685** was read and was unanimously adopted by a rising vote.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Driver, who introduced members of Luther Nicholson's family.

### CAPITOL PHYSICIAN

The speaker recognized Representative Kubiak who presented Dr. Wilford Morris of Sealy as the "Doctor for the Day."

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

#### **HR 189 - ADOPTED (by Rhodes)**

Representative Rhodes moved to suspend all necessary rules to take up and consider at this time **HR 189**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 189**, Commemorating the 150th anniversary of First United Methodist Church in San Marcos.

**HR 189** was read and was adopted without objection.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Rhodes, who introduced members of First United Methodist Church in San Marcos.

#### **HR 681 - ADOPTED (by Driver)**

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HR 681**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 681**, In memory of Johnnie Lee Wilhelm.

**HR 681** was read and was unanimously adopted by a rising vote.

On motion of Representative Raymond, the names of all the members of the house were added to **HR 681** as signers thereof.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Driver, who introduced members of Johnnie Lee Wilhelm's family.

#### **HR 717 - ADOPTED (by Yarbrough)**

Representative Yarbrough moved to suspend all necessary rules to take up and consider at this time **HR 717**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 717**, Honoring Ruby J. Yancy on her retirement from the Houston Independent School District.

**HR 717** was adopted without objection.

**HR 716 - ADOPTED**  
**(by Yarbrough)**

Representative Yarbrough moved to suspend all necessary rules to take up and consider at this time **HR 716**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 716**, Congratulating Theodore Robert Herman on attaining the rank of Eagle Scout.

**HR 716** was adopted without objection.

**HR 683 - ADOPTED**  
**(by Driver)**

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HR 683**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 683**, In memory of Willow Leigh Holmes.

**HR 683** was read and was unanimously adopted by a rising vote.

On motion of Representative Uher, the names of all the members of the house were added to **HR 683** as signers thereof.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Driver, who introduced members of Willow Leigh Holmes' family.

**HR 712 - ADOPTED**  
**(by Luna)**

Representative Luna moved to suspend all necessary rules to take up and consider at this time **HR 712**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 712**, Recognizing all those associated with the Community Youth Development program.

**HR 712** was adopted without objection.

**HR 686 - ADOPTED**  
**(by Driver)**

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HR 686**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 686**, In memory of Greta Jackson Newman.

**HR 686** was read and was unanimously adopted by a rising vote.

On motion of Representative Hochberg, the names of all the members of the house were added to **HR 686** as signers thereof.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Driver, who introduced members of Greta Jackson Newman's family.

#### **HCR 218 - ADOPTED (by Hodge)**

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **HCR 218**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 218**, Congratulating the James Madison High School boys' basketball team on winning the 1997 Class 3-A state championship.

**HCR 218** was adopted without objection.

On motion of Representative J. Jones, the names of all the members of the house were added to **HCR 218** as signers thereof.

#### **HCR 111 - ADOPTED (by Gallego)**

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HCR 111**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 111**, Recognizing Dr. Alfredo Gutierrez, Jr., for his service to the city of Del Rio.

**HCR 111** was read and was adopted without objection.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Gallego, who introduced Dr. Alfredo Gutierrez, Jr., and his wife, Olga.

### **BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

### **GENERAL STATE CALENDAR SENATE BILLS THIRD READING**

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

**SB 1487 ON THIRD READING**  
**(Torres - House Sponsor)**

**SB 1487**, A bill to be entitled An Act relating to the repeal of the in-state need lease restriction on the sale of casinghead gas or natural gas out of the state.

**SB 1487** was passed.

**SB 163 ON THIRD READING**  
**(Berlanga - House Sponsor)**

**SB 163**, A bill to be entitled An Act relating to coverage under health benefit plans for certain supplies and services associated with the treatment of diabetes.

**SB 163** was passed.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative McClendon, who introduced visitors from the People's Republic of China, Fujian School of Administration: Mr. Wang, vice-president, Human and Economic Development; Mr. Guo, president, Education Committee; Mr. Chen, deputy director, Fujian University Faculty Committee; Mr. Lin, assistant director, Fujian Provincial Personnel Bureau; Ms. Lee, overseas representative, Fujian Association of International Exchange of Personnel; and Dr. Richard Gambitta, graduate advisor, Master of Public Administration Program, UTSA.

**POSTPONED BUSINESS**

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

**CSHB 4 ON SECOND READING**  
**(by Craddick, Junell, et al.)**

**CSHB 4**, A bill to be entitled An Act relating to funding public elementary and secondary schools and providing property tax relief and equity and to the imposition, administration, enforcement, and collection of, and allocation of the revenue from, various state and local taxes; providing penalties.

**CSHB 4** was read second time on April 22 and was postponed until 10 a.m. today.

(Flores in the chair)

(Speaker in the chair)

**COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Corrections, on noon recess today, Desk 45, to consider pending bills.

Juvenile Justice and Family Issues, on noon recess today, Desk 20, to consider pending bills.

Economic Development, on noon recess today, Desk 61, to consider all pending bills.

Transportation, on noon recess today, Desk 25.

Local and Consent Calendars, on noon recess today, Desk 75, to consider an amendment on **HB 1407**.

Insurance, on noon recess today, Desk 24.

### RECESS

Representative Junell moved that the house recess until 1:30 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:11 p.m., recessed until 1:30 p.m. today.

### AFTERNOON SESSION

The house met at 1:30 p.m. and was called to order by the speaker.

### POSTPONED BUSINESS (consideration continued)

### CSHB 4 - (pending business)

#### Amendment No. 1

Representative Junell offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 3

Amend **CSHB 4** on page 237, lines 17 through 22 so that subsection (e) reads as follows:

(e) A transportation service is exempt from the taxes imposed by this chapter if the service is for the transportation of agricultural products.

Amendment No. 1 was adopted without objection.

#### Amendment No. 2

Representative Junell offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 4

Amend **CSHB 4** on page 359, between lines 18 and 19, by inserting the following:

(c) There is exempted from the taxes imposed by Chapter 153, Tax Code, the sale or use in this state of gasoline or diesel fuel that became under Section 153.102(c) or 153.202(c) or (d), as added by this article, subject to the taxes because of the terms of this article and that is consumed in the performance of a fixed price contract with a governmental entity entered into on or before March 1, 1997. The exemption provided by this subsection expires January 1, 2000.

Amendment No. 2 was adopted without objection.

#### Amendment No. 3

Representative Grusendorf offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 5

Amend **CSHB 4** as follows:

(1) On page 1, strike lines 11-13 and substitute the following:



- (1) Chapter 41;
- (2) Subchapters C, F, G, and H, Chapter 42; and
- (3) Sections 7.055(a)(34), 12.107, 31.021(c), 42.007, 42.102, 42.103(c)-(e), 42.104, 42.253(l), 42.256, and 56.208(d).

(2) Strike page 1, line 14, through page 72, line 6, and substitute the following:

SECTION 1.02. Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. BASIC ALLOTMENT. For each student in average daily attendance, ~~[not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C,]~~ a district is entitled to an allotment of \$ \_\_\_\_\_ ~~[\$2,387 or a greater amount adopted by the foundation school fund budget committee under Section 42.256].~~ A greater amount for any school year may be provided by appropriation.

SECTION 1.03. Sections 42.103(a) and (b), Education Code, are amended to read as follows:

(a) The basic allotment for certain small and mid-sized districts is adjusted in accordance with this section. In this section:

- (1) "AA" is the district's adjusted allotment per student;
- (2) "ADA" is the number of students in average daily attendance for which the district is entitled to an allotment under Section 42.101; and
- (3) "BA" [~~"ABA"~~] is the ~~[adjusted]~~ basic allotment ~~[determined]~~ under Section ~~42.101~~ [~~42.102~~].

(b) The basic allotment of a school district that contains at least \_\_\_\_\_ [300] square miles and has not more than \_\_\_\_\_ [~~1,600~~] students in average daily attendance is adjusted by applying the formula:

$$AA = (1 + ((1,600 - ADA) \cdot .0004)) \times \underline{BA}$$
 [~~ABA~~]

SECTION 1.04. Section 42.105, Education Code, is amended to read as follows:

Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding Sections 42.101~~[-42.102,]~~ and 42.103, a school district that has fewer than \_\_\_\_\_ [~~130~~] students in average daily attendance shall be provided an adjusted basic allotment on the basis of \_\_\_\_\_ [~~130~~] students in average daily attendance if it offers a kindergarten through grade 12 program and has preceding or current year's average daily attendance of at least \_\_\_\_\_ [~~90~~] students or is \_\_\_\_\_ [~~30~~] miles or more by bus route from the nearest high school district. ~~[A district offering a kindergarten through grade 8 program whose preceding or current year's average daily attendance was at least 50 students or which is 30 miles or more by bus route from the nearest high school district shall be provided an adjusted basic allotment on the basis of 75 students in average daily attendance. An average daily attendance of 60 students shall be the basis of providing the adjusted basic allotment if a district offers a kindergarten through grade 6 program and has preceding or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district.]~~

SECTION 1.05. Sections 42.251(a) and (b), Education Code, are amended to read as follows:

(a) The sum of the basic allotments for each school district [~~allotment~~] under Subchapter B [~~and the special allotments under Subchapter C~~], computed in accordance with this chapter, constitute the [~~tier one allotments. The sum of the tier one allotments, the guaranteed yield allotments under Subchapter F, and assistance provided under the school facilities assistance program under Subchapter H, computed in accordance with this chapter, constitute the~~] total cost of the Foundation School Program.

(b) The program shall be financed by:

(1) ad valorem tax revenue generated by an equalized [~~uniform~~] school district effort;

(2) [~~ad valorem tax revenue generated by local school district effort in excess of the equalized uniform school district effort;~~

[~~(3)~~] state available school funds distributed in accordance with law; and

(3) [~~(4)~~] state funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's Foundation School Program not covered by other funds specified in this subsection.

SECTION 1.06. Section 42.252(a), Education Code, is amended to read as follows:

(a) Each school district's share of the Foundation School Program is determined by the following formula:

$$\text{LFA} = \text{TR} \times \text{DPV}$$

where:

"LFA" is the school district's local share;

"TR" is a tax rate which for each hundred dollars of valuation is an effective tax rate of \$\_\_\_\_\_ [~~\$0.86~~]; and

"DPV" is the taxable value of property in the school district for the current [~~preceding~~] tax year for purposes of maintenance and operations determined under Section 403.302(d) [~~Subchapter M, Chapter 403~~], Government Code.

SECTION 1.07. Sections 42.253(a) and (c), Education Code, are amended to read as follows:

(a) For each school year the commissioner shall determine:

(1) the amount of money to which a school district is entitled under Subchapter B [~~Subchapters B and C~~];

(2) [~~the amount of money to which a school district is entitled under Subchapter F;~~

[~~(3)~~] the amount of money allocated to the district from the available school fund; and

(3) [~~(4)~~] the amount of each district's [~~tier one~~] local share under Section 42.252[~~;~~ and

[~~(5)~~ the amount of each district's tier two local share under Section 42.302].

(c) Each school district is entitled to an amount equal to the difference for that district between the amount of Subsection [~~sum of Subsections~~] (a)(1) [~~and (a)(2)~~] and the sum of Subsections (a)(2) and (a)(3)[~~;~~ (a)(4), and (a)(5)].

SECTION 1.08. Section 42.254(a), Education Code, is amended to read as follows:

(a) Not later than October 1 of each even-numbered year:

(1) the agency shall submit to [~~the foundation school fund budget committee and~~] the legislature an estimate of the tax rate and student enrollment of each school district for the following biennium; and

(2) the comptroller shall submit to [~~the foundation school fund budget committee and~~] the legislature an estimate of the total taxable value of all property in the state as determined under Subchapter M, Chapter 403, Government Code, for the following biennium.

(3) Strike page 77, line 24, through page 82, line 17.

(4) Renumber the sections of the bill appropriately.

Amendment No. 3 was withdrawn.

#### **Amendment No. 4**

Representative Madden offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 10

Amend **CSHB 4** by replacing the text on page 3, lines 4 through 6, as it currently reads with the following:

"student is 5 years of age on the first day of school and has not graduated from high school."

#### **Amendment No. 5**

Representative Madden offered the following amendment to Amendment No. 4:

Amend the Madden amendment to **CSHB 4** by striking "student is 5 years of age on the first day of school and has not graduated from high school." and substituting "student is 5 years of age or older on the first day of the school year and is under 21 years of age on September 1 of the school year and has not graduated from high school."

Amendment No. 5 was adopted without objection.

Representative Hochberg moved to table Amendment No. 4.

The motion to table prevailed.

#### **Amendment No. 6**

Representative Zbrank offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 11

Amend **CSHB 4** as follows:

On page 3, line 6, after the word school and before the period, add the words, "and is not an out-of-state resident incarcerated in a private detention facility located in the State."

Amendment No. 6 was adopted without objection.

#### **SB 898 - MOTION TO NOT PRINT**

Representative Wolens moved to suspend House Rule 12, Section 1(a)1(A) to enable the committee report for **SB 898** to be printed and distributed without the text of the engrossed bill.

The motion prevailed without objection.

(Danburg now present)

**CSHB 4 - (consideration continued)**

**Amendment No. 7**

Representative Grusendorf offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 12

Amend **CSHB 4** as follows:

(1) In SECTION 1.02 of the bill, in amended Section 42.004, Education Code (Committee Printing page 3, lines 25-26), strike "~~the~~ rules adopted by the commissioner [of the State Board of Education]" and substitute "the rules of the State Board of Education".

(2) In SECTION 1.02 of the bill, in amended Section 42.151(c), Education Code (Committee Printing page 18, line 19), strike "commissioner [State Board of Education]" and substitute "State Board of Education".

(3) In SECTION 1.02 of the bill, in amended Section 42.151(c), Education Code (Committee Printing page 18, line 24), strike "commissioner [board]" and substitute "board".

(4) In SECTION 1.02 of the bill, in amended Section 42.151(d), Education Code (Committee Printing page 19, line 5), strike "commissioner [State Board of Education]" and substitute "State Board of Education".

(5) In SECTION 1.02 of the bill, in amended Section 42.151(e), Education Code (Committee Printing page 19, lines 12-13), strike "rules adopted by the commissioner [State Board of Education rule]" and substitute "State Board of Education rule".

(6) In SECTION 1.02 of the bill, in amended Section 42.152(b), Education Code (Committee Printing page 21, lines 22-23), strike "rules adopted by the commissioner [State Board of Education rule, which may not exceed 15 percent]" and substitute "State Board of Education rule[~~, which may not exceed 15 percent]~~".

(7) In SECTION 1.02 of the bill, in amended Section 42.153(a), Education Code (Committee Printing page 25, line 27 through page 26, line 1), strike "rules adopted by the commissioner [State Board of Education rule]" and substitute "State Board of Education rule".

(8) In SECTION 1.02 of the bill, in amended Section 42.154, Education Code (Committee Printing page 26, lines 23-24), strike "rules adopted by the commissioner [State Board of Education rule]" and substitute "State Board of Education rule".

(9) In SECTION 1.02 of the bill, in amended Section 42.155(a), Education Code (Committee Printing page 28, lines 4-5), strike "rules adopted by the commissioner [rule of the State Board of Education]" and substitute "rule of the State Board of Education".

Representative Williamson moved to table Amendment No. 7.

A record vote was requested.

The motion to table prevailed by (Record 223): 78 Yeas, 68 Nays, 1 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Berlanga; Bosse; Burnam; Chavez; Coleman; Cook; Counts; Cuellar; Danburg; Davila; Davis; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hightower; Hinojosa; Hirschi; Hochberg; Hodge; Jones, J.; Junell; King; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; McReynolds; Moreno; Naishtat; Oakley; Oliveira; Olivo; Pickett; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Sadler; Serna; Solis; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Williamson; Wilson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Allen; Averitt; Bonnen; Brimer; Carter; Chisum; Christian; Clark; Corte; Crabb; Craddick; Culberson; Delisi; Denny; Driver; Elkins; Finnell; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Kamel; Keel; Keffer; Krusee; Kubiak; Kuempel; Madden; Marchant; McCall; Merritt; Moffat; Mowery; Nixon; Palmer; Patterson; Pitts; Rabuck; Reyna, E.; Roman; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Staples; Talton; Van de Putte; Walker; West; Williams; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent — Galloway; Goodman.

#### STATEMENT OF VOTE

When Record No. 223 was taken, my vote failed to register. I would have voted no.

Galloway

#### Amendment No. 8

Representative Maxey offered the following amendment to **CSHB 4**:

Floor Packet Page No. 13

Amend **CSHB 4** as follows:

On page 7, line 23, strike "may" and substitute "shall".

#### Amendment No. 9

Representative Maxey offered the following amendment to Amendment No. 8:

Amend the Maxey floor amendment by adding the following provisions:

(1) Sec. 42.007(a) is amended by deleting the word "compute" on page 5, line 26 and by restoring the stricken language on page 5, lines 26 and 27, and on page 6, line 1

Amendment No. 9 was adopted without objection.

Amendment No. 8, as amended, was adopted without objection. (Talton recorded voting no)

#### Amendment No. 10

Representative Luna offered the following amendment to **CSHB 4**:

Floor Packet Page No. 15

Amend **CSHB 4** as follows:

On page 7, between lines 24 and 25, insert the following:

(e) The board may not recommend and the Legislature shall not appropriate, for any fiscal year, an amount of state funds for the support of elementary and secondary public school education less than the amount appropriated for that purpose in the prior fiscal year, adjusted for changes in student population and inflation in the cost of educational goods and services.

#### **Amendment No. 11**

Representative Luna offered the following amendment to Amendment No. 10:

Amend the Luna amendment to **CSHB 4** by striking lines 3-8 and substituting the following:

(e) The board may not recommend and the legislature may not appropriate, for any biennium, an amount of state funds for the maintenance and operation of public schools and for the erection and equipment of public school buildings that is less than the amount appropriated for those purposes in the preceding biennium, adjusted for student population growth.

Amendment No. 11 was adopted without objection.

Amendment No. 10, as amended, was adopted.

#### **Amendment No. 12**

Representative Garcia offered an amendment (Floor Packet Page No. 18) to **CSHB 4**.

Amendment No. 12 was withdrawn.

#### **Amendment No. 13**

Representative Bosse offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 20

Amend **CSHB 4** as follows:

(1) On page 12, line 21, between the period and "The", insert "(a)".

(2) On page 12, between lines 25 and 26, insert the following:

(b) A district that grants an additional homestead exemption under Section 11.13(d) or (n), Tax Code, shall compute and report the amount of the value exempted under those sections from the district's taxable value of property under Section 403.302(d), Government Code, in accordance with procedures adopted by the comptroller. For purposes of this section and Section 42.352, a district may not receive state aid for that portion of the district's total maintenance and operations rate that, when applied to the taxable value of property in the district as determined under Section 403.302(d), Government Code, equals the amount of the tax that would have been levied on the value of property exempted under Section 11.13(d) or (n), Tax Code.

(3) Strike SECTION 2.06 of the bill (page 110, line 18, through page 112, line 19) and renumber the subsequent sections appropriately.

(4) On page 128, line 8, strike "cents." and substitute the following:

cents; plus

(C) a rate that, when multiplied by the district's taxable value of property for purposes of maintenance and operations as determined under Section 403.302(d), Government Code, equals the amount of the tax that would have been levied on the value of property exempted under Section 11.13(d) or (n).

#### **Amendment No. 14**

Representative Bosse offered the following amendment to Amendment No. 13:

Amend the Bosse amendment to **CSHB 4** by adding the following items, appropriately numbered, and renumbering the subsequent items appropriately:

( ) On page 44, strike line 13 and substitute the following: Code, less the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that the district lawfully granted in the year; and

( ) On page 70, strike line 25 and substitute the following: Code, less the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that the district lawfully granted in the year; and

Amendment No. 14 was adopted without objection.

#### **Amendment No. 15**

Representative Bosse offered the following amendment to Amendment No. 13:

Amend floor amendment to **CSHB 4** by Bosse as follows:

Add a new subsection (b-1) to Section 46.0031 of the Education Code on page 95, to read as follows:

(b-1) To the extent necessary to replace revenue lost to an additional homestead exemption under Section 11.13(d) or 11.13(n), Tax Code, for the 1997-98 school year, as authorized by Section 26.08(g)(2)(C), a district may levy a tax at a rate greater than 70 cents but not to exceed 80 cents without holding the election required by subsection (b). This subsection does not authorize a tax rate in excess of 70 cents for any other purpose. This subsection expires September 1, 1998.

Amendment No. 15 was adopted without objection.

#### **Amendment No. 16**

Representative Hochberg offered the following amendment to Amendment No. 13:

Amend the Bosse Floor Amendment to **CSHB 4** by striking item (4) of the amendment and substituting the following:

(4) On page 128, line 8, between "cents" and the period, insert the following:  
; plus

(C) any amount necessary to pay for maintenance and operations

expenses budgeted on January 1, 1997, to be paid from general fund balances, computed in accordance with guidelines adopted by the commissioner of education

Amendment No. 16 was adopted without objection.

Amendment No. 13, as amended, was adopted without objection.

### **Amendment No. 17**

Representative S. Turner offered the following amendment to **CSHB 4**:

Floor Packet Page No. 24

Amend **CSHB 4** as follows:

Beginning on page 21, strike lines 20-27 through page 22, lines 1-10, and substitute the following:

"(b)(~~e~~) (1) Funds allocated under this chapter for compensatory education programs [~~section~~], other than an indirect cost allotment established under rules adopted by the commissioner [~~State Board of Education~~], which may not exceed 15 percent, must be used only in providing compensatory education and accelerated instruction programs under 29.081 and may only be expended to improve and enhance programs and services funded under the regular education program.

(2) A district's compensatory education allotment may only be used for costs supplementary to the regular program: program and student evaluation, instructional materials and equipment, supplemental staff expenses, salary supplements for teachers, other supplies required for quality instruction, smaller class size, and individualized instruction.

(3) A [~~, and the~~] district must account for the expenditure of [~~state~~] funds allocated under this chapter for compensatory education programs by program and by campus under existing agency reporting and auditing procedures for the 1997-1998 school year.

(4) During the 1997-1998 school year, the commissioner, with the assistance of the state auditor and the comptroller of public accounts, shall develop and implement by rule in the 1998 - 1999 school year an annual reporting and auditing system of district and campus compensatory education funds, to ensure that compensatory education funds, other than the indirect cost allotment, are expended only to supplement the regular program.

(5) The commissioner, in the year following an audit, shall withhold from a district's foundation school fund payment an amount equal to the amount of funds determined by agency audit not to have been used to supplement the regular program. The commissioner shall release such funds to a district when it has provided a detailed plan to expend those funds appropriately according to this subsection. [~~Funds allocated under this section, other than the indirect cost allotment, shall only be expended to improve and enhance programs and services funded under the regular program.~~]

(6) A home-rule school district or an open-enrollment charter school must use funds allocated under this chapter for compensatory education programs [~~Subsection (a)~~] to provide compensatory education services but is not otherwise subject to Subchapter C, Chapter 29."

Amendment No. 17 was adopted. (Talton recorded voting no)



**Amendment No. 18**

Representative Berlanga offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 27

Amend **CSHB 4** as follows:

In SECTION 1.02 of the bill, in proposed Section 42.152, Education Code (page 22, between lines 13 and 14), insert new subdivision (d) as follows:

"(d) As part of the accounting required under Subsection (b), a district shall report to the agency and make publicly available information showing the amount of compensatory education funds expended for accelerated instruction and support programs provided under Section 29.081 for students at risk of not performing satisfactorily in a reading assessment instrument on grade three under Subchapter B, Chapter 39."

Amendment No. 18 was withdrawn.

**Amendment No. 19**

Representative Grusendorf offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 28

Amend **CSHB 4** as follows:

(1) On page 39, lines 20 and 21, strike "1997-1998 and 1998-1999" and substitute "1997-1998, 1998-1999, 1999-2000, and 2000-2001".

(2) On page 40, line 5, strike "1998-1999 school year" and substitute "1998-1999, 1999-2000, and 2000-2001 school years".

(3) On page 40, line 23, strike "1999" and substitute "2001".

Amendment No. 19 was adopted without objection.

**Amendment No. 20**

Representative Grusendorf offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 29

Amend **CSHB 4** by striking page 40, line 24, through page 41, line 13, and substituting the following:

Sec. 42.2532. STUDENT IMPROVEMENT ALLOTMENT. (a) A district in which the level of student improvement, as determined by the commissioner, exceeds the average level of student improvement for all students in the state multiplied by 1.03 is entitled to an additional allotment computed as provided by Subsection (b).

(b) The commissioner shall determine the amount of an allotment under this section subject to appropriation.

(c) An allotment under this section may be used to provide bonuses to school faculty. A district receiving an allotment under this section shall determine the amount of each faculty member's bonus.

Representative Hochberg moved to table Amendment No. 20.

(Junell in the chair)

A record vote was requested.

The motion to table prevailed by (Record 224): 88 Yeas, 54 Nays, 2 Present, not voting.

Yeas — Alexander; Alvarado; Averitt; Bailey; Berlanga; Bosse; Burnam; Chisum; Clark; Coleman; Cook; Counts; Cuellar; Danburg; Davila; Davis; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Finnell; Flores; Gallego; Garcia; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hightower; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Janek; Jones, D.; Jones, J.; Keffer; King; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; McReynolds; Moreno; Mowery; Naishtat; Oakley; Olivo; Patterson; Pickett; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Sadler; Serna; Solis; Staples; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; Williamson; Wilson; Wise; Yarbrough; Zbraneck.

Nays — Allen; Bonnen; Brimer; Carter; Christian; Corte; Crabb; Craddick; Culbertson; Denny; Elkins; Galloway; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Horn; Howard; Hunter; Hupp; Isett; Jackson; Kamel; Keel; Krusee; Kubiak; Kuempel; Madden; McCall; Merritt; Moffat; Nixon; Palmer; Pitts; Rabuck; Reyna, E.; Roman; Seaman; Shields; Siebert; Smith; Smithee; Solomons; Talton; West; Williams; Wohlgemuth; Woolley.

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

Absent — Chavez; Delisi; Marchant; Oliveira; Wolens.

#### STATEMENT OF VOTE

When Record No. 224 was taken, I was in the house but away from my desk. I would have voted no.

Delisi

#### Amendment No. 21

Representative Hochberg offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 31

Amend **CSHB 4** as follows:

(1) On page 43, lines 3 and 4, strike "for purposes of maintenance and operations taxes".

(2) On page 43, lines 5 and 6, strike "for purposes of maintenance and operations taxes".

(3) On page 43, line 7 and 8, between "Section 403.302(d)" and bracket, insert "or (e)".

(4) On page 70, between lines 17 and 18, insert the following:

(f) If a school district would have received a greater amount under this chapter for the applicable school year using the adjusted value determined under Section 42.256, the commissioner shall add the difference between the adjusted value and the amount the district received under this chapter to subsequent distributions to the district under this chapter.

Amendment No. 21 was adopted without objection.

**Amendment No. 22**

Representative Hochberg offered the following amendment to **CSHB 4**:

Amend **CSHB 4** as follows:

On page 44 add a section 42.258(e):

(e) The Commissioner shall reduce state aid under this chapter in an amount equal to the reduction in state revenue under Section 11.28(b) as a result of recognition of tax abatements entered into by school districts under Chapter 312, Tax Code on or after May 31, 1993.

**Amendment No. 23**

Representative Hill offered the following amendment to Amendment No. 22:

Amend the Hochberg amendment to **CSHB 4** by adding the following:

(1) On page 116, line 4 strike "January 1, 1997", and substitute "the effective date of this Act."

(2) On page 116, strike lines 5-16.

Amendment No. 23 was withdrawn.

Amendment No. 22 was withdrawn.

**Amendment No. 24**

Representative Hochberg offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 32

Amend **CSHB 4** as follows:

(1) On page 44, line 19, strike "for" and substitute "in".

(2) On page 71, line 4, strike "for" and substitute "in".

Amendment No. 24 was adopted without objection.

**Amendment No. 25**

Representative Grusendorf offered an amendment (Floor Packet Page No. 33) to **CSHB 4**.

Amendment No. 25 was withdrawn.

**Amendment No. 26**

Representative Madden offered an amendment (Floor Packet Page No. 36) to **CSHB 4**.

Amendment No. 26 was withdrawn.

**Amendment No. 27**

Representative Elkins offered an amendment (Floor Packet Page No. 37) to **CSHB 4**.

Amendment No. 27 was withdrawn.

**Amendment No. 28**

Representative Hochberg offered the following amendment to **CSHB 4**:

Floor Packet Page No. 38

Amend **CSHB 4** as follows:

(1) On page 67, lines 16-17, strike "In any state fiscal biennium, the" and substitute "The".

(2) On page 67, line 17, following "funds" insert "for a new project that a district may be awarded in any state fiscal biennium".

Amendment No. 28 was adopted without objection.

### **Amendment No. 29**

Representative Horn offered the following amendment to **CSHB 4**:

Floor Packet Page No. 43

Amend **CSHB 4** on page 86, lines 4-17, by striking SECTION 1.23 of the bill and substituting the following:

SECTION 1.23. Subchapter G, Chapter 29, Education Code, is amended to read as follows:

#### SUBCHAPTER G. PUBLIC EDUCATION GRANT PROGRAM

Sec. 29.201. DEFINITION. In this subchapter, "private school" means a school that:

- (1) offers a general education to elementary or secondary students; and
- (2) is not operated by a governmental entity.

Sec. 29.202. PARENTAL CHOICE. Notwithstanding any other provision of this code, as provided by this subchapter an eligible student may attend a public school in the district in which the student resides or may use a public education grant to attend a public school in any other district or a private school chosen by the student's parent.

Sec. 29.203 [29.202]. ELIGIBILITY. Except as otherwise provided by this section, a [A] student is eligible to receive a public education grant under this subchapter and to use that grant to attend a public school in a district other than the district in which the student resides or a private school if the public or private school agrees to admit the student using the public education grant. For a child who is entitled to be admitted into public school for the first time under Section 25.001(b) to be eligible for a public education grant under this subchapter, the student's parent must have given written notice to the district in which the child intends to attend school or the private school the child intends to attend at least three years before the date on which the child enrolls in the district or private school, as applicable [student is assigned to attend a public school campus:

[(1) at which 50 percent or more of the students did not perform satisfactorily on an assessment instrument administered under Section 39.023(a) or (b) in the preceding three years; or

(2) that was, at any time in the preceding three years, identified as low-performing by the commissioner under Subchapter D, Chapter 39].

Sec. 29.204 [29.203]. FINANCING. (a) A student [eligible under Section 25.001 to attend school in a school district but] who under this subchapter uses a public education grant to attend [attends] a public school in a school [another] district other than the district in which the student resides or a private school is included in the average daily attendance of the district in which the student resides. The district in which the student attends school or the private school

the child attends shall report the student's attendance to the district in which the student resides in accordance with rules adopted by the commissioner.

(b) A student's public education grant is an amount of state and local funds equal to the total of state and local funding that would be guaranteed under Chapter 42 on the basis of the student's attendance if the student attended a public school in the district in which the student resides. The commissioner shall adopt rules for determining the amount of and manner of payment of the public education grant under this subsection. [~~A student's public education grant is the total state and local funding per student for the school district in which the student resides. Total funding from state and local sources includes special allotments under Subchapter C, Chapter 42, but does not include small district, sparsity, and cost of education adjustments and allotments for technology and transportation.~~] A student's public education grant is the entitlement of the student, under the supervision of the student's parent, guardian, or custodian and[;] is not an entitlement of any school, including a private school [~~district, and is paid to a school district solely as a means of administrative convenience.~~].

(c) A school district or a private school chosen by a student's parent under Section 29.202 [~~29.201~~] is entitled to accept or reject the application for the student to attend school in that district or at that private school, as applicable, but may not use criteria that discriminate on the basis of a student's race, ethnicity, academic achievement, athletic abilities, language proficiency, sex, or socioeconomic status. [~~A school district that has more acceptable applicants for attendance under this subchapter than available positions must give priority to students at risk of dropping out of school as defined by Section 29.081 and must fill the available positions by lottery. However, to achieve continuity in education, a school district may give preference over at-risk students to enrolled students and to the siblings of enrolled students residing in the same household or other children residing in the same household as enrolled students for the convenience of parents, guardians, or custodians of those children.~~]

(d) [~~A school district chosen by a student's parent under Section 29.201 may not charge the student tuition in addition to the public education grant or charge tuition that is greater than the district's average expenditure per student.~~] The school district in which the student resides is entitled to \$1,000 [~~the remainder, if any;~~] of the student's public education grant [~~funds~~]. The commissioner shall retain \$1,000 of the student's public education grant. The foundation school fund money the commissioner retains under this subsection must be used for foundation school fund purposes.

(e) The school district in which a student resides shall provide each student attending a school in another district or attending a private school under this subchapter transportation free of charge to and from the school the student would otherwise attend.

### **Amendment No. 30**

Representative Horn offered the following amendment to Amendment No. 29:

Amend the Horn amendment to **CSHB 4** by striking the text of the amendment and substituting the following:

Amend **CSHB 4** by adding the following new section, appropriately numbered, and renumbering the subsequent sections appropriately:

SECTION \_\_\_\_\_. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. EDUCATIONAL DEVELOPMENT GRANT PROGRAM

Sec. 29.351. DEFINITION. In this subchapter, "private school" means a school that:

- (1) offers a general education to elementary or secondary students; and
- (2) is not operated by a governmental entity.

Sec. 29.352. EDUCATIONAL DEVELOPMENT GRANT; SCHOOL CHOICE. (a) As provided by this subchapter, a school district may offer an eligible student an educational development grant to attend a private school chosen by the student's parent.

(b) A school district may approve or reject the private school selected by a student's parent or may permit the student to attend any private school.

Sec. 29.353. ELIGIBILITY. (a) Except as provided by Subsection (b), a student who is attending public school is eligible to receive an educational development grant under this subchapter and to use that grant to attend a private school if the private school agrees to admit the student using the educational development grant.

(b) For a child who is entitled to be admitted into public school for the first time under Section 25.001(b) to be eligible for an educational development grant under this subchapter, the student's parent must have given written notice to the district in which the child resides at least three years before the date on which the child enrolls in the private school.

Sec. 29.354. FINANCING. (a) A student who under this subchapter uses an educational development grant to attend a private school is included in the average daily attendance of the district in which the student resides. The private school the child attends shall report the student's attendance to the district in which the student resides in accordance with rules adopted by the commissioner.

(b) A student's educational development grant is an amount of state and local funds equal to the total of state and local funding that would be guaranteed under Chapter 42 on the basis of the student's attendance if the student attended a public school in the district in which the student resides. The commissioner shall adopt rules:

- (1) for determining the amount of the educational development grant under this subsection; and
- (2) prescribing the manner in which the grant is paid.

(c) A private school chosen by a student's parent under Section 29.352 is entitled to accept or reject the application for the student to attend school but may not use criteria that discriminate on the basis of a student's race, ethnicity, academic achievement, athletic abilities, language proficiency, sex, or socioeconomic status.

(d) The school district in which the student resides is entitled to \$1,000 of the student's educational development grant. The commissioner also shall retain \$1,000 of the student's educational development grant. The foundation school fund money the commissioner retains under this subsection must be used for foundation school fund purposes.

(Speaker in the chair)

Representative Hochberg moved to table Amendment No. 30.

A record vote was requested.

The motion to table prevailed by (Record 225): 81 Yeas, 66 Nays, 2 Present, not voting.

Yeas — Alexander; Alvarado; Bailey; Berlanga; Bosse; Burnam; Chavez; Coleman; Cook; Counts; Cuellar; Danburg; Davila; Davis; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hightower; Hinojosa; Hirschi; Hochberg; Hodge; Jones, J.; Junell; King; Kubiak; Lewis, R.; Longoria; Luna; Maxey; McClendon; McReynolds; Moreno; Naishtat; Oakley; Oliveira; Olivo; Patterson; Pickett; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Sadler; Serna; Smith; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; Wise; Wolens; Yarbrough; Zbranek.

Nays — Allen; Averitt; Bonnen; Brimer; Carter; Chisum; Christian; Clark; Corte; Crabb; Craddick; Culberson; Delisi; Denny; Elkins; Finnell; Galloway; Goolsby; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Kamel; Keel; Keffer; Krusee; Kuempel; Madden; Marchant; McCall; Merritt; Moffat; Mowery; Nixon; Palmer; Pitts; Rabuck; Reyna, E.; Roman; Seaman; Shields; Siebert; Smithee; Solomons; Staples; Swinford; Talton; West; Williams; Williamson; Wilson; Wohlgemuth; Woolley.

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

Amendment No. 29 was withdrawn.

### **Amendment No. 31**

Representative Madden offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 47

Amend **CSHB 4**, page 95, SECTION 1.36., Subsection 45.0031.(b), by adding the following language:

"The election shall be held on a standard election date, per Subchapter A, Chapter 41, Election Code."

Amendment No. 31 was adopted without objection.

### **MESSAGES FROM THE SENATE**

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 2 and 3).

### **CSHB 4 - (consideration continued)**

### **Amendment No. 32**

Representative Moffat offered an amendment (Floor Packet Page No. 58) to **CSHB 4**.

Amendment No. 32 was withdrawn.

**Amendment No. 33**

Representative Hochberg offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 60

Amend **CSHB 4** on page 108, between lines 1 and 2, by inserting the following:

Sec. 501.008. TAX INCREMENT FINANCING. The state shall pay into the tax increment fund for a reinvestment zone designated under Chapter 311 before January 1, 1997, an amount equal to the tax increment produced by the state. The state may not pay money into a tax increment fund for a reinvestment zone designated under Chapter 311 on or after January 1, 1997.

**Amendment No. 34**

Representative Hochberg offered the following amendment to Amendment No. 33:

Amend Floor Amendment No. 33 by Hochberg to **CSHB 4** as follows:

(1) On page 1, line 5, strike "January" and substitute "February".

(2) On page 1, line 8, strike "January 1, 1997" and substitute "February 1, 1997, but the state shall pay money into a tax increment fund for a reinvestment zone designated under Chapter 311 that was in existence on February 1, 1997, and expanded before June 30, 1997, to include the site for a public school".

Amendment No. 34 was adopted without objection.

Amendment No. 33, as amended, was adopted without objection.

**Amendment No. 35**

Representative Merritt offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 61

Amend **CSHB 4** as follows:

(1) On page 108, between lines 1 and 2, insert the following:

SECTION 2.\_\_\_\_. Section 1.12, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) For purposes of this section, the appraisal ratio of real property to which Section 23.21 applies is the ratio of the property's market value as determined by the appraisal district or appraisal review board, as applicable, to the market value of the property according to law. The appraisal ratio is not calculated according to the appraised value of the property as limited by Section 23.21.

(2) On page 108, strike lines 16-22 and substitute the following:

SECTION 2.\_\_\_\_. Section 5.12(b), Tax Code, is amended to read as follows:

(b) At the written request of the governing bodies of a majority of the taxing units participating in an appraisal district or of a majority of the group of taxing units composed of the municipalities, school districts, and county participating in an [entitled to vote on the appointment of] appraisal district [directors], the comptroller shall audit the performance of the appraisal district.



The governing bodies may request a general audit of the performance of the appraisal district or may request an audit of only one or more particular duties, practices, functions, departments, or other appraisal district matters.

SECTION 2.\_\_\_\_. Sections 5.13(c), (f), and (h), Tax Code, are amended to read as follows:

(c) The comptroller must approve the specific plan for the performance audit of an appraisal district. Before approving an audit plan, the comptroller must provide any interested person an opportunity to appear before the comptroller and to comment on the proposed plan. Not later than the 20th day before the date the comptroller considers the plan for an appraisal district performance audit, the comptroller must notify the county assessor-collector who governs ~~[presiding officer of]~~ the appraisal district ~~[board of directors]~~ that the comptroller intends to consider the plan. The notice must include the time, date, and place of the meeting to consider the plan. ~~[Immediately after receiving the notice, the presiding officer shall deliver a copy of the notice to the other members of the appraisal district board of directors.]~~

(f) The comptroller shall report the results of the ~~[its]~~ audit in writing to the governing body of each taxing unit that participates in the appraisal district and[;] to the county assessor-collector who governs ~~[chief appraiser, and to the presiding officer of]~~ the appraisal district ~~[board of directors]~~. If the audit was requested under Section 5.12(c) ~~[of this code]~~, the comptroller shall also provide a report to a representative of the property owners who requested the audit.

(h) At any time after the request for an audit is made, the comptroller may discontinue the audit in whole or in part if requested to do so by:

(1) the governing bodies of a majority of the taxing units participating in the district, if the audit was requested by a majority of those units;

(2) the governing bodies of a majority of the group of taxing units composed of the municipalities, school districts, and county participating in the ~~[entitled to vote on the appointment of]~~ appraisal district ~~[directors]~~, if the audit was requested by a majority of those units; or

(3) if the audit was requested under Section 5.12(c) ~~[of this code]~~, by the taxpayers who requested the audit.

SECTION 2.\_\_\_\_. Section 6.01(a), Tax Code, is amended to read as follows:

(a) An appraisal district is established in each county. The district is governed by the assessor-collector of the county for which the district is established, who serves as the chief appraiser for the district.

SECTION 2.\_\_\_\_. Section 6.02(b), Tax Code, is amended to read as follows:

(b) A taxing unit that has boundaries extending into two or more counties may choose to participate in only one of the appraisal districts. In that event, the boundaries of the district chosen extend outside the county to the extent of the unit's boundaries. To be effective, the choice must be approved by the county assessor-collector who governs ~~[resolution of the board of directors of]~~ the district chosen. The choice of a school district to participate in a single appraisal district does not apply to property annexed to the school district under Subchapter C or G, Chapter 36, Education Code, unless:

(1) the school district taxes property other than property annexed to the district under Subchapter C or G, Chapter 36, Education Code, in the same county as the annexed property; or

(2) the annexed property is contiguous to property in the school district other than property annexed to the district under Subchapter C or G, Chapter 36, Education Code.

(3) On page 109, strike lines 17 and 18 and substitute the following:

SECTION 2.\_\_\_\_. Section 6.05(b), Tax Code, is amended to read as follows:

(b) The county assessor-collector who governs [~~board of directors of~~] an appraisal district may contract with an appraisal office in another district or with a taxing unit in the district to perform the duties of the appraisal office for the district.

SECTION 2.\_\_\_\_. Section 6.051, Tax Code, is amended to read as follows:

Sec. 6.051. OWNERSHIP OR LEASE OF REAL PROPERTY. (a) The county assessor-collector who governs [~~board of directors of~~] an appraisal district may purchase or lease real property and may construct improvements as necessary to establish and operate the appraisal office or a branch appraisal office.

(b) The acquisition or conveyance of real property or the construction or renovation of a building or other improvement by an appraisal district must be approved by the governing bodies of three-fourths of the group of taxing units composed of the municipalities, school districts, and county participating in the appraisal district [~~entitled to vote on the appointment of board members~~]. The county assessor-collector [~~board of directors by resolution~~] may propose a property transaction or other action for which this subsection requires approval of the taxing units. The chief appraiser shall notify the presiding officer of each governing body entitled to vote on the approval of the proposal by delivering a copy of the proposal [~~board's resolution~~], together with information showing the costs of other available alternatives to the proposal. On or before the 30th day after the date the presiding officer receives notice of the proposal, the governing body of a taxing unit by resolution may approve or disapprove the proposal. If a governing body fails to act on or before that 30th day or fails to file its resolution with the chief appraiser on or before the 10th day after that 30th day, the proposal is treated as if it were disapproved by the governing body.

(c) The county assessor-collector [~~board of directors~~] may convey real property owned by the district, and the proceeds shall be credited to each taxing unit that participates in the district in proportion to the unit's allocation of the appraisal district budget in the year in which the transaction occurs. A conveyance must be approved as provided by Subsection (b) [~~of this section~~], and any proceeds shall be apportioned by an amendment to the annual budget made as provided by Section 6.06(c) [~~Subsection (c) of Section 6.06 of this code~~].

[~~(d) An acquisition of real property by an appraisal district before January 1, 1988, may be validated before March 1, 1988, in the manner provided by Subsection (b) of this section for the acquisition of real property.~~]

SECTION 2.\_\_\_\_. Section 6.06, Tax Code, is amended by amending Subsections (a), (b), (c), (d), (f), (h), (i), and (j) and adding Subsection (l) to read as follows:

(a) Each year the county assessor-collector [~~chief appraiser~~] shall prepare a proposed budget for the operations of the district for the following tax year and shall submit copies to each taxing unit participating in the district [~~and to the district board of directors~~] before June 15. The county assessor-collector [~~He~~] shall include in the budget a list showing each proposed position, the proposed salary for the position, all benefits proposed for the position, each proposed capital expenditure, and an estimate of the amount of the budget that will be allocated to each taxing unit. Each municipality, each school district, and the county participating in the district [~~taxing unit entitled to vote on the appointment of board members~~] shall maintain a copy of the proposed budget for public inspection at its principal administrative office.

(b) The county assessor-collector [~~board of directors~~] shall hold a public hearing to consider the budget. The county assessor-collector [~~secretary of the board~~] shall deliver to the presiding officer of the governing body of each taxing unit participating in the district not later than the 10th day before the date of the hearing a written notice of the date, time, and place fixed for the hearing. The county assessor-collector [~~board~~] shall complete the [~~its~~] hearings, make necessary [~~any~~] amendments to the proposed budget [~~it desires~~], and finally approve a budget before September 15. If governing bodies of a majority of the group of taxing units composed of the municipalities, school districts, and county participating in the appraisal district [~~taxing units entitled to vote on the appointment of board members~~] adopt resolutions disapproving a budget and file them with the county assessor-collector [~~secretary of the board~~] within 30 days after its adoption, the budget does not take effect, and the county assessor-collector [~~board~~] shall adopt a new budget within 30 days of the disapproval.

(c) The county assessor-collector [~~board~~] may amend the approved budget at any time[;] but [~~the secretary of the board~~] must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit participating in the district not later than the 30th day before the date the county assessor-collector [~~board~~] acts on it.

(4) On page 110, between lines 12 and 13, insert the following:

(f) Payments shall be made to a depository designated by the county assessor-collector [~~district board of directors~~]. The district's funds may be disbursed only by a written check, draft, or order signed by the county assessor-collector [~~chairman and secretary of the board or, if authorized by resolution of the board, by the chief appraiser~~].

(h) If a newly formed taxing unit or a taxing unit that did not impose taxes in the preceding year imposes taxes in any tax year, that unit is allocated a portion of the amount budgeted to operate the district as if it had imposed taxes in the preceding year, except that the amount of taxes the unit imposes in the current year is used to calculate its allocation. Before the amount of taxes to be imposed for the current year is known, the allocation may be based on an estimate to which the county assessor-collector [~~district board of directors~~] and the governing body of the unit agree, and the payments made after that amount is known shall be adjusted to reflect the amount imposed. The payments of a newly formed taxing unit that has no source of funds are postponed until the unit has received adequate tax or other revenues.

(i) The fiscal year of an appraisal district is the calendar year unless the governing bodies of three-fourths of the group of taxing units composed of the municipalities, school districts, and county participating in the appraisal district [~~taxing units entitled to vote on the appointment of board members~~] adopt resolutions proposing a different fiscal year and file them with the county assessor-collector [~~secretary of the board~~] not more than 12 and not less than eight months before the first day of the fiscal year proposed by the resolutions. If the fiscal year of an appraisal district is changed under this subsection, the county assessor-collector [~~chief appraiser~~] shall prepare a proposed budget for the fiscal year as provided by Subsection (a) [~~of this section~~] before the 15th day of the seventh month preceding the first day of the fiscal year established by the change, and [~~the board of directors~~] shall adopt a budget for the fiscal year as provided by Subsection (b) [~~of this section~~] before the 15th day of the fourth month preceding the first day of the fiscal year established by the change. Unless the appraisal district adopts a different method of allocation under Section 6.061 [~~of this code~~], the allocation of the budget to each taxing unit shall be calculated as provided by Subsection (d) [~~of this section~~] using the amount of property taxes imposed by each participating taxing unit in the most recent tax year preceding the fiscal year established by the change for which the necessary information is available. Each taxing unit shall pay its allocation as provided by Subsection (e) [~~of this section~~], except that the first payment shall be made before the first day of the fiscal year established by the change and subsequent payments shall be made quarterly. In the year in which a change in the fiscal year occurs, the budget that takes effect on January 1 of that year may be amended as necessary as provided by Subsection (c) [~~of this section~~] in order to accomplish the change in fiscal years.

(j) If the total amount of the payments made or due to be made by the taxing units participating in an appraisal district exceeds the amount actually spent or obligated to be spent during the fiscal year for which the payments were made, the county assessor-collector [~~chief appraiser~~] shall credit the excess amount against each taxing unit's allocated payments for the following year in proportion to the amount of each unit's budget allocation for the fiscal year for which the payments were made. If a taxing unit that paid its allocated amount is not allocated a portion of the district's budget for the following fiscal year, the county assessor-collector [~~chief appraiser~~] shall refund to the taxing unit its proportionate share of the excess funds not later than the 150th day after the end of the fiscal year for which the payments were made.

(5) On page 110, between lines 17 and 18, insert the following:

SECTION 2.\_\_\_\_. Section 6.061, Tax Code, is amended to read as follows:

Sec. 6.061. CHANGES IN METHOD OF FINANCING. (a) The county assessor-collector who governs [~~board of directors of~~] an appraisal district, by signed order [~~resolution adopted~~] and delivered to each taxing unit participating in the district after June 15 and before August 15, may prescribe a different method of allocating the costs of operating the district unless the governing body of any taxing unit that participates in the district adopts a resolution opposing the different method[;] and files it with the county assessor-collector [~~board of directors~~] before September 1. If a [~~board~~] proposal is rejected, the

county assessor-collector ~~[board]~~ shall notify, in writing, each taxing unit participating in the district before September 15.

(b) The taxing units participating in an appraisal district may adopt a different method of allocating the costs of operating the district if the governing bodies of three-fourths of the group of taxing units composed of the municipalities, school districts, and county participating in the appraisal district ~~[taxing units that are entitled to vote on the appointment of board members]~~ adopt resolutions providing for the other method. However, a change under this subsection is not valid if it requires any taxing unit to pay a greater proportion of the appraisal district's costs than the unit would pay under Section 6.06 ~~[of this code]~~ without the consent of the governing body of that unit.

(c) An official copy of a resolution under this section must be filed with the county assessor-collector ~~[chief appraiser of the appraisal district]~~ after April 30 and before May 15 or the resolution is ineffective.

(d) Before May 20, the county assessor-collector ~~[chief appraiser]~~ shall determine whether a sufficient number of eligible taxing units have filed valid resolutions proposing a change in the allocation of district costs for the change to take effect. Before May 25, the county assessor-collector ~~[chief appraiser]~~ shall notify each taxing unit participating in the district of each change that is adopted.

(e) A change in allocation of district costs made as provided by this section remains in effect until changed in a manner provided by this section or rescinded by resolution of a majority of the governing bodies of the group of taxing units composed of the municipalities, school districts, and county participating in the appraisal district ~~[that are entitled to vote on appointment of board members under Section 6.03 of this code]~~.

SECTION 2.\_\_\_\_. Sections 6.062(a) and (c), Tax Code, are amended to read as follows:

(a) Not later than the 10th day before the date of the public hearing at which the county assessor-collector ~~[board of directors]~~ considers the appraisal district budget, the county assessor-collector ~~[chief appraiser]~~ shall give notice of the public hearing by publishing the notice in a newspaper having general circulation in the county for which the appraisal district is established. The notice may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper and may not be published in the part of the paper in which legal notices and classified advertisements appear.

(c) The notice must state that the appraisal district is supported solely by payments from the local taxing units served by the appraisal district. The notice must also contain the following statement: "If approved by the appraisal district's county assessor-collector ~~[district board of directors]~~ at the public hearing, this proposed budget will take effect automatically unless disapproved by the governing bodies of the county, school districts, cities, and towns served by the appraisal district. A copy of the proposed budget is available for public inspection in the office of each of those governing bodies."

SECTION 2.\_\_\_\_. Section 6.063, Tax Code, is amended to read as follows:

Sec. 6.063. FINANCIAL AUDIT. (a) At least once each year, the county assessor-collector who governs ~~[board of directors of]~~ an appraisal district shall

have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants.

(b) The report of the audit is a public record. A copy of the report shall be delivered to the county assessor-collector, the county judge, and the presiding officer of the governing body of each municipality and school district participating in the appraisal district ~~[taxing unit eligible to vote on the appointment of district directors]~~, and a reasonable number of copies shall be available for inspection at the appraisal office.

SECTION 2.\_\_\_\_. Sections 6.09(b) and (c), Tax Code, are amended to read as follows:

(b) The county assessor-collector who governs an appraisal district ~~[board of directors]~~ shall designate as the district depository the financial institution or institutions that offer the most favorable terms and conditions for the handling of the district's funds.

(c) The county assessor-collector ~~[board]~~ shall solicit bids to be designated as depository for the district at least once in each two-year period.

SECTION 2.\_\_\_\_. Sections 6.11(a) and (b), Tax Code, are amended to read as follows:

(a) The county assessor-collector who governs ~~[board of directors of]~~ an appraisal district may not make a contract for the district requiring an expenditure of more than \$15,000 unless the proposed contract is submitted to competitive bidding.

(b) The county assessor-collector ~~[board of directors]~~ is subject to the same requirements and has the same powers regarding the following matters as apply to a commissioners court under the Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271, Local Government Code):

- (1) notice of the contract;
- (2) issuance of the contract to the lowest responsible bidder;
- (3) rejection of bids;
- (4) expenditure of funds on the completion and acceptance of the contract;
- (5) exceptions to the competitive bidding requirement;
- (6) change orders; and
- (7) effect of noncompliance with the competitive bidding requirements.

SECTION 2.\_\_\_\_. Section 6.12(a), Tax Code, is amended to read as follows:

(a) The county assessor-collector who governs an ~~[chief appraiser of each]~~ appraisal district shall appoint~~[-with the advice and consent of the board of directors;]~~ an agricultural advisory board composed of three or more members as determined by the board.

SECTION 2.\_\_\_\_. Sections 6.24(a) and (b), Tax Code, are amended to read as follows:

(a) The governing body of a taxing unit other than a county may contract as provided by the Interlocal Cooperation Act with the governing body of another unit ~~[or with the board of directors of an appraisal district]~~ for the other unit ~~[or the district]~~ to perform duties relating to the assessment or collection of taxes.

(b) The commissioners court with the approval of the county assessor-

collector may contract as provided by the Interlocal Cooperation Act with the governing body of another taxing unit in the county [~~or with the board of directors of the appraisal district~~] for the other unit [~~or the district~~] to perform duties relating to the assessment or collection of taxes for the county. If a county contracts to have its taxes assessed and collected by another taxing unit [~~or by the appraisal district~~], the contract shall require the other unit [~~or the district~~] to assess and collect all taxes the county is required to assess and collect.

SECTION 2.\_\_\_\_. Sections 6.41(b), (c), (d), (e), and (f), Tax Code, are amended to read as follows:

(b) The board consists of three members. However, the county assessor-collector who governs the appraisal district [~~board of directors by resolution of a majority of its members~~] may increase the size of the appraisal review board to not more than nine members or, in a district established for a county with a population of at least 250,000, to not more than 15 members or, in a district established for a county with a population of at least one million, to not more than 30 members or, in a district established for a county with a population of at least 1,500,000, to not more than 45 members.

(c) To be eligible to serve on the board, an individual must be a resident of the district and must have resided in the district for at least two years. An [~~A member of the appraisal district board of directors or an~~] officer or employee of the comptroller, the appraisal office, or a taxing unit is ineligible to serve on the board. In an appraisal district established for a county having a population of more than 300,000, an individual who has served for all or part of three previous terms as a board member or auxiliary board member on the appraisal review board is ineligible to serve on the appraisal review board. In an appraisal district established for any other county, an individual who has served for all or part of three consecutive terms as a board member or auxiliary board member on the appraisal review board is ineligible to serve on the appraisal review board during a term that begins on the next January 1 following the third of those consecutive terms.

(d) Members of the board are appointed by the assessor-collector of the county for which the appraisal district is established [~~resolution of a majority of the appraisal district board of directors~~]. A vacancy on the board is filled in the same manner for the unexpired portion of the term.

(e) Members of the board hold office for terms of two years beginning January 1. The county assessor-collector [~~appraisal district board of directors by resolution~~] shall provide for staggered terms, so that the terms of as close to one-half of the members as possible expire each year. In making the initial appointments, the county assessor-collector [~~board of directors~~] shall designate those members who serve terms of one year.

(f) A member of the board may be removed from the board by the county assessor-collector [~~a majority vote of the appraisal district board of directors~~]. Grounds for removal are:

(1) a violation of Section 6.412 or 6.413; or

(2) good cause relating to the attendance of members at called meetings of the board as established by written policy adopted by the county assessor-collector [~~a majority of the appraisal district board of directors~~].

(6) On page 117, between lines 12 and 13, insert the following:

SECTION 2.\_\_\_\_. Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.21 to read as follows:

Sec. 23.21. LIMITATION ON APPRAISED VALUE OF REAL PROPERTY. (a) The appraised value of real property for the first tax year after the tax year in which the owner acquires the property may not exceed the market value of the property. Notwithstanding Section 23.01, the appraised value of the property in each subsequent tax year until the end of the tax year in which the ownership of the property changes may not exceed the sum of:

(1) the appraised value of the property for the preceding tax year as adjusted by the chief appraiser for the current tax year to reflect the change from the preceding tax year in the purchasing power of the dollar for consumers in this state; and

(2) the market value of all new improvements to the property.

(b) For each tax year, using the index that the comptroller considers to most accurately report changes in the purchasing power of the dollar for consumers in this state, the comptroller shall determine and publicize the percentage by which the appraised value of real property may be increased under Subsection (a)(1). Each chief appraiser shall use the percentage determined by the comptroller under this subsection to determine the maximum increase in the appraised value of real property appraised by that chief appraiser.

(c) When appraising real property, the chief appraiser shall:

(1) appraise the property at its market value; and

(2) include in the appraisal records both the market value of the property and the amount calculated under Subsection (a).

(d) This section does not apply to property appraised under Subchapter C, D, E, F, or G.

(e) In Subsection (a), "new improvement" means an improvement to real property that is made after the appraisal of the property for the preceding tax year and that increases the market value of the property. The term does not include ordinary maintenance of an existing structure or the grounds or another feature of the property.

(f) For purposes of this section, the owner of real property on January 1, 1998, is considered to have acquired the property in the 1997 tax year.

(7) On page 119, between lines 6 and 7, insert the following:

SECTION 2.\_\_\_\_. Section 25.01(b), Tax Code, is amended to read as follows:

(b) The county assessor-collector who governs the appraisal district [chief appraiser with the approval of the board of directors of the district] may contract with a private appraisal firm to perform appraisal services for the district[~~, subject to his approval~~]. A contract for private appraisal services is void if the amount of compensation to be paid the private appraisal firm is contingent on the amount of or increase in appraised, assessed, or taxable value of property appraised by the appraisal firm.

(8) On page 119, line 8, strike "Subsection (b)" and substitute "Subsections (b) and (g)".

(9) On page 121, between lines 5 and 6, insert the following:

(g) The county assessor-collector who governs the appraisal district [chief



appraiser, with the approval of the appraisal district board of directors,] may dispense with the notice required by Subdivision (1) of Subsection (a) [~~of this section~~] if the amount of increase in appraised value is \$1,000 or less.

(10) On page 138, between lines 16 and 17, insert the following:

SECTION 2.\_\_\_\_. Subchapter C, Chapter 41, Tax Code, is amended by adding Section 41.414 to read as follows:

Sec. 41.414. PROTEST OF APPRAISED VALUE OF REAL PROPERTY.

In a protest of the appraised value of real property, if the appraised value for the current year is the value calculated as provided by Section 23.21(a), the property owner is not entitled to protest the appraised value for the preceding year that is used in the calculation of the appraised value for the current year.

SECTION 2.\_\_\_\_. Section 42.02, Tax Code, is amended to read as follows:

Sec. 42.02. RIGHT OF APPEAL BY CHIEF APPRAISER. The chief appraiser is entitled to appeal an order of the appraisal review board determining a taxpayer protest as provided by Subchapter C, Chapter 41 [~~of this code if he has written approval of the local appraisal district board of directors to appeal~~].

(11) On page 102, line 23, strike "and" and substitute "[and]".

(12) On page 102, line 26, between "income" and the period, insert the following:

(9) the amount by which the market value of real property to which Section 23.21, Tax Code, applies exceeds the appraised value of that property as calculated under that section

(13) On page 145, between lines 14 and 15, insert the following:

SECTION 2.\_\_\_\_. The following provisions of the Tax Code are repealed:

- (1) Section 6.03;
- (2) Section 6.031;
- (3) Section 6.033;
- (4) Section 6.034;
- (5) Section 6.035;
- (6) Section 6.036;
- (7) Section 6.037;
- (8) Section 6.04;
- (9) Sections 6.05(c), (d), (f), (g), and (h);
- (10) Section 6.052;
- (11) Section 6.10; and
- (12) Section 31.03(c).

(14) On page 145, between lines 22 and 23, insert the following:

( ) On the effective date of this Act, the tax assessor-collector of each county begins to govern the appraisal district established for that county, and the board of directors of each appraisal district ceases to exist. On that date, the appraisal district as governed by the county assessor-collector succeeds to all the rights, duties, privileges, property, obligations, and liabilities of the appraisal district as governed by the board of directors.

( ) A measure taken or adopted by an appraisal district board of directors before the effective date of this Act that is in effect on the effective date continues in effect after the effective date of this Act until superseded by a measure taken or adopted by the county assessor-collector governing the district.

( ) The amendment by this Act of Section 6.41, Tax Code, does not affect the term of a member of an appraisal review board appointed before the effective date of this Act.

(15) Renumber and reletter the sections and subsections of the bill appropriately.

### **Amendment No. 36**

Representative Marchant offered the following amendment to Amendment No. 35:

Amend the Merritt amendment to **CSHB 4** to read as follows:

Amend **CSHB 4** as follows:

(1) between Sec. 1.49 and 2.01 of the bill (committee printing page 105, between lines 13 and 14), insert the following:

SECTION \_\_\_\_ . Sec. 112 is added to read as follows:

(d) For purposes of this section, the appraisal ratio of a homestead to which Section 23.21 or 23.22 applies is the ratio of the property's market value as determined by the appraisal district or appraisal review board, as applicable, to the market value of the property according to law. The appraisal ratio is not calculated according to the appraised value of the property as limited by Section 23.21.

(2) between Sec. 2.13 and 2.14 of the bill (committee printing page 117, between lines 12 and 13), insert the following:

SECTION \_\_\_\_ . Subchapter B, Chapter 23, is amended by adding Section 23.21 to read as follows:

23.21. LIMITATIONS ON APPRAISED VALUE OF RESIDENCE HOMESTEADS. (a) the appraised value of a residence homestead for a tax year may not exceed the lesser of:

(1) the market value of the property; or

(2) the sum of:

(A) 105 percent of the appraised value of the property for the preceding year; and

(B) the market value of all new improvements to the property.

(b) When appraising a residence homestead, the chief appraiser shall:

(1) appraise the property at its market value; and

(2) include in the appraisal records both the market value of the property and the amount computed under Subsection (a)(2).

(c) The limitation provided by Subsection (a) takes effect as to a residence homestead on January 1 of the tax year following the first tax year the owner qualifies the property for an exemption under Section 11.13. The limitation expires on January 1 of the first tax year that neither the owner of the property when the limitation took effect, the owner's spouse or surviving spouse, nor a minor child of the owner qualifies for an exemption under Section 11.13.

(d) This section does not apply to property appraised under Subchapter C, D, E, F, or G.

(e) In this section, "new improvement" means an improvement to a residence homestead that is made after the appraisal of the property for the preceding year and that increases the market value of the property. The term

does not include ordinary maintenance of an existing structure or the grounds or another feature of the property.

(f) renumber the sections of the bill appropriately.

SECTION \_\_\_\_\_. Subchapter B, Chapter 23, Tax Code is amended by adding Section 23.22 to read as follows:

23.22 LIMITATIONS ON FREQUENCY OF APPRAISAL RESIDENCE HOMESTEAD. (a) Except as provided by Subsection (b), the appraiser may not recognize an increase in the appraised value of residential property more than once every three years.

(b) The chief appraiser shall recognize an increase in the appraised value of residential property before the third anniversary of the date of the preceding recognition of an increase in the appraised value of the property if, after the date, the property owner makes an improvement to the property that increases the market value of the property at least 10 percent.

(c) An application is not required for an owner of residential property to receive a benefit under this section.

(d) The chief appraiser shall include in the appraisal records both the market value of the property and its appraised value as determined by this section.

(e) This section does not apply to property appraised under Subsection C, D, E, F, or G.

(f) renumber the sections of the bill appropriately.

(3) In Sec. 1.44 of the bill (committee printing page 102, between lines 26 and 27), amend Section 403.302(e) as follows:

(8) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income; and

(9) the amount by which the market value of a residence homestead to which Section 23.21 or 23.22, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

Representative Merritt moved to table Amendment No. 36.

(Bonnen in the chair)

(Speaker in the chair)

The motion to table was lost.

Amendment No. 36 was adopted.

Amendment No. 35, as amended, was adopted without objection. (Raymond recorded voting yes)

### **Amendment No. 37**

Representative Hilbert offered the following amendment to **CSHB 4**:  
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Amend **CSHB 4**, Article 2 of the bill, as follows:

(1) On page 108, strike lines 16 and 17, and substitute the following:

SECTION 2.03. Section 6.03, Tax Code, is amended by amending Subsections (a), (b), (c), and (l), and adding Subsection (n) to read as follows:

(a) The appraisal district is governed by a board of six [~~five~~] directors. Five directors are appointed by the taxing units that participate in the district as provided by this section. The county assessor-collector is an ex officio director. To be eligible to serve on the board of directors, an individual other than the county assessor-collector must be a resident of the district and must have resided in the district for at least two years immediately preceding the date the individual takes office. To be eligible to serve on the board of an appraisal district established for a county having a population of at least 200,000 bordering a county having a population of at least 2,000,000 and the Gulf of Mexico, an individual other than the assessor-collector must be a member of the governing body or an elected officer of a taxing unit entitled to vote on the appointment of board members under this section. However, an employee of a taxing unit that participates in the district is not eligible to serve on the board unless the individual is also a member of the governing body or an elected official of a taxing unit that participates in the district.

(b) Members of the board of directors other than the county assessor-collector serve two-year terms beginning on January 1 of even-numbered years.

(c) Members of the board of directors other than the county assessor-collector are appointed by vote of the governing bodies of the incorporated cities and towns, the school districts, and, if entitled to vote, the conservation and reclamation districts that participate in the district and of the county. A governing body may cast all its votes for one candidate or distribute them among candidates for any number of directorships. Conservation and reclamation districts are not entitled to vote unless at least one conservation and reclamation district in the district delivers to the chief appraiser a written request to nominate and vote on the board of directors by June 1 of each odd-numbered year. On receipt of a request, the chief appraiser shall certify a list by June 15 of all eligible conservation and reclamation districts that are imposing taxes and that participate in the district.

(1) If a vacancy occurs on the board of directors other than a vacancy in the position held by the county assessor-collector, each taxing unit that is entitled to vote by this section may nominate by resolution adopted by its governing body a candidate to fill the vacancy. The unit shall submit the name of its nominee to the chief appraiser within 10 days after notification from the board of directors of the existence of the vacancy, and the chief appraiser shall prepare and deliver to the board of directors within the next five days a list of the nominees. The board of directors shall elect by majority vote of its members one of the nominees to fill the vacancy.

(2) On page 108, between lines 22 and 23, insert the following:

SECTION 2.\_\_\_\_. Section 6.034(a), Tax Code, is amended to read as follows:

(a) The taxing units participating in an appraisal district may provide that the terms of the appointed members of the board of directors be staggered if the governing bodies of at least three-fourths of the taxing units that are entitled to vote on the appointment of board members adopt resolutions providing for the staggered terms. A change to staggered terms may be adopted only if the method or procedure for appointing board members is changed under Section 6.031 of this code to eliminate or have the effect of eliminating cumulative

voting for board members as provided by Section 6.03 of this code. A change to staggered terms may be proposed concurrently with a change that eliminates or has the effect of eliminating cumulative voting.

(3) On page 109, between lines 16 and 17, insert the following:

SECTION 2.\_\_\_\_. Section 6.04(a), Tax Code, is amended to read as follows:

(a) A majority of the appraisal district board of directors constitutes a quorum. The county assessor-collector is the chairman of the board. At its first meeting each calendar year, the board shall elect from its members a [~~chairman and a~~] secretary.

(4) On page 110, between lines 17 and 18, insert the following:

SECTION 2.\_\_\_\_. Section 6.41(c), Tax Code, is amended to read as follows:

(c) To be eligible to serve on the board, an individual must be a resident of the district and must have resided in the district for at least two years. A member of the appraisal district board of directors or an officer or employee of the comptroller, the appraisal office, or a taxing unit is ineligible to serve on the board. In an appraisal district established for a county having a population of more than 300,000, an individual who has served for all or part of three previous terms as a board member or auxiliary board member on the appraisal review board or is a former officer or employee of a taxing unit is ineligible to serve on the appraisal review board. In an appraisal district established for any other county, an individual who has served for all or part of three consecutive terms as a board member or auxiliary board member on the appraisal review board is ineligible to serve on the appraisal review board during a term that begins on the next January 1 following the third of those consecutive terms.

SECTION 2.\_\_\_\_. Section 6.411, Tax Code, is amended to read as follows:

Sec. 6.411. AUXILIARY [~~BOARD~~] MEMBERS IN CERTAIN COUNTIES. (a) The board of directors of an appraisal district may appoint auxiliary members to [~~the appraisal review board to~~] hear taxpayer protests before the appraisal review board and to assist the board in performing its other duties.

(b) The number of auxiliary members that may be appointed is:

(1) for a county with a population of 1,000,000 or more, not more than 66 [~~30~~] auxiliary members;

(2) for a county with a population of at least 500,000 but less than 1,000,000, not more than 45 [~~20~~] auxiliary members;

(3) for a county with a population of at least 250,000 but less than 500,000, not more than 25 [~~10~~] auxiliary members; and

(4) for a county with a population of less than 250,000, not more than 10 [~~6~~] auxiliary members.

(c) Sections 6.41(c), (d), and (e) and Sections 6.412 and 6.413 apply to auxiliary [~~board~~] members [~~appointed under this section~~].

(d) An auxiliary member [~~of the appraisal review board appointed under this section~~] may not vote in a determination made by the board, may not serve as chairman or secretary of the board, and is not included in determining what constitutes a quorum of the board or whether a quorum is present at any meeting of the board.

(e) An auxiliary member ~~[of the appraisal review board appointed under this section]~~ is entitled to make a recommendation to the board in a protest heard by the member but is not entitled to vote on the determination of the protest by the board.

(f) An auxiliary member ~~[of the appraisal review board appointed under this section]~~ is entitled to the per diem set by the appraisal district budget for each day on which the member actively engages in performing the member's duties under Subsection (a) or (e) and is entitled to actual and necessary expenses incurred in performing those duties in the same manner as ~~[other]~~ members of the appraisal review board.

(5) On page 110, line 19, between "(f)," and "and", insert "(h),".

(6) On page 111, between lines 21 and 22, insert the following:

(h) Joint or community owners may not each receive the same exemption provided by or pursuant to this section for the same residence homestead in the same year. An eligible disabled person who is 65 or older may not receive both a disabled and an elderly residence homestead exemption but may choose either. A person may not receive an exemption under this section for more than one residence homestead in the same year.

(7) On page 116, between lines 16 and 17, insert the following:

SECTION 2.\_\_\_\_. Section 11.41, Tax Code, is amended to read as follows:

Sec. 11.41. PARTIAL OWNERSHIP OF EXEMPT PROPERTY. (a) ~~If~~ [Except as provided by Subsection (b) of this section, if] a person who qualifies for an exemption as provided by this chapter is not the sole owner of the property to which the exemption applies, the exemption shall be multiplied by a fraction, the numerator of which is ~~[limited to]~~ the value of the property interest the person owns and the denominator of which is the value of the property.

~~(b) [If a person who qualifies for an exemption as provided by Section 11.13 or 11.22 of this code is not the sole owner of the property to which the exemption applies, the amount of the exemption is calculated on the basis of the value of the property interest the person owns.~~

~~[(c)]~~ In the application of this section, community ownership by a person who qualifies for the exemption and the person's [his] spouse is treated as if the person owns the community interest of the person's [his] spouse.

SECTION 2.\_\_\_\_. Section 11.43, Tax Code, is amended by amending Subsection (f) and adding Subsection (j) to read as follows:

(f) The comptroller, in prescribing the contents of the application form for each kind of exemption, shall ensure that the form requires an applicant to furnish the information necessary to determine the validity of the exemption claim. The form must require an applicant to provide the applicant's name and driver's license number, personal identification certificate number, or social security account number. The comptroller shall include on the forms a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The comptroller shall include, on application forms for exemptions that do not have to be claimed annually, a statement explaining that the application need not be made annually and that if the exemption is allowed, the applicant has a duty to notify the chief appraiser when the applicant's [his] entitlement to the exemption ends. In this subsection:

(1) "Driver's license" has the meaning assigned that term by Section 521.001, Transportation Code.

(2) "Personal identification certificate" means a certificate issued by the Department of Public Safety under Subchapter E, Chapter 521, Transportation Code.

(j) An application for an exemption under Section 11.13 must:

(1) list each owner of the residence homestead and the interest of each owner;

(2) state that the applicant does not claim an exemption under that section on another residence homestead;

(3) state that each fact contained in the application is true; and

(4) include a signed statement that the applicant has read and understands the notice of the penalties required by Subsection (f).

(8) On page 117, between lines 8 and 9, insert the following:

SECTION 2.\_\_\_\_. Section 23.01(b), Tax Code, is amended to read as follows:

(b) The market value of property shall be determined by the application of generally accepted appraisal methods and techniques, including the mass appraisal standards recognized by the Uniform Standards of Professional Appraisal Practice. The ~~and the~~ same or similar appraisal methods and techniques shall be used in appraising the same or similar kinds of property. However, each property shall be appraised based upon the individual characteristics that affect the property's market value.

SECTION 2.\_\_\_\_. Subchapter A, Chapter 23, Tax Code, is amended by adding Sections 23.011-23.013 to read as follows:

Sec. 23.011. COST METHOD OF APPRAISAL. If the chief appraiser uses the cost method of appraisal to determine the market value of real property, the chief appraiser shall:

(1) use cost data obtained from generally accepted sources;

(2) make any appropriate adjustment for physical, functional, or economic obsolescence;

(3) make available to the public on request cost data developed and used by the chief appraiser and may charge a reasonable fee to the public for the data;

(4) clearly state the reason for any variation between generally accepted cost data and locally produced cost data if the data vary by more than 10 percent; and

(5) make available on request all applicable market data that demonstrate the difference between the replacement cost of the improvements to the property and the depreciated value of the improvements.

Sec. 23.012. INCOME METHOD OF APPRAISAL. If the chief appraiser uses the income method of appraisal to determine the market value of real property, the chief appraiser shall:

(1) use rental income and expense data pertaining to the property if possible and applicable;

(2) make any projections of future rental income and expenses only from clear and appropriate evidence;

(3) use data from generally accepted sources in determining an appropriate capitalization rate; and

(4) determine a capitalization rate for income-producing property that includes a reasonable return on investment, taking into account the risk associated with the investment.

Sec. 23.013. MARKET DATA COMPARISON METHOD OF APPRAISAL. If the chief appraiser uses the market data comparison method of appraisal to determine the market value of real property, the chief appraiser shall use comparable sales data if possible.

(9) On page 119, line 8, strike "Subsection (b) and adding Subsection (k)" and substitute "Subsections (b) and (i) and adding Subsections (j) and (k)".

(10) On page 120, line 19, strike "brief" and substitute "detailed [brief]".

(11) On page 121, between lines 5 and 6, insert the following:

(i) By May 15 or as soon thereafter as practicable, the chief appraiser shall deliver a written notice to the owner of each property not included in a notice required to be delivered under Subsection (a), if the property was reappraised in the current tax year, if the ownership of the property changed during the preceding year, or if the property owner or the agent of a property owner authorized under Section 1.111 makes a written request for the notice. The chief appraiser shall separate real from personal property and include in the notice for each property:

(1) the appraised value of the property in the preceding year;

(2) the appraised value of the property for the current year and the kind of each partial exemption, if any, approved for the current year;

(3) a detailed [brief] explanation of the time and procedure for protesting the value; and

(4) the date and place the appraisal review board will begin hearing protests.

(j) Delivery with a notice required by Subsection (a) or (i) of a copy of the pamphlet published by the comptroller under Section 5.06 is sufficient to comply with the requirement that the notice include the information specified by Subsection (b)(7) or (i)(3), as applicable.

(12) On page 132, line 13, strike "Section 33.01(a), Tax Code, is amended" and substitute "Section 33.01, Tax Code, is amended by amending Subsection (a) and adding Subsections (d) and (e)".

(13) On page 132, between lines 22 and 23, insert the following:

(d) In lieu of the penalty imposed under Subsection (a), a delinquent tax incurs a penalty of 50 percent of the amount of the tax without regard to the number of months the tax has been delinquent if the tax is delinquent because the property owner received an exemption under:

(1) Section 11.13 and the chief appraiser subsequently cancels the exemption because the residence was not the principal residence of the property owner and the property owner received an exemption for two or more additional residence homesteads for the tax year in which the tax was imposed;

(2) Section 11.13(c) or (d) for a person who is 65 or older and the chief appraiser subsequently cancels the exemption because the property owner was younger than 65 on the exemption qualification date; or

(3) Section 11.13(q) and the chief appraiser subsequently cancels the exemption because the property owner was younger than 55 when the property owner's spouse died.



(e) A penalty imposed under Subsection (d) does not apply if, at any time before the date the tax becomes delinquent, the property owner gives to the chief appraiser of the appraisal district in which the property is located written notice of circumstances that would disqualify the owner for the exemption.

SECTION 2.\_\_\_\_. The heading to Section 33.06, Tax Code, is amended to read as follows:

Sec. 33.06. DEFERRED COLLECTION OF [~~CERTAIN~~] TAXES ON RESIDENCE HOMESTEAD OF ELDERLY PERSON.

(14) On page 132, strike line 24 and substitute the following: by adding Sections 33.065 and 33.08 to read as follows:

Sec. 33.065. DEFERRED COLLECTION OF TAXES ON APPRECIATING RESIDENCE HOMESTEAD. (a) An individual is entitled to defer or abate a suit to collect a delinquent tax imposed on the portion of the appraised value of property the individual owns and occupies as the individual's residence homestead that exceeds the sum of:

(1) 105 percent of the appraised value of the property for the preceding year; and

(2) the market value of all new improvements to the property.

(b) An individual may not obtain a deferral or abatement under this section if the taxes on the portion of the appraised value of the property that does not exceed the amount provided by Subsection (a) are delinquent.

(c) To obtain a deferral, an individual must file with the chief appraiser for the appraisal district in which the property is located an affidavit stating the facts required to be established by Subsection (a). The chief appraiser shall notify each taxing unit participating in the district of the filing. After an affidavit is filed under this subsection, a taxing unit may not file suit to collect delinquent taxes on the property for which collection is deferred until the individual no longer owns and occupies the property as a residence homestead.

(d) To obtain an abatement, the individual must file in the court in which the delinquent tax suit is pending an affidavit stating the facts required to be established by Subsection (a). If the taxing unit that filed the suit does not file a controverting affidavit or if, after a hearing, the court finds the individual is entitled to the deferral, the court shall abate the suit until the individual no longer owns and occupies the property as the individual's residence homestead.

(e) A deferral or abatement under this section applies only to ad valorem taxes imposed beginning with the tax year following the first tax year the individual entitled to the deferral or abatement qualifies the property for an exemption under Section 11.13. For purposes of this subsection, the owner of a residence homestead that is qualified for an exemption under Section 11.13 on January 1, 1998, is considered to have qualified the property for the first time in the 1997 tax year.

(f) A tax lien remains on the property and interest continues to accrue during the period collection of delinquent taxes is deferred as provided by this section. The annual interest rate during the deferral period is eight percent instead of the rate provided by Section 33.01. A penalty may not be imposed on the delinquent taxes for which collection is deferred during a deferral period. The additional penalty provided by Section 33.07 may be imposed only if the delinquent taxes for which collection is deferred remain delinquent on or after the 91st day after the date the deferral period expires. A plea of limitation,

laches, or want of prosecution does not apply against the taxing unit because of deferral of collection as provided by this section.

(g) Each year the chief appraiser for each appraisal district shall publicize in a manner reasonably designed to notify all residents of the district or county of the provisions of this section and, specifically, the method by which eligible persons may obtain a deferral.

(h) In this section:

(1) "New improvement" means an improvement to a residence homestead that is made after the appraisal of the property for the preceding year and that increases the market value of the property. The term does not include ordinary maintenance of an existing structure or the grounds or another feature of the property.

(2) "Residence homestead" has the meaning assigned that term by Section 11.13.

(15) On page 138, between lines 16 and 17, insert the following:

SECTION 2.\_\_\_\_. Section 41.46(a), Tax Code, is amended to read as follows:

(a) The appraisal review board before which a protest hearing is scheduled shall deliver written notice to the property owner initiating a protest of the date, time, and place fixed for the hearing on the protest unless the property owner waives in writing notice of the hearing. The board shall deliver the notice not later than the 15th day before the date of the hearing.

SECTION 2.\_\_\_\_. Subchapter D, Chapter 41, Tax Code, is amended by adding Section 41.71 to read as follows:

Sec. 41.71. EVENING AND WEEKEND HEARINGS. At the request of a property owner, an appraisal review board shall schedule a hearing on a protest in the evening or on a Saturday or Sunday.

(16) On page 145, between lines 22 and 23, insert the following and reletter subsequent subsections appropriately:

(c) The change in law made by this article to Section 6.41, Tax Code, relating to the qualifications of an appraisal review board member applies only to the appointment of a member on or after September 1, 1997.

(d) The change in law made by this article to Section 11.43, Tax Code, applies only to an application for an exemption from ad valorem taxation filed on or after September 1, 1997. An application for an exemption from ad valorem taxation filed before September 1, 1997, is covered by the law in effect on the date the application was filed, and that law is continued in effect for that purpose.

(e) The change in law made by this article to Section 33.01(d), Tax Code, applies only to a penalty incurred on ad valorem taxes that become delinquent on or after September 1, 1997. A penalty incurred on ad valorem taxes that became delinquent before September 1, 1997, is covered by the law in effect when the taxes became delinquent, and that law is continued in effect for that purpose.

(17) Renumber the sections and subsections of the bill appropriately.

### **Amendment No. 38**

Representative Hilbert offered the following amendment to Amendment No. 37:

Amend the Hilbert Amendment to **CSHB 4**, on page 6 (page 87 of the amendment book), by striking lines 5-13 and substituting the following:

(6) Add to Article 2 an appropriately numbered SECTION to read as follows:

SECTION 2.\_\_\_\_. Section 11.13(h), Tax Code, is amended to read as follows:

(h) Joint or community owners may not each receive the same exemption provided by or pursuant to this section for the same residence homestead in the same year. An eligible disabled person who is 65 or older may not receive both a disabled and an elderly residence homestead exemption but may choose either. A person may not receive an exemption under this section for more than one residence homestead in the same year.

Amendment No. 38 was adopted without objection.

#### **Amendment No. 39**

Representative Eiland offered the following amendment to Amendment No. 37:

Amend the Hilbert amendment to **CSHB 4** (page 82 and 83 of the amendment book) by bracketing and striking through the language beginning on page 1, lines 15-24 through page 2, line 1.

Amendment No. 39 was adopted without objection.

Amendment No. 37, as amended, was adopted without objection.

#### **Amendment No. 40**

Representative Chisum offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 115

Amend **CSHB 4**, Section 2.08 (page 112, line 24), by striking lines 24 through line 4 of page 113 and substituting the following:

"SECTION 2.08. Section 11.251(i), Tax Code, is amended to read as follows:

(i) The exemption provided by subsection (b) does not apply to:

(1) taxation by a taxing unit that took [takes] action to tax the property under Article VIII, Section 1-j, subsection (b) [of the] Texas Constitution which has not been subsequently rescinded under Article VIII, Section i-j, subsection (b)(4), Texas Constitution; or

(2) that property described in subsection (b) which is located in a school district that for the tax year is authorized and taxes such property and is also subject to taxation under Article VIII, Section 1-e, Texas Constitution."

Amendment No. 40 was adopted without objection.

(Wilson in the chair)

#### **Amendment No. 41**

Representative Holzheuser offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 121

Amend **CSHB 4** as follows:

(1) Add the following appropriately numbered sections to read as follows:

SECTION \_\_\_\_\_. Section 26.05(d), Tax Code, is amended to read as follows:

(d) The governing body may not adopt a tax rate that if applied to the total taxable value would impose an amount of taxes that exceeds last year's levy ~~[exceeds the lower of the rollback tax rate or 103 percent of the effective tax rate calculated as provided by Section 26.04 of this code]~~ until it has held a public hearing ~~[on the proposed increase]~~ and has otherwise complied with Section 26.06 ~~[of this code.]~~. ~~[The governing body of a taxing unit shall reduce a tax rate set by law or by vote of the electorate to the lower of the rollback tax rate or 103 percent of the effective tax rate and may not adopt a higher rate unless it first complies with Section 26.06 of this code.]~~

SECTION \_\_\_\_\_. Section 26.052, Tax Code, is repealed.

SECTION \_\_\_\_\_. Section 26.06(b), as amended by Chapters 456 and 947, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

(b) The notice of a public hearing may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. The notice must:

(1) contain a statement in the following form:

"NOTICE OF PUBLIC HEARING ON TAX [RATE] INCREASE

"The (name of the taxing unit) will hold a public hearing on a proposal to increase total tax revenues from properties on the tax roll ~~[in (the preceding year)]~~ by (percentage by which taxes to be imposed under proposed tax rate exceed last year's levy ~~[of increase over the lower of the effective or rollback tax rates])~~ percent. Your individual taxes may increase ~~[at a greater or lesser rate,]~~ or ~~[even]~~ decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.

"The public hearing will be held on (date and time) at (meeting place).

"(Names of all members of the governing body, showing how each voted on the proposal to consider the ~~[tax]~~ increase in total tax revenues or, if one or more were absent, ~~[or]~~ indicating the absences.); and

(2) contain the following information:

(A) the unit's adopted tax rate for the preceding year and the proposed tax rate, expressed as an amount per \$100;

(B) the difference, expressed as an amount per \$100 and as a percent increase or decrease, as applicable, in the proposed tax rate compared to the adopted tax rate for the preceding year;

(C) the average appraised value of a residence homestead in the taxing unit in the preceding year and in the current year; the unit's homestead exemption, other than an exemption available only to disabled persons or persons 65 years of age or older, applicable to that appraised value in each of those years; and the average taxable value of a residence homestead in the unit in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(D) the amount of tax that would have been imposed by the unit in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

(E) the amount of tax that would be imposed by the unit in the current year on a residence homestead appraised at the average appraised value of a residence homestead in the current year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted; and

(F) the difference between the amounts of tax calculated under Paragraphs (D) and (E) of this subdivision, expressed in dollars and cents and described as the annual increase or decrease, as applicable, in the tax to be imposed by the unit on the average residence homestead in the unit in the current year if the proposed tax rate is adopted.

SECTION \_\_\_\_\_. Sections 26.06(d), (e), and (g), Tax Code, are amended to read as follows:

(d) At the public hearing the governing body shall announce the date, time, and place of the meeting at which it will vote on the proposed increase in total tax revenues [~~rate increase~~]. After the hearing it shall give notice of the meeting at which it will vote on the proposed increase in total tax revenues [~~rate~~] and the notice shall be in the same form as prescribed by Subsections (b) and (c) [~~of this section~~], except that it must state the following:

"NOTICE OF VOTE ON TAX [~~RATE~~] INCREASE

"The (name of the taxing unit) conducted a public hearing on a proposal to increase the total tax revenues of the (name of the taxing unit) [~~your property taxes~~] by (percentage by which taxes to be imposed under proposed tax rate exceed last year's levy [~~of increase over the lower of the effective tax rate or rollback tax rate~~]) percent on (date and time public hearing was conducted).

"The (governing body of the taxing unit) is scheduled to vote on the tax rate that will result in that tax increase at a public meeting to be held on (date and time) at (meeting place)."

(e) The meeting to vote on the increase may not be earlier than the third day or later than the 14th day after the date of the public hearing. The meeting must be held inside the boundaries of the unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. If the governing body does not adopt a [~~an increased~~] rate that would impose an amount of taxes that exceeds last year's levy by the 14th day, it must give a new notice under Subsection (d) [~~of this section~~] before it may adopt a rate that would impose an amount of taxes that exceeds last year's levy [~~exceeds the tax rate calculated as provided by Section 26.04 of this code~~].

(f) [~~(g)~~] The comptroller by rule shall prescribe the language and format to be used in the part of the notice required by Subsection (b)(2) [~~of this section~~]. A notice under Subsection (b) is not valid if it does not substantially conform to the language and format prescribed by the comptroller under this subsection.

(2) Renumber subsequent sections appropriately.

Amendment No. 41 was adopted without objection.

### Amendment No. 42

Representative Hochberg offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 124

Amend **CSHB 4** as follows:

(1) On page 127, line 26, between "equal to" and "the state", insert "103 percent of".

(2) On page 128, line 5, following "1997," insert "excluding any amount that results from an adjustment under Section 42.253(i), Education Code, and".

(3) On page 128, between "cents" and the period, insert " ; plus:

(C) any amount necessary to pay for maintenance and operation expenses budgeted to be paid on or before January 1, 1997".

#### **Amendment No. 43**

Representative Hochberg offered the following amendment to Amendment No. 42:

Amend the Hochberg Amendment (page 124 of the amendment book) to read as follows:

Amend **CSHB 4** as follows:

(2) On page 128, line 5, after "1997," insert "excluding any amount that results from an adjustment under Section 42.253(i), Education Code, and".

Amendment No. 43 was adopted without objection.

Amendment No. 42, as amended, was adopted without objection.

#### **Amendment No. 44**

Representative Staples offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 125

Amend **CSHB 4**, in Article 2 of the bill, by adding a new section, appropriately numbered, to read as follows and renumbering subsequent sections of the bill appropriately:

SECTION 2. \_\_\_\_\_. Section 31.01, Tax Code, is amended by adding Subsection (k) to read as follows:

(k) In addition to the information specified by Subsection (c), a tax bill for 1997 school district taxes or the separate statement accompanying a tax bill for 1997 school district taxes shall include an explanation of the effect on the school district's 1997 tax rates caused by House Bill No. 4, Acts of the 75th Legislature, Regular Session, 1997, and an estimate of any amount by which the school district's 1997 taxes on the property are reduced from the school district's 1996 taxes on the property because of that Act. If a tax bill for school district taxes containing an explanation required by this subsection is mailed to a mortgagee of a property, the mortgagee shall mail a copy of the tax bill or accompanying statement containing the explanation to the owner of the property before the 31st day after the date the mortgagee receives the tax bill. This subsection expires January 1, 1999.

Amendment No. 44 was adopted without objection.

#### **Amendment No. 45**

Representative Staples offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 126

Amend **CSHB 4**, in Article 2 of the bill, by adding a new section, appropriately numbered, to read as follows and renumbering subsequent sections of the bill appropriately:

SECTION 2. \_\_\_\_\_. Section 31.01, Tax Code, is amended by adding Subsection (l) to read as follows:

(l) This subsection applies only to a taxing unit in which the voters of the unit, at an election held on the question of the use of revenue from an expanded sales tax base, required the expanded sales tax base to be used to reduce ad valorem taxes of the taxing unit, as required by House Bill No. 4, Acts of the 75th Legislature, Regular Session, 1997. In addition to the information specified by Subsection (c), a tax bill for 1997 or 1998 taxes of a taxing unit or the separate statement accompanying a tax bill for 1997 or 1998 taxes of the unit shall include an explanation of any effect on the 1997 or 1998 tax rate of the unit caused by the results of the election, and an estimate of any amount by which the unit's 1997 or 1998 taxes on the property are reduced from the taxes on the property in the preceding year because of that election. If a tax bill for taxes containing an explanation required by this subsection is mailed to a mortgagee of a property, the mortgagee shall mail a copy of the tax bill or accompanying statement containing the explanation to the owner of the property before the 31st day after the date the mortgagee receives the tax bill. This subsection expires January 1, 1999.

Amendment No. 45 was adopted without objection.

#### **Amendment No. 46**

Representative Chisum offered the following amendment to **CSHB 4**:

Floor Packet Page No. 127

Amend **CSHB 4**, in Article 2 of the bill, on page 133, line 12, at the end of proposed Section 33.08(b), Tax Code, by adding "If the commissioners court of a county contracts with an official, taxing unit, or political subdivision of this state for the collection of the ad valorem taxes of the county, the contract applies to the collection of delinquent state ad valorem taxes on property taxable in that county without further action."

Amendment No. 46 was adopted without objection.

#### **Amendment No. 47**

Representative Stiles offered the following amendment to **CSHB 4**:

Floor Packet Page No. 129

Amend **CSHB 4** by deleting SECTION 2.48, SECTION 2.49, and SECTION 2.50.

Amend SECTION 2.55, by deleting subsection (c), (d), (e) and (f) and amending subsection (b) to read as follows:

~~(b) Except as provided by Subsections (c)-(f) of this section, this~~ This article applies to each tax year that begins on or after January 1, 1997. The changes in law made by this article do not apply to ad valorem taxes imposed before January 1, 1997, and the law as it existed before January 1, 1997, is continued in effect for those purposes.

Amendment No. 47 was adopted without objection.

**Amendment No. 48**

Representative Alexander offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 132

**CSHB 4** is amended by adding Sections \_\_\_\_-\_\_\_\_ to read as follows:

"SECTION \_\_\_\_\_. The heading to Chapter 41, Tax Code, is amended to read as follows:

CHAPTER 41. ADMINISTRATIVE [LOCAL] REVIEW

SECTION \_\_\_\_\_. Section 41.12, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) A protest upon which a determination is pending under Subchapter E is not considered to be an undetermined protest for the purposes of Subsection (b) of this section.

SECTION \_\_\_\_\_. Section 41.43, Tax Code, is amended to read as follows:

Sec. 41.43. PROTEST OF DETERMINATION OF VALUE OR INEQUALITY OF APPRAISAL. (a) In a protest authorized by Section 41.41(1) or (2), the appraisal district has the burden of establishing the value of the property by a preponderance of the evidence presented at the hearing. If the appraisal district fails to present evidence, the protest shall be determined in favor of the property owner.

(b) A protest on the ground of unequal appraisal of property shall be determined in favor of the protesting party unless [if] the appraisal district [protesting party] establishes that the appraisal ratio of the property is not greater than the median level of appraisal of:

(1) a reasonable and representative sample of other properties in the appraisal district; or

(2) a sample of properties in the appraisal district consisting of a reasonable number of other properties similarly situated to, or of the same general kind or character as, the property subject to the protest.

(c) For purposes of this section, evidence shall include the data, schedules, formulas, or other information used to establish the matter at issue.

SECTION \_\_\_\_\_. Subchapter D, Chapter 41, Tax Code, is amended by adding Section 41.71 to read as follows:

Sec. 41.71 TIME OF HEARINGS. At the request of the property owner, an appraisal review board shall schedule a hearing on the protest in the evening.

SECTION \_\_\_\_\_. Chapter 41, Tax Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. DETERMINATION OF PROTEST  
BY STATE OFFICE OF ADMINISTRATIVE HEARINGS

Sec. 41.91. DEFINITION. In this subchapter, "office" means the State Office of Administrative Hearings.

Sec. 41.92. RULES. The office shall adopt rules of practice and procedure for protest proceedings under this subchapter.

Sec. 41.93. ELECTION OF REMEDIES. (a) A property owner is entitled to have the office conduct a hearing and determine a protest if:

(1) the property has an appraised value of at least \$1 million as determined by the chief appraiser; and

(2) the property owner;



(A) files a notice of protest with the appraisal review board under Section 41.44;

(B) is entitled to a hearing and determination of a protest under that section;

(C) requests in the notice of protest that the office conduct the hearing and determine the protest;

(D) states in the notice of protest the appraised value of the property in the opinion of the property owner; and

(E) pays a filing fee of \$100 with the notice of protest.

(b) A property owner who submits a request under this section waives the right to a hearing and determination of the protest by the appraisal review board.

(c) A property owner forfeits the right to a determination by the office of a protest under this subchapter if the property owner does not pay before the delinquency date each taxing unit the amount of taxes the property owner would be required to pay under Section 42.08 to preserve the right to judicial review of a determination by the appraisal review board.

Sec. 41.94. FORWARDING OF NOTICE OF PROTEST AND FILING FEE TO OFFICE. On receipt of a notice under Section 41.93 and the required filing fee, the appraisal review board shall forward the notice and the filing fee to the office.

Sec. 41.95. CONTESTED CASE. Except as otherwise provided by this subchapter, the provisions of Chapter 2001, Government Code, applicable to a contested case apply to the determination of a protest under this subchapter.

Sec. 41.96. BURDEN OF PROOF. Section 41.43 applies to the determination of a protest under this subchapter.

Sec. 41.97. HEARING ON AND DETERMINATION OF PROTEST. (a) The administrative law judge to whom the protest is assigned shall conduct a hearing on the protest.

(b) The hearing shall be held at:

(1) the appraisal office; or

(2) another location convenient to the property owner and the chief appraiser.

(c) The administrative law judge shall issue a final order determining the protest. The final order is binding on the parties and the appraisal review board.

Sec. 41.98. NOTIFICATION OF DETERMINATION; CORRECTION OF APPRAISAL RECORDS. (a) The office shall notify the property owner, chief appraiser, and appraisal review board of the final order determining the protest.

(b) The appraisal review board by written order shall determine the protest in accordance with the final order and shall correct the appraisal records as necessary to conform to the order.

Sec. 41.99. COSTS OF HEARING. The appraisal district shall reimburse the office for the office's costs of conducting hearings under this subchapter.

Sec. 41.100. SANCTIONS. The administrative law judge may impose sanctions against a party or its representative as provided by Sections 2003.047(i) and (j), Government Code, as added by Chapter 765, Acts of the 74th Legislature, 1995.

Sec. 41.101. APPEAL. An order of the appraisal review board determining a protest under this subchapter is considered to have been issued under

Subchapter C for purposes of appeal under Chapter 42, except that judicial review of the protest is under the substantial evidence rule.

SECTION \_\_\_\_\_. (a) Sections \_\_\_\_-\_\_\_\_ apply only to a protest of a property appraisal the notice of which is filed on or after the effective date of this Act. A protest of a property appraisal the notice of which is filed before the effective date of this Act is covered by the law in effect when the notice of protest was filed, and the former law is continued in effect for that purpose."

Amendment No. 48 was adopted without objection.

#### **Amendment No. 49**

Representative Krusee offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 137

Amend **CSHB 4**, in Article 2 of the bill, immediately before the effective date provisions, by adding a new section, appropriately numbered, to read as follows, and renumbering subsequent sections of the article appropriately:

SECTION 2.\_\_\_\_. (a) If an escrow account is required to be maintained in connection with a loan secured by a mortgage or other security interest in real property consisting of a residence homestead from which ad valorem taxes are paid, the person who controls the account, before the 60th day after the effective date of this article, shall:

(1) recalculate the amount of school district ad valorem taxes to be paid from the account for the current tax year;

(2) provide a written explanation to the person who pays money into the account of the effect of HB 4, Acts of the 75th Legislature, Regular Session, 1995, on:

(A) the person's school district ad valorem taxes; and

(B) the person's escrow account;

(3) refund to the person who pays money into the account the difference between the result of the calculation under Subdivision (1) and the amount credited to the account for the payment of ad valorem taxes; and

(4) using the result of the calculation under Subdivision (1), adjust the amount of the payments to be made to the credit of the account.

(b) This section applies only to an escrow account maintained in connection with a residence homestead that on the effective date of this article qualifies for a residence homestead exemption from school district ad valorem taxes under Section 11.13, Tax Code.

#### **Amendment No. 50**

Representatives Krusee and Staples offered the following amendment to Amendment No. 49:

Amend the Krusee amendment to **CSHB 4** by striking the text on page 1, line 5, through page 2, line 6, and substituting the following:

SECTION 2.\_\_\_\_. (a) If an escrow account is required to be maintained in connection with a loan secured by a mortgage or other security interest in real property consisting of a residence homestead from which ad valorem taxes are paid, the person who controls the account, before March 31, 1998, shall:

(1) analyze the escrow requirements of the loan, taking into account

information provided by the comptroller, the school district tax assessor-collector, or both relating to the reduction of school district ad valorem taxes on the homestead;

(2) using the result of the calculation under Subdivision (1), adjust the amount of the payments to be made to the credit of the account and advise the person who pays the money in to the account; and

(3) refund to the person who pays money into the the account any excess in the account beyond the maximum permitted by federal law.

(b) This section applies only to an escrow account maintained in connection with a residence homestead that on the effective date of this article qualifies for a residence homestead exemption from school district ad valorem taxes under Section 11.13, Tax Code.

Amendment No. 50 was adopted without objection.

Amendment No. 49, as amended, was adopted without objection.

### **Amendment No. 51**

Representative S. Turner offered the following amendment to **CSHB 4**:

Floor Packet Page No. 139

Amend **CSHB 4** by adding the following appropriately numbered sections to Article 2 and by renumbering the other sections in Article 2 accordingly:

SECTION 2.\_\_\_\_. Subtitle E, Title II, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), is amended by adding Section 2.2125 to read as follows:

Sec. 2.2125. ADJUSTMENT FOR DECREASES IN AD VALOREM TAX LIABILITY. (a) The commission, on its own motion or on the petition of an electric utility, shall provide for the adjustment of the utility's billing to reflect a decrease in the utility's ad valorem tax liability if the decrease:

(1) results from **CSHB 4**, Acts of the 75th Legislature, 1997; and

(2) is attributable to an activity subject to the commission's jurisdiction.

(b) The commission shall apportion pro rata to each type and class of service provided by the utility and billing adjustment under this section. The adjustment, if required:

(1) shall be made effective January 31, 1998; and

(2) remains effective only until the commission alters the adjustment as provided by this section or enters an order for the utility under Section 2.211 or 2.212 of this Act.

(c) Each year after an original adjustment, the commission shall:

(1) review the utility's decrease of tax liability described by Subsection (a)(1) of this section; and

(2) alter the adjustment as necessary to reflect any additional decrease.

(d) A proceeding under this section is not a rate case under Section 2.212 of this Act.

SECTION 2.\_\_\_\_. Subtitle E, Title III, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), is amended by adding Section 3.2115 to read as follows:

Sec. 3.2115. ADJUSTMENT FOR DECREASE IN AD VALOREM TAX

LIABILITY. (a) The commission, on its own motion or on the petition of a utility, shall provide for the adjustment of the utility's billing to reflect a decrease in the utility's ad valorem tax liability if the decrease:

(1) results from CSHB 4, Acts of the 75th Legislature, 1997; and

(2) is attributable to an activity subject to the commission's jurisdiction.

(b) The commission shall apportion pro rata to each type and class of service provided by the utility any billing adjustment under this section. The adjustment, if required:

(1) shall be made effective January 31, 1998; and

(2) remains effective only until the commission alters the adjustment as provided by this section or enters an order for the utility under Section 3.210 or 3.211 of this Act.

(c) Each year after an original adjustment, the commission shall:

(1) review the utility's decrease of tax liability described by Subsection (a)(1) of this section; and

(2) alter the adjustment as necessary to reflect any additional decrease.

(d) A proceeding under this section is not a rate case under Section 3.211 of this Act.

Amendment No. 51 was adopted without objection. (The vote was reconsidered on Friday, April 25, and Amendment No. 51, amended by Amendment Nos. 63, 64, and 65, was adopted.)

#### **Amendment No. 52**

Representative Greenberg offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 142

Amend **CSHB 4**, in Article 2 of the bill, by adding the following new sections to Article 2, appropriately numbered, and renumbering subsequent sections of the article appropriately:

SECTION 2.\_\_\_. Section 11.42(b), Tax Code, is amended to read as follows:

(b) An exemption authorized by Section 11.11 or by Section 11.13(c) or (d) for an individual 65 years of age or older [of this code] is effective immediately on qualification for the exemption.

SECTION 2.\_\_\_. Section 11.13(q), Tax Code, is amended to read as follows:

(q) The surviving spouse of an individual who qualifies for [received] an exemption under Subsection (d) for the residence homestead of a person 65 or older is entitled to an exemption for the same property from the same taxing unit in an amount equal to that of the exemption for which [received by] the deceased spouse qualified if:

(1) the deceased spouse died in a year in which the deceased spouse qualified for [received] the exemption;

(2) the surviving spouse was 55 or older when the deceased spouse died; and

(3) the property was the residence homestead of the surviving spouse when the deceased spouse died and remains the residence homestead of the surviving spouse.

SECTION 2.\_\_\_. Section 11.26, Tax Code, is amended by adding Subsections (j), (k), and (l) to read as follows:

(j) If an individual who qualifies for the exemption provided by Section 11.13(c) for an individual 65 years of age or older dies, the surviving spouse of the individual is entitled to the limitation applicable to the residence homestead of the individual if:

(1) the surviving spouse is 55 years of age or older when the individual dies; and

(2) the residence homestead of the individual:

(A) is the residence homestead of the surviving spouse on the date that the individual dies; and

(B) remains the residence homestead of the surviving spouse.

(k) If the individual who qualifies for an exemption provided by Section 11.13(c) for an individual 65 years of age or older dies in the year in which the person turned 65 years of age, except as provided by Subsection (i), the amount to which the surviving spouse's school district taxes are limited under Subsection (g) is the amount of school district taxes imposed on the residence homestead in that year calculated under Section 26.112 as if the individual qualifying for the exemption had lived for the entire year.

(l) If in the first tax year after the individual died, the amount of school district taxes imposed on the residence homestead of the surviving spouse is less than the amount of school district taxes imposed in the preceding year as limited by Subsection (h), in a subsequent tax year the surviving spouse's school district taxes on that residence homestead are limited to the taxes imposed by the district in that first tax year.

SECTION 2.\_\_. Section 11.43, Tax Code, is amended by amending Subsection (d) and adding Subsection (j) to read as follows:

(d) Except as provided by Subsection (j), a [A] person required to claim an exemption must file a completed exemption application form before May 1 and must furnish the information required by the form. For good cause shown the chief appraiser may extend the deadline for filing an exemption application by written order for a single period not to exceed 60 days.

(j) A person who qualifies for the exemption authorized by Section 11.13(c) or (d) for an individual 65 years of age or older for a portion of a tax year shall notify the chief appraiser of the person's qualification for the exemption no later than the first anniversary of the date the person qualified for the exemption.

SECTION 2.\_\_. Section 26.10, Tax Code, is amended to read as follows:

Sec. 26.10. PRORATING TAXES—LOSS OF EXEMPTION. (a) If the appraisal roll shows that a property is eligible for taxation for only part of a year because an exemption, other than a residence homestead exemption, applicable on January 1 of that year terminated during the year, the tax due against the property is calculated by multiplying the tax due for the entire year as determined as provided by Section 26.09 of this code by a fraction, the denominator of which is 365 and the numerator of which is the number of days the exemption is not applicable.

(b) If the appraisal roll shows that a property is eligible for taxation at its full appraised value for only part of a year because a residence homestead exemption for an individual 65 years of age or older applicable on January 1 of that year terminated during the year, the tax due against the property is calculated by:

(1) subtracting from:

(A) the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual not qualified for the residence homestead exemption on January 1;

(B) the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual qualified for the residence homestead exemption for the entire year;

(2) multiplying the remainder determined under Subdivision (1) by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed after the date the exemption terminated; and

(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(B).

SECTION 2.\_\_\_\_. Chapter 26, Tax Code, is amended by adding Section 26.112 to read as follows:

Sec. 26.112. PRORATING TAXES—QUALIFICATION BY ELDERLY PERSON FOR 65 OR OVER RESIDENCE HOMESTEAD EXEMPTION. If an individual qualifies for the exemption under Section 11.13(c) or (d) for an individual 65 years of age or older after the beginning of a tax year, the amount of the taxes due on the residence homestead of the individual for the tax year is calculated by:

(1) subtracting:

(A) the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual qualified for the residence homestead exemption on January 1; from

(B) the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual not qualified for the residence homestead exemption;

(2) multiplying the remainder determined under Subdivision (1) by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed prior to the date that the individual qualified for the exemption; and

(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(A).

Amendment No. 52 was adopted without objection.

**Amendment No. 53**

Representative Williamson offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 150

Amend **CSHB 4** as follows:

- (1) Add the following appropriately numbered article and renumber  
ARTICLE \_\_\_\_\_. ALTERNATIVE TAXATION OF OIL  
OR GAS PROPERTY INTERESTS

SECTION \_\_\_\_\_. Subtitle I, Title 2, Tax Code, is amended by adding Chapter 205 to read as follows:

CHAPTER 205. ALTERNATIVE TAXATION OF OIL  
OR GAS PROPERTY INTERESTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 205.001. CHAPTERS 201 AND 202 APPLICABLE. Except to the extent that a provision of this chapter applies, Chapters 201 and [Sections 205.003-205.020 reserved for expansion]

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAXES

Sec. 205.021. GAS TAX IMPOSED. (a) There is imposed a tax on each producer of gas, including condensate and liquid hydrocarbons, subject to this chapter.

(b) The rate of the tax imposed by this section is 2.5 percent of the gross wellhead receipts derived from:

- (1) gas produced and saved in this state by the producer; or
- (2) liquid hydrocarbons, other than condensate, recovered from gas produced in this state by the producer.

(c) The tax on condensate is imposed at the same rate as the rate of the tax imposed on oil by Section 205.022.

(d) Section 201.053 applies to the tax imposed by this section.

Sec. 205.022. OIL TAX IMPOSED. (a) There is imposed a tax on the production of oil subject to this chapter.

(b) The rate of the tax imposed by this section is two percent of the gross wellhead receipts derived from oil produced in this state.

Sec. 205.023. TAX IN ADDITION TO OTHER TAX. (a) The taxes imposed by this chapter are in addition to any applicable tax imposed by Chapter 201 or 202.

(b) Except as provided by Section 205.021, an exemption or rate reduction provided by Chapter 201, 202, or 204 or other law does not apply to the taxes imposed by this chapter.

Sec. 205.024. REPORTS. In addition to the applicable records and reports required by Chapters 201 and 202, the comptroller may require a person subject to a tax imposed by this chapter to keep a record of and report any additional information necessary to administer this chapter.

[Sections 205.025-205.050 reserved for expansion]

SUBCHAPTER C. ALLOCATION AND USE OF TAX

Sec. 205.051. DEPOSIT AND ALLOCATION. (a) The comptroller shall apportion among the state and each taxing unit in which the oil or gas is produced an amount of the revenue collected under this chapter in proportion to the ad valorem tax rates of the state and the taxing unit.

(b) The collector for a taxing unit or the comptroller shall deposit and allocate all revenue from the taxes imposed by this chapter in the same manner the collector or the comptroller deposits and allocates revenue from ad valorem taxes imposed by the taxing unit or the state.

(2) In Article 2 of the proposed substitute, insert a new section, appropriately numbered, to read as follows, and renumber subsequent sections appropriately:

SECTION 2.\_\_\_\_. Chapter 1, Tax Code, is amended by adding Section 1.16 to read as follows:

Sec. 1.16. ALTERNATIVE TAX. (a) The owner of an interest in property consisting of a separate interest in oil or gas and from which oil or gas is produced may elect to pay the gross receipts tax imposed under Chapter 205 in lieu of ad valorem taxes imposed by the state or a taxing unit on that oil

or gas interest. If the oil or gas interest is owned by more than one owner, all of the owners must elect to pay the gross receipts tax.

(b) The operator of the oil or gas interest designated with the Railroad Commission of Texas shall notify the comptroller of the election to pay the gross receipts tax. A notice of election must be filed with the comptroller before December 1 of the year in which the election is made. The notice must be in the form and manner specified by the comptroller. The election takes effect January 1 of the year following the year in which the notice is filed.

(c) The election remains in effect until the operator notifies the comptroller that the election has been rescinded by the owner or all owners of the oil or gas interest. A notice of rescision must be filed with the comptroller before December 1 of the year in which the election is rescinded. The notice must be in the form and manner specified by the comptroller. The rescision takes effect January 1 of the year following the year in which the notice is filed.

(d) The comptroller shall send a copy of each notice of election or rescision to the chief appraiser of the appraisal district established for the county in which the subject property is located and to each taxing unit in that county.

(e) The comptroller shall adopt forms and rules to administer this section.

(f) In the absence of an election for a tax year under this section, including an attempted election, that does not conform to the requirements of this section or the rules of the comptroller, the ad valorem taxes imposed by the state and taxing units of this state apply.

(3) In Article 2 of the bill, add a new section, appropriately numbered, to read as follows, and renumber subsequent sections of the bill appropriately:

SECTION 2.\_\_\_\_\_. Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.176 to read as follows:

Sec. 23.176. APPRAISAL METHOD USED TO CALCULATE VALUE OF OIL OR GAS PRODUCING PROPERTY. (a) This section applies only to property consisting of a separate interest in oil or gas and from which oil or gas is produced.

(b) Each year, the owner of property who renders the property under Section 22.01 may request the chief appraiser to calculate the market value of the property using:

- (1) a discounted cash-flow analysis;
- (2) a gross-income multiplier;
- (3) another generally recognized appraisal method; or
- (4) any combination of Subdivisions (1)-(3).

(c) The owner shall include the owner's proposed appraisal method or combination of methods on the rendition statement or property report filed with the chief appraiser. If the property is owned by more than one person, all of the owners must join in the request.

(d) If the chief appraiser determines that use of the appraisal method or combination of methods requested by the owner of the property will result in an accurate calculation of the market value of the property, the chief appraiser shall calculate the market value of the property using that method or combination.

(e) If the chief appraiser determines that use of the appraisal method or combination of methods requested by the owner of the property will not result



in an accurate calculation of the market value of the property, the chief appraiser shall:

(1) notify the owner that the chief appraiser will not calculate the market value of the property using that method or combination; and

(2) inform the owner of the alternative appraisal method or combination of methods that the chief appraiser intends to use to calculate the market value of the property.

(f) Notice to the owner must:

(1) be in writing and delivered before the 15th day after the date the rendition statement or property report is filed; and

(2) inform the owner that the owner is entitled to appeal the chief appraiser's determination to the appraisal review board of the appraisal district by filing a notice of appeal with the board before the 15th day after the date the notice is delivered to the owner.

(g) If an appeal is timely filed with the appraisal review board, the board shall hold a hearing on the appeal. The board shall hold the hearing no later than the 15th day after the date that the notice of appeal is filed. The hearing shall be conducted in the manner provided by Subchapter C, Chapter 41.

(h) The board shall determine whether the taxable value of the property shall be calculated by use of:

(1) the appraisal method or combination of methods requested by the owner;

(2) the appraisal method or combination of methods proposed by the chief appraiser; or

(3) if the board determines that neither of those methods will result in an accurate calculation of the market value of the property, another method determined by the chief appraiser and approved by the board at the hearing.

(i) The determination of the appraisal review board on the appeal is final and may not be appealed by the property owner or the chief appraiser.

(j) The comptroller shall adopt rules and forms to implement this section and provide sufficient copies to each appraisal office in this state. The rules must include a definition of each appraisal method listed in Subsections (b)(1) and (2). An appraisal office shall provide, without charge, a copy of the definitions adopted by the comptroller under this section to a person requesting the definitions.

#### **Amendment No. 54**

Representative Williamson offered the following amendment to Amendment No. 53:

Amend the Williamson Amendment to **CSHB 4** on page 151 of the amendment book, in proposed Section 205.202(b), Tax Code, by striking "two percent" and substituting "2.4 percent".

Amendment No. 54 was adopted without objection.

Amendment No. 53, as amended, was adopted without objection. (Finnell recorded voting present, not voting) (The vote was reconsidered on Friday, April 25, and Amendment No. 53, as further amended by Amendment No. 66, was adopted.)

(Speaker in the chair)

**Amendment No. 55**

Representative Hochberg offered the following amendment to **CSHB 4**:

Amend **CSHB 4** as follows:

On page 44, add a section 42.258(e):

(e) The Commissioner shall reduce state aid under this chapter in an amount equal to the reduction in state revenue under Section 11.28(b) as a result of recognition of tax abatements entered into by school districts under Chapter 312, Tax Code on or after May 31, 1993.

**Amendment No. 56**

Representative Hill offered the following amendment to Amendment No. 55:

Amend Floor Amendment No. 55 by Hochberg to **CSHB 4** by adding the following:

On page 116, amend Section 11.28, Tax Code, by adding a new subsection (c) between lines 16 and 17 to read as follows:

(c) The abatement recognized under subsection (b) from the state ad valorem tax imposed under Chapter 501 does not apply to the extent an abatement is increased, extended or otherwise modified on or after the effective date of this act in a manner which decreases the amount of the state ad valorem tax.

Amendment No. 56 was adopted without objection.

Amendment No. 55, as amended, was adopted without objection.

**Amendment No. 57**

Representative Wolens offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 159

Amend **CSHB 4** as follows:

1. Strike ARTICLE 3 and substitute the following:

ARTICLE 3. FRANCHISE TAX

SECTION 3.01. Section 171.001(b), Tax Code, is amended to read as follows:

(b) In this chapter:

(1) "Banking corporation" means each state, national, domestic, or foreign bank, including a limited banking association, as defined by Section 1.002(a), Texas Banking Act (Article 342-1.002, Vernon's Texas Civil Statutes), and each bank organized under Section 25(a), Federal Reserve Act (12 U.S.C. Secs. 611-631) (edge corporations), but does not include a bank holding company as that term is defined by Section 2, Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841).

(2) "Beginning date" means:

(A) for a corporation chartered in this state, the date on which the corporation's charter takes effect; and

(B) a foreign corporation, the earlier of the date on which:

(i) the corporation's certificate of authority takes effect; or

(ii) the corporation begins doing business in this state.

(3) "Commercial domicile" means the principal location of a taxable entity's day-to-day commercial operations. If the taxable entity conducts its day-to-day commercial operations equally or substantially equally in more than one state or foreign country, "commercial domicile" means the state or foreign country in which:

(A) is located the principal location from which the day-to-day operations of the taxable entity are directed; and

(B) the taxable entity conducts significant commercial operations.

(4) "Corporation" includes:

(A) a limited liability company, as defined under the Texas Limited Liability Company Act; and

(B) a state or federal savings and loan association.

(5) [(4)] "Charter" includes a limited liability company's certificate of organization.

(6) [(5)] "Internal Revenue Code" means the Internal Revenue Code of 1986 in effect for the federal tax year beginning on or after January 1, 1996 [1994], and before January 1, 1997 [1995], and any regulations adopted under that code applicable to that period.

(7) [(6)] "Officer" and "director" include a limited liability company's directors and managers and a limited banking association's directors and managers and participants if there are no directors or managers.

(8) [(7)] "Savings and loan association" includes a state or federal savings bank.

(9) [(8)] "Shareholder" includes a limited liability company's member and a limited banking association's participant.

SECTION 3.02. Subchapter B, Chapter 171, Tax Code, is amended by adding Section 171.0515 to read as follows:

Sec. 171.0515. UNRELATED BUSINESS TAXABLE INCOME OF AN EXEMPT TAXABLE ENTITY. A taxable entity, otherwise exempt from the tax imposed by this chapter, is subject to the net taxable earned surplus component of the franchise tax to the extent of its unrelated business taxable income, as defined by the Internal Revenue Code.

SECTION 3.07. Section 171.063(a), Tax Code, is amended to read as follows:

(a) The following corporations are exempt from the franchise tax:

(1) a nonprofit corporation exempted from the federal income tax under Section 501(c)(3), (4), [(5), (6), (7),] (8), (10), or (19), Internal Revenue Code, which in the case of a nonprofit hospital means a hospital providing charity care and community benefits as set forth in Paragraph (A), (B), (C), (D), (E), (F), or (G):

(A) charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;

(B) charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of the hospital's or hospital system's net patient revenue;

(C) charity care and government-sponsored indigent health care are provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax;

(D) for tax periods beginning before January 1, 1996, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least three percent of net patient revenue;

(E) for tax periods beginning after December 31, 1995, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of net patient revenue;

(F) a nonprofit hospital that has been designated as a disproportionate share hospital under the state Medicaid program in the current year or in either of the previous two fiscal years is considered to have provided a reasonable amount of charity care and government-sponsored indigent health care and is considered in compliance with the standards provided by this subsection; or

(G) a hospital operated on a nonprofit basis that is located in a county with a population of less than 50,000 and in which the entire county or the population of the entire county has been designated as a health professionals shortage area is considered in compliance with the standards provided by this subsection;

(2) a corporation exempted under Section 501(c)(2) or (25), Internal Revenue Code, if the corporation or corporations for which it holds title to property is either exempt from or not subject to the franchise tax;

(3) a corporation exempted from federal income tax under Section 501(c)(16), Internal Revenue Code; and

(4) a nonprofit corporation exempted from the federal income tax under Section 501(c)(3), Internal Revenue Code, that does not receive any payment for providing health care services to inpatients or outpatients from any source including but not limited to the patient or person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other state or local indigent care program. Payment for providing health care services does not include charitable donations, legacies, bequests, or grants or payments for research.

For purposes of satisfying Paragraph (E) of Subdivision (1), a hospital or hospital system may not change its existing fiscal year unless the hospital or hospital system changes its ownership or corporate structure as a result of a sale or merger.

For purposes of this subsection, a hospital that satisfies Paragraph (A), (F), or (G) of Subdivision (1) shall be excluded in determining a hospital system's compliance with the standards provided by Paragraph (B), (C), (D), or (E) of Subdivision (1).

For purposes of this subsection, the terms "charity care," "government-sponsored indigent health care," "health care organization," "hospital system," "net patient revenue," "nonprofit hospital," and "tax-exempt benefits" have the meanings set forth in Sections 311.031 and 311.042, Health and Safety Code. A determination of the amount of community benefits and charity care and government-sponsored indigent health care provided by a hospital or hospital system and the hospital's or hospital system's compliance with the requirements of Section 311.045, Health and Safety Code, shall be based on the most recently completed and audited prior fiscal year of the hospital or hospital system.

The providing of charity care and government-sponsored indigent health care in accordance with Paragraph (A) of Subdivision (1) shall be guided by the prudent business judgment of the hospital which will ultimately determine the appropriate level of charity care and government-sponsored indigent health care based on the community needs, the available resources of the hospital, the tax-exempt benefits received by the hospital, and other factors that may be unique to the hospital, such as the hospital's volume of Medicare and Medicaid patients. These criteria shall not be determinative factors, but shall be guidelines contributing to the hospital's decision along with other factors which may be unique to the hospital. The formulas contained in Paragraphs (B), (C), (D), and (E) of Subdivision (1) shall also not be considered determinative of a reasonable amount of charity care and government-sponsored indigent health care.

The requirements of this subsection shall not apply to the extent a hospital or hospital system demonstrates that reductions in the amount of community benefits, charity care, and government-sponsored indigent health care are necessary to maintain financial reserves at a level required by a bond covenant, are necessary to prevent the hospital or hospital system from endangering its ability to continue operations, or if the hospital, as a result of a natural or other disaster, is required substantially to curtail its operations.

In any fiscal year that a hospital or hospital system, through unintended miscalculation, fails to meet any of the standards in Subdivision (1), the hospital or hospital system shall not lose its tax-exempt status without the opportunity to cure the miscalculation in the fiscal year following the fiscal year the failure is discovered by both meeting one of the standards and providing an additional amount of charity care and government-sponsored indigent health care that is equal to the shortfall from the previous fiscal year. A hospital or hospital system may apply this provision only once every five years.

**SECTION 3.03.** Section 171.103, Tax Code, is amended to read as follows:

**Sec. 171.103. DETERMINATION OF GROSS RECEIPTS FROM BUSINESS DONE IN THIS STATE FOR TAXABLE CAPITAL.** (a) In apportioning taxable capital, the gross receipts of a corporation from its business done in this state is the sum of the corporation's receipts from:

(1) each sale of tangible personal property if the property is delivered or shipped to a buyer in this state regardless of the FOB point or another condition of the sale, and each sale of tangible personal property shipped from this state to a purchaser in another state in which the seller is not subject to taxation;

- (2) each service performed in this state;
- (3) each rental of property situated in this state;
- (4) each ~~[royalty for the]~~ use of a patent, ~~[or]~~ copyright, trademark, franchise, or license in this state; ~~[and]~~
- (5) each sale of real property located in this state, including royalties for oil, gas, or other mineral interests; and
- (6) other business done in this state.

(b) If a corporation sells an investment or capital asset, the corporation's gross receipts from business done in this state include only the gain from the sale.

(c) Gross receipts from interest, dividends, sales of intangibles, and other business done in this state shall be apportioned to this state if:

- (1) the commercial domicile of the recipient is in this state; and
- (2) the gross receipt is not interest from, a dividend from, or the sale of stock of a subsidiary, associate, or affiliated corporation:

(A) whose income is received predominantly from sources outside of the United States or from a subsidiary, associate, or affiliated corporation whose income is predominantly from sources outside of the United States; and

(B) that does not transact and does not have a subsidiary that transacts a substantial portion of its business, or regularly maintains a substantial portion of its assets, in the United States.

(d) For purposes of Subsection(c)(2)(B), a holding company incorporated in the United States that owns stock only of a subsidiary, associate, or affiliated corporation that transacts substantially all of its business outside of the United States or of another holding company that owns stock only of a subsidiary, associate, or affiliated corporation that transacts substantially all of its business outside of the United States does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States.

(e) In apportioning taxable capital of a telephone company or a transportation company, the comptroller shall adopt rules to apportion to this state receipts from this state's portion of a transaction within and without this state.

SECTION 3.04. Section 171.1032, Tax Code, is amended to read as follows:

Sec. 171.1032. DETERMINATION OF GROSS RECEIPTS FROM BUSINESS DONE IN THIS STATE FOR TAXABLE EARNED SURPLUS.

(a) Except for the gross receipts of a corporation that are subject to the provisions of Section 171.1061, in apportioning taxable earned surplus, the gross receipts of a corporation from its business done in this state is the sum of the corporation's receipts from:

- (1) each sale of tangible personal property if the property is delivered or shipped to a buyer in this state regardless of the FOB point or another condition of the sale, and each sale of tangible personal property shipped from this state to a purchaser in another state in which the seller is not subject to any tax on, or measured by, net income, without regard to whether the tax is imposed;

- (2) each service performed in this state;
- (3) each rental of property situated in this state;
- (4) each ~~[royalty for the]~~ use of a patent, ~~[or]~~ copyright, trademark, franchise, or license in this state; [and]
- (5) each sale of real property located in this state, including royalties for oil, gas, or other mineral interests; and
- (6) other business done in this state.

(b) If a corporation sells an investment or capital asset, the corporation's gross receipts from business done in this state include only the gain from the sale [A corporation shall deduct from its gross receipts computed under Subsection (a) any amount to the extent included under Subsection (a) because of the application of Section 78 or Sections 951-964, Internal Revenue Code, and dividends received from a subsidiary, associate, or affiliated corporation that does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States].

(c) Gross receipts from interest, dividends, sales of intangibles, and other business done in this state shall be apportioned to this state if:

- (1) the commercial domicile of the recipient is in this state; and
- (2) the gross receipt is not interest from, a dividend from, or the sale of stock of, a subsidiary, associate, or affiliated corporation:

(A) whose income is received predominantly from sources outside of the United States or from a subsidiary, associate, or affiliated corporation whose income is predominantly from sources outside of the United States; and

(B) that does not transact and does not have a subsidiary that transacts a substantial portion of its business, or regularly maintains a substantial portion of its assets, in the United States.

(d) For purposes of Subsection (c)(2)(B), a holding company incorporated in the United States that owns stock only of a subsidiary, associate, or affiliated corporation that transacts substantially all of its business outside of the United States or of another holding company that owns stock only of a subsidiary, associate, or affiliated corporation that transacts substantially all of its business outside of the United States does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States.

(e) In apportioning taxable earned surplus of a telephone company or a transportation company, the comptroller shall adopt rules to apportion to this state receipts from this state's portion of a transaction within and without this state.

SECTION 3.05. Section 171.106, Tax Code, is amended to read as follows:

Sec. 171.106. APPORTIONMENT OF TAXABLE CAPITAL AND TAXABLE EARNED SURPLUS TO THIS STATE. (a) A corporation's [Except as provided by Subsection (c), a corporation's] taxable capital is apportioned to this state to determine the amount of the tax imposed under Section 171.002(b)(1) by multiplying the corporation's taxable capital by a fraction, the numerator of which is the corporation's gross receipts from business done in this state, as determined under Section 171.103 or 171.1031, as applicable, and the denominator of which is the corporation's gross receipts from its entire business, as determined under Section 171.105.

(b) A corporation's [Except as provided by Subsection (c), a corporation's] taxable earned surplus is apportioned to this state to determine the amount of tax imposed under Section 171.002(b)(2) by multiplying the taxable earned surplus by a fraction, the numerator of which is the corporation's gross receipts from business done in this state, as determined under Section 171.1031 or 171.1032, as applicable, and the denominator of which is the corporation's gross receipts from its entire business, as determined under Section 171.1051.

~~[(c) A corporation's taxable capital or earned surplus that is derived, directly or indirectly, from the sale of management, distribution, or administration services to or on behalf of a regulated investment company, including a corporation that includes trustees or sponsors of employee benefit plans that have accounts in a regulated investment company, is apportioned to this state to determine the amount of the tax imposed under Section 171.002 by multiplying the corporation's total taxable capital or earned surplus from the sale of services to or on behalf of a regulated investment company by a fraction, the numerator of which is the average of the sum of shares owned at the beginning of the year and the sum of shares owned at the end of the year by the investment company shareholders who are commercially domiciled in this state, and the denominator of which is the average of the sum of shares owned at the beginning of the year and the sum of shares owned at the end of the year by all investment company shareholders. The corporation shall make a separate computation to allocate taxable capital and earned surplus. In this subsection, "regulated investment company" has the meaning assigned by Section 851(a), Internal Revenue Code.]~~

SECTION 3.06. Section 171.109, Tax Code, as amended by Chapters 801 and 1198, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 171.109. SURPLUS. (a) In this chapter:

(1) "Surplus" means the net assets of a corporation minus its stated capital. For a limited liability company, "surplus" means the net assets of the company minus its members' contributions. Surplus includes unrealized, estimated, or contingent losses or obligations or any writedown of assets other than those listed in Subsection (i) of this section net of appropriate income tax provisions. The definition under this subdivision does not apply to earned surplus.

(2) "Net assets" means the total assets of a corporation minus its total debts.

(3) "Debt" means any legally enforceable obligation measured in a certain amount of money which must be performed or paid within an ascertainable period of time or on demand.

(b) Except as otherwise provided in this section, a corporation must compute its surplus, assets, and debts according to generally accepted accounting principles. If generally accepted accounting principles are unsettled or do not specify an accounting practice for a particular purpose related to the computation of surplus, assets, or debts, the comptroller by rule may establish rules to specify the applicable accounting practice for that purpose.

(c) A corporation whose taxable capital is less than \$1 million may report its surplus according to the method used in the corporation's most recent



federal income tax return originally due on or before the date on which the corporation's franchise tax report is originally due. In determining if taxable capital is less than \$1 million, the corporation shall apply the methods the corporation used in computing that federal income tax return unless another method is required under this chapter.

(d) A corporation shall report its surplus based solely on its own financial condition. Consolidated reporting of the surplus of related corporations is prohibited.

(e) A corporation [~~Unless the provisions of Section 171.111 apply due to an election under that section, a corporation~~] may not change the accounting methods used to compute its surplus more often than once every four years without the written consent of the comptroller. A change in accounting methods is not justified solely because it results in a reduction of tax liability.

(f) A corporation declaring dividends shall exclude those dividends from its taxable capital, and a corporation receiving dividends shall include those dividends in its gross receipts and taxable capital as of the earlier of:

(1) the date the dividends are declared, if the dividends are actually paid within one year after the declaration date; or

(2) the date the dividends are actually paid.

(g) All oil and gas exploration and production activities conducted by a corporation that reports its surplus according to generally accepted accounting principles as required or permitted by this chapter must be reported according to the successful efforts or the full cost method of accounting.

(h) A parent or investor corporation must use the cost method of accounting in reporting and calculating the franchise tax on its investments in subsidiary corporations or other investees. The retained earnings of a subsidiary corporation or other investee before acquisition by the parent or investor corporation may not be excluded from the cost of the subsidiary corporation or investee to the parent or investor corporation and must be included by the parent or investor corporation in calculating its surplus.

(i) The following accounts may also be excluded from surplus, to the extent they are in conformance with generally accepted accounting principles or the appropriate federal income tax method, whichever is applicable:

(1) a reserve or allowance for uncollectable accounts; and

(2) a contra-asset account for depletion, depreciation, or amortization.

(j) A corporation may not exclude from surplus:

(1) liabilities for compensation and other benefits provided to employees, other than wages, that are not debt as of the end of the accounting period on which the taxable capital component is based, including retirement, medical, insurance, postretirement, and other similar benefits; and

(2) deferred investment tax credits.

(k) Notwithstanding any other provision in this chapter, a corporation subject to the tax imposed by this chapter shall use double entry bookkeeping to account for all transactions that affect the computation of that tax.

(l) The "first in-first out" and "last in-first out" methods of accounting are acceptable methods for computing surplus.

(m) A corporation may not use the push-down method of accounting in computing or reporting its surplus.

SECTION 3.15. Sections 171.112(e), Tax Code, is amended to read as follows:

(e) A corporation [~~Unless the provisions of Section 171.111 apply due to an election under that section, a corporation~~] may not change its accounting methods used to calculate gross receipts more often than once every four years without the express written consent of the comptroller. A change in accounting methods is not justified solely because it results in a reduction of tax liability.

SECTION 3.07. Section 171.1121(d), Tax Code, is amended to read as follows:

(d) A corporation [~~Unless the provision of Section 171.111 apply due an election under that section, a corporation~~] may not change its accounting methods used to calculate gross receipts more often than once every four years without the express written consent of the comptroller. A change in accounting methods is not justified solely because it results in a reduction of tax liability.

SECTION 3.08. The following provisions of the Tax Code are repealed:

- (1) Section 171.056;
- (2) Section 171.074;
- (3) Section 171.079;
- (4) Section 171.080;
- (5) Section 171.085;
- (6) Section 171.104;
- (7) Section 171.107; and
- (8) Section 171.111.

SECTION 3.09. This article takes effect for initial or annual reports originally due January 1, 1998, or later, and for final reports originally due on the effective date of this Act or later.

2. On page 376, line 3, insert the following as ARTICLE 16 and renumber the remaining ARTICLES accordingly:

#### ARTICLE 16. PROFESSIONAL SERVICES

SECTION 16.01. Subtitle E, Title 2, Tax Code, is amended by adding Chapter 165, to read as follows:

##### Chapter 165. PROFESSIONAL SERVICES SALES TAX.

Sec. 165.001. Short Title. This Act may be cited as the Professional Services Sales Tax Act.

##### Sec. 165.002. Definitions.

(a) "Accounting and Bookkeeping Services" means a "service involving the use of accounting, attesting, or auditing skills" as defined in The Public Accountancy Act of 1991 (Article 41a-1, Vernon's Texas Civil Statutes), and includes such services provided by certified public accountants, enrolled agents, tax preparation firms, bookkeeping firms, and consultants.

(b) "Architectural Services" means services that constitute the "practice of architecture" as defined in Article 249a, Vernon's Texas Civil Statutes, or landscape architecture as defined in Article 249c, Vernon's Texas Civil Statutes, and includes related consulting, management, or advisory services.

(c) "Dental Services" means services that constitute the practice of "dentistry" or "dental hygiene" as defined in the Dental Practice Act (Article 4543, Vernon's Texas Civil Statutes) and includes related consulting, management, or advisory services.

(d) "Engineering Services" means services of a type which constitute the "practice of engineering" or the "practice of professional engineering" as defined in The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), and includes related consulting, management, or advisory services.

(e) "Financial Brokerage Services" means the following, whether performed or paid on a contract, commission, or fee basis:

(1) the brokerage of financial instruments, including stocks, bonds, financial paper, futures, commodity contracts, notes, investments, mineral leases, mortgages, mutual funds, partnership shares, royalty rights, or options;

(2) the origination, underwriting, and distribution of securities;

(3) the provision of investment advice; or

(4) the administration of mutual funds or other investment plans.

(f) "Legal Services" means services that constitute the "practice of law" for purposes of the State Bar Act (Chapter 81, Government Code) and includes related consulting, management, or advisory services.

(g) "Professional service" means a service of the type defined in this section.

(h) "Real Estate Brokerage and Sales Services" means services of the kind falling within the definition of "real estate broker" or "real estate salesman" as those terms are defined in The Real Estate License Act (Article 6573a Vernon's Texas Civil Statutes) and includes related consulting, management, or advisory services.

(i) "Sale" means providing, performing, making available, or contracting or offering to provide, perform or make available a professional service for consideration.

Sec. 165.003. Applicability of other terms.

(a) Except as modified in this chapter, terms used in this chapter which are also used or defined in chapter 151 shall have the same meaning for purposes of this chapter as for chapter 151, and the provisions of chapter 151 in which those terms are used shall be applicable to this chapter.

(b) A person providing a service subject to tax under this chapter shall be considered a "seller" or "retailer."

(c) "Sales price" or "receipts" means the total amount, valued in money, for which a service is provided, without a deduction for the cost of the materials used, labor or service employed, interest, losses, or other expenses.

(d) "Use" means the derivation in this state of a direct or indirect benefit of a professional service.

Sec. 165.004. Applicability of other provisions.

The tax imposed by this chapter shall be administered, collected, and enforced in the same manner and under the same procedures, remedies and authority as the tax on services levied in Chapter 151, except as may be specifically provided to the contrary in this chapter.

(Sections 165.005 - 165.050 reserved for expansion)

Sec. 165.051. Tax imposed.

(a) A tax is imposed on each sale of a professional service in this state.

(b) The tax is at the rate of 2.875 per cent of the sales price of the professional service.

Sec. 165.052. Use Tax Imposed

(a) A tax is imposed on the use or consumption in the state of a professional service purchased from a seller for use or consumption in the state.

(b) The tax is at the same percentage rate as is provided by Sec. 165.051 on the sales price of the professionals service.

(Sec. 165.053 - 165.100 reserved for expansion)

Sec. 165.101. Exemption: Sale for Resale.

(a) The sale for resale of a professional service is exempt from the taxes imposed by this chapter.

(b) "Sale for Resale" means a sale of a service that is taxable under this chapter to a purchaser who acquires the service for the purpose of resaling it in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business as in interchangeable or identical part of a service also taxable under this chapter.

Sec. 165.102. Exemption required by other law.

A sale of a professional service that this state is prohibited from taxing by the law of the United States, the United States Constitution, or the Constitution of Texas is exempted from the taxes imposed by this chapter.

Sec. 165.103. Exemption: Sales to Governmental Entities. (a) A professional service sold to or used by a governmental entity is exempt from the taxes imposed by this chapter.

(b) For purchases of this section, "governmental entities" means:

(1) the United States;

(2) and unincorporated instrumentality of the United States;

(3) a corporation that is an agency or instrumentality of the United States and is wholly owned by the United States or by another corporation wholly owned by the United States;

(4) this state; or

(5) a county, city, special district, or other political subdivision of this state.

Sec. 165.104. Exemption: Religious, Educational, and Public Service Organizations. A professional service sold to or used or consumed by any organization which is exempted by the terms of Section 151.310 is exempted from the taxes imposed by this chapter.

Sec. 165.105. Exemption: Services Across State Lines.

(a) Professional services performed for use outside this state are exempt for the tax imposed by Section 165.051 of this chapter.

(b) Professional services performed for use both within and outside this state are exempted to the extent the services are for use outside this state.

(c) The exemption provided by Subsections (a) and (b) of this section does not apply to services performed outside this state for use within this state.

Sec. 165.106. Exemption: Sales to Indian Tribes. A professional service sold to, or used or consumed by, a tribal council or a business owned by a tribal council of the Alabama-Coushatta Indian Tribe, the Tigua Indian Tribe, or the Texas Band of Kickapoo Indians is exempted from the taxes imposed by this chapter.

Sec. 165.107. Exemption: Development Corporations.

(a) A professional service sold to, or used or consumed by, a nonprofit corporation formed under the Development Corporations Act of 1979 (Article

5190.6, Vernon's Texas Civil Statutes), is exempted from the taxes imposed by this chapter if the service is for the exclusive use and benefit of the nonprofit corporation.

(b) The exemption provided by this section does not apply to a service purchased in connection with a project or a part of a project that is to be leased, sold, or lent by the nonprofit corporation.

Sec. 165.108. Exemption: Services Taxed Under Chapter 151. A professional service taxable both under this chapter and Chapter 151 is exempt from the tax imposed by this chapter. Services purchased by the professional service provider are not considered professional services solely because they become part of the service provider's sales price.

Sec. 165.109. Other taxes not applicable. Professional services are not subject to taxation under Title 3 of this code.

Sec. 165.110. Services not exempt. The exemptions provided in subchapter H, Chapter 151, Tax Code, are not applicable to this chapter.

Representative Junell moved to table Amendment No. 57.

The motion to table prevailed. (Finnell recorded present, not voting)

#### STATEMENT BY REPRESENTATIVE FINNELL

I voted "present, not voting" on the motion to table the Wolens Amendment No. 57 because I am a General Partner in Finnell Bros., a general partnership in crude oil production since 1960.

Finnell

#### Amendment No. 58

Representative Grusendorf offered an amendment (Floor Packet Page No. 185) to **CSHB 4**.

Amendment No. 58 was withdrawn.

#### Amendment No. 59

Representative Hilderbran offered the following amendment to **CSHB 4**:  
Floor Packet Page No. 222

Amend **CSHB 4** as follows:

(1) On page 152, line 13, strike "4.5" and substitute "6.5 [~~4.5~~]."  
 (2) On page 152, strike lines 24 and 25, and substitute the following:  
 SECTION 3.03. Sections 171.002(a), (b), and (d), Tax Code, are amended to read as follows:

(a) The rates of the franchise tax are:

(1) 0.25 percent per year of privilege period of net taxable capital; and  
 (2) 6.5 [~~4.5~~] percent of net taxable earned surplus.

(3) On page 214, line 5, through page 275, line 14, strike ARTICLE 4 of the bill and substitute a new ARTICLE 4 to read as follows:

#### ARTICLE 4. SALES TAX

SECTION 4.01. Section 151.051(b), Tax Code, is amended to read as follows:

(b) The sales tax rate is 6-3/4 [~~6-1/4~~] percent of the sales price of the taxable item sold.

SECTION 4.02. This article takes effect October 1, 1997.

(4) On page 275, line 15, through page 393, line 22, strike ARTICLES 5-21 of the bill.

(5) Renumber Article 22 as Article 5 and renumber the sections in Article 5 appropriately.

(Stiles in the chair)

**Amendment No. 60**

Representative Hilderbran offered the following amendment to Amendment No. 59:

Amend the Hilderbran amendment (on page 222 of the packet) to read as follows:

Amend **CSHB 4** as follows:

(1) On page 148, strike lines 17-27, and on page 149, strike lines 1-6, and substitute the following:

(5)(a) "Compensation" means amounts paid to or for the benefit of an employee, officer, director, or owner and that:

(i) are subject to withholding under the Internal Revenue Code; or

(ii) with respect to compensation paid to an officer, director or owner would be subject to withholding if the officer, director, or owner were considered an employee and the amounts paid were considered salaries.

(b) For a taxable entity other than a corporation, compensation includes net earnings from self-employment, as defined in Section 1402(b), Internal Revenue Code, but does not include guaranteed payments to owners for the use of capital, as defined in 707(c), Internal Revenue Code.

(6) "Employee" means an employee as defined in Section 3401(c), Internal Revenue Code. A person from whom an employer is required to withhold for federal income tax purposes is presumed to be an employee.

(2) On page 151, strike lines 23-24, and substitute the following:

(G) a partnership that is required to file a federal tax return as a corporation or a partnership, other than an oil and gas joint operating agreement.

(3) On page 162, strike lines 1-27, and on page 163, strike lines 1-2.

(4) On page 164, strike lines 1-27, and on page 165, strike lines 1-10, and substitute the following:

this state include only the gain from the sale. A taxable entity [corporation] shall deduct from its gross receipts computed under Subsection (a) any amount to the extent included under subsection (a) because of the application of Section 78 or Sections 951-964, Internal Revenue Code, and dividends received from a subsidiary, associate, or affiliated corporation that does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States.

(5) On page 166, strike lines 16-22, and substitute the following:

(c) A taxable entity[corporation] shall deduct from its gross receipts computed under Subsection (a) any amount to the extent included in Subsection (a) because of the application of Section 78 or Sections 951-964, Internal Revenue Code, and dividends received from a subsidiary, associate, or affiliated corporation that does not transact a substantial portion of its business or

regularly maintain a substantial portion of its assets in the United States.

(6) On page 167, strike lines 19-27, and on page 168, strike lines 1-11, and substitute with the following:

(c) A taxable entity's ~~[corporation's]~~ capital or earned surplus that is derived, directly or indirectly, from the sale of management, distribution, or administration services to or on behalf of a regulated investment company, including a taxable entity ~~[corporation]~~ that includes trustees or sponsors of employee benefit plans that have accounts in a regulated investment company, is apportioned to this state to determine the amount of the tax imposed under Section 171.002 by multiplying the taxable entity's ~~[corporation's]~~ total taxable capital or earned surplus from the sale of services to or on behalf of a regulated investment company by a fraction, the numerator of which is the average of the sum of shares owned at the beginning of the year and the sum of shares owned at the end of the year by the investment company shareholders who are commercially domiciled in this state, and the denominator of which is the average of the sum of shares owned at the beginning of the year and the sum of shares owned at the end of the year by all investment company shareholders. The taxable entity ~~[corporation]~~ shall make a separate computation to allocate taxable capital and earned surplus. In this subsection, "regulated investment company" has the meaning assigned by Section 851(a) Internal Revenue Code.

(7) On page 170, strike lines 16-17, and substitute the following:

(e) Unless the provisions of the Section 171.111 apply due to an election under that section, a taxable entity ~~[corporation]~~

(8) On page 172, strike lines 22-23, and substitute the following:

The net taxable earned surplus of a taxable entity ~~[corporation]~~ is computed by:

(9) On page 173, strike lines 3-8, and substitute the following:

(B) subtracting any taxable income or deductions included under the provisions of the Internal Revenue Code, to the extent included in computing federal taxable income from any taxable entity that is subject to the earned surplus component of the tax imposed under this chapter;

(10) On page 173, strike lines 19-27, and on page 174, strike lines 1-7, and substitute the following:

(E) adding 22 percent of compensation, to the extent excluded in determining reportable federal taxable income, of:

(i) each employee,

(ii) each officer, except if a bank, only each executive officer;

(iii) each director;

(iv) each owner who owns 0.01 percent or more of the taxable

entity;

(F) for a taxable entity with 35 or fewer owners, directly or indirectly, subtracting an amount up to \$100,000 in compensation paid to each owner who owns 0.1 percent or more of the taxable entity; and

(G) adding 100 percent of guaranteed payments, to the extent excluded in determining reportable federal taxable income, made to each partner.

(11) On page 174, strike lines 12-17, and substitute the following:

(3) adding the taxable entity's ~~[corporation's]~~ taxable earned surplus allocated to this state as provided by Section 171.1061;

(4) subtracting a \$500,000 standard deduction, and

(5) subtracting any allowable deductions and any business loss that is carried forward to the tax reporting period and deductible under Subsection (e).

(12) On page 175, strike line 23, and substitute the following:  
negative amount after apportionment and allocation, but does not include any amounts attributable to the \$500,000 standard deduction provided for in section 171.110. The business

(13) On page 176, strike lines 19-27, and on page 177, strike lines 1-27, and on page 178, strike lines 1-10.

(14) On page 214, beginning on line 5, strike ARTICLE 4. SALES TAX in its entirety.

(15) On page 275, beginning on line 15, strike ARTICLE 5. INSURANCE PREMIUM TAXES in its entirety.

(16) On page 287, beginning on line 23, strike ARTICLE 6. LOTTERY REVENUE in its entirety.

(17) On page 291, beginning on line 15, strike ARTICLE 7. ALCOHOLIC BEVERAGE TAXES in its entirety.

(18) On page 293, beginning on line 5, strike ARTICLE 8. MOTOR FUEL AND AVIATION FUEL TAXES in its entirety.

(19) On page 359, beginning on line 26, strike ARTICLE 9. OCCUPANCY TAX in its entirety.

(20) On page 360, beginning on line 11, strike ARTICLE 10. CIGARETTE AND TOBACCO PRODUCTS TAX in its entirety.

(21) On page 361, beginning on line 24, strike ARTICLE 11. MANUFACTURED HOUSING SALES AND USE TAX in its entirety.

(22) On page 362, beginning on line 5, strike ARTICLE 12. GAS, ELECTRIC, AND WATER SERVICE TAX in its entirety.

(23) On page 364, beginning on line 20, strike ARTICLE 13. INTERSTATE MOTOR CARRIER SALES AND USE TAX in its entirety.

(24) On page 373, beginning on line 1, strike ARTICLE 14. CEMENT PRODUCTION TAX in its entirety.

(25) On page 373, beginning on line 12, strike ARTICLE 15. COAL AND LIGNITE USE TAX in its entirety.

(26) On page 376, beginning on line 3, strike ARTICLE 16. PARI-MUTUEL WAGERING in its entirety.

(27) On page 378, beginning on line 22, strike ARTICLE 17. GAS TARIFFS in its entirety.

(28) On page 380, beginning on line 1, strike ARTICLE 18. INTERIOR DESIGN PROFESSIONAL FEE in its entirety.

(29) On page 380, beginning on line 20, strike ARTICLE 19. TAXI CAB PERMITS in its entirety.

(30) On page 386, beginning on line 3, strike ARTICLE 20. COIN-OPERATED MACHINES in its entirety.

Representative Junell moved to table Amendment No. 60.

A record vote was requested.

The motion to table prevailed by (Record 226): 90 Yeas, 54 Nays, 1 Present, not voting.



Yeas — Alexander; Allen; Averitt; Berlanga; Bosse; Brimer; Carter; Clark; Coleman; Cook; Counts; Cuellar; Culberson; Danburg; Delisi; Driver; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Finnell; Flores; Gallego; Galloway; Glaze; Goolsby; Gray; Greenberg; Gutierrez; Hartnett; Hawley; Hernandez; Hightower; Hilbert; Hinojosa; Hirschi; Hochberg; Holzhauser; Hunter; Jackson; Janek; Junell; Keel; Keffer; Krusee; Kubiak; Lewis, G.; Lewis, R.; Longoria; Marchant; Maxey; McClendon; McReynolds; Moffat; Moreno; Mowery; Naishtat; Nixon; Oliveira; Olivo; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Reyna, A.; Rhodes; Roman; Sadler; Serna; Siebert; Solis; Solomons; Stiles(C); Telford; Torres; Turner, B.; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Nays — Bailey; Bonnen; Burnam; Chavez; Chisum; Christian; Corte; Crabb; Craddick; Davila; Davis; Denny; Elkins; Garcia; Goodman; Grusendorf; Haggerty; Hamric; Heflin; Hilderbran; Hill; Hodge; Horn; Howard; Hupp; Isett; Jones, D.; Jones, J.; Kamel; King; Kuempel; Luna; Madden; McCall; Merritt; Oakley; Palmer; Raymond; Reyna, E.; Seaman; Shields; Smith; Smithee; Staples; Swinford; Talton; Tillery; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Zbranek.

Present, not voting — Mr. Speaker.

Absent — Alvarado; Dukes; Giddings; Thompson.

#### STATEMENT OF VOTE

I was shown voting no on Record No. 226. I intended to vote yes.

Kuempel

Amendment No. 59 was withdrawn.

#### Amendment No. 61

Representatives Hamric, Woolley, Craddick, Elkins, and McCall offered the following amendment to **CSHB 4**:

Floor Packet Page No. 189

Amend **CSHB 4** as follows:

- (1) On page 148, strike lines 17-27 and substitute the following:
- (5) "Compensation" means amounts paid to or for the
- (2) On page 149, line 7, strike "(7)" and substitute "(6)".
- (3) On page 149, line 11, strike "(8)" and substitute "(7)".
- (4) On page 149, line 15, strike "(9)" and substitute "(8)".
- (5) On page 149, line 20, strike "(10)" and substitute "(9)".
- (6) On page 149, line 25, strike "(11)" and substitute "(10)".
- (7) On page 150, line 1, strike "(12)" and substitute "(11)".
- (8) On page 150, line 19, strike "(13)" and substitute "(12)".
- (9) On page 150, line 22, strike "(14)" and substitute "(13)".
- (10) On page 150, line 26, strike "(15)" and substitute "(14)".
- (11) On page 151, line 5, strike "(16)" and substitute "(15)".
- (12) On page 151, line 7, strike "(17)" and substitute "(16)".
- (13) On page 151, line 9, strike "(18)" and substitute "(17)".
- (14) On page 151, line 14, strike "(19)" and substitute "(18)".

- (15) On page 162, strike lines 1-25.
- (16) On page 162, line 26, strike "(e)" and substitute "(c)".
- (17) On page 164, strike lines 9-27 and on page 165, strike lines 1-6.
- (18) On page 165, line 7, strike "(e)" and substitute "(c)".

### **Amendment No. 62**

Representative Marchant offered the following amendment to Amendment No. 61:

Amend the Hamric amendment to **CSHB 4** by adding a new item (19) to read as follows:

- (19) On page 363, line 6, strike "2.25" and substitute "2.75".

Amendment No. 62 was adopted without objection.

Amendment No. 61, as amended, was adopted. (Stiles recorded voting yes; Bailey, Chavez, Davis, Farrar, Flores, Giddings, Hodge, Luna, McClendon, Olivo, Sadler, Tillery, and Wise recorded voting no)

#### **STATEMENT BY REPRESENTATIVE BURNAM**

I voted against the Hamric amendment. It is unacceptable. I will vote against the bill if it holds.

Burnam

#### **STATEMENT BY REPRESENTATIVE DUNNAM**

I voted no on Amendment No. 61 to **HB 4**.

Dunnam

#### **STATEMENT BY REPRESENTATIVE GARCIA**

Amendment No. 61: I voted against it, as this is the largest tax increase on the Texas middle class families of this state.

Garcia

#### **STATEMENT BY REPRESENTATIVE GUTIERREZ**

I request to be recorded voting no on Amendment No. 61 to **HB 4**.

Gutierrez

#### **STATEMENT BY REPRESENTATIVE HIGHTOWER**

I voted no on the Hamric Amendment.

Hightower

#### **STATEMENT BY REPRESENTATIVE YARBROUGH**

I wish to be shown voting no on Amendment No. 61 to **HB 4**. This amendment will result in higher utility cost and I am opposed to higher cost.

Yarbrough

### **RULES SUSPENDED**

Representative Berlanga moved to suspend the 5-day posting rule to allow the Committee on Public Health to consider **HB 570**.

The motion prevailed without objection.

### COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Health, 8 a.m. Friday, April 25, regular committee room, to consider **HB 570**.

State Affairs, on recess today.

Ways and Means, on recess to consider pending bills.

Conference committee on **HB 1** will not meet tomorrow.

### RECESS

Representative Finnell moved that the house recess until 9 a.m. tomorrow in memory of Dr. Walter A. Brooks of Quanah.

The motion prevailed without objection.

The house accordingly, at 8:02 p.m., recessed until 9 a.m. tomorrow.

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### ADDENDUM

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### REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

#### List No. 1

**HB 3595** (by Cuellar), Relating to the delegation of duties of the county judge of Webb County.

To County Affairs.

**HB 3596** (by Isett), Relating to providing a tax-exempt benefit plan to cover educational expenses to employees of state agencies.

To Pensions & Investments.

**HB 3597** (by Williamson), Relating to the creation, administration, powers, duties, operation, and financing of the Parker County Utility District No. 1; granting the power of eminent domain.

To Natural Resources.

**HR 669** (by Palmer), Honoring George and Josephine Grimes on the occasion of their 50th wedding anniversary.

To Rules & Resolutions.

**HR 670** (by Palmer), Congratulating Edward and Lois Griffin on the occasion of their 50th wedding anniversary.

To Rules & Resolutions.

**HR 671** (by Palmer), Welcoming the Azle Camp Fire Boys and Girls to the Capitol on April 28, 1997.

To Rules & Resolutions.

**HR 672** (by Hunter), Congratulating Earl Williams on being named "Small Business Person of the Year" by the Abilene Chamber of Commerce.

To Rules & Resolutions.

**HR 675** (by Clark), Congratulating Janice Bryant on being named Executive Director/Administrator of the Year by the Texas & New Mexico Hospice Organization.

To Rules & Resolutions.

**HR 676** (by Swinford), Welcoming Vladimir Skovorodnikov to the Capitol.

To Rules & Resolutions.

**HR 678** (by Serna, Chavez, Haggerty, Pickett, and Moreno), Congratulating the El Paso Buzzards on winning the inaugural championship of the Western Professional Hockey League.

To Rules & Resolutions.

**HR 680** (by Tillery), Congratulating Alfred and Barbara Schnieders on the occasion of their 50th wedding anniversary.

To Rules & Resolutions.

**HR 687** (by Hilderbran), In memory of Dorothy Helen Chandler Leonard.

To Rules & Resolutions.

**HR 690** (by Davis), Recognizing May 11-17, 1997, as National Black Child Development Week.

To Rules & Resolutions.

**HR 692** (by R. Lewis), In memory of Gilles Marie Lucien Andre Barbier.

To Rules & Resolutions.

**HR 693** (by R. Lewis), Honoring Kennon Sweat for his heroic actions.

To Rules & Resolutions.

**HR 694** (by Edwards), In memory of Deputy Rudy M. Gonzales.

To Rules & Resolutions.

**HR 695** (by Edwards), In memory of Deputy Ramiro Perez, Jr.

To Rules & Resolutions.

**HR 696** (by Edwards), In memory of Officer Gary Bryant.

To Rules & Resolutions.

**HR 697** (by Edwards), In memory of Deputy Wilburn Agy.

To Rules & Resolutions.

**HR 698** (by Edwards), In memory of Officer Drew Alan Bolin.

To Rules & Resolutions.

**HR 699** (by Edwards), In memory of Patrolman Michael C. McInnis.

To Rules & Resolutions.

**HR 700** (by Edwards), In memory of Officer Dawn Erickson.

To Rules & Resolutions.

**HR 701** (by Edwards), In memory of Deputy Tom Sitton.

To Rules & Resolutions.

**HR 702** (by Edwards), In memory of Constable Roy V. Richardson.  
To Rules & Resolutions.

**HR 703** (by Edwards), In memory of Deputy Douglas John Noll.  
To Rules & Resolutions.

**HR 704** (by Edwards), In memory of Deputy James Robert Allman.  
To Rules & Resolutions.

**HR 705** (by Edwards), In memory of Corporal Richard D. Barreda.  
To Rules & Resolutions.

**HR 706** (by Edwards), In memory of Trooper Timothy Wade McDermott.  
To Rules & Resolutions.

**HR 707** (by Edwards), In memory of Deputy Randolph Michael Eng.  
To Rules & Resolutions.

**HR 711** (by Flores), Honoring Judge Sallie Gonzalez for her contributions to the community.  
To Rules & Resolutions.

**HR 713** (by Dutton), Recognizing April 28, 1997, as Kappa Alpha Psi Fraternity Legislative Day at the Capitol.  
To Rules & Resolutions.

**HR 714** (by Smithee), In memory of Seth Chalk Guest.  
To Rules & Resolutions.

**HR 715** (by Alvarado), Wishing a successful and speedy recovery to Robert Jacinto of the San Antonio Fire Department.  
To Rules & Resolutions.

**SB 360** to State Affairs.

**SB 690** to State Affairs.

**SB 841** to Revenue & Public Education Funding, Select.

**SB 1040** to Higher Education.

**SB 1591** to Environmental Regulation.

**SB 1676** to Public Safety.

**SB 1726** to Juvenile Justice & Family Issues.

**SB 1763** to Human Services.

**SB 1849** to Transportation.

**SCR 42** to Higher Education.

**SCR 76** to Rules & Resolutions.

**SJR 43** to Revenue & Public Education Funding, Select.

### **SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 39****HCR 210****MESSAGES FROM THE SENATE**

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

**Message No. 1****MESSAGE FROM THE SENATE**

SENATE CHAMBER

Austin, Texas

Thursday, April 24, 1997

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

**THE SENATE HAS PASSED THE FOLLOWING MEASURES:**

**SB 26** Galloway, Michael  
Relating to the Town Center Improvement District of Montgomery County, Texas; authorizing a tax and granting the authority to issue bonds.

**SB 84** Moncrief  
Relating to the licensure and regulation of nursing facility administrators; providing penalties.

**SB 559** Truan  
Relating to the suspension of the driver's license of a minor for certain conduct.

**SB 881** Brown  
Relating to the denial of the renewal of the driver's license of persons who violate their promise to appear on certain offenses or who fail to pay the fine for certain offenses.

**SB 921** Galloway, Michael  
Relating to the creation of the East Montgomery County Improvement District; authorizing a tax.

**SB 975** Madla  
Relating to the disclosure of health care information by certain health care providers.

**SB 1107** Duncan  
Relating to the provision of financial assistance to survivors of certain law enforcement officers, firefighters, and others.

**SB 1111** Duncan  
Relating to the investment authority of certain insurers.

**SB 1234** Moncrief  
Relating to licensure of certain publicly funded providers of home and community support services; providing administrative penalties.

**SB 1253** Ellis

Relating to protective orders for family violence.

**SB 1277** Lucio

Relating to powers and duties of emergency services districts.

**SB 1292** Cain

Relating to the licensing of agents for the sale of credit insurance.

**SB 1347** Madla

Relating to certain permitted duties of dental assistants.

**SB 1403** Moncrief

Relating to the establishment and funding of a blindness education, screening, and treatment program.

**SB 1414** Luna, Gregory

Relating to grants made by the commissioner of education to certain school districts.

**SB 1568** Madla

Relating to a retirement health trust for firefighters and police officers of certain municipalities.

**SB 1613** Harris

Relating to the administration of property taxation; providing a criminal penalty.

**SB 1688** Ellis

Relating to a preference given to bidders who hire recipients of financial assistance and services.

**SB 1739** Armbrister

Relating to the listing on an ad valorem tax appraisal roll of certain possessory interests in exempt property.

**SB 1776** Lucio

Relating to the exemption of certain employees from the payment of student fees by the governing board of an institution of higher education.

**SB 1843** Harris

Relating to authorizing certain public entities to join together to finance, construct, acquire, operate, and maintain public facilities; authorizing the issuance of bonds and granting the power of eminent domain.

**SB 1915** Sibley

Relating to the regulation of utilities.

**SB 1923** Ratliff

Relating to use of state funds for certain investments.

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 2**MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Thursday, April 24, 1997 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HCR 111** Gallego SPONSOR: Madla  
Recognizing Dr. Alfredo Gutierrez, Jr., for his service to the city of Del Rio.

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

**SB 1060** (29 YEAS, 0 NAYS)

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 3**MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Thursday, April 24, 1997 - 3

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**LOCAL AND UNCONTESTED CALENDAR**

**HB 622** Thompson SPONSOR: Ellis  
Relating to educational requirements for certain court clerks and personnel.

**HB 649** Bosse SPONSOR: Whitmire  
Relating to the use of unmarked motor vehicles by county fire marshals.

**HB 718** Bosse SPONSOR: Whitmire  
Relating to the appointment of a fire commissioner in certain rural fire prevention districts.



**HB 1018**          Yarbrough          SPONSOR: Wentworth  
Relating to court costs imposed on persons convicted of certain offenses.

**HB 1979**          Howard          SPONSOR: Brown  
Relating to the selection of the chairman of the juvenile board in Fort Bend County.

**HB 2664**          Turner, Bob          SPONSOR: Wentworth  
Relating to the liability of certain persons for injury to others that occurs on agricultural land used for recreation.

Respectfully,

Betty King  
Secretary of the Senate

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## APPENDIX

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### STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 23

Appropriations - **SB 1898**

Civil Practices - **HB 961**

Corrections - **HB 489**

Criminal Jurisprudence - **HB 1119**

Economic Development - **HB 1574**

Elections - **HB 50, HB 131, HB 298**

Energy Resources - **HB 3162, HB 3471**

Insurance - **HB 2842, SB 387**

Land & Resource Management - **HB 2018, HB 2332, HB 2666, HB 3329**

Pensions & Investments - **HB 2936**

Public Health - **HB 2226, HB 2386, HB 3075**

Public Safety - **HB 253, HB 397, HB 2296, HB 2406, HB 2715, HB 3486, HCR 194, SB 527**

State, Federal & International Relations - **HB 840, HB 2892, HCR 21, HCR 54, HCR 85, HCR 117, SB 1702**

Urban Affairs - **SB 721, SB 804**

Ways & Means - **HB 2606**

### ENROLLED

April 23 - **HCR 210**

**RECOMMENDATIONS FILED WITH THE SPEAKER**

April 23 - **HB 3540, HB 3564, HB 3567, HB 3574**

**SIGNED BY THE GOVERNOR**

April 23 - **HCR 123**