

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, THIRD CALLED SESSION

PROCEEDINGS

SIXTH DAY — MONDAY, APRIL 24, 2006

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 9).

Present — Mr. Speaker; Allen, A.; Alonzo; Anchia; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard, D.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Naishtat; Nixon; Noriega, R.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent — Davis, Y.; Elkins; Howard, C.; Moreno, P.; Pickett.

The invocation was offered by Robert L. McDonald, pastor, Dallas District Church of the Nazarene, Richardson, as follows:

Almighty God, our Heavenly Father, we pause to recognize, to honor, and to call upon you. We give you the glory that is due your name.

We humbly acknowledge our infirmities, our frailties, and our limitations. We choose to take refuge in your strength, your authority, and your power. We realize today as never before that we are but human, caught in a world full of challenges and constraints. In the middle of all these struggles, we admit at times our personal agendas get confused with that which we perceive to be of the best interest for those we serve. Help us to realize those times and take appropriate action.

We ask that what is done this day in this house would give you honor and glory, that what we do would be for the betterment of the lives of those who live in our great state, our great country, and ultimately our confused world. May we lead by a firm, but compassionate example.

We have but one collective goal, the betterment of those in which we serve. Help us find the means to that end. We will differ and debate undoubtedly on methodology, but may our hearts be unswervingly loyal to our cause. May time and resources not be wasted today, but utilized for the common good.

As united Texans, we seek your wisdom; we implore your divine protection from the White House to the governor's house to our individual houses; from the world's hot spots to our community's hot spots; from the workplace to the place our children today will learn and play.

Be with all our public servants on the front lines in their places of service this day. May we and they alike serve with joy, passion, integrity, gratitude, and loyalty to you and all humanity. This we ask in the name of the Almighty. Amen.

The speaker recognized Representative Flynn who led the house in the pledges of allegiance to the United States and Texas flags.

CAPITOL PHYSICIAN

The speaker recognized Capitol Nurse Practitioner Tim Flynn who presented Dr. Beverly Nuckols of New Braunfels as the "Doctor for the Day."

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

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. 3).

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.)

(Y. Davis, Elkins, C. Howard, and Pickett now present)

MAJOR STATE CALENDAR HOUSE BILLS SECOND READING

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

CSHB 3 ON SECOND READING
(by J. Keffer, Luna, Otto, Branch, and Villarreal)

CSHB 3, A bill to be entitled An Act relating to the franchise tax; making an appropriation; providing penalties.

Representative J. Keffer moved to postpone consideration of **CSHB 3** until 1 p.m. today.

The motion prevailed.

HB 2 ON SECOND READING
(by Pitts, Kolkhorst, and Callegari)

HB 2, A bill to be entitled An Act relating to the allocation of certain revenue from franchise taxes, motor vehicle sales and use taxes, and taxes on cigarettes and other tobacco products to provide property tax relief.

Amendment No. 1

Representative Turner offered the following amendment to **HB 2**:

Floor Packet Page No. 1

Amend **HB 2** on page 1, line 13, after "2006," by adding the following: "Reductions must be carried out so as not to increase the disparity in revenue yield between districts of varying property wealth per weighted student."

(P. Moreno now present)

Amendment No. 2

Representative Pitts offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Turner to **HB 2** on page 1 of the amendment, line 2, by striking "Reductions" and substituting "To the extent to which maintenance and operations tax rates are reduced using money from the property tax relief fund, reductions".

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted. (Branch recorded voting no.)

REASON FOR VOTE

While I support more state funds for equalization, I strongly oppose the state "recapturing" local property taxes of school districts.

Branch

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business in the district:

Smithee on motion of Denny.

HB 2 - (consideration continued)**Amendment No. 3**

Representative Coleman offered the following amendment to **HB 2**:

Floor Packet Page No. 4

Amend **HB 2** on page 1 between lines 17 and 18 by inserting the following:

"(c) The comptroller of public accounts must certify that the deposits made to the credit of the property tax relief fund under are sufficient to cover the cost of any property tax rate reduction authorized by the 79th Legislature, 3rd Called Session, 2006, before the legislature may appropriate money from the fund for any other purpose authorized by this section."

Amendment No. 4

Representative Coleman offered the following amendment to Amendment No. 3:

Amend the Coleman amendment to **HB 2** (amendment packet, page 4) on page 1, line 5 of the amendment, after "under" by adding the following: "Sections 152.1222, 154.6035, 155.6035 and 171.4011, Tax Code,"

Amendment No. 4 was adopted.

Amendment No. 3, as amended, was adopted.

Amendment No. 5

Representative Gallego offered the following amendment to **HB 2**:

Floor Packet Page No. 7

Amend **HB 2** by inserting the following appropriately numbered SECTION and renumbering any subsequent SECTIONS accordingly:

SECTION _____. PROPERTY TAX RELIEF FUND DISCLOSURE. (a) For purposes of providing transparency and accountability, the comptroller of public accounts shall publish in the Texas Register no later than December 31 the following information for the previous fiscal year:

(1) the total revenue collected and deposited to the credit of the property tax relief fund by revenue source;

(2) the total cost to cover the property tax relief authorized by the 79th Legislature, 3rd Called Session, 2006, and the total amount appropriated to cover the cost by source of revenue; and

(3) the total amount by which the revenue in subdivision (1) is less than or greater than the total cost in subdivision (2).

(b) The comptroller of public accounts shall include in the biennial revenue estimate an estimate of the total amount of revenue to be deposited to the credit of the property tax relief fund, by source of revenue, and an estimate of the total biennial cost to the state to cover the property tax rate reduction authorized by **HB 1** and any other legislation authorizing property tax relief enacted by the 79th Legislature, 3rd Called Session, 2006. The comptroller shall calculate the

amount by which the estimated revenue in the property tax relief fund is less than or greater than the state cost to cover the property tax relief authorized by the 79th Legislature, 3rd Called Session, 2006.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Turner offered the following amendment to **HB 2**:

Floor Packet Page No. 11

Amend **HB 2** by striking SECTION 5 of the bill (page 4, lines 13-16) and renumbering subsequent SECTIONS accordingly.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of a death in the family:

Alonzo on motion of Gallego.

HB 2 - (consideration continued)

Representative Pitts moved to table Amendment No. 6.

A record vote was requested.

The motion to table prevailed by (Record 10): 80 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; England; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard, C.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bailey; Burnam; Casteel; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Haggerty; Hamilton; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, R.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo; Smithee.

Absent — Morrison.

STATEMENT OF VOTE

When Record No. 10 was taken, my vote failed to register. I would have voted yes.

Morrison

A record vote was requested.

HB 2, as amended, was passed to engrossment by (Record 11): 81 Yeas, 65 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Eissler; Elkins; England; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard, C.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bailey; Burnam; Casteel; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Haggerty; Hamilton; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, R.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo; Smithee.

Absent — West.

STATEMENT OF VOTE

I was shown voting yes on Record No. 11. I intended to vote no.

Deshotel

REASON FOR VOTE

I voted against **HB 2** because the bill requires the new tax revenue generated by **HB 3**, **HB 4**, and **HB 5** to be spent only for property tax reduction. **HB 2** would handcuff this and future legislatures from spending this revenue on the other pressing needs of the state. Additionally, I opposed **HB 2** because I believe property tax relief and improving public education are not mutually exclusive propositions. I supported a proposal that passed the house during the second

called session that would have cut property taxes for middle class Texans and provided more money for public education without forcing all new revenue to be dedicated to property tax reductions.

Leibowitz

CSHB 1 ON SECOND READING

(by Chisum, Eissler, Branch, C. Howard, Hartnett, et al.)

CSHB 1, A bill to be entitled An Act relating to public school finance and property tax rate compression; making an appropriation.

(Smithee now present)

Amendment No. 1

Representatives Chisum and Eissler offered the following amendment to **CSHB 1**:

Floor Packet Page No. 20

Amend **CSHB 1** on page 9, by striking lines 4-6 and substituting the following:

(a) the rate that is equal to 88.67 percent of the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

Amendment No. 1 - Point of Order

Representative Dunnam raised a point of order against further consideration of Amendment No. 1 on the grounds that it violates the Committee on Calendars rule adopted on April 21.

The speaker overruled the point of order.

Amendment No. 1 was adopted. (Hopson recorded voting no.)

Amendment No. 2

Representatives Geren, Vo, Merritt, Ritter, Hamilton, R. Cook, Frost, Luna, Pitts, Orr, Villarreal, Bonnen, Phillips, Hopson, Kuempel, J. Keffer, Haggerty, Flynn, Dutton, Goodman, Casteel, Menendez, Turner, Puente, Blake, D. Jones, Veasey, Peña, Castro, and Gonzalez Tourelles offered the following amendment to **CSHB 1**:

Floor Packet Page No. 1

Amend **CSHB 1** (House Committee Report, page 1, line 6-23) by striking SECTION 1.01 and renumbering subsequent sections.

Amendment No. 3

Representatives Branch, Van Arsdale, Truitt, D. Howard, Eiland, Hill, Straus, Eissler, Bohac, and McCall offered the following amendment to Amendment No. 2:

Amend the Geren amendment to **CSHB 1** (amendment packet, page 1) by striking lines 1-3 of the amendment and substituting the following:

Amend **CSHB 1** as follows:

(1) On page 1, line 9, between "(b-1)," and "the", insert "if applicable."

(2) On page 1, line 19, between "(b-1)" and "The commissioner", insert the following:

For any school year, this subsection applies only if the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") under Section 42.302 for each cent by which a school district's adopted tax rate exceeds the rate of \$1.33 per \$100 of valuation is at least the amount of district tax revenue per cent of tax effort available to a school district at the 90th percentile in wealth per student.

Representative Geren moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 12): 78 Yeas, 68 Nays, 1 Present, not voting.

Yeas — Allen, A.; Bailey; Blake; Brown, F.; Burnam; Campbell; Casteel; Castro; Chavez; Coleman; Cook, R.; Crabb; Davis, Y.; Dawson; Delisi; Deshotel; Dunnam; Dutton; Edwards; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Griggs; Guillen; Haggerty; Hamilton; Hardcastle; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Jones, D.; Keffer, J.; Kolkhorst; Kuempel; Laney; Leibowitz; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Naishtat; Oliveira; Olivo; Orr; Otto; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Rodriguez; Smithee; Solis; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Nays — Anchia; Anderson; Berman; Bohac; Bonnen; Branch; Brown, B.; Callegari; Chisum; Cook, B.; Corte, V.; Crownover; Davis, J.; Denny; Driver; Dukes; Eiland; Eissler; Gallego; Gattis; Goolsby; Grusendorf; Hamric; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard, C.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, J.; Keel; Keffer, B.; King, P.; King, T.; Krusee; Laubenberg; Luna; Madden; McCall; Morrison; Mowery; Nixon; Paxton; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Howard, D.; Noriega, R.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 12. I intended to vote no.

Guillen

When Record No. 12 was taken, my vote failed to register. I would have voted no.

D. Howard

I was shown voting no on Record No. 12. I intended to vote yes.

Hughes

I was shown voting no on Record No. 12. I intended to vote yes.

T. King

When Record No. 12 was taken, I was in the house but away from my desk. I would have voted yes.

R. Noriega

A record vote was requested.

Amendment No. 2 was adopted by (Record 13): 106 Yeas, 40 Nays, 1 Present, not voting.

Yeas — Allen, A.; Anchia; Anderson; Bailey; Berman; Blake; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Crabb; Davis, J.; Davis, Y.; Dawson; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Guillen; Hamilton; Hamric; Hardcastle; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Hughes; Hunter; Hupp; Jones, D.; Jones, J.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Naishtat; Noriega, R.; Oliveira; Olivo; Orr; Otto; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Smithee; Solis; Strama; Swinford; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Nays — Bohac; Branch; Corte, V.; Crownover; Denny; Eiland; Gattis; Grusendorf; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard, C.; Howard, D.; Isett, C.N.; Jackson; Keel; Keffer, B.; Laubenberg; Madden; McCall; Mowery; Nixon; Paxton; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Straus; Talton; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Haggerty; Taylor.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 13. I intended to vote no.

Eissler

When Record No. 13 was taken, I was temporarily out of the house chamber. I would have voted yes.

Haggerty

I was shown voting no on Record No. 13. I intended to vote yes.

Hope

I was shown voting yes on Record No. 13. I intended to vote no.

Krusee

When Record No. 13 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

Amendment No. 4

Representative Hochberg offered the following amendment to **CSHB 1**:
Floor Packet Page No. 9

(1) Amend **CSHB 1** by adding the following new section to Article 1 and renumbering the sections accordingly:

SECTION _____. Section 41.002(a), Education Code, is amended to read as follows:

Sec. 41.002. EQUALIZED WEALTH LEVEL. (a) A school district may not have a wealth per student that exceeds 305,000, plus an amount determined under Section 42.2516(i).

(2) Amend **CSHB 1** by adding the following new section to Article 1 and renumbering the sections accordingly:

SECTION _____. 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 \$2,537, plus an amount determined under Section 42.2516(i). A greater amount for any school year may be provided by appropriation.

(3) Amend **CSHB 1** by adding the following new section to Article 1 and renumbering the sections accordingly:

SECTION _____. Section 42.302, Education Code, is amended to read as follows:

Sec. 42.302. ALLOTMENT. (a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is \$27.14, plus an amount determined under Section 42.2516(i), or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

(4) Amend **CSHB 1** by amending Subsection 42.2516(i) as added to read as follows:

(i) The commissioner shall determine the amount of state funds to which a school district is entitled under this section. The commissioner shall provide these additional amounts by increasing the guaranteed level under Section 42.302, the basic allotment under 42.101, and the equalized wealth level under 41.002, so that all three formula elements provide the same yield per penny of tax effort, and continuing to increase these formula elements proportionately so as to provide school districts the amounts required under this section as much as possible through the formula adjustments while minimizing "hold-harmless" amounts outside of the formulas. The total amount of state funds under this Section shall be limited such that the changes in state law made by **HB 1**, Third Called Session, 79th Legislature, shall not exceed \$2,385,800,000. The commissioner's determination is final and made not be appealed.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Eiland offered the following amendment to **CSHB 1**:
Floor Packet Page No. 15

Amend **CSHB 1** as follows:

(1) On page 2, between lines 7 and 8, insert the following:

(1) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district for the 2005-2006 school year;

(2) On page 2, line 8, strike "(1)" and substitute "(2)".

(3) On page 2, line 18, strike "(2)" and substitute "(3)".

(4) On page 3, line 2, strike "would be" and substitute "is".

Amendment No. 5 was adopted.

Amendment No. 6

Representative Dunnam offered the following amendment to **CSHB 1**:

Floor Packet Page No. 21

Amend **CSHB 1** by striking SECTION 1.07 of the bill and renumbering subsequent SECTIONS accordingly.

Representative Chisum moved to table Amendment No. 6.

A record vote was requested.

The motion to table prevailed by (Record 14): 79 Yeas, 68 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; England; Flynn; Gattis; Geren; Goodman; Goolsby; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard, C.; Hughes; Hupp; Isett, C.N.; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Merritt; Miller; Morrison; Nixon; Orr; Otto; Paxton; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bailey; Burnam; Casteel; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hamilton; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hunter; Jones, J.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Moreno, P.; Mowery; Naishtat; Noriega, R.; Oliveira; Olivo; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Strama; Straus; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Griggs.

Amendment No. 7

Representative Woolley offered the following amendment to **CSHB 1**:

Floor Packet Page No. 22

Amend **CSHB 1** as follows:

(1) Strike Section 1.07 of the bill and renumber subsequent sections accordingly.

(2) Add the following appropriately numbered section to Article 1 of the bill and renumber existing sections accordingly:

SECTION 1. _____. (a) Section 31.01(c), Tax Code, as amended by Chapters 1255 and 1368, Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(c) The tax bill or a separate statement accompanying the tax bill shall:

- (1) identify the property subject to the tax;
- (2) state the appraised value, assessed value, and taxable value of the property;
- (3) if the property is land appraised as provided by Subchapter C, D, E, or H, Chapter 23, state the market value and the taxable value for purposes of deferred or additional taxation as provided by Section 23.46, 23.55, 23.76, or 23.9807, as applicable;
- (4) state the assessment ratio for the unit;
- (5) state the type and amount of any partial exemption applicable to the property, indicating whether it applies to appraised or assessed value;
- (6) state the total tax rate for the unit;
- (7) state the amount of tax due, the due date, and the delinquency date;
- (8) explain the payment option and discounts provided by Sections 31.03 and 31.05, if available to the unit's taxpayers, and state the date on which each of the discount periods provided by Section 31.05 concludes, if the discounts are available;
- (9) state the rates of penalty and interest imposed for delinquent payment of the tax; and
- (10) include the name and telephone number of the assessor for the unit and, if different, of the collector for the unit.

(b) Section 31.01, Tax Code, is amended by adding Subsections (d-1) and (d-2) to read as follows:

(d-1) This subsection applies only to a school district. In addition to stating the total tax rate for the school district, the tax bill or the separate statement shall separately state:

- (1) the maintenance and operations rate of the school district; and
- (2) if the school district has outstanding debt, as defined by Section 26.012, the debt rate of the district.

(d-2) This subsection applies only to a school district and expires January 1, 2007. In addition to the information required by Subsections (c) and (d-1), the tax bill for taxes imposed in the 2006 tax year or the separate statement accompanying that tax bill shall also state:

- (1) the maintenance and operations rate of the school district for the 2005 tax year;
- (2) if for the 2005 tax year the school district imposed taxes for debt, as defined by Section 26.012, the debt rate of the district for that year; and
- (3) the total tax rate of the district for the 2005 tax year.

(c) Section 31.01(c-1), Tax Code, as added by Chapter 1255, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

(d) Section 31.01(c-1), Tax Code, as added by Chapter 1368, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

(e) Notwithstanding Section 3.01 of this Act, the change in law made by this section applies only to an ad valorem tax bill that is mailed on or after the effective date of this Act.

(f) If this Act is passed by the legislature without receiving a vote of two-thirds of all the members elected to each house and is approved by the governor, any action taken before the effective date of this Act in preparation for the implementation of the amendment made by this Act to Section 31.01, Tax Code, by an officer or employee of a taxing unit that the officer or employee determines is necessary or appropriate and that the officer or employee would have been authorized to take had this section been in effect at the time of the action is validated as of the effective date of this Act. A tax bill or separate statement accompanying the tax bill mailed before the effective date of this section that is in compliance with Section 31.01, Tax Code, as amended by this Act, is validated as of the effective date of this Act.

(Kolkhorst in the chair)

Amendment No. 8

Representatives Gallego and Y. Davis offered the following amendment to Amendment No. 7:

Amend Floor Amendment No. 7 by Woolley on page 2 of the amendment by striking lines 5-25 and substituting the following:

(b) Section 31.01, Tax Code, is amended by adding Subsection (d-1):

(d-1) This subsection applies only to a school district. In addition to stating the total tax rate for the school district, the tax bill or the separate statement shall separately state:

(1) the maintenance and operations rate of the school district;

(2) if the school district has outstanding debt, as defined by Section 26.012, the debt rate of the district;

(3) the maintenance and operations rate of the school district for the preceding tax year;

(4) if for the current tax year the school district imposed taxes for debt, as defined by Section 26.012, the debt rate of the district for the current tax year;

(5) if for the preceding tax year the school district imposed taxes for debt, as defined by Section 26.012, the debt rate of the district for that year; and

(6) the total tax rate of the district for the preceding tax year.

Amendment No. 8 was adopted.

Amendment No. 7, as amended, was adopted. (Coleman recorded voting no.)

Amendment No. 9

Representative Woolley offered the following amendment to **CSHB 1**:

Floor Packet Page No. 26

Amend **CSHB 1** in Article 1 of the bill by adding the following appropriately numbered section and renumbering the subsequent sections of the bill accordingly:

SECTION 1. __. (a) Not later than September 1, 2006, the secretary of state shall:

(1) prepare a letter that includes a brief explanation of the property tax reduction provisions of this Act; and

(2) distribute a copy of the letter to the tax assessor for each school district in this state.

(b) On October 1, 2006, or as soon thereafter as practicable, the tax assessor for each school district in this state shall mail a copy of the letter to each owner of taxable property as shown on the appraisal roll for the school district. The tax assessor should include a copy of the letter with each tax bill for the school district for the 2006 tax year, if practicable.

(c) This section expires January 1, 2007.

Amendment No. 10

Representative Woolley offered the following amendment to Amendment No. 9:

Amend Floor Amendment No. 9 by Woolley to **CSHB 1** as follows:

On page 1, line 6, strike "letter" and substitute "notice".

On page 1, line 8, strike "letter" and substitute "notice".

On page 1, line 12, strike "letter" and substitute "notice".

On page 1, line 14, strike "letter" and substitute "notice".

On page 1, between lines 15 and 16, by inserting the following: No statewide official other than the secretary of state shall be authorized to distribute the information required by this section.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Hernandez offered the following amendment to Amendment No. 9:

Amend Floor Amendment No. 9 by Woolley to **CSHB 1** (amendment packet, page 26) on line 5, by striking "secretary of state" and substituting "comptroller of public accounts".

Representative Woolley moved to table Amendment No. 11.

(Speaker in the chair)

A record vote was requested.

The vote of the house was taken on the motion to table Amendment No. 11 and the vote was announced yeas 71, nays 73.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 15): 75 Yeas, 71 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; England; Flynn; Goodman; Goolsby; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hill; Hope; Howard, C.; Hughes; Hunter; Hupp; Jackson; Jones, D.; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bailey; Burnam; Casteel; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Griggs; Guillen; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Isett, C.N.; Jones, J.; Keel; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Naishtat; Noriega, R.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Edwards; West.

The speaker stated that the motion to table prevailed by the above vote.

Amendment No. 9, as amended, was adopted. (A. Allen, Anchia, Burnam, Casteel, Castro, Coleman, R. Cook, Y. Davis, Deshotel, Dunnam, Eiland, Escobar, Farabee, Farrar, Flores, Frost, Giddings, Gonzales, Gonzalez Toureilles, Griggs, Guillen, Hernandez, Herrero, Hilderbran, Hochberg, Hodge, Homer, Hopson, D. Howard, D. Jones, J. Jones, Keel, Laney, Leibowitz, Martinez, McCall, McClendon, McReynolds, Menendez, Merritt, P. Moreno, Naishtat, R. Noriega, Olivo, Peña, Puente, Quintanilla, Raymond, Ritter, Rodriguez, Rose, Strama, Straus, Thompson, Turner, Uresti, Veasey, and Vo recorded voting no.)

Amendment No. 12

Representatives Kolkhorst and Woolley offered the following amendment to **CSHB 1**:

Floor Packet Page No. 27

Amend **CSHB 1** in Article 1 of the bill by inserting the following appropriately numbered sections and renumbering the subsequent sections accordingly:

SECTION 1. __. Section 44.004, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The notice described by Subsection (c) must state in a distinct row or on a separate or individual line for each of the following taxes:

(1) the proposed rate of the school district's maintenance tax described by Section 45.003, under the heading "Maintenance Tax"; and

(2) if the school district has issued ad valorem tax bonds under Section 45.001, the proposed rate of the tax to pay for the bonds, under the heading "School Debt Service Tax Approved by Local Voters".

SECTION 1. __. Section 31.01, Tax Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) In addition to the other requirements of this section, a tax bill or the separate statement accompanying the tax bill for a school district must state in a distinct row or on a separate or individual line for each of the following taxes:

(1) the rate of the maintenance tax described by Section 45.003, Education Code, and the amount of tax due under that tax rate, under the heading "Maintenance Tax"; and

(2) if the school district has issued ad valorem tax bonds under Section 45.001, Education Code, the rate of the tax imposed to pay for the bonds and the amount of tax due under that tax rate, under the heading "School Debt Service Tax Approved by Local Voters".

Amendment No. 13

Representatives Kolkhorst and Woolley offered the following amendment to Amendment No. 12:

Amend the Kolkhorst amendment to **CSHB 1** in Article 1 of the bill by inserting the following appropriately numbered section and renumbering the subsequent sections accordingly:

SECTION 1. __. Section 44.004, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The notice described by Subsection (c) must state in a distinct row or on a separate or individual line for each of the following taxes:

(1) the proposed rate of the school district's maintenance tax described by Section 45.003, under the heading "Maintenance Tax"; and

(2) if the school district has issued ad valorem tax bonds under Section 45.001, the proposed rate of the tax to pay for the bonds, under the heading "School Debt Service Tax Approved by Local Voters".

Amendment No. 13 was adopted.

Amendment No. 12, as amended, was adopted.

Amendment No. 14

Representative Eissler offered the following amendment to **CSHB 1**:

Floor Packet Page No. 34

Amend **CSHB 1** by adding a new Article 2 to the bill and renumbering subsequent articles accordingly:

ARTICLE 2. FISCAL ACCOUNTABILITY

SECTION 2.01. Chapter 1, Education Code, is amended by adding Section 1.005 to read as follows:

Sec. 1.005. EDUCATION RESEARCH CENTERS; SHARING STUDENT INFORMATION. (a) In this section, "center" means a center for education research authorized by this section.

(b) The commissioner of education and the commissioner of higher education may establish not more than three centers for education research for conducting research described by Subsections (e) and (f).

(c) A center may be established as part of:

(1) the Texas Education Agency;

(2) the Texas Higher Education Coordinating Board; or

(3) a public junior college, public senior college or university, or public state college, as those terms are defined by Section 61.003.

(d) A center may be operated under a memorandum of understanding between the commissioner of education, the commissioner of higher education, and the governing board of an educational institution described by Subsection (c)(3). The memorandum of understanding must require the commissioner of education, or a person designated by the commissioner, and the commissioner of higher education, or a person designated by the commissioner, to provide direct, joint supervision of the center under this section.

(e) A center shall conduct research for the benefit of education in this state, including research relating to the impact of state and federal education programs, the performance of educator preparation programs, public school finance, and the best practices of school districts with regard to classroom instruction, bilingual education programs, special language programs, and business practices.

(f) The commissioner of education and the commissioner of higher education:

(1) under the memorandum of understanding described by Subsection (d), may require a center to conduct certain research projects considered of particular importance to the state, as determined by the commissioners; and

(2) not later than the 45th day before the date a research project required to be conducted under this subsection is scheduled to begin, shall notify the governor, the Legislative Budget Board, and the governing body of the educational institution in which the center is established that the research project is required.

(g) In conducting research under this section, a center:

(1) may use data on student performance, including data that is confidential under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), the center has collected from the Texas Education Agency, the Texas Higher Education Coordinating Board, the Educators' Professional Practices Board, any public or private institution of higher education, and any school district; and

(2) shall comply with rules adopted by the commissioner of education and the commissioner of higher education to protect the confidentiality of student information, including rules establishing procedures to ensure that confidential student information is not duplicated or removed from a center in an unauthorized manner.

(h) The commissioner of education and the commissioner of higher education may:

(1) accept gifts and grants to be used in operating one or more centers;
and

(2) by rule impose reasonable fees, as appropriate, for the use of a center's research, resources, or facilities.

(i) This section does not authorize the disclosure of student information that may not be disclosed under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(j) The commissioner of education and the commissioner of higher education shall adopt rules as necessary to implement this section.

(k) In implementing this section, the commissioner of education may use funds appropriated to the agency and available for that purpose, including Foundation School Program funds.

SECTION 2.02. Subchapter A, Chapter 7, Education Code, is amended by adding Sections 7.008 and 7.009 to read as follows:

Sec. 7.008. PUBLIC ACCESS TO PEIMS DATA. (a) The commissioner with the assistance of an advisory panel described by Subsection (b) shall develop a request for proposal for a qualified third-party contractor to develop and implement procedures to make available, through the agency Internet website, all financial and academic performance data submitted through the Public Education Information Management System (PEIMS) for school districts and campuses.

(b) The commissioner shall appoint an advisory panel to assist the commissioner in developing requirements for a system that is easily accessible by the general public and contains information of primary relevance to the public. The advisory panel shall consist of:

(1) educators;

(2) interested stakeholders;

(3) business leaders; and

(4) other interested members of the public.

(c) The procedures developed under this section must provide:

(1) a summarized format easily understood by the public for reporting financial and academic performance information on the agency Internet website;
and

(2) the ability for those who access the Internet website to view and download state, district, and campus level information.

(d) This section does not authorize the disclosure of student information that may not be disclosed under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). The commissioner shall adopt rules to protect the confidentiality of student information.

(e) The procedures to make available, through the agency Internet website, all financial and academic performance information for school districts and campuses as described by this section shall be implemented not later than August 1, 2007. This subsection expires August 1, 2009.

Sec. 7.009. BEST PRACTICES; CLEARINGHOUSE. (a) In coordination with the Legislative Budget Board, the agency shall establish an online clearinghouse of information relating to best practices of campuses and school districts regarding instruction, public school finance, resource allocation, and business practices. To the extent practicable, the agency shall ensure that information provided through the online clearinghouse is specific, actionable information relating to the best practices of high-performing and highly efficient campuses and school districts rather than general guidelines relating to campus and school district operation. The information must be accessible by campuses, school districts, and interested members of the public.

(b) The agency shall solicit and collect from the Legislative Budget Board, centers for education research established under Section 1.005, and exemplary or recognized school districts and open-enrollment charter schools, as rated under Section 39.072, examples of best practices relating to instruction, public school finance, resource allocation, and business practices, including best practices relating to curriculum, scope and sequence, compensation and incentive systems, bilingual education and special language programs, compensatory education programs, and the effective use of instructional technology, including online courses.

(c) The agency shall contract for the services of one or more third-party contractors to develop, implement, and maintain a system of collecting and evaluating the best practices of campuses and school districts as provided by this section. In addition to any other considerations required by law, the agency must consider an applicant's demonstrated competence and qualifications in analyzing campus and school district practices in awarding a contract under this subsection.

(d) The commissioner may purchase from available funds curriculum and other instructional tools identified under this section to provide for use by school districts.

SECTION 2.03. Subchapter C, Chapter 7, Education Code, is amended by adding Section 7.061 to read as follows:

Sec. 7.061. FUNDING FOR CERTAIN PURPOSES. (a) The commissioner, to the extent not specifically prohibited by state or federal law, shall use federal funds, including consolidated administrative or innovative program funds, for the purposes described by Sections 1.005, 7.008, 7.009, and 44.0061.

(b) To the extent federal funds are not sufficient for the purposes described by Subsection (a), the commissioner may set aside funds from the Foundation School Program to fund the remaining balance.

SECTION 2.04. Subchapter A, Chapter 11, Education Code, is amended by adding Section 11.003 to read as follows:

Sec. 11.003. ADMINISTRATIVE EFFICIENCY. (a) Not later than December 1, 2006, the commissioner shall evaluate the feasibility of including a uniform indicator under Section 39.202(b) that measures effective administrative management through the use of cooperative shared services arrangements. If the commissioner determines that the adoption of a uniform indicator described by this subsection is feasible, the commissioner by rule shall include the indicator in the financial accountability rating system under Subchapter I, Chapter 39, for school districts beginning with the 2007-2008 school year. This subsection expires September 1, 2009.

(b) Each regional education service center shall:

(1) notify each school district served by the center regarding the opportunities available through the center for cooperative shared services arrangements within the center's service area; and

(2) evaluate the need for cooperative shared services arrangements within the center's service area and consider expanding center-sponsored cooperative shared services arrangements.

(c) Each regional education service center shall assist a school district board of trustees in entering into an agreement with another district or political subdivision, a regional education service center, or an institution of higher education as defined by Section 61.003, for a cooperative shared services arrangement regarding administrative services, including transportation, food service, purchasing, and payroll functions.

(d) The commissioner may require a district or an open-enrollment charter school to enter into an agreement for a cooperative shared services arrangement if the commissioner determines that the financial management performance of the district or school is unsatisfactory.

SECTION 2.05. Subchapter A, Chapter 44, Education Code, is amended by adding Section 44.0041 to read as follows:

Sec. 44.0041. PUBLICATION OF SUMMARY OF PROPOSED BUDGET. (a) Concurrently with the publication of notice of the budget under Section 44.004, a school district shall post a summary of the proposed budget:

(1) on the school district's Internet website; or

(2) if the district has no Internet website, in the district's central administrative office.

(b) The budget summary must include:

(1) information relating to per student and aggregate spending on:

(A) instruction;

(B) instructional support;

(C) central administration;

(D) district operations;

(E) debt service; and

(F) any other category designated by the commissioner; and

(2) a comparison to the previous year's actual spending.

SECTION 2.06. Subchapter A, Chapter 44, Education Code, is amended by adding Section 44.0061 to read as follows:

Sec. 44.0061. REVIEW OF ACCOUNTING SYSTEM. (a) The commissioner shall contract with a qualified third-party contractor to conduct a comprehensive review of the accounting systems used by school districts under Section 44.007.

(b) The third-party contractor conducting the review under this section shall:

(1) provide any recommendations relating to the accounting systems to:

(A) improve the transparency of district spending behavior;

(B) provide more thorough information relating to campus spending; and

(C) facilitate program evaluations, including evaluations of compensatory education programs; and

(2) evaluate the accounting systems to determine whether any reporting requirements should be adjusted based on district size.

(c) Before January 1, 2007, the commissioner shall submit a report to the legislature describing the results of the review conducted under this section.

(d) This section expires January 2, 2007.

SECTION 2.07. Subchapter A, Chapter 44, Education Code, is amended by adding Section 44.011 to read as follows:

Sec. 44.011. SPENDING TARGETS FOR DISTRICT EXPENDITURES.

(a) The commissioner shall annually establish and publish the proposed expenditures for each school district as determined by the commissioner based on an evaluation of information relating to the best practices of campuses and districts as described by Section 7.009. The commissioner shall consider unique characteristics of the district, including the district's size.

(b) The proposed expenditures to be determined as required by Subsection (a) must include amounts for:

(1) instructional expenditures;

(2) central administrative expenditures;

(3) district operations; and

(4) any other category designated by the commissioner.

(c) If the board of trustees of a school district intends to exceed the proposed expenditures established by the commissioner under this section, the board must adopt and publish a resolution that includes an explanation justifying the board's actions.

Amendment No. 15

Representative Eissler offered the following amendment to Amendment No. 14:

Amend the Eissler amendment to **CSHB 1** in added Section 7.061(a), Education Code (page 6, line 1) by striking "and 44.0061" and substituting "11.003, 44.0061, and 44.011".

Amendment No. 15 was adopted. (The vote was reconsidered later today, and Amendment No. 15, as substituted, was adopted.)

Amendment No. 16

Representative Hochberg offered the following amendment to Amendment No. 14:

Amend the Eissler amendment to **CSHB 1** (amendment packet, page 34) on page 7 of the amendment, between lines 8 and 9, by inserting the following new section, appropriately numbered, and renumbering the existing sections accordingly:

SECTION 2.____. Subchapter D, Chapter 11, Education Code, is amended by adding Section 11.170 to read as follows:

Sec. 11.170. INTERNAL AUDITOR. If a school district employs an internal auditor:

- (1) the board of trustees shall select the internal auditor; and
- (2) the internal auditor shall report directly to the board.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Hochberg offered the following amendment to Amendment No. 14:

Amend the Eissler amendment to **CSHB 1** (amendment packet, page 34) as follows:

(1) On page 8 of the amendment, between lines 21 and 22, insert the following:

SECTION 2.07. Section 44.007, Education Code, is amended by adding Subsection (e) to read as follows:

(e) The State Board of Education shall prepare a report for the 80th Legislature evaluating the benefits of providing school districts with standardized accounting software that would meet the requirements of this section and any other appropriate sections. The report shall consider any savings and costs to school districts from having such software provided, including any savings to districts from no longer paying programming costs in response to changes in state law or agency or State Board of Education rules. The report may consider software accessed by alternative methods, such as web-based methods or network-based methods, as may be most economical for districts of different sizes. The report shall also consider any accountability benefits from making the information collected by such software available on an ongoing basis to the agency and to the public, and personnel and other costs required for the agency to review this information continuously to alert school board members and superintendents of areas of potential waste or fraud. This subsection expires September 1, 2007.

(2) On page 8 of the amendment, line 22, strike "2.07" and substitute "2.08".

Amendment No. 17 was adopted.

AMENDMENT NO. 14 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOCHBERG: Mr. Eissler, there is some concern about the last portion of your amendment and about whether this would be a new requirement on school districts in order to meet specific financial targets or be penalized. Is it your intent for this to ratify actions that have been taken up until now to require school districts to hit certain performance targets, percentage wise?

REPRESENTATIVE EISSLER: I'm glad you asked me that. No, in fact along with the Best Practices Clearinghouse, there is the opportunity to look at spending targets and there is no penalty attached to those. I'm glad you brought that up because with that schools districts will have an opportunity to put a resolution as to why they are not in that same target area. They may have a unique characteristic, they may have just suffered some catastrophe, they might be a large district that has, let's say, extraordinary transportation costs. I feel that over the long term those percentages will be made moot because we'll have best practices and we'll have wide dispersion of that knowledge, so that other school districts can learn from each other what works and what doesn't.

HOCHBERG: That's the longest statement of legislative intent that I've ever heard. Is it your intent that no district be penalized in any way, either through financial accounting ratings, through the financial accountability system, through any sort of publicly released rankings or anything, either directly as a result of this statute or as a result of any executive order that could come from this statute? It is your intent that this not be a tool for punishing or limiting school districts, but rather dissemination of information.

EISSLER: Yes, it is a dissemination of information and opportunity for school districts to learn from each other. As well as, what I think is most important here, it will enable school districts' boards to be even more familiar with the unique characteristics of their own district, and it will enable them to be more knowledgeable, as well as their district to be more knowledgeable.

HOCHBERG: And this in no way ratifies any recent action of the commissioner to establish certain percentages of expenditures?

EISSLER: In fact, I feel that this transparency, as well as the sharing of best practices, will go more to diminish that requirement than to ratify it.

Amendment No. 14, as amended, was adopted. (The vote was reconsidered later today and Amendment No. 14, as amended, was adopted.)

Amendment No. 18

Representative Rodriguez offered the following amendment to **CSHB 1**:

Floor Packet Page No. 72

Amend **CSHB 1** in Article 1 of the bill by inserting the following appropriately numbered section and renumbering the subsequent sections of the bill accordingly:

SECTION _____. (a) Title 1, Tax Code, is amended by adding Subtitle G to read as follows:

SUBTITLE G. PROPERTY TAX RELIEF FOR RESIDENTIAL TENANTS
CHAPTER 61. PROPERTY TAX RELIEF FOR RESIDENTIAL TENANTS

Sec. 61.001. PURPOSE. The purpose of this chapter is to ensure that residential rental tenants receive direct and immediate benefit from reductions in local school district ad valorem taxes until the benefit of that tax relief is fully reflected in rental rates through free market competition and that every residential landlord gives a monthly rent credit or rebate, at the landlord's option, to each tenant who is renting a residential dwelling unit in this state during 2007, 2008, and 2009.

Sec. 61.002. DEFINITIONS. In this chapter:

(1) "Landlord" means the owner, lessor, or sublessor of a dwelling unit, but does not include a manager or agent of the landlord unless the manager or agent purports to be the owner, lessor, or sublessor in a written or oral lease.

(2) "Lease" means a written or oral agreement between a landlord and tenant that establishes or modifies the terms, conditions, rules, or other provisions regarding the use and occupancy of a dwelling unit.

(3) "Multifamily rental dwelling property" means a multiunit residential property with two or more rental dwelling units. The term includes a duplex, apartment building, dormitory, manufactured housing community, retirement center or community, and assisted living center and any other multiunit rental residential property subject to local school district ad valorem taxes.

(4) "Rent" includes the total amount charged by a landlord, or by a person on the landlord's behalf, for the use and occupancy of a dwelling unit. The term does not include a refundable security deposit.

(5) "Rental dwelling unit" means one or more rooms rented for use as a permanent residence under a single lease to one or more tenants.

(6) "Tenant" means an individual who is authorized by a lease to occupy a dwelling to the exclusion of others other than cotenants and who is obligated under the lease to pay rent.

Sec. 61.003. APPLICABILITY. (a) This chapter applies only to a rental dwelling unit or multifamily rental dwelling property that is subject to ad valorem taxation by a school district.

(b) This chapter does not apply to a temporary residential tenancy created by a contract of sale under which the buyer is entitled to occupy the property before closing or the seller is entitled to occupy the property after closing for a term of not more than 90 days.

Sec. 61.004. CREDIT OR REBATE TO TENANT OF LANDLORD'S PROPERTY TAX SAVINGS. A landlord shall provide each of the landlord's tenants with a monthly credit or rebate on the tenant's rent to reflect a portion of the landlord's school district ad valorem tax savings for 2007, 2008, and 2009.

Sec. 61.005. NOTICE BY CHIEF APPRAISERS. (a) On or before October 1, 2006, or as soon as practicable after that date, the chief appraiser of each appraisal district shall send to all residential property owners a notice describing the requirements of this chapter. The notice shall contain language substantially similar to the following:

"Due to the property tax relief law approved by the 79th Texas Legislature, residential landlords are required to pass along school district ad valorem tax savings to their tenants under all leases in effect as of January 1, 2007, and for all leases entered into in 2007, 2008, and 2009. These savings must be provided to tenants by giving a monthly rent credit or rebate that reflects a portion of the property tax savings on school property taxes. Failure to comply with this law could result in severe penalties, including a civil penalty of \$100, treble damages, and attorney's fees. Information on complying with this law is available by contacting the (name, address, and telephone number of appraisal district) or by contacting the Texas Comptroller of Public Accounts by calling 1-800-252-5555."

(b) The notice required under Subsection (a) may be sent to property owners as part of another communication sent by the appraisal district under Section 31.01 and is not required to be sent to property owners as a separate communication.

Sec. 61.006. TAX SAVINGS CALCULATIONS BY LANDLORDS. (a) For each year to which this chapter applies, a landlord shall determine the monthly school district ad valorem tax savings payable to the landlord's tenants as follows:

(1) the monthly rent credit or rebate for a single-family rental dwelling unit is equal to 6.25 percent of the difference between the amount of school district maintenance and operations ad valorem taxes imposed on the dwelling unit for the preceding tax year and the amount of school district maintenance and operations ad valorem taxes that would have been imposed on that dwelling unit for that year if the dwelling unit had been taxed at the school district's maintenance and operations tax rate for the 2005 tax year; and

(2) the monthly rent credit or rebate for a rental dwelling unit in a multifamily rental dwelling property is equal to 6.25 percent of the difference between the amount of school district maintenance and operations ad valorem taxes imposed on the dwelling property for the preceding tax year and the amount of school district maintenance and operations ad valorem taxes that would have been imposed on that dwelling property for that year if the dwelling property had been taxed at the school district's maintenance and operations tax rate for the 2005 tax year, multiplied by the square footage in the tenant's dwelling unit, and divided by the total net rentable square footage of all rental dwelling units in the multifamily rental dwelling property.

(b) The amount of the rent credit or rebate under Subsection (a) shall be calculated on a per-dwelling-unit basis and not on a per-tenant basis.

(c) If the amount of the rent credit or rebate calculated under Subsection (a) is less than zero, the rent credit or rebate is zero.

Sec. 61.007. DATE OF REQUIRED CREDIT OR REBATE. (a) If a landlord gives a monthly credit to a tenant under this chapter, the landlord shall give the credit on the due date for each month's rent.

(b) If a landlord pays a monthly rent rebate to the tenant, the landlord shall pay the rebate not later than the 10th day after the date the tenant pays the entire rent due for the month. A landlord is presumed to have timely paid a rebate if the rebate is placed in the United States mail and postmarked on or before that date.

(c) If the tenant's rent is payable weekly, the amount of the weekly credit or rebate is equal to 1/52 of the credit or rebate for the entire year.

Sec. 61.008. LANDLORD'S NOTICE TO TENANTS. (a) In connection with each lease agreement for a rental dwelling unit entered into before January 1, 2007, that has not terminated or expired as of that date, the landlord shall provide a notice to each tenant on or before January 5, 2007, in boldface, 14-point or larger type, that substantially states the following:

"NOTICE OF TAX SAVINGS ON RENT

"Your current monthly rent on (insert unit number or street address) is \$ (insert amount of rent).

"Because of the property tax relief law passed by the 79th Texas Legislature in 2006, the amount of school district property taxes for your dwelling unit has been reduced by (insert percentage savings) percent for 2007. The property tax relief law provides that the property owner must pass along tax savings to you and other tenants until sufficient time has elapsed for the tax relief to be fully reflected in rental rates through free market competition.

"Accordingly, you will receive a rent credit (or rebate check) of \$ (insert monthly prorated amount) for the current month of January and for each month thereafter until the date your current lease expires or December 31, 2009, whichever date is first. If the amount of taxes imposed on your dwelling unit is not increased or decreased, the cumulative amount of property tax savings that will be passed on to you during the term of your lease as a result of the 2006 property tax relief legislation is projected to be \$ (insert cumulative savings for the unit for the term of the lease).

"This means the net rent you will be paying for this month and each subsequent month under your current lease will be \$ (insert net rent rate), and your rent should also be lower if you enter into a new lease for any rental dwelling unit in Texas any time in 2007, 2008, or 2009, through the date your new lease term expires or December 31, 2009, whichever date is earlier.

"If you have any questions about this new law, please contact the County Appraisal District at (insert address and main phone number of the appraisal district established for the county in which the rental dwelling unit is located)."

(b) In connection with each lease agreement for a rental dwelling unit entered into in 2007, 2008, or 2009, the landlord shall provide a notice to each tenant at the time the lease is signed, in boldface, 14-point or larger type, that substantially states the following:

"NOTICE OF TAX SAVINGS ON RENT

"Your current monthly rent on (insert unit number or street address) is \$ (insert amount of rent).

"Because of the property tax relief law passed by the 79th Texas Legislature in 2006, the amount of school district property taxes for your dwelling unit has been reduced by (insert percentage savings) percent for 2007 (or 2008 or 2009). The property tax relief law provides that the property owner must pass along tax savings to you and other tenants until sufficient time has elapsed for the tax relief to be fully reflected in rental rates through free market competition.

"Accordingly, you will receive a rent credit (or rebate check) of \$ (insert monthly prorated amount) for the current month and for each month thereafter until the date your current lease expires or December 31, 2009, whichever date is first. If the amount of taxes imposed on your dwelling unit is not increased or decreased, the cumulative amount of property tax savings that will be passed on to you during the term of your lease as a result of the 2006 property tax relief legislation is projected to be \$ (insert cumulative savings for the unit for the term of the lease).

"This means the net rent you will be paying for this month and each subsequent month under your current lease will be \$ (insert net rent rate), and your rent should also be lower if you enter into a new lease for any rental dwelling unit in Texas any time in 2007, 2008, or 2009, through the date your new lease term expires or December 31, 2009, whichever date is earlier.

"If you have any questions about this new law, please contact the County Appraisal District at (insert address and main phone number of the appraisal district established for the county in which the rental dwelling unit is located)."

(c) The notice required by Subsections (a) and (b) shall be translated and printed in English and Spanish. A notice provided by a landlord under this section must be provided in both languages if the rental dwelling unit is located in a county in which the Hispanic population exceeds 25 percent of the total population of that county according to the most recent federal census information available.

Sec. 61.009. CREDIT OR REBATE FOR MULTIPLE TENANTS. If two or more tenants are on a lease for the same rental dwelling unit, the credit or rebate under this chapter shall be provided jointly to all tenants renting the dwelling.

Sec. 61.010. PENALTIES. (a) A landlord who fails to comply with this chapter is liable to the affected tenant for a civil penalty of \$100 and treble the amount of any required rent credit or rebate that was not provided to the tenant.

(b) In a suit involving the payment of a rent credit or rebate, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

Sec. 61.011. TAX APPRAISALS. In tax years 2007-2009, a chief appraiser or an appraisal district may not consider a rent credit or rebate under this chapter in any determination of the appraised value of a rental dwelling unit, real property containing a rental dwelling unit, or a multifamily rental dwelling property.

Sec. 61.012. EXPIRATION. This subtitle expires January 1, 2010.

(b) Chapter 1, Tax Code, is amended by adding Section 1.16 to read as follows:

Sec. 1.16. LANDLORD LIABILITY FOR RESIDENTIAL TENANT'S PROPERTY TAX RELIEF. The expiration of Subtitle G does not affect the liability of a landlord or other person for any amount arising under that subtitle before the expiration, and the law governing that liability remains in effect notwithstanding the expiration for purposes of enforcing or satisfying the liability.

(Goolsby in the chair)

Representative Chisum moved to table Amendment No. 18.

A record vote was requested.

The motion to table prevailed by (Record 16): 97 Yeas, 47 Nays, 3 Present, not voting.

Yeas — Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; England; Farabee; Flynn; Frost; Gattis; Geren; Goodman; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard, C.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vo; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bailey; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Jones, J.; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; Moreno, P.; Naishtat; Noriega, R.; Olivo; Peña; Puente; Quintanilla; Raymond; Rodriguez; Solis; Thompson; Turner; Uresti; Veasey.

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

Absent, Excused — Alonzo.

Absent — Villarreal; West.

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).

CSHB 1 - (consideration continued)

REMARKS ORDERED PRINTED

Representative Hochberg moved to print remarks between Representative Eissler and Representative Hochberg on Amendment No. 14.

The motion prevailed.

Amendment No. 19

Representative Naishtat offered the following amendment to **CSHB 1**:

Floor Packet Page No. 80

Amend **CSHB 1** in Article ___ of the bill by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ___. (a) Section 11.26, Tax Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) Notwithstanding the other provisions of this section and except as provided by Subsection (a-2), if in the current tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the individual or the individual's spouse qualified for an exemption under Section 11.13(c) for the same homestead in the preceding tax year, the amount of the limitation provided by this section on the homestead in the current tax year is equal to the lesser of:

(1) the amount computed by:

(A) multiplying the amount of tax the school district imposed on the homestead in the preceding tax year by the lesser of one or a fraction the numerator of which is the tax rate of the district for the current tax year and the denominator of which is the tax rate of the district for the preceding tax year; and

(B) adding to the amount computed under Paragraph (A) any tax in the current tax year attributable to improvements made in the preceding tax year, as provided by Subsection (b); or

(2) the amount of the limitation on tax increases on the homestead as otherwise provided by this section.

(a-2) Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Section 11.13(c) for the same homestead was a tax year before the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed by:

(1) multiplying the amount of tax the school district imposed on the homestead in the 2005 tax year by the lesser of one or a fraction the numerator of which is the tax rate of the district for the 2006 tax year and the denominator of which is the tax rate of the district for the 2005 tax year;

(2) adding to the amount computed under Subdivision (1) any tax in the 2006 tax year attributable to improvements made in the 2005 tax year, as provided by Subsection (b);

(3) multiplying the amount computed under Subdivision (2) by the lesser of one or a fraction the numerator of which is the tax rate of the district for the 2007 tax year and the denominator of which is the tax rate of the district for the 2006 tax year; and

(4) adding to the amount computed under Subdivision (3) any tax in the 2007 tax year attributable to improvements made in the 2006 tax year, as provided by Subsection (b).

(b) Section 42.2511(a), Education Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a school district is entitled to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided under Subchapter M, Chapter 403, Government Code, does not fully compensate the district for ad valorem tax revenue lost due to:

(1) the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, as proposed by HJR 4, 75th Legislature, Regular Session, 1997, and the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by HJR 4, 75th Legislature, Regular Session, 1997; and

(2) the reduction of the limitation on tax increases to reflect any reduction in the school district tax rate as provided by Section 11.26(a-1) or (a-2), Tax Code, as applicable.

(c) Section 403.302, Government Code, is amended by amending Subsection (j) and adding Subsection (j-1) to read as follows:

(j) For purposes of Section 42.2511, Education Code, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$5,000; ~~and~~

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by HJR 4, 75th Legislature, Regular Session, 1997; and

(3) a final value for each school district computed on the effect of the reduction of the limitation on tax increases to reflect any reduction in the school district tax rate as provided by Section 11.26(a-1) or (a-2), Tax Code, as applicable.

(j-1) For purposes of applying Subsection (j)(3) in the 2007-2008 school year, the comptroller shall compute the final value under that subsection as if the reduction of the limitation on tax increases to reflect any reduction in the school district tax rate as provided by Section 11.26(a-1) or (a-2), Tax Code, as applicable, had taken effect in the 2006 tax year. This subsection expires September 1, 2008.

(d) This section applies only to an ad valorem tax year that begins on or after January 1, 2007.

(e) This section takes effect January 1, 2007, but only if the constitutional amendment proposed by the 79th Legislature, 3rd Called Session, 2006, authorizing the legislature to provide for a reduction of the limitation on the total amount of ad valorem taxes that may be imposed for public school purposes on

the residence homesteads of the elderly or disabled to reflect any reduction in the rate of those taxes is approved by the voters. If that amendment is not approved by the voters, this section has no effect.

Amendment No. 19 was adopted.

HCR 17 - ADOPTED
(by Truitt)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HCR 17**.

The motion prevailed.

The following resolution was laid before the house:

HCR 17, Designating April 2006 as Child Safety Month in Texas.

HCR 17 was adopted.

HCR 20 - ADOPTED
(by Truitt)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HCR 20**.

The motion prevailed.

The following resolution was laid before the house:

HCR 20, Declaring May 6, 2006, Janie Casey Day in Keller.

HCR 20 was adopted.

CSHB 1 - (consideration continued)

Amendment No. 14 - Vote Reconsidered

Representative Eissler moved to reconsider the vote by which Amendment No. 14, as amended, was adopted.

The motion to reconsider prevailed.

Amendment No. 15 - Vote Reconsidered

Representative Eissler moved to reconsider the vote by which Amendment No. 15 was adopted.

The motion to reconsider prevailed.

Amendment No. 20

Representative Eissler offered the following substitute amendment for Amendment No. 15:

Substitute the following for the Eissler amendment to the Eissler amendment to **CSHB 1**:

Amend the Eissler amendment to **CSHB 1** as follows:

(1) In added Section 7.061(a), Education Code (amendment page 5, line 28), strike "(a)".

(2) In added Section 7.061(a), Education Code (amendment page 6, line 1), strike "and 44.0061" and substitute "11.003, 44.0061, and 44.011".

(3) Strike added Section 7.061(b), Education Code (amendment page 7, lines 2-5).

Amendment No. 20 was adopted.

Amendment No. 15, as substituted, was adopted.

Amendment No. 14, as amended, was adopted.

CSHB 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GIDDINGS: Mr. Chisum, you have handed out, or someone has, a comparison between the current law and how our school districts are situated and how they would be situated financially should **HB 1** pass. As it relates to Dallas which was about to change status and get into a recapture situation. According to the printout that I have received, under current law next school year Dallas was going to be in a situation where \$41 million was going to be recaptured and according to your printout under **HB 1** should it pass and become law that would not be the situation. I want to be sure that I understand the printout, and I want you to tell me and carry me to the point and place in this bill where the language creates that change.

REPRESENTATIVE CHISUM: Yes, Ms. Giddings. For Dallas if you will move to page 4, line 9, paragraph (f), that concerns the Chapter 41 districts, which Dallas is very soon going to become a Chapter 41 district. But under the guaranteed yield and the hold harmless amendment that we have passed we would not recapture Dallas' \$41 million. They would in fact get the same amount of money that they get under the hold harmless, and that is what that paragraph does. It makes sure that Dallas does not become a Chapter 41 district this next year and that they do not have to pay to the State of Texas or to some other school district—and I believe that there are five options that they could use—that they save \$41 million. Saved by the Dallas ISD—paragraph (f), page 4, line 9.

REMARKS ORDERED PRINTED

Representative Giddings moved to print remarks between Representative Chisum and Representative Giddings.

The motion prevailed.

CSHB 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE DUNNAM: Mr. Chisum, I believe I am going to vote for this bill, and I want to ask you about a few of the reasons that I think I am going to vote for this bill. Is it your belief, based on the testimony, your work on this process, talking with the A. G. and everybody involved, that if this bill becomes law, that it will satisfy the court obligations that we're here about?

CHISUM: I do believe that totally. I believe that this does satisfy the mandate of the court.

DUNNAM: And does that mean that if this bill passes, and nothing else passes, that you believe that we've complied with the court opinion?

CHISUM: Yes, I believe we can, and I believe that our schools will stay open June 1, and I applaud you for stepping up and voting for the bill.

DUNNAM: So there's nothing else—there's no other bills other than this one—assuming that this one becomes law, that are required to open the doors and all those type of things this session?

CHISUM: I believe that this meets the minimum requirements to open our doors, yes.

DUNNAM: So once we've done this, if it's the will of the legislature, we can move on to talking about improving our schools?

CHISUM: Mr. Dunnam, you know we still have to stay within the governor's call, and I don't believe that's in the call right now. But you bet, that's a discussion that we want to have.

DUNNAM: We can debate that later. I think that the call talks about appropriations to TEA and that means more improvements in our schools. But I just want to make sure that if this becomes law we don't need anything else this session to comply with the court order.

CHISUM: I don't think we have to have anything else, yes, that's true.

REMARKS ORDERED PRINTED

Representative Coleman moved to print remarks between Representative Chisum and Representative Dunnam.

The motion prevailed.

A record vote was requested.

CSHB 1, as amended, was passed to engrossment by (Record 17): 139 Yeas, 5 Nays, 1 Present, not voting.

Yeas — Allen, A.; Anchia; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Hupp; Isett, C.N.; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishat; Nixon; Noriega, R.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna;

Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; Wong; Woolley; Zedler.

Nays — Burnam; Coleman; Dutton; Jackson; Laney.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Edwards; Gallego; Haggerty; West.

STATEMENTS OF VOTE

When Record No. 17 was taken, my vote failed to register. I would have voted yes.

Edwards

When Record No. 17 was taken, my vote failed to register. I would have voted yes.

Gallego

REASONS FOR VOTE

While I support the local property tax relief and additional local capacity created in **CSHB 1**, in order to comply with the supreme court's recent mandate, I deeply regret and strongly oppose the continuation of the recapture of local school property taxes.

Branch

I oppose **CSHB 1** because, at this point in the process, I cannot support legislation that only addresses property tax reduction and does nothing to improve our children's schools. If, at a later date in the session, a bill is presented to this legislature that would increase our state's investment in public education, I will support **CSHB 1** or its equivalent.

I support property tax reduction and recognize that it is a worthy policy goal. Obviously, we must address the issue of an unconstitutional property tax system in order to comply with the supreme court ruling. Although **CSHB 1** addresses the property tax issue, my constituents and a majority of Texans believe we are in special session to increase the state's investment in our public schools because that is their highest priority.

Unfortunately, instead of placing equal importance on property tax cuts and our children's schools, **CSHB 1** fails to provide a single additional dollar for our public education. Even worse, **CSHB 1** would actually take money away from Texas schoolchildren by deleting a rider that was intended to provide \$1.8 billion in new money for our public schools. Additionally, **CSHB 1** would make it more difficult for local school districts to raise funds for local enrichment. It also establishes unsound budget policy by requiring a property tax reduction without a corresponding funding source to cover the cost of the cut—a move that could certainly lead to an increase in the state sales tax and other consumption taxes that are disproportionately harmful to my constituents.

I stand ready to vote for a school finance solution that would provide both meaningful school property tax reduction and increased investment in our children's schools. **CSHB 1** fails that test, and for the foregoing reasons, I must oppose it.

Coleman

Amendment No. 9 on **CSHB 1** injected a political squabble into this measure and thus serves only to detract from the trustworthiness of the bill.

Keel

POSTPONED BUSINESS

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

CSHB 3 ON SECOND READING **(by J. Keffer, Luna, Otto, Branch, and Villarreal)**

CSHB 3, A bill to be entitled An Act relating to the franchise tax; making an appropriation; providing penalties.

CSHB 3 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representative Otto offered the following amendment to **CSHB 3**:

Floor Packet Page No. 12

Amend **CSHB 3** as follows:

(1) On page 8, line 15, strike "that is not described in Subdivision (2)".

(2) On page 8, between lines 16 and 17, insert the following:

(a-1) In making the computation under Subsection (a)(3), income described by Subsection (a)(2) may not be treated as income from conducting an active trade or business.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Martinez Fischer offered the following amendment to **CSHB 3**:

Floor Packet Page No. 6

Amend **CSHB 3** as follows:

(1) On page 6, strike lines 8-15 and reletter subsequent Subdivisions in proposed Section 171.0002(c), Tax Code, accordingly;

(2) On page 7, strike lines 1-15.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Eiland offered the following amendment to **CSHB 3**:

Floor Packet Page No. 10

Amend **CSHB 3** as follows:

- (1) On page 7, line 13, strike "or".
- (2) On page 7, line 15, strike ";" and substitute "or".
- (3) On page 7, between lines 15 and 16, insert the following:

(10) a health care provider.

- (4) On page 7, between lines 20 and 21, insert the following:

(e) In this section, "health care provider" means a legal entity that participates in the Medicaid program, Medicare program, Children's Health Insurance Program (CHIP), state workers' compensation program, or TRICARE military health system as a provider of health care services. The term includes a health care institution.

- (5) Strike page 24, line 8, through page 25, line 9.

- (6) Strike page 25, line 17, through page 26, line 12.

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Thompson offered the following amendment to **CSHB 3**:

Floor Packet Page No. 11

Amend **CSHB 3** as follows:

- (1) On page 8 by striking lines 11-13;
- (2) On page 9, line 15, strike the colon;
- (3) On page 9, strike lines 16-18; and
- (4) On page 9, line 19, strike "(2)".

(Nixon in the chair)

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Callegari offered the following amendment to **CSHB 3**:

Floor Packet Page No. 13

Amend **CSHB 3** as follows:

- (1) On page 14, between lines 12 and 13, insert the following:

Sec. 171.0025. ANNUAL RATE CHANGE TO MAINTAIN SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAX RATES. (a) On January 1 of each year beginning with the year following the first tax year in which the average school district maintenance and operations tax rate is equal to or less 60 cents per \$100 of taxable value of property, the rate of the franchise tax is increased or decreased by the percentage that is necessary to provide for the deposit to the credit of the property tax relief fund as required by Section 171.4011 an amount of revenue sufficient to maintain the average school district maintenance and operations tax rate at that rate, except that the rate of the franchise tax may not be increased to a rate that exceeds the rate provided by Section 171.002.

(b) Not later than November 1 of each year, the Legislative Budget Board shall:

(1) determine using information provided by the Texas Education Agency the average school district maintenance and operations tax rate for that year; and

(2) beginning in the first year in which the computation under Subdivision (1) indicates that the average school district maintenance and operations tax rate is equal to or less than 60 cents per \$100 of taxable value of property and in each subsequent year:

(A) compute the new franchise tax rate as provided by this section for the privilege period that begins on or after the date the computation is made;

(B) submit the new franchise tax rate to the secretary of state for publication in the Texas Register; and

(C) notify the comptroller of the applicable new franchise tax rate.

(2) Add the following appropriately numbered section and renumber the subsequent sections of the bill accordingly:

SECTION _____. Section 171.0025, Tax Code, as added by this Act, takes effect only if **HB 2**, Acts of the 79th Legislature, 3rd Called Session, 2006, is enacted and becomes law. If that Act does not become law, this section has no effect.

Representative Villarreal moved to table Amendment No. 5.

The motion to table prevailed.

Amendment No. 6

Representative Van Arsdale offered the following amendment to **CSHB 3**:

Floor Packet Page No. 17

Amend **CSHB 3** as follows:

(1) On page 12, line 12, strike "Except" and substitute "Subject to Section 171.003 and except".

(2) On page 14, between lines 12 and 13, insert:

Sec. 171.003. INCREASE IN RATE REQUIRES VOTER APPROVAL. (a) An increase in a rate provided by Section 171.002(a) or (b) takes effect only if approved by a majority of the registered voters voting in a statewide referendum held on the question of increasing the rate. The referendum must specify the increased rate or rates.

(b) This section does not apply to a decrease in a rate provided by Section 171.002(a) or (b). If a rate is decreased, this section applies to any subsequent increase in that rate.

(c) This section does not apply to any change in the tax imposed by this chapter in relation to:

(1) the manner in which the tax is computed, including the determination of margin and taxable margin and any allowable deductions or credits;

- (2) the manner in which the tax is administered or enforced; or
(3) the applicability of the tax to certain entities.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Phillips offered the following amendment to **CSHB 3**:

Floor Packet Page No. 21

Amend proposed **CSHB 3**, as follows:

On page 13, line 27, strike "100" and substitute "10,000".

Amendment No. 8

Representative Phillips offered the following amendment to Amendment No. 7:

Amend proposed Phillips Amendment to **CSHB 3**, (Page 21 of amendment packet) Line 2 by striking "10,000" and substituting "1,000".

Amendment No. 8 was adopted.

Representative Luna moved to table Amendment No. 7.

A record vote was requested.

The motion to table was lost by (Record 18): 19 Yeas, 120 Nays, 2 Present, not voting.

Yeas — Corte, V.; Crownover; Denny; Haggerty; Hegar; Hopson; Howard, D.; Hunter; Jackson; Luna; Mowery; Otto; Reyna; Riddle; Ritter; Solomons; Talton; Truitt; Villarreal.

Nays — Allen, A.; Anchia; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Crabb; Davis, J.; Davis, Y.; Dawson; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Hamilton; Hardcastle; Harper-Brown; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Howard, C.; Hughes; Hupp; Isett, C.N.; Jones, D.; Jones, J.; Keel; Keffer, B.; King, P.; King, T.; Kolkhorst; Kruse; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miller; Moreno, P.; Morrison; Naishtat; Noriega, R.; Oliveira; Olivo; Orr; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solis; Strama; Straus; Swinford; Taylor; Thompson; Turner; Uresti; Van Arsdale; Veasey; Vo; Wong; Woolley; Zedler.

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

Absent, Excused — Alonzo.

Absent — Chisum; Frost; Hamric; Hartnett; Keffer, J.; Menendez; Seaman; West.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 18. I intended to vote no.

Denny

When Record No. 18 was taken, I was in the house but away from my desk.
I would have voted no.

Hartnett

I was shown voting yes on Record No. 18. I intended to vote no.

Hopson

I was shown voting yes on Record No. 18. I intended to vote no.

D. Howard

I was shown voting yes on Record No. 18. I intended to vote no.

Hunter

When Record No. 18 was taken, I was in the house but away from my desk.
I would have voted no.

Menendez

I was shown voting yes on Record No. 18. I intended to vote no.

Otto

I was shown voting yes on Record No. 18. I intended to vote no.

Solomons

I was shown voting yes on Record No. 18. I intended to vote no.

Talton

Amendment No. 7, as amended, was adopted.

Amendment No. 9

Representative Anderson offered the following amendment to **CSHB 3**:

Floor Packet Page No. 24

Amend **CSHB 3** on page 15, between lines 6 and 7, by inserting the following SECTION:

SECTION 1A. (a) This section takes effect only if the constitutional amendment proposed by the 79th Legislature, 3rd Called Session, 2006, requiring that any increase in the rate of the franchise tax be approved by two-thirds of all the members elected to each house of the legislature, is approved by the voters. If that amendment is not approved by the voters, this section has no effect.

(b) Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.003 to read as follows:

Sec. 171.003. INCREASE IN RATE REQUIRES TWO-THIRDS VOTE.

(a) An increase in a rate provided by Section 171.002(a) or (b) takes effect only if the legislation proposing the increase is passed by a record vote of two-thirds of all the members elected to each house of the legislature on final consideration of that legislation in each house.

(b) This section does not apply to a decrease in a rate provided by Section 171.002(a) or (b). If a rate is decreased, this section applies to any subsequent increase in that rate.

(c) This section does not apply to any change in the tax imposed by this chapter in relation to:

(1) the manner in which the tax is computed, including the determination of margin and taxable margin and any allowable deductions or credits;

(2) the manner in which the tax is administered or enforced; or

(3) the applicability of the tax to certain entities.

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative Geren offered the following amendment to **CSHB 3**:

Floor Packet Page No. 25

Amend **CSHB 3** as follows:

On page 16, line 14, add a new subsection 171.101(a)(1)(B)(ii)(c) to read as follows:

(c) costs that are properly allocable under the Federal Acquisition Regulation (48 C.F.R. Part 1, or any successor regulation) to contracts for the sale of goods or services to the federal government;

Amendment No. 11

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

Amend Amendment No. 10 by Geren to **CSHB 3** (page 25 of the amendment packet) by striking the text of the amendment and substituting the following:

Amend **CSHB 3** as follows:

(1) On page 16, line 5, strike "and".

(2) On page 16, line 11, strike the underlined semicolon and substitute the following:

;and

(iii) subtracting costs not already subtracted under Subparagraph (ii) that are properly allocable under the Federal Acquisition Regulation (48 C.F.R. Part 1, or any successor regulation), to contracts for the sale of goods or services to the federal government;

Amendment No. 11 was adopted.

Representative Otto moved to table Amendment No. 10.

(Speaker in the chair)

A record vote was requested.

The motion to table prevailed by (Record 19): 74 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Anchia; Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Burnam; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Davis, J.; Dawson; Denny; Driver; Eissler; Elkins; Flores; Flynn; Frost; Gallego; Gattis; Gonzales; Gonzalez Toureilles; Hamric; Hegar; Hill; Hochberg; Howard, C.; Howard, D.; Isett, C.N.; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Krusee; Luna; Madden; McCall; McClendon; Miller; Morrison; Mowery; Nixon; Noriega, R.; Orr; Otto; Paxton; Pickett; Pitts; Quintanilla; Reyna; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Van Arsdale; Villarreal; Wong; Woolley.

Nays — Allen, A.; Brown, B.; Casteel; Castro; Chavez; Coleman; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Escobar; Farabee; Farrar; Geren; Giddings; Goodman; Griggs; Guillen; Haggerty; Hamilton; Hardcastle; Harper-Brown; Hernandez; Herrero; Hilderbran; Hodge; Homer; Hope; Hopson; Hughes; Hunter; Hupp; Jones, J.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Martinez; Martinez Fischer; McReynolds; Menendez; Merritt; Moreno, P.; Naishtat; Olivo; Peña; Phillips; Puente; Raymond; Riddle; Rose; Solis; Thompson; Truitt; Turner; Uresti; Veasey; Vo; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Bailey; Crownover; Goolsby; Grusendorf; Hartnett; Oliveira; Rodriguez; West.

STATEMENTS OF VOTE

When Record No. 19 was taken, I was in the house but away from my desk. I would have voted yes.

Hartnett

I was shown voting yes on Record No. 19. I intended to vote no.

T. Smith

Amendment No. 12

Representative R. Noriega offered the following amendment to **CSHB 3**:
Floor Packet Page No. 26

Amend **CSHB 3** by striking Section 171.101(a)(1)(B), Tax Code (page 16, lines 3-14), and substituting a new Section 171.101(a)(1)(B), Tax Code, to read as follows:

(B) an amount computed by:

(i) determining the taxable entity's total revenue from its entire business, under Section 171.1011;

(ii) subtracting, at the election of the taxable entity, either:

(a) cost of goods sold, as determined under Section 171.1012; or

(b) compensation, as determined under Section 171.1013;
and

(iii) subtracting, in addition to any subtractions made under Subparagraph (ii)(a) or (b), compensation, as determined under Section 171.1013, paid to an individual during the period the individual is serving on active duty as a member of the armed forces of the United States if the individual is a resident of this state at the time the individual is ordered to active duty and the cost of training a replacement for the individual; [~~adding the corporation's stated capital, as defined by Article 1.02, Texas Business Corporation Act, and the corporation's surplus, to determine the corporation's taxable capital;~~]

Amendment No. 12 was adopted.

Amendment No. 13

Representative Bonnen offered the following amendment to **CSHB 3**:

Floor Packet Page No. 29

Amend **CSHB 3** as follows:

(1) On page 16, line 5, strike "and".

(2) On page 16, line 11, strike ";" and substitute the following:

; and

(iii) subtracting \$400,000 if the amount of the taxable entity's gross receipts from its entire business under Section 171.105 is less than \$15 million;

Amendment No. 14

Representatives Bonnen, Keel, and Smithee offered the following amendment to Amendment No. 13:

Amend Amendment No. 13 by Bonnen to **CSHB 3** (page 29 of the amendment packet) on page 1, line 6, by striking "\$400,000" and substituting "\$1 million".

Amendment No. 14 was adopted.

Amendment No. 13, as amended, was withdrawn.

Amendment No. 15

Representative Grusendorf offered the following amendment to **CSHB 3**:

Floor Packet Page No. 30

Amend **CSHB 3** on page ____, line ____ by adding a new subsection (g)(4) to Section 171.1011 to read:

(4) pass through revenue from commercial tenants, collected to cover ad valorem taxes and other expenses not included in the base long-term lease rate. This applies to those leases negotiated before the effective date of this bill.

Representative Otto moved to table Amendment No. 15.

A record vote was requested.

The motion to table was lost by (Record 20): 51 Yeas, 95 Nays, 1 Present, not voting.

Yeas — Bailey; Bohac; Callegari; Campbell; Chisum; Cook, R.; Corte, V.; Crownover; Davis, J.; Denny; Driver; England; Flores; Frost; Gattis; Goolsby; Haggerty; Hamric; Hardcastle; Hartnett; Hegar; Hill; Hochberg; Homer; Hope; Hopson; Howard, D.; Isett, C.N.; Keffer, J.; King, P.; Krusee; Luna; Madden; McCall; McClendon; Miller; Moreno, P.; Morrison; Nixon; Oliveira; Otto; Riddle; Ritter; Smith, T.; Smith, W.; Solomons; Swinford; Truitt; Van Arsdale; Villarreal; Wong.

Nays — Allen, A.; Anchia; Anderson; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Casteel; Castro; Chavez; Coleman; Cook, B.; Crabb; Davis, Y.; Dawson; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Griggs; Grusendorf; Guillen; Hamilton; Harper-Brown; Hernandez; Herrero; Hilderbran; Hodge; Howard, C.; Hughes; Hunter; Hupp; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Martinez; Martinez Fischer; McReynolds; Menendez; Merritt; Mowery; Naishtat; Noriega, R.; Olivo; Orr; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Raymond; Reyna; Rodriguez; Rose; Seaman; Smithee; Solis; Strama; Straus; Talton; Taylor; Thompson; Turner; Uresti; Veasey; Vo; West; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Gallego; Quintanilla.

STATEMENT OF VOTE

When Record No. 20 was taken, my vote failed to register. I would have voted no.

Gallego

A record vote was requested.

Amendment No. 15 failed of adoption by (Record 21): 71 Yeas, 75 Nays, 1 Present, not voting.

Yeas — Allen, A.; Berman; Blake; Branch; Brown, B.; Casteel; Coleman; Corte, V.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Gallego; Goodman; Grusendorf; Guillen; Harper-Brown; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Hughes; Hunter; Hupp; Jones, J.; Keffer, B.; King, T.;

Kuempel; Laney; Laubenberg; Leibowitz; Martinez; McClendon; Menendez; Merritt; Moreno, P.; Mowery; Naishtat; Orr; Paxton; Peña; Phillips; Pickett; Puente; Raymond; Reyna; Riddle; Rose; Smithee; Solis; Solomons; Talton; Taylor; Thompson; Turner; Uresti; Veasey; Vo; Zedler.

Nays — Anchia; Anderson; Bailey; Bohac; Bonnen; Brown, F.; Burnam; Callegari; Campbell; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Dawson; Denny; Driver; England; Flores; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Griggs; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Hill; Homer; Hope; Howard, D.; Isett, C.N.; Jackson; Jones, D.; Keel; Keffer, J.; King, P.; Kolkhorst; Krusee; Luna; Madden; Martinez Fischer; McCall; McReynolds; Miller; Morrison; Nixon; Noriega, R.; Oliveira; Olivo; Otto; Pitts; Ritter; Rodriguez; Seaman; Smith, T.; Smith, W.; Strama; Straus; Swinford; Truitt; Van Arsdale; Villarreal; West; Wong; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Davis, Y.; Quintanilla.

STATEMENT OF VOTE

When Record No. 21 was taken, I was in the house but away from my desk. I would have voted no.

Y. Davis

Amendment No. 16

Representative Rodriguez offered the following amendment to **CSHB 3**:

Floor Packet Page No. 31

Amend **CSHB 3** as follows:

(1) On page 22, line 22, strike "and".

(2) On page 22, line 25, strike the underlined period and substitute the following:

;

(3) all revenue received by the taxable entity for the provision of legal services in accordance with an appointment by a state or federal court; and

(4) the actual cost to the attorney of providing pro bono legal services to a person, but only if the attorney maintains records of the pro bono services for auditing purposes and, if the attorney later receives payment for all or part of those services, the attorney adjusts the amount excluded for the tax year in which the payment is received.

(3) On page 26, between lines 19 and 20, insert the following:

(4-a) "Pro bono services" means the direct provision of legal services to the poor, without an expectation of compensation.

Amendment No. 17

Representative Rodriguez offered the following amendment to Amendment No. 16:

Amend Amendment No. 16 by Rodriguez to **CSHB 3** (page 31 of the amendment packet) as follows:

(1) On page 1, line 8 of the amendment, strike "and".

(2) On page 1, line 14 of the amendment, strike the underlined period and substitute the following:

; and

(5) the total amount of payments received for:

(A) professional services for which the taxable entity receives reimbursement from a nonprofit legal aid organization or a federal, state, or local governmental entity for legal services provided to the poor; and

(B) professional services provided in relation to a state workers' compensation claim under Title 5, Labor Code.

Amendment No. 17 was withdrawn.

Amendment No. 16 was withdrawn.

Amendment No. 18

Representative Menendez offered the following amendment to **CSHB 3**:
Floor Packet Page No. 33

Amend **CSHB 3** by adding the following on page 23 between lines 14 and 15:

(k-1) A taxable entity shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), all rents and other fees collected from rental property if:

(1) the taxable entity is the owner of the rental property;

(2) the rental property is financed under the federal low income housing tax credit program under Subchapter DD, Chapter 2306, Government Code; and

(3) the rents and other fees are paid by a low-income or moderate-income individual or family that meets the eligibility requirements of the low income housing tax credit program.

Representative Villarreal moved to table Amendment No. 18.

A record vote was requested.

The motion to table prevailed by (Record 22): 98 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; England; Farabee; Flynn; Frost; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard, D.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.;

Kolkhorst; Krusee; Kuempel; Laubenberg; Luna; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bailey; Burnam; Casteel; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hernandez; Herrero; Hochberg; Hodge; Howard, C.; Jones, J.; Laney; Leibowitz; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Naishtat; Noriega, R.; Olivo; Peña; Puente; Quintanilla; Raymond; Rodriguez; Solis; Thompson; Turner; Uresti; Veasey.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Moreno, P.

Amendment No. 19

Representative Hill offered the following amendment to **CSHB 3**:

Floor Packet Page No. 35

Amend **CSHB 3** as follows:

On page 23:

Line 26, strike "or"

Line 27, after "distributes" insert ", or acts as an independent agent for the distribution of"

Amendment No. 19 was adopted.

Amendment No. 20

Representative Otto offered the following amendment to **CSHB 3**:

Floor Packet Page No. 36

Amend **CSHB 3** as follows:

On page 3 add a New Section (11) to Section 171.001, Subchapter A of the bill to read as follows and renumber accordingly:

(11) "Management company" means a corporation, limited liability company, or other limited liability entity that conducts all or part of the active trade or business of another entity (the "managed entity") in exchange for:

(A) a management fee, and

(B) reimbursement of specified costs incurred in the conduct of the active trade or business of the managed entity including "wages and cash compensation" as determined under Sec. 171.1013(a) and (b).

On page 24 Add a new Section (n) to Sec. 171.1011 to read as follows and renumber accordingly:

(m) A taxable entity that is a management company shall exclude from its total revenue reimbursements of specified costs incurred in its conduct of the active trade or business of a managed entity including "wages and cash compensation" as determined under Sec. 171.1013(a) and (b).

On page 36 Add a new section (f) and (g) to Sec. 171.1013 to read as follows:

(f) A taxable entity that is a management company:

(1) may not include as wages or cash compensation any amounts reimbursed by a managed entity; and

(2) shall determine compensation as provided by this section for only those wage and compensation payments that are not reimbursed by a managed entity.

(g) A taxable entity that is a managed entity shall include reimbursements made to the management company for wages and compensation as if the reimbursed amounts had been paid to employees of the managed entity.

Amendment No. 20 was adopted.

Amendment No. 21

Representatives Hardcastle, Phillips, and Morrison offered the following amendment to **CSHB 3**:

Floor Packet Page No. 37

CSHB 3 is amended by adding the following language on line 15, page 24 of the bill between the comma and "and":

Indigent Health Care and Treatment Act (Chapter 61, Health and Safety Code)

Amendment No. 21 was adopted.

Amendment No. 22

Representative Solomons offered the following amendment to **CSHB 3**:

Floor Packet Page No. 38

Amend **CSHB 3** as follows:

Strike Sections 171.1011(n) and (o), Tax Code, as added by SECTION 3 of the bill (pages 23–24), and substitute new Subsections (n), (n-1), and (o) to read as follows:

(n) Except as provided by Subsection (o), a taxable entity that is a health care provider shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3):

(1) 150 percent of the total amount of payments, from whatever source derived, the health care provider received under the Medicaid program and Children's Health Insurance Program (CHIP);

(2) 100 percent of the total amount of payments, from whatever source derived, the health care provider received:

(A) under the Medicare program;

(B) for services provided in relation to a workers' compensation claim under Title 5, Labor Code; and

(C) for services provided to a beneficiary rendered under the TRICARE military health system; and

(3) 100 percent of the actual cost to the health care provider for any uncompensated care provided, but only if the provider maintains records of the uncompensated care for auditing purposes and, if the provider later receives payment for all or part of that care, the provider adjusts the amount excluded for the tax year in which the payment is received.

(n-1) The comptroller shall adopt rules governing:

(1) the computation of the actual cost to a health care provider of any uncompensated care provided under Subsection (n)(3); and

(2) the accounting, audit, and other requirements related to the computation of those costs.

(o) A health care provider that is a health care institution shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3):

(1) 75 percent of the total amount of payments described by Subsection (n)(1); and

(2) 50 percent of the total amounts of payments described by Subsection (n)(2) and of the costs described by Subsection (n)(3).

Amendment No. 22 was withdrawn.

Amendment No. 23

Representative McReynolds offered the following amendment to **CSHB 3**:
Floor Packet Page No. 41

Amend **CSHB 3**, subsection 171.1011(p)(2) by inserting a new subdivision (I) to read as follows and relettering the remaining subdivisions as needed:

(I) a birthing center;.

Amendment No. 23 was adopted.

Amendment No. 24

Representative Hupp offered the following amendment to **CSHB 3**:
Floor Packet Page No. 42

Amend **CSHB 3** as follows:

(1) On page 27, between lines 17 and 18, insert the following:

(q) A taxable entity shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), all revenue received that is directly derived from the operation of a facility that is:

(1) located on property owned or leased by the federal government; and
(2) managed or operated primarily for the benefit of members of the armed forces of the United States.

(2) Strike page 32, lines 2 and 3, and substitute the following:
legal fees associated with settling strikes;

(12) officers' compensation; and

(13) costs of operation of a facility that is:

(A) located on property owned or leased by the federal government; and

(B) managed or operated primarily for the benefit of members of the armed forces of the United States.

(3) On page 36, between lines 16 and 17, insert the following:

(f) Subject to Section 171.1014, a taxable entity that elects to subtract compensation for the purpose of computing its taxable margin under Section 171.101 may not include as wages or cash compensation amounts paid to an employee whose primary employment is directly associated with the operation of a facility that is:

(1) located on property owned or leased by the federal government; and

(2) managed or operated primarily for the benefit of members of the armed forces of the United States.

Amendment No. 24 was withdrawn.

Amendment No. 25

Representative Seaman offered the following amendment to **CSHB 3**:

Floor Packet Page No. 45

Amend **CSHB 3** as follows:

(1) On page 27, line 21, between "sold" and "in", insert "or rented".

(2) On page 27, line 23, between "manufacture," and "development,", insert "management of goods for rental to third parties,".

Amendment No. 25 was withdrawn.

Amendment No. 26

Representative Rodriguez offered the following amendment to **CSHB 3**:

Floor Packet Page No. 48

Amend **CSHB 3** on page 29 by striking lines 17-19 and relettering the remaining Subdivisions in proposed Section 171.1012(c) accordingly.

Amendment No. 26 was withdrawn.

Amendment No. 27

Representative F. Brown offered the following amendment to **CSHB 3**:

Floor Packet Page No. 49

Amend **CSHB 3** in Section 171.1012, Tax Code, as added by SECTION 3 of the bill (page 31) by adding a new Subsection (c-1) to read as follows:

(c-1) Notwithstanding any other provision of this section, a taxable entity that is primarily engaged in retail trade may subtract as a cost of goods sold labor charges for the repair of:

(1) products held for resale; and

(2) products brought to the taxable entity for repair.

Representative Otto moved to table Amendment No. 27.

A record vote was requested.

The motion to table prevailed by (Record 23): 90 Yeas, 53 Nays, 1 Present, not voting.

Yeas — Allen, A.; Anderson; Bailey; Blake; Bohac; Bonnen; Branch; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte, V.; Crownover; Dawson; Delisi; Denny; Deshotel; Driver; Dutton; Edwards; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flynn; Frost; Gattis; Geren; Goodman; Goolsby; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Hernandez; Herrero; Hill; Homer; Hope; Hopson; Howard, C.; Howard, D.; Isett, C.N.; Jackson; Keel; Keffer, J.; King, P.; Kolkhorst; Krusee; Leibowitz; Luna; Madden; McReynolds; Merritt; Moreno, P.; Morrison; Mowery; Nixon; Orr; Otto; Pitts; Puente; Quintanilla; Reyna; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Anchia; Berman; Brown, B.; Brown, F.; Burnam; Casteel; Castro; Chavez; Coleman; Crabb; Davis, Y.; Dukes; Dunnam; Eiland; Flores; Gonzales; Gonzalez Toureilles; Griggs; Guillen; Harper-Brown; Hilderbran; Hochberg; Hodge; Hughes; Hunter; Jones, D.; Jones, J.; Keffer, B.; King, T.; Kuempel; Laney; Laubenberg; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Miller; Noriega, R.; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Raymond; Riddle; Ritter; Rodriguez; Solis; Straus; Talton; Veasey.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Davis, J.; Gallego; Giddings; Hupp; Naishtat.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 23. I intended to vote no.

Callegari

I was shown voting yes on Record No. 23. I intended to vote no.

Deshotel

When Record No. 23 was taken, my vote failed to register. I would have voted no.

Gallego

When Record No. 23 was taken, I was in the house but away from my desk. I would have voted no.

Naishtat

Amendment No. 28

Representative Eissler offered the following amendment to **CSHB 3**:
Floor Packet Page No. 51

Amend **CSHB 3** Section 171.1012, by replacing Subsection (d)(9) to read as follows:

(9) the costs of quality control, including replacement of defective components pursuant to standard warranty policies, and inspection directly allocable to the production of the goods; and

Amendment No. 29

Representative Strama offered the following amendment to Amendment No. 28:

Amend the Eissler Amendment (page 51, Amendment Package) to **CSHB 3** by substituting the following for the amendment:

Amend **CSHB 3** as follows:

(1) On page 30, strike lines 24-25 and substitute:

(9) the costs of quality control, including replacement of defective components pursuant to standard warranty policies, inspection directly allocable to the production of the goods, and repairs and maintenance of goods; and

(2) On page 29, strike lines 14-16, and substitute:

(9) costs attributable to research, experimental, engineering, and design activities directly related to the production of the goods, including all research or experimental expenditures described by Section 174, Internal Revenue Code;

Amendment No. 29 was adopted.

Amendment No. 28, as amended, was adopted.

Amendment No. 30

Representative Rodriguez offered the following amendment to **CSHB 3**:
Floor Packet Page No. 54

Amend **CSHB 3** as follows:

(1) On page 32, line 2, strike "and";

(2) On page 32, line 3, strike the period and substitute "; and";

(3) On page 32, between lines 3 and 4, insert:

"(13) production taxes imposed by Chapter 202, Tax Code, if, for any tax year, the average daily futures price for West Texas intermediate crude oil is at or above \$45 per barrel on three or more consecutive days"

Representative J. Keffer moved to table Amendment No. 30.

A record vote was requested.

The motion to table prevailed by (Record 24): 106 Yeas, 39 Nays, 2 Present, not voting.

Yeas — Anchia; Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Eiland; Eissler; Elkins; England; Farabee; Flores; Flynn; Frost; Gallego; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; McCall; Merritt; Miller;

Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Peña; Pickett; Pitts; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; West; Woolley; Zedler.

Nays — Allen, A.; Bailey; Burnam; Castro; Chavez; Coleman; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Escobar; Farrar; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hernandez; Herrero; Hochberg; Hodge; Jones, J.; Leibowitz; Martinez; Martinez Fischer; McClendon; Menendez; Moreno, P.; Naishtat; Noriega, R.; Olivo; Puente; Rodriguez; Solis; Thompson; Turner; Uresti; Veasey; Vo.

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

Absent, Excused — Alonzo.

Absent — Phillips; Wong.

STATEMENTS OF VOTE

I was shown voting no on Record No. 24. I intended to vote yes.

Gonzalez Toureilles

I was shown voting no on Record No. 24. I intended to vote yes.

Vo

Amendment No. 31

Representative Gallego offered the following amendment to **CSHB 3**:

Floor Packet Page No. 55

Amend **CSHB 3** as follows:

- (1) On page 32, line 2, strike "and";
- (2) On page 32, line 3, strike the period and substitute "; and";
- (3) On page 32, between lines 3 and 4, insert:

"(13) labor costs, costs of materials, and any other costs expended in the development, construction, operation, or maintenance of a pipeline to transfer water between basins"

Representative Puente moved to table Amendment No. 31.

A record vote was requested.

The motion to table prevailed by (Record 25): 88 Yeas, 55 Nays, 1 Present, not voting.

Yeas — Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte, V.; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Dukes; Eiland; Eissler; Elkins; England; Farabee; Flores; Flynn; Frost; Gattis; Geren; Giddings; Goolsby; Griggs; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hill; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hughes; Hupp; Jackson; Keel; Keffer, B.; Keffer, J.; Krusee; Laubenberg; Luna; Madden; McCall; McClendon; Merritt; Miller; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pickett; Pitts;

Puente; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Talton; Taylor; Truitt; Turner; Van Arsdale; Villarreal; West; Woolley; Zedler.

Nays — Allen, A.; Anchia; Burnam; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Escobar; Farrar; Gallego; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Haggerty; Hamilton; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hunter; Isett, C.N.; Jones, D.; Jones, J.; Kolkhorst; Kuempel; Laney; Leibowitz; Martinez; Martinez Fischer; McReynolds; Menendez; Moreno, P.; Morrison; Naishtat; Noriega, R.; Oliveira; Olivo; Peña; Quintanilla; Raymond; Ritter; Rodriguez; Solis; Swinford; Thompson; Uresti; Veasey; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Crabb; Grusendorf; King, P.; King, T.; Wong.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 25. I intended to vote no.

Hegar

I was shown voting yes on Record No. 25. I intended to vote no.

Smithee

Amendment No. 32

Representative Anchia offered the following amendment to **CSHB 3**:

Floor Packet Page No. 56

Amend **CSHB 3** as follows:

- (1) On page 32, line 2, strike "and";
- (2) On page 32, line 3, strike the period and substitute "; and";
- (3) On page 32, between lines 3 and 4, insert:

"(13) any compensation paid to an illegal undocumented worker used for the production of goods. As used in this subdivision:

(i) "illegal undocumented worker" means a person who is not lawfully entitled to be present and employed in the United States;

(ii) "goods" includes the husbandry of animals, the growing and harvesting of crops, and the severance of timber from realty"

- (4) On page 35, between lines 25 and 26, insert:

"(d) Subject to Section 171.1014, a taxable entity that elects to subtract compensation for the purpose of computing its taxable margin under Section 171.101 may not subtract any wages or cash compensation paid to an illegal undocumented worker. As used in this section "illegal undocumented worker" means a person who is not lawfully entitled to be present and employed in the United States."

- (5) Reletter remaining subsections accordingly.

Amendment No. 33

Representative Anchia offered the following amendment to Amendment No. 32:

Amend the Anchia amendment to **CSHB 3** (page 56 of the Amendment Packet) as follows:

- (1) On line 6, strike "illegal".
- (2) On line 9, strike "illegal".
- (3) On line 15, strike "25 and 26" and substitute "24 and 25".
- (4) On line 16, strike "(d)" and substitute "(c-1)".
- (5) On line 19, strike "illegal".
- (6) On line 20, strike "illegal".
- (7) Between lines 22 and 23, insert:

(4-A) On page 86, between lines 10 and 11, insert:

SECTION 16A. The comptroller shall adopt rules to implement the legislative intent in Sections 171.1012(e)(13) and 171.1013(c-1), Tax Code.

(Hegar in the chair)

Amendment No. 33 was adopted.

A record vote was requested.

Amendment No. 32, as amended, was adopted by (Record 26): 141 Yeas, 1 Nays, 3 Present, not voting.

Yeas — Allen, A.; Anchia; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, R.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Guillen.

Present, not voting — Mr. Speaker; Hegar(C); Martinez Fischer.

Absent, Excused — Alonzo.

Absent — Haggerty; Hamilton; King, T.; Reyna.

STATEMENTS OF VOTE

I was shown voting no on Record No. 26. I intended to vote yes.

Guillen

I was shown voting present, not voting on Record No. 26. I intended to vote yes.

Martinez Fischer

Amendment No. 34

Representative Rose offered the following amendment to **CSHB 3**:

Floor Packet Page No. 57

Amend **CSHB 3** on page 32, between lines 3 and 4, by inserting the following:

(e-1) Notwithstanding any other provision of this section, a taxable entity may subtract as a cost of goods sold outbound transportation costs relating to goods manufactured by the taxable entity if:

(1) the transportation costs are included in:

(A) a contract entered into on or before June 1, 2006, if the contract is not subject to change or modification because of the revision of this chapter made by **HB 3**, Acts of the 79th Legislature, 3rd Called Session, 2006; or

(B) a bid submitted on or before June 1, 2006, if the bid may not be withdrawn, modified, or changed because of the revision of this chapter made by **HB 3**, Acts of the 79th Legislature, 3rd Called Session, 2006; and

(2) notice of the contract or bid on which the exemption is claimed is given by the taxable entity to the comptroller not later than October 1, 2006.

Amendment No. 35

Representative Rose offered the following amendment to Amendment No. 34:

Amend Amendment No. 34 by Rose (page 58 of the amendment packet) as follows:

(1) On page 1, line 15 of the amendment, strike "and".

(2) On page 1, line 18, strike the underlined period and substitute the following:
; and

(3) the costs are incurred on or before December 31, 2009.

Amendment No. 35 was adopted.

Representative Otto moved to table Amendment No. 34.

A record vote was requested.

The motion to table prevailed by (Record 27): 113 Yeas, 28 Nays, 3 Present, not voting.

Yeas — Allen, A.; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Burnam; Callegari; Campbell; Chisum; Coleman; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Geren; Giddings; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hernandez; Herrero; Hill; Hodge; Homer; Hope; Howard, D.; Hupp; Isett, C.N.; Jackson; Jones, D.; Jones, J.; Keel; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; Merritt; Miller; Mowery; Naishtat; Nixon; Noriega, R.; Olivo; Orr; Otto; Pickett; Pitts; Puente; Reyna; Riddle; Rodriguez; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Anchia; Brown, B.; Casteel; Castro; Chavez; Gallego; Gattis; Gonzales; Guillen; Harper-Brown; Hochberg; Hopson; Howard, C.; Hughes; Hunter; Keffer, B.; Laney; Laubenberg; McReynolds; Morrison; Oliveira; Paxton; Peña; Phillips; Raymond; Ritter; Rose; Talton.

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

Absent, Excused — Alonzo.

Absent — Hamilton; Hilderbran; Menendez; Moreno, P.; Quintanilla.

STATEMENTS OF VOTE

When Record No. 27 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

When Record No. 27 was taken, my vote failed to register. I would have voted no.

Menendez

Amendment No. 36

Representative Hardcastle offered the following amendment to **CSHB 3**:

Floor Packet Page No. 60

Amend **CSHB 3** as follows:

On page 33, line 6, strike "or" and insert the following after "repair"

"or industrial maintenance (as the term "maintenance" is defined in 34 TAC §3.357,"

Amendment No. 36 was adopted. (Hartnett recorded voting no.)

Amendment No. 37

Representatives Grusendorf, Chisum, and Hilderbran offered the following amendment to **CSHB 3**:

Floor Packet Page No. 61

Amend **CSHB 3** on page 33, between lines 26 and 27, by inserting a new Section 171.1012(k-1) to read as follows:

(k-1) Notwithstanding any other provision of this section, the following taxable entities may subtract as a cost of goods sold the costs, including acquisition costs, otherwise allowed by this section in relation to tangible personal property that the entity rents or leases in the ordinary course of business of the entity:

(1) a motor vehicle rental or leasing company that remits a tax on gross receipts imposed under Section 152.026;

(2) a heavy construction equipment rental or leasing company; and

(3) a railcar rolling stock rental or leasing company.

Amendment No. 38

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

Amend the Grusendorf/Chisum amendment to **CSHB 3**, in the first sentence of proposed Section 171.1012(k-1), line 5, by striking ", including acquisition costs,."

Amendment No. 38 was adopted.

Representative Otto moved to table Amendment No. 37.

A record vote was requested.

(Speaker in the chair)

The motion to table was lost by (Record 28): 46 Yeas, 98 Nays, 1 Present, not voting.

Yeas — Anderson; Bailey; Bohac; Brown, B.; Brown, F.; Callegari; Cook, B.; Crownover; Dawson; Denny; Driver; Eissler; England; Frost; Gattis; Hamric; Hartnett; Hegar; Hill; Hochberg; Hope; Hupp; Jones, D.; Keel; Keffer, J.; King, P.; Krusee; Luna; McClendon; Miller; Morrison; Mowery; Nixon; Oliveira; Otto; Reyna; Seaman; Smith, T.; Smith, W.; Swinford; Taylor; Thompson; Van Arsdale; West; Wong; Woolley.

Nays — Allen, A.; Anchia; Berman; Blake; Bonnen; Burnam; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte, V.; Crabb; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hardcastle; Harper-Brown; Hernandez; Herrero; Hilderbran; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones, J.; Keffer, B.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Naishtat; Noriega, R.; Olivo; Orr; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smithee; Solis; Solomons; Strama; Straus; Talton; Truitt; Turner; Uresti; Veasey; Vo; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Branch; Isett, C.N.; Moreno, P.; Villarreal.

STATEMENT OF VOTE

I was shown voting yes on Record No. 28. I intended to vote no.

England

A record vote was requested.

Amendment No. 37, as amended, was adopted by (Record 29): 119 Yeas, 21 Nays, 1 Present, not voting.

Yeas — Allen, A.; Anchia; Anderson; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte, V.; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hope; Hopson; Howard, C.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, D.; Jones, J.; Keffer, B.; King, T.; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Mowery; Naishtat; Noriega, R.; Olivo; Orr; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Solis; Solomons; Straus; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Vo; Zedler.

Nays — Frost; Gattis; Hartnett; Hill; Howard, D.; Keffer, J.; King, P.; Kolkhorst; Krusee; Luna; Morrison; Nixon; Oliveira; Otto; Smith, T.; Smith, W.; Smithee; Swinford; West; Wong; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Bailey; Bonnen; Crabb; Keel; Martinez; Moreno, P.; Strama; Villarreal.

STATEMENTS OF VOTE

When Record No. 29 was taken, I was in the house but away from my desk. I would have voted no.

Keel

When Record No. 29 was taken, I was in the house but away from my desk. I would have voted yes.

Strama

Amendment No. 39

Representative Crossover offered the following amendment to **CSHB 3**:
Floor Packet Page No. 62

Amend **CSHB 3** (House Committee Report) on page 35, line 16, by striking "health care," and substituting "health care, employer contributions made to employees' health savings accounts,".

Amendment No. 39 was adopted.

Amendment No. 40

Representative Castro offered the following amendment to **CSHB 3**:
Floor Packet Page No. 63

Amend **CSHB 3** as follows:

(1) On page 35, between lines 24 and 25, insert the following:

"(d) Notwithstanding the actual amount of wages and cash compensation paid by a taxable entity to its officers, directors, owners, partners, and employees, a taxable entity employing more than 100,000 persons in Texas may not include:

(1) 50 percent of the amount paid by a taxable ent in wages and cash compensation to any employee of taxable entity if the employee or a member of the employee's family receives assistance under the Medicaid program; and

(2) 25 percent of the amount paid in wages and cash compensation to any employee of the taxable entity if the employee or a member of the employee's family receives assistance under the Children's Health Insurance Program."

Amendment No. 41

Representative Castro offered the following amendment to Amendment No. 40:

Amend Amendment No. 40 by Castro to **CSHB 3** (page 63 of the amendment packet) by striking the text of the amendment and substituting the following:

Amend **CSHB 3** as follows:

(1) On page 76, between lines 1 and 2, insert the following:

Sec. 171.2035. ADDITIONAL PUBLIC INFORMATION REPORT. (a) A taxable entity that has more than 100,000 employees in this state shall file a report with the comptroller stating the number of the taxable entity's employees in this state that receive assistance for that employee or the employee's family under the Children's Health Insurance Program (CHIP) or the Medicaid program.

(b) A taxable entity described by Subsection (a) shall file the report once a year on a form prescribed by the comptroller.

(2) On page 77, line 20, strike "Section 171.203" and substitute "Section 171.203 or 171.2035".

Amendment No. 41 was adopted.

Amendment No. 40, as amended, was adopted.

Amendment No. 42

Representative Phillips offered the following amendment to **CSHB 3**:

Floor Packet Page No. 66

Amend proposed **CSHB 3**, on page 38, between lines 21 and 22, by inserting a new Section 171.1015, Tax Code, to read as follows:

Sec. 171.1015. REPORTING FOR CERTAIN PARTNERSHIPS IN TIERED PARTNERSHIP ARRANGEMENT. (a) In this section, "tiered partnership arrangement" means an ownership structure in which all of the interests in one partnership, trust, limited liability company that is treated for federal income taxes as a partnership or a limited liability company treated as an S corporation for federal income tax purposes (an "upper tier partnership") are owned by one or more other taxable entities (a "lower tier entity"). A tiered partnership arrangement may have two or more tiers.

(b) In addition to the tax it is required to pay under this chapter on its own taxable margin, a taxable entity that is a lower tier entity may pay the tax on the taxable margin of a higher tier partnership if the higher tier partnership submits a report to the comptroller showing the amount of taxable margin that each lower tier entity that owns it should include within the lower tier entity's own taxable margin, according to the profits interest of the lower tier entity. An upper tier partnership is not required to pay tax under this chapter on any taxable margin reported under this section.

(c) This section does not apply to that percentage of the taxable margin attributable to a lower tier entity by a upper tier partnership if the lower tier entity is not subject to the tax under this chapter. In this case, the higher tier partnership is liable for the tax on its taxable margin.

(d) The comptroller shall adopt rules to administer this section.

Amendment No. 42 was adopted.

Amendment No. 43

Representative Swinford offered the following amendment to **CSHB 3**:

Floor Packet Page No. 69

Amend **CSHB 3**, Subchapter C, Section 171.107(c)(2), Tax Code to read as follows:

(2) provide for equal monthly amounts or conform to federal depreciation schedules;

Amendment No. 43 was adopted.

Amendment No. 44

Representative Hill offered the following amendment to **CSHB 3**:

Floor Packet Page No. 77

Amend Section 3 of **CSHB 3** beginning at line 27 on page 58 by deleting current Section 171.111 and inserting new Section 171.111, as follows:

Sec. 171.111. TEMPORARY CREDIT ON TAXABLE MARGIN. ~~[NET TAXABLE EARNED SURPLUS.]~~ (a) Not later than March 1, 2007, a taxable entity ~~[1992, a corporation]~~ may notify the comptroller in writing of its intent to preserve its right to take a credit in an amount allowed by this section on the tax due on taxable margin. The taxable entity ~~[net taxable earned surplus. The comptroller may not grant an extension. The corporation]~~ may thereafter elect to claim the credit for the current year and future year at or before the original due date of any report due after January 1, 2007, ~~[1992,]~~ until the taxable entity ~~[corporation]~~ revokes the election or this section expires, whichever is earlier. A taxable entity ~~[corporation]~~ may claim the credit for not more than 20 consecutive privilege periods beginning with the first report due under this chapter after January 1, 2007. ~~[1992.]~~ A taxable entity ~~[corporation]~~ may make only one election under this section and the election may not be conveyed, assigned, or transferred to another entity.

(b) The credit allowed under this section for any privilege period is computed by:

(1) determining the amount, as of the end of the taxable entity's accounting year ending in 2006, of the difference between (i) the taxable entity's deductible temporary differences and net operating loss carryforwards, net of related valuation allowance amounts, shown on the taxable entity's books and records on the last day of its taxable year ending in 2006, and (ii) the taxable entity's taxable temporary differences as shown on those books and records on that date. The amount of other net deferred tax items may be less than zero. For the purposes of computing the amount of the taxable entity's other net deferred tax items, any credit carryforward allowed under Chapter, 171, Tax Code shall be excluded from the amount of deductible temporary differences to the extent such credit carryforward amount, net of any related valuation allowance amount, is otherwise included in the taxable entity's deductible temporary differences, net of related valuation allowance amounts, shown on the taxable entity's books and records on the last day of the entity's taxable year ending in 2006;

~~[(1) determining the amount, as of the end of the corporation's accounting year ending in 1991, that is the difference between the basis used for financial accounting purposes and the basis used for federal income tax purposes of an asset or a liability that at some future date will reverse;]~~

(2) apportioning the amount determined under Subdivision (1) to this state in the same manner taxable margin ~~[earned surplus]~~ is apportioned under Section 171.106, ~~[171.106(b) or (e), as applicable,]~~ on the first report due on or after January 1, 2007; ~~and [1992;]~~

(3) multiplying the amount determined under Subdivision (2) by the tax rate prescribed by Section 171.002(a)(2). ~~[by five percent; and]~~

~~[(4) multiplying the amount determined under Subdivision (3) by the tax rate prescribed by Section 171.002(a)(2).]~~

~~[(e) In computing the amount under Subsection (b)(1), the corporation may not consider differences that result from deferred investment tax credits, allowances for funds used during construction, or any other timing difference for which a deferred tax liability is not required under generally accepted accounting principles.]~~

~~[(d) After making the election under Subsection (a) the corporation must, for purposes of computing its taxable capital under this chapter, use the same accounting methods under generally accepted accounting principles to account for the assets and liabilities that determine the amount of the credit that the corporation uses to compute the credit. Notwithstanding Section 171.109(e), if a corporation changes an accounting method for an asset or liability that determines, in whole or in part, the amount of the credit during the period the election is in effect, the election is automatically revoked.]~~

~~(c) [(e)] A taxable entity [~~corporation~~] that notifies the comptroller of its intent to preserve its right to take a credit allowed by this section shall submit with its notice of intent a statement of the amount determined under Subsection (b)(1). The comptroller may request that the taxable entity [~~corporation~~] submit in the annual report for each succeeding privilege period in which the taxable entity [~~corporation~~] is eligible to take a credit information relating to the amount determined under Subsection (b)(1). The taxable entity [~~corporation~~] shall submit in the form and content the comptroller requires any information relating to the assets and liabilities that determine the amount of the credit, the amount determined under Subsection (b)(1), or any other matter relevant to the computation of the credit for which the taxable entity [~~corporation~~] is eligible.~~

~~[(f) A credit allowed under this section may not be carried forward or backward or used to create a business loss carryover under Section 171.110.]~~

~~[(g) A corporation may not use a credit allowed under this section in connection with the computation of the corporation's tax on net taxable capital.]~~

~~[(h) In addition to the tax imposed by Section 171.002, an additional tax is imposed on each corporation during each year the corporation takes the credit allowed under this section. The additional tax is equal to 0.2 percent of the corporation's net taxable capital per year of privilege period.]~~

~~(d) [(f)] This section expires September 1, 2026. [~~2012~~.]~~

Amendment No. 45

Representative Hill offered the following amendment to Amendment No. 44:

Amend Floor Amendment No. 44 by Hill to **CSHB 3** by striking lines 1 and 2 of the amendment and substituting the following:

"Amend Section 3 of **CSHB 3** beginning at line 3 on page 60 by deleting current Section 171.111 and inserting new Section 171.111, as follows:"

Amendment No. 45 was adopted.

Amendment No. 46

Representative Hill offered the following amendment to Amendment No. 44:

Amend Section 171.111(b)(3), as amended by Floor Amendment No. ____, by amending 171.111(b)(3) at line 32, page 1, and adding 171.111(b)(4), to read as follows:

(3) multiplying the amount determined under Subdivision (2) by ten percent; and [by the tax rate prescribed by Section 171.002(a)(2).]

(4) multiplying the amount determined under Subdivision (3) by the tax rate prescribed by Section 171.002(a)(2).

Amendment No. 46 was adopted.

Amendment No. 47

Representative Chisum offered the following amendment to Amendment No. 44:

Amend the Hill Amendment to **CSHB 3** (page 77 of the Amendment Packet) on page 2, between lines 21 and 22 by inserting:

(d) A credit that a taxable entity is entitled to under this section does not convey, and may not be assigned or transferred, in relation to a transaction in which the taxable entity is purchased by another entity.

Amendment No. 47 was adopted.

Representative Otto moved to table Amendment No. 44.

A record vote was requested.

The motion to table was lost by (Record 30): 19 Yeas, 124 Nays, 2 Present, not voting.

Yeas — Bailey; Berman; Campbell; Crabb; Eissler; Gattis; Grusendorf; Hartnett; Howard, D.; Isett, C.N.; Jackson; Keffer, J.; King, P.; Luna; Nixon; Orr; Otto; Villarreal; Wong.

Nays — Allen, A.; Anchia; Anderson; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Casteel; Castro; Coleman; Cook, B.; Cook, R.; Corte, V.; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard, C.; Hughes; Hunter; Hupp; Jones, D.; Jones, J.; Keel; Keffer, B.; King, T.; Krusee; Kuempel; Laney; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Noriega, R.; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Vo; West; Woolley; Zedler.

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

Absent, Excused — Alonzo.

Absent — Blake; Chavez; Chisum; Laubenberg.

STATEMENT OF VOTE

When Record No. 30 was taken, I was in the house but away from my desk. I would have voted no.

Blake

A record vote was requested.

Amendment No. 44, as amended, was adopted by (Record 31): 137 Yeas, 4 Nays, 3 Present, not voting.

Yeas — Allen, A.; Anchia; Anderson; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Hupp; Jones, D.; Jones, J.; Keel; Keffer, B.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, R.; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Elkins; Hartnett; Isett, C.N.; Jackson.

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

Absent, Excused — Alonzo.

Absent — Blake; Casteel; Chisum; Keffer, J.; Otto.

STATEMENTS OF VOTE

When Record No. 31 was taken, I was in the house but away from my desk. I would have voted yes.

Blake

I was shown voting present, not voting on Record No. 31. I intended to vote yes.

Orr

Amendment No. 48

Representative Villarreal offered the following amendment to **CSHB 3**:

Floor Packet Page No. 80

Amend **CSHB 3** as follows:

(1) On page 76, line 11, between "request" and the period, insert "that is necessary to make a determination under this subsection".

(2) On page 77, line 9, between "losses," and "or", insert "cost of goods sold, compensation,".

(3) On page 77, line 26, between "expenditures," and "or", insert "cost of goods sold, compensation,".

Amendment No. 48 was adopted.

Amendment No. 49

Representative Leibowitz offered the following amendment to **CSHB 3**:

Floor Packet Page No. 82

Amend **CSHB 3** by inserting the following appropriately-numbered SECTION:

"SECTION ____ . Section 171.052, Tax Code, is amended to read as follows:

Sec. 171.052. CERTAIN CORPORATIONS. (a) Except as provided by Subsection (c), an [An] insurance organization, title insurance company, or title insurance agent authorized to engage in insurance business in this state now required to pay an annual tax under Chapter 4 or 9, Insurance Code, measured by its gross premium receipts is exempted from the franchise tax. A nonadmitted insurance organization that is required to pay a gross premium receipts tax during a tax year is exempted from the franchise tax for that same tax year.

(b) Farm mutuals, local mutual aid associations, and burial associations are not subject to the franchise tax.

(c) An entity is subject to the franchise tax for a tax year in any portion of which the entity has failed to pay premium refunds to policyholders ordered by the Texas Department of Insurance."

Amendment No. 50

Representative Eiland offered the following amendment to Amendment No. 49:

Amend the Leibowitz amendment to **CSHB 3** (page 82, Amendment Packet) by striking lines 17-19 and substituting:

year in any portion of which the entity is in violation of an order issued by the Texas Department of Insurance under Section 2254.003(b), Insurance Code, that is final after appeal or that is no longer subject to appeal.

Amendment No. 50 was adopted.

Amendment No. 49, as amended, was adopted.

Amendment No. 51

Representative Coleman offered the following amendment to **CSHB 3**:

Floor Packet Page No. 83

Amend **CSHB 3** by striking SECTION 19 and substituting a new SECTION 19 to read as follows:

SECTION 19. (a) The comptroller shall require the entities specified by this section to file an information report in the manner provided by this section. The information report is confidential and exempt from disclosure under Chapter 552, Government Code.

(b) The information report required under this section must contain the same information that an entity required to file the report would have submitted in its report due to the comptroller in 2006 under Chapter 171, Tax Code, if the changes made by this Act to Chapter 171, Tax Code, had been in effect January 1, 2006. The information report shall also contain the total of maintenance and operations school property taxes paid by the entity to school districts in Texas in the 2005, 2006, and 2007 tax years. The comptroller shall provide the forms and instructions to the entities required to file a report under this section.

(c) The comptroller shall take action to revoke the charter, as that term is defined by Section 171.0001, Tax Code, as added by this Act, of an entity that does not file an information return in the manner and under the time limits provided by this section.

(d) The comptroller shall identify and require the following entities to file an information report under this section:

(1) the 1,000 entities that paid or are required to pay the most franchise tax for the annual reporting period ending December 31, 2005, under Chapter 171, Tax Code, as that chapter existed on the effective date of this section;

(2) the 1,000 entities doing business in this state that had the greatest amount of gross receipts in 2005, as determined under Sections 171.105 and 171.1051, Tax Code, as those sections existed on the effective date of this section; and

(3) the 1,000 entities doing business in this state with the greatest number of employees in this state, according to records maintained by the Texas Workforce Commission, in 2005; and

(4) the 1,000 entities doing business in this state with the greatest school maintenance-and-operations property tax levy in this state, according to records maintained or collected for this purpose by the Property Tax Division of the Office of the Comptroller, in 2005;

(e) An entity may be listed in one or more of the categories under Subsection (d) of this section. An entity that is listed more than once is required by this section to file only one information return.

(f) The comptroller:

(1) shall identify the entities described by Subsection (d) of this section;

(2) shall prepare all forms and instructions required for those entities to file their information reports as required by this section;

(3) shall provide those forms and instructions to those entities on or after November 15, 2006, but before December 2, 2006;

(4) shall require the entities to submit their information reports on or before February 15, 2007 and February 15, 2008;

(5) may not grant any extensions for filing the information reports; and

(6) shall report to the governor, the lieutenant governor, and the members of the legislature, on or before April 1, 2007 and April 1, 2008, the results of the information reports, stating the amount of revenue generated by the tax under Chapter 171, Tax Code, in each year, the amount that would have been generated from the entities submitting information reports under this section if the changes made by this Act to Chapter 171, Tax Code, had been in effect January 1, 2006, and the school maintenance and operations property taxes paid by the entities in the 2005, 2006, and 2007 tax years.

(g) The report required under Subsection (f)(6) of this section may not be formatted in a manner or include any information that discloses or effectively discloses the specific identity of a reporting entity.

(h) This section takes effect as provided by Section 23 of this Act.

Amendment No. 51 was adopted.

Amendment No. 52

Representative Swinford offered the following amendment to **CSHB 3**:

Floor Packet Page No. 87

Amend **CSHB 3** by adding the following appropriately numbered section to the bill and renumbering existing sections accordingly:

SECTION _____. (a) Section 313.007, Tax Code, is amended to read as follows:

Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire December 31, 2011 [~~2007~~].

(b) Section 313.024(a), Tax Code, is amended to read as follows:

(a) This subchapter and Subchapters C and D apply only to property owned by an entity [~~a corporation or limited liability company~~] to which Chapter 171 [~~Section 171.001~~] applies.

(c) Section 313.024(b), Tax Code, is amended to read as follows:

(b) To be eligible for a limitation on appraised value under this subchapter, the entity [~~corporation or limited liability company~~] must use the property in connection with:

- (1) manufacturing;
- (2) research and development;
- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) a gasification project for a coal and biomass mixture; or
- (5) renewable energy electric generation.

(d) Section 313.025(b), Tax Code, is amended to read as follows:

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value that is filed with the governing body under Subsection (a). If the governing body of the school district does elect to consider an application, the governing body shall request that the Texas Education Agency [~~engage a third person to~~] conduct an economic impact evaluation of the application on behalf of the school district, and that agency shall conduct the evaluation as soon as practicable. The governing body shall provide

to the Texas Education Agency any information requested by that agency. The Texas Education Agency may develop a methodology to allow comparisons of economic impact for different schedules of addition of qualified investment or qualified property as part of the economic impact evaluation. The economic impact evaluation of the Texas Education Agency is binding on the governing body of the school district and the applicant. The governing body shall provide a copy of the evaluation to the applicant on request. The Texas Education Agency may charge and collect a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall ~~and~~ approve or disapprove an application before the 121st day after the date the application is filed, unless the Texas Education Agency's economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(e) Section 313.051, Tax Code, is amended to read as follows:

Sec. 313.051. APPLICABILITY. (a) This subchapter applies only to a school district that has territory in:

(1) a strategic investment area, as defined by Section 171.721; [~~Tax Code,~~] or

(2) ~~in~~ a county:

(A) ~~(A)~~ that has a population of less than 50,000;

(B) ~~(B)~~ that is not partially or wholly located in a metropolitan statistical area; and

(C) ~~(C)~~ in which, from 1990 to 2000, according to the federal decennial census, the population:

(i) ~~(A)~~ remained the same;

(ii) ~~(B)~~ decreased; or

(iii) ~~(C)~~ increased, but at a rate of not more than three percent

per annum.

(a-1) Notwithstanding Subsection (a), if on January 1, 2002, this subchapter applied to a school district in whose territory is located a federal nuclear facility, this subchapter continues to apply to the school district regardless of whether the school district ceased or ceases to be described by Subsection (a) after that date.

(b) The governing body of a school district to which this subchapter applies may enter into an agreement in the same manner as a school district to which Subchapter B applies may do so under Subchapter B, subject to Sections 313.052-313.054. Except as otherwise provided by this subchapter, the provisions of Subchapter B apply to a school district to which this subchapter applies. For purposes of this subchapter, a property owner is required to create only at least 10 new jobs on the owner's qualified property. At least 80 percent of all the new jobs created must be qualifying jobs as defined by Section 313.021(3), except that, for a school district described by Subsection (a)(2), each qualifying job must pay at least 110 percent of the average weekly wage for manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, in which the district is located.

(f) Section 313.051(b), Tax Code, as amended by this section, applies only to a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes for which the owner files an application on or after the effective date of this Act. A limitation on the appraised value for school district maintenance and operations ad valorem tax purposes for which the owner files an application before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 52 was adopted.

Amendment No. 53

Representatives West and Chisum offered the following amendment to **CSHB 3**:

Floor Packet Page No. 93

Amend **CSHB 3** by adding the following appropriately numbered section and renumbering existing sections accordingly:

SECTION _____. (a) Section 21.02, Tax Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (b) and (e) and by Sections 21.021, 21.04, and 21.05, tangible personal property is taxable by a taxing unit if:

(1) it is located in the unit on January 1 for more than a temporary period;

(2) it normally is located in the unit, even though it is outside the unit on January 1, if it is outside the unit only temporarily;

(3) it normally is returned to the unit between uses elsewhere and is not located in any one place for more than a temporary period; or

(4) the owner resides (for property not used for business purposes) or maintains the owner's [~~his~~] principal place of business in this state (for property used for business purposes) in the unit and the property is taxable in this state but does not have a taxable situs pursuant to Subdivisions (1) through (3) of this subsection [~~section~~].

(e) In this subsection, "portable drilling rig" includes equipment associated with the drilling rig. A portable drilling rig designed for land-based oil or gas drilling or exploration operations is taxable by the taxing unit in which the rig is located on January 1 if the rig was located in the appraisal district that appraises property for the unit for the preceding 365 consecutive days. If the drilling rig was not located in the appraisal district where it is located on January 1 for the preceding 365 days, it is taxable by the taxing unit in which the owner's principal place of business in this state is located on January 1.

(b) Section 21.02, Tax Code, as amended by this section, applies only to the taxable situs of property for an ad valorem tax year that begins on or after January 1, 2007.

(c) This section takes effect January 1, 2007.

Amendment No. 53 was adopted.

Amendment No. 54

Representative Van Arsdale offered the following amendment to **CSHB 3**:

Floor Packet Page No. 108

Amend **CSHB 3** on page 91 by striking lines 4-16 and substituting:

SECTION 20. (a) The supreme court has exclusive and original jurisdiction over a challenge to the constitutionality of this Act or any part of this Act and may issue injunctive or declaratory relief in connection with the challenge.

(b) The supreme court shall rule on a challenge filed under this section on or before the 120th day after the date the challenge is filed.

(c) This section takes effect as provided by Section 23 of this Act.

Amendment No. 54 was adopted.

Amendment No. 55

Representative Hupp offered the following amendment to **CSHB 3**:

Floor Packet Page No. 42

Amend **CSHB 3** as follows:

(1) On page 27, between lines 17 and 18, insert the following:

(q) A taxable entity shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), all revenue received that is directly derived from the operation of a facility that is:

(1) located on property owned or leased by the federal government; and

(2) managed or operated primarily for the benefit of members of the armed forces of the United States.

(2) Strike page 32, lines 2 and 3, and substitute the following:

legal fees associated with settling strikes;

(12) officers' compensation; and

(13) costs of operation of a facility that is:

(A) located on property owned or leased by the federal government; and

(B) managed or operated primarily for the benefit of members of the armed forces of the United States.

(3) On page 36, between lines 16 and 17, insert the following:

(f) Subject to Section 171.1014, a taxable entity that elects to subtract compensation for the purpose of computing its taxable margin under Section 171.101 may not include as wages or cash compensation amounts paid to an employee whose primary employment is directly associated with the operation of a facility that is:

(1) located on property owned or leased by the federal government; and

(2) managed or operated primarily for the benefit of members of the armed forces of the United States.

Amendment No. 56

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

Amend the Hupp amendment to **CSHB 3** (Amendment Packet Page 42) as follows:

(1) On page 1, line 10 of the amendment, strike "for the benefit of" and substitute "to house".

(2) On page 1, lines 19 through 20 of the amendment, strike "for the benefit of" and substitute "to house".

(3) On page 2, line 2 of the amendment, strike "for the benefit of" and substitute "to house".

Amendment No. 56 was adopted.

Amendment No. 55, as amended, was adopted.

Amendment No. 57

On behalf of Representative Phillips, Representative Taylor offered the following amendment to **CSHB 3**:

Floor Packet Page No. 18

Amend **CSHB 3** as follows:

(1) On page 12, line 12, strike "Except" and substitute "Subject to the election to pay the franchise tax rates as they existed on January 1, 2006, as provided by Section 171.0021, and except".

(2) On page 14, between lines 12 and 13, insert:

Sec. 171.0021. ELECTION TO PAY FRANCHISE TAX RATES AS THEY EXISTED ON JANUARY 1, 2006. (a) Notwithstanding any other provision of this chapter, a taxable entity may elect to pay the franchise tax at the rates and in the manner provided by this chapter as it existed on January 1, 2006, except as changed for purposes of this section.

(b) An election under this section shall be made by the taxable entity on its annual report and is effective only for that annual report. The election may be changed by filing an amended report.

(c) A reference under this section to this chapter or a part of this chapter is a reference to this chapter or part of this chapter as it existed on January 1, 2006, only if it is followed by the language, "as it existed on January 1, 2006." A reference under this section to this chapter or a part of this chapter that is not followed by that language means this chapter or a part of this chapter as it exists for the tax year for which the taxable entity files the annual report.

(d) For purposes of this section, this chapter as it existed on January 1, 2006, applies to any taxable entity as defined under Section 171.0002.

(e) For purposes of this section, this chapter as it existed on January 1, 2006, allows combined reporting by an affiliated group engaged in unitary business as provided under Section 171.104.

(f) For purposes of this section, in computing net taxable earned surplus under Section 171.110, as it existed on January 1, 2006, a taxable entity shall add to its reportable federal taxable income any wages and cash compensation that the taxable entity would be precluded from including in a determination of wages and cash compensation under Section 171.101 as a result of the limitation of Section 171.1013(c).

(g) For purposes of this section, this chapter as it existed on January 1, 2006, includes Section 171.2515.

Amendment No. 57 was withdrawn.

Amendment No. 58

Representative Merritt offered the following amendment to **CSHB 3**:
Floor Packet Page No. 44

Amend **CSHB 3** on page 27, between lines 17 and 18 by inserting the following:

(q) A taxable entity shall exclude, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), total revenue received from oil or gas produced from:

(1) an oil or gas well designated by the Railroad Commission of Texas that is spudded after January 1, 2005;

(2) an oil well designated by the Railroad Commission of Texas whose production averages less than 10 barrels a day over a 90-day period; and

(3) a gas well designated by the Railroad Commission of Texas whose production averages less than 250 mcf a day over a 90-day period.

Amendment No. 59

Representative Merritt offered the following amendment to Amendment No. 58:

Amend Floor Amendment by Merritt that is indicated as page 44 in the Prefiled Amendment Packet for **CSHB 3**

On line 5 of the Amendment, after "produced" insert the following:

", during the dates certified by the comptroller pursuant to (q-1)."

Strike lines 6 and 7 and renumber subsequent sections appropriately.

On line 7, after "Texas", insert the following:

"or similar authority of another state"

On line 9, after "Texas", insert the following:

"or similar authority of another state"

On line 12, after "Texas", insert the following:

"or similar authority of another state"

After line 13, insert the following:

(q-1)(a) The comptroller shall certify dates during which the monthly average closing price of West Texas Intermediate crude oil is below \$40.00 per barrel and the average closing price of gas is below \$5.00 per MMBtu, as recorded on the New York Mercantile Exchange (NYMEX).

Amendment No. 59 was adopted.

Amendment No. 58, as amended, was adopted.

(Bonnen in the chair)

Amendment No. 60

Representative Rodriguez offered the following amendment to **CSHB 3**:
Floor Packet Page No. 31

Amend **CSHB 3** as follows:

(1) On page 22, line 22, strike "and".

(2) On page 22, line 25, strike the underlined period and substitute the following:

;
(3) all revenue received by the taxable entity for the provision of legal services in accordance with an appointment by a state or federal court; and

(4) the actual cost to the attorney of providing pro bono legal services to a person, but only if the attorney maintains records of the pro bono services for auditing purposes and, if the attorney later receives payment for all or part of those services, the attorney adjusts the amount excluded for the tax year in which the payment is received.

(3) On page 26, between lines 19 and 20, insert the following:

(4-a) "Pro bono services" means the direct provision of legal services to the poor, without an expectation of compensation.

Amendment No. 61

Representatives Rodriguez, Branch, Talton, and Hodge offered the following amendment to Amendment No. 60:

Amend Amendment No. 60 by Rodriguez to **CSHB 3** (page 31 of the amendment packet) by striking the text of the amendment and substituting the following:

Amend **CSHB 3** as follows:

(1) On page 22, line 22, strike "and".

(2) On page 22, line 25, strike the underlined period and substitute the following:

; and
(3) the actual out of pocket expenses of the attorney, not to exceed \$500 per case, of providing pro bono legal services to a person, but only if the attorney maintains records of the pro bono services for auditing purposes in accordance with the manner in which those services are reported to the State Bar of Texas.

(3) On page 26, between lines 19 and 20, insert the following:

(4-a) "Pro bono services" means the direct provision of legal services to the poor, without an expectation of compensation.

(4-b) "Out of pocket expenses" means, for purposes of Subsection (g-3)(3), expenses incurred by the attorney in relation to a case, including:

(A) postage expenses;

(B) telephone calls;

(C) faxes; and

(D) paper and other office supplies.

Amendment No. 61 was adopted.

Amendment No. 60, as amended, was adopted.

HR 208 - ADOPTED
(by Goolsby)

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

The motion prevailed.

The following resolution was laid before the house:

HR 208, Congratulating Nate Crain of Dallas on his selection as a "Rising Star" by Campaigns and Elections magazine.

HR 208 was adopted.

CSHB 3 - (consideration continued)

A record vote was requested.

CSHB 3, as amended, was passed to engrossment by (Record 32): 80 Yeas, 69 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); Anderson; Bailey; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte, V.; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; England; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Hegar; Hill; Hope; Howard, D.; Hunter; Hupp; Isett, C.N.; Jackson; Keel; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Luna; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Phillips; Pickett; Pitts; Quintanilla; Reyna; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Van Arsdale; Villarreal; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bohac; Burnam; Casteel; Castro; Chavez; Coleman; Crabb; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Hughes; Jones, D.; Jones, J.; Keffer, B.; King, T.; Laney; Laubenberg; Leibowitz; Martinez; Martinez Fischer; McClendon; Menendez; Moreno, P.; Naishtat; Noriega, R.; Oliveira; Olivo; Paxton; Peña; Puente; Raymond; Riddle; Ritter; Rodriguez; Smithee; Solis; Talton; Thompson; Turner; Uresti; Veasey; Vo.

Absent, Excused — Alonzo.

MAJOR STATE CALENDAR
(consideration continued)
CSHB 4 ON SECOND READING
(by Swinford)

CSHB 4, A bill to be entitled An Act relating to motor vehicle sales and use taxes.

Amendment No. 1

Representatives Swinford and Pickett offered the following amendment to **CSHB 4**:

Amend **CSHB 4** as follows:

(1) Strike page 1, lines 20 through 22, and substitute the following:
value" means the private-party transaction value of a motor vehicle, as determined by the Texas Department of Transportation based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service, or based on another motor vehicle guide publication that the department determines is appropriate if a private-party transaction value for the motor vehicle is not available from a regional guidebook described by this subsection.

(2) On page 2, line 7, strike "retail".

(3) On page 2, line 10, strike "retail".

(4) On page 2, line 11, strike "retail".

(5) On page 2, line 26, strike "retail".

AMENDMENT NO. 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PICKETT: Mr. Swinford, I want to thank you for working on a—originally, a pretty bad bill. I just want to ask you a couple of questions for legislative intent. You just mentioned an amendment and you talked about retail value versus private party value. In your bill you give authority to a state agency to kind of set some parameters, but I believe your amendment is intended for that state agency to go out and find something that really deals with a private party transaction. A lot of car dealers have a standardized—we throw terms around like, "blue book" and "NADA" to mean the same thing, but their sales price could be higher than private party. So is it correct that your intention is for the Texas Department of Transportation to find some type of standard value based on private party transactions not dealer—

REPRESENTATIVE SWINFORD: That is true, Joe. When you and I were looking at this, I guess neither one of us realized the significance of what that does. Because I didn't even know that there was a private party transaction book that you could access on the Internet or in other ways, and it's done regionally and it's done by state and so it gives our constituents the right kind of value for the car at their particular location. We just wanted to make sure that TxDOT does this properly.

REMARKS ORDERED PRINTED

Representative Pickett moved to print remarks between Representative Swinford and Representative Pickett.

The motion prevailed.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Swinford and Pickett offered the following amendment to **CSHB 4**:

Amend **CSHB 4** on page 2, line 6, by striking "standard presumptive value" and substituting "amount that is equal to 80 percent of the standard presumptive value of the vehicle.".

Amendment No. 2 was adopted.

**PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR**

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Thursday, April 27.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Edwards requested permission for the Committee on Rules and Resolutions to meet while the house is in session, in 3W.9, for a formal meeting, to consider the calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, while the house is in session today, 3W.9, for a formal meeting, to consider the calendar.

CSHB 4 - (consideration continued)**Amendment No. 3**

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

Amend **CSHB 4** on page 3, between lines 14 and 15, by inserting the following:

(i) This section does not apply to a motor vehicle that is eligible for a specialty license plate under Section 504.501, Transportation Code.

Amendment No. 3 was adopted.

Amendment No. 4

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

Amend **CSHB 4** on page 3, line 13, by striking "or" and substituting "Chapter 70, Property Code, or".

Amendment No. 4 was adopted.

Amendment No. 5

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

Amend **CSHB 4** (House Committee Printing) as follows:

(1) On page 3, line 9, strike the underlined period and insert "and publish, electronically or otherwise, the updated information. The department may charge a person a reasonable fee for access to the publication."

(2) On page 3, between lines 14 and 15, insert the following new appropriately numbered SECTION of the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter A, Chapter 5, Insurance Code, is amended by adding Article 5.07-2 to read as follows:

Art. 5.07-2. VALUATION OF TOTALED MOTOR VEHICLE. (a) For purposes of this article, "standard presumptive value" has the meaning assigned by Section 152.0412(a), Tax Code.

(b) If an insurer determines that a motor vehicle covered under an automobile insurance policy issued by the insurer is an active or constructive total loss, the insurer shall assign the motor vehicle a value that is equal to or greater than the standard presumptive value of that vehicle.

(c) In settling a liability claim by a third party against an insured for property damage claimed by the third party, if the insurer determines that the third party's motor vehicle is an active or constructive total loss, the insurer shall assign the third party's motor vehicle a value that is equal to or greater than the standard presumptive value of that vehicle.

(d) This article expires April 1, 2007.

(b) Chapter 1952, Insurance Code, as effective April 1, 2007, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. VALUATION OF TOTALED MOTOR VEHICLE

Sec. 1952.351. DEFINITION. In this subchapter, "standard presumptive value" has the meaning assigned by Section 152.0412(a), Tax Code.

Sec. 1952.352. VALUATION OF TOTALED MOTOR VEHICLE. (a) If an insurer determines that a motor vehicle covered under an automobile insurance policy issued by the insurer is an active or constructive total loss, the insurer shall assign the motor vehicle a value that is equal to or greater than the standard presumptive value of that vehicle.

(b) In settling a liability claim by a third party against an insured for property damage claimed by the third party, if the insurer determines that the third party's motor vehicle is an active or constructive total loss, the insurer shall assign the third party's motor vehicle a value that is equal to or greater than the standard presumptive value of that vehicle.

(3) On page 3, line 22, strike "and".

(4) On page 3, line 24, strike the period and substitute "; and".

(5) On page 3, between lines 24 and 25, insert the following:

(4) publish that information and make the published information available to an insurer or other requesting person.

(6) On page 4, line 12, between "Code," and "as added", insert "Article 5.07-2, Insurance Code, and Subchapter H, Chapter 1952, Insurance Code,".

(7) On page 4, line 12, strike "takes" and substitute "take".

Amendment No. 5 was adopted.

A record vote was requested.

CSHB 4, as amended, was passed to engrossment by (Record 33): 77 Yeas, 65 Nays, 2 Present, not voting.

Yeas — Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; England; Escobar; Farabee; Flynn; Gattis; Goodman; Goolsby; Griggs; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Hill; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hunter; Hupp; Isett, C.N.; Jackson; Keel; Keffer, J.; King, P.; Krusee; Kuempel; Luna; Madden; McReynolds; Morrison; Mowery; Naishtat; Nixon; Orr; Otto; Pickett; Pitts; Quintanilla; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Strama; Swinford; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler.

Nays — Allen, A.; Anchia; Anderson; Bonnen; Burnam; Casteel; Castro; Coleman; Corte, V.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Harper-Brown; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hughes; Jones, D.; Jones, J.; Keffer, B.; King, T.; Kolkhorst; Laubenberg; Leibowitz; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miller; Moreno, P.; Noriega, R.; Oliveira; Olivo; Paxton; Peña; Phillips; Puente; Raymond; Rodriguez; Solomons; Straus; Talton; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

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

Absent, Excused — Alonzo.

Absent — Bailey; Campbell; Chavez; Grusendorf; Wong.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 33. I intended to vote no.

Branch

When Record No. 33 was taken, I was in the house but away from my desk. I would have voted no.

Chavez

I was shown voting yes on Record No. 33. I intended to vote no.

Escobar

I was shown voting yes on Record No. 33. I intended to vote no.

Flynn

I was shown voting yes on Record No. 33. I intended to vote no.

Kuempel

I was shown voting yes on Record No. 33. I intended to vote no.

Riddle

CSHB 5 ON SECOND READING
(by Hamric)

CSHB 5, A bill to be entitled An Act relating to taxes and fees on cigarettes and other tobacco products and to the issuance of bonds related to those fees.

(Phillips in the chair)

Amendment No. 1

Representative Hamric offered the following amendment to **CSHB 5**:

Amend **CSHB 5** as follows:

(1) On page 1, line 5, strike "January 1, 2007," and substitute "September 1, 2006,".

(2) On page 1, line 8, strike "\$48" and substitute "\$45.50".

(3) On page 1, line 13, strike "January 1, 2008," and substitute "September 1, 2007,".

(4) On page 1, line 16, strike "\$60.50" and substitute "\$58".

(5) On page 1, line 21, strike "January 1, 2009," and substitute "September 1, 2008,".

(6) On page 1, line 24, strike "\$73" and substitute "\$70.50".

(7) On page 2, line 5, strike "Subchapter A," and substitute "Subchapter B,".

(8) On page 2, strike lines 7 through 23 and substitute the following:

Sec. 489.109. ISSUANCE OF BONDS FOR CERTAIN PURPOSES. (a) The bank, or another qualified entity designated by the governor, shall issue bonds in an amount not to exceed \$400 million in accordance with the requirements of and for the purposes specified by this section.

(b) If **HB 2**, Acts of the 79th Legislature, 3rd Called Session, 2006, is enacted and becomes law and establishes a property tax relief fund, the issuer of the bonds under Subsection (a) shall distribute the proceeds of the bonds in accordance with this subsection. The issuer shall:

(1) use the proceeds of the bonds as necessary to pay the issuer's costs of issuing and administering the bonds, including the establishment of a reserve fund and interest accrued on the bonds from their date to the date of first delivery; and

(2) immediately transfer the remainder of the proceeds to the comptroller to be deposited to the credit of the property tax relief fund to be used only for a purpose consistent with the requirements of the law establishing that fund.

(c) If **HB 2**, Acts of the 79th Legislature, 3rd Called Session, 2006, does not become law or does not establish a property tax relief fund, the issuer of the bonds under Subsection (a) shall distribute the proceeds of the bonds in accordance with this subsection. The issuer shall:

(1) use the proceeds of the bonds as necessary to pay the issuer's costs of issuing and administering the bonds, including the establishment of a reserve fund and interest accrued on the bonds from their date to the date of first delivery; and

(2) immediately transfer the remainder of the proceeds to the comptroller to be deposited to the credit of a special fund established by the comptroller in the state treasury outside of the general revenue fund from which money may be appropriated only for a purpose that will result in a reduction of school district maintenance and operations tax rates to rates that are less than the rates in effect on January 1, 2006.

(d) A fund established under Subsection (c)(2) is exempt from the application of Sections 403.095 and 404.071. Interest and income from deposit and investment of money in the fund must be allocated monthly to the fund.

(e) The issuer of the bonds under Subsection (a) shall pledge to the payment of the premium, if any, and the principal and interest on the bonds, and may pay those amounts from the revenue the state is entitled to receive under the Comprehensive Settlement Agreement and Release filed on January 16, 1998, in the case styled *The State of Texas v. The American Tobacco Co., et al.*, No. 5-96CV-91, in the United States District Court, Eastern District of Texas, and its subsequent modifications.

(f) If the issuer of the bonds under Subsection (a) determines that amounts received from the Comprehensive Settlement Agreement and Release described by Subsection (e) will not be sufficient to make timely payments on the premium, if any, and the principal and interest on the bonds, the issuer may direct the attorney general to assign all or a part of the state's future right to receive payments under the Comprehensive Settlement Agreement and Release to another party in exchange for the fair market value of the assigned right, as determined by the attorney general in consultation with appropriate state budget experts. The attorney general shall assign the state's future right to receive payments under the Comprehensive Settlement Agreement and Release only to the extent necessary to receive the amount the issuer determines is necessary to ensure timely and sufficient payments on the bonds issued under Subsection (a). The proceeds of the assignment shall be transferred to the trustee under Subsection (g) and used for the purpose of making timely and sufficient payments on the bonds issued under Subsection (a).

(g) Notwithstanding any other law, except as provided by Subsection (f), all revenue the state is entitled to receive after September 1, 2006, under the Comprehensive Settlement Agreement and Release described by Subsection (e) shall be deposited outside of the state treasury with a trustee chosen by the issuer of the bonds. The issuer, through the trustee, shall use the revenue to pay the premium, if any, and the principal and interest on the bonds issued under Subsection (a).

(h) The trustee chosen under Subsection (g) shall prescribe a schedule under which the issuer of the bonds shall transfer the revenue received under the Comprehensive Settlement Agreement and Release that remains after paying the amounts described by Subsection (g) during the period prescribed by the trustee, and any interest earned on that revenue, to the comptroller for deposit in the manner that revenue received under the Comprehensive Settlement Agreement and Release would otherwise be deposited if Subsections (f) and (g) were not in effect. The trustee shall prescribe a schedule that:

(1) allows the issuer to meet the requirements of this section regarding the payment of the amounts described by Subsection (g); and

(2) ensures that the trustee retains custody of the revenue and interest earned on the revenue for the minimum time necessary to meet those requirements.

(i) Subsections (g) and (h) and this subsection expire on the date the principal, interest, and any other amounts due on the bonds issued under Subsection (a) are paid, at which time the issuer of the bonds shall transfer all remaining amounts received under Subsection (f) or under the Comprehensive Settlement Agreement and Release described by Subsection (e) and all remaining interest earned on those amounts to the comptroller for deposit in accordance with other applicable law.

(i) A bond issued under this section:

(1) is not a debt of the state or of any political subdivision of this state and is payable solely from the revenue specified by this section; and

(2) must contain a statement to that effect on its face.

(9) On page 2, lines 26 through 27, strike "tobacco settlement agreement, as that term is defined by Section 161.602, Health and Safety Code," and substitute "Comprehensive Settlement Agreement and Release described by Section 489.109(e)."

(10) Strike page 3, lines 13 through 17, and substitute the following:

(c) The comptroller shall deposit the anti-bootleg fees collected under this section in the manner that revenue received under the Comprehensive Settlement Agreement and Release described by Section 489.109(e) would otherwise be deposited if Sections 489.109(f) and (g) were not in effect.

(d) The issuer of the bonds under Section 489.109(a) shall notify the comptroller as soon as possible of the date the issuer anticipates that the principal, interest, and any other payments due on the bonds issued under Section 489.109(a) will be paid and of the date on which those amounts have actually been paid. The fee imposed by this section expires on, and may not be imposed on or after, the date the principal, interest, and any other amounts due on those bonds are paid. Any amounts collected and remitted to the comptroller under this section after that date shall be deposited to the credit of the general revenue fund and are subject to a refund claim under Section 111.104, Tax Code.

(11) On page 3, between lines 23 and 24, insert the following:

(f) The first money becoming available to the state each fiscal year from the imposition of the anti-bootleg fee under Section 489.110, Government Code, as added by this Act, shall be used to fund the child health plan program established

by this state under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended. Money available to the state from the imposition of the fee shall also be used by the state for other purposes for which the state has used revenue the state is entitled to receive under the Comprehensive Settlement Agreement and Release filed on January 16, 1998, in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas, and its subsequent modifications.

Amendment No. 2

Representative Smithee offered the following amendment to Amendment No. 1:

Amend the Hamric amendment to **CSHB 5** by striking the text of the amendment and substituting the following:

() Strike SECTION 1 of the bill, substitute the following appropriately numbered SECTION, and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 154.021(b), Tax Code, is amended to read as follows:

(b) the tax rates are:

(1) \$70.50 [~~\$20.50~~] per thousand on cigarettes weighing three pounds or less per thousand; and

(2) the rate provided by Subdivision (1) plus \$2.10 per thousand on cigarettes weighing more than three pounds per thousand.

(b) The changes in law made by this section do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this section had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

Representative Hamric moved to table Amendment No. 2.

A record vote was requested.

The motion to table was lost by (Record 34): 48 Yeas, 98 Nays, 3 Present, not voting.

Yeas — Anchia; Bailey; Berman; Branch; Campbell; Casteel; Denny; Eissler; England; Farabee; Geren; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamric; Hartnett; Hegar; Hilderbran; Homer; Hopson; Howard, C.; Hunter; Isett, C.N.; Jackson; Keel; King, P.; Krusee; Kuempel; Luna; McClendon; Menendez; Merritt; Miller; Morrison; Mowery; Orr; Peña; Pickett; Quintanilla; Smith, W.; Straus; Truitt; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anderson; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Hamilton; Hardcastle; Harper-Brown; Hernandez; Herrero; Hill;

Hochberg; Hodge; Hope; Howard, D.; Hughes; Hupp; Jones, D.; Jones, J.; Keffer, B.; Keffer, J.; King, T.; Kolkhorst; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Moreno, P.; Naishtat; Noriega, R.; Oliveira; Olivo; Otto; Paxton; Pitts; Puente; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo.

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

Absent, Excused — Alonzo.

STATEMENTS OF VOTE

I was shown voting no on Record No. 34. I intended to vote yes.

Raymond

I was shown voting no on Record No. 34. I intended to vote yes.

Rose

I was shown voting yes on Record No. 34. I intended to vote no.

Wong

(Speaker in the chair)

A record vote was requested.

Amendment No. 2 was adopted by (Record 35): 106 Yeas, 39 Nays, 1 Present, not voting.

Yeas — Allen, A.; Anderson; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Coleman; Cook, B.; Corte, V.; Crownover; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Griggs; Grusendorf; Hamilton; Hardcastle; Harper-Brown; Hernandez; Herrero; Hill; Hochberg; Hodge; Hope; Howard, C.; Howard, D.; Hughes; Hupp; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, T.; Kolkhorst; Krusee; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Miller; Moreno, P.; Mowery; Naishtat; Nixon; Noriega, R.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Pitts; Puente; Quintanilla; Reyna; Ritter; Rodriguez; Seaman; Smith, T.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; Zedler.

Nays — Anchia; Berman; Campbell; Casteel; Cook, R.; Crabb; Dawson; Dukes; Eissler; Elkins; England; Flynn; Goodman; Guillen; Haggerty; Hamric; Hartnett; Hegar; Hilderbran; Homer; Hopson; Hunter; Isett, C.N.; Jackson; King, P.; Kuempel; McClendon; Menendez; Merritt; Morrison; Phillips; Pickett; Raymond; Rose; Smith, W.; Truitt; West; Wong; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — Bailey; Luna; Riddle.

STATEMENT OF VOTE

I was shown voting yes on Record No. 35. I intended to vote no.

Hupp

CSHB 5 - POINT OF ORDER

Representative Coleman raised a point of order against further consideration of **CSHB 5** under Rule 4, Section 41 of the House Rules on the grounds that the committee substitute is not germane to the original bill.

The speaker sustained the point of order.

The ruling precluded further consideration of **CSHB 5**.

CONSTITUTIONAL RULE SUSPENDED

Representative Krusee moved to suspend the constitutional rule requiring bills to be read on three several days and to place **HB 3**, **HB 2**, **HB 1**, and **HB 4** on third reading and final passage.

The motion prevailed by (Record 36): 142 Yeas, 3 Nays, 1 Present, not voting.

Yeas — Allen, A.; Anchia; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Jones, D.; Moreno, P.; Noriega, R.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

Absent — McClendon; Phillips; Turner.

HB 3 ON THIRD READING**(by J. Keffer, Luna, Otto, Branch, and Villarreal)**

HB 3, A bill to be entitled An Act relating to the franchise tax; making an appropriation; providing penalties.

A record vote was requested.

HB 3 was passed by (Record 37): 80 Yeas, 68 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); Anderson; Bailey; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; England; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Hegar; Hill; Hope; Howard, D.; Hunter; Hupp; Isett, C.N.; Jackson; Keel; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Luna; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Phillips; Pickett; Pitts; Quintanilla; Reyna; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Strama; Straus; Taylor; Truitt; Van Arsdale; Villarreal; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bohac; Burnam; Casteel; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Hughes; Jones, D.; Jones, J.; Keffer, B.; King, T.; Laney; Laubenberg; Leibowitz; Martinez; Martinez Fischer; McClendon; Menendez; Moreno, P.; Naishtat; Noriega, R.; Oliveira; Olivo; Paxton; Peña; Puente; Raymond; Riddle; Ritter; Rodriguez; Smithee; Solis; Talton; Thompson; Turner; Uresti; Veasey; Vo.

Absent, Excused — Alonzo.

Absent — Swinford.

The speaker stated that **HB 3** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

STATEMENT OF VOTE

When Record No. 37 was taken, my vote failed to register. I would have voted yes.

Swinford

REASONS FOR VOTE

I cast a "no" vote today on **HB 3** for a number of significant reasons. First, this bill calls for the imposition of nothing less than an income tax on Texas business owners—a gross net receipts tax. Texas has a long-standing tradition of paying our way as we go. Given the substantial and ever-growing budget surplus, it is unconscionable to burden Texans with a new tax when we can simply use their money to meet the mandate imposed on us by the Texas Supreme Court.

Second, the new income tax will result in the crippling of many new businesses. New companies generally lose money during their first few years of operation, yet such businesses will nevertheless owe taxes to the state under this new tax scheme. Unlike the federal tax system that grants businesses a means by which to record losses and carry them forward against future profits, this new tax would require a complete tax payment regardless of actual losses. I cannot in good conscience support a bill that has the effect of penalizing entrepreneurs and that discourages the creation of new businesses.

Third, this new tax will have the effect of punishing many businesses that have unexpected expenses. For example, a service company that has a gross revenue of \$1 million and payroll expenses of half a million dollars will pay a new income (franchise) tax of 1 percent on \$500,000, or \$5,000. Suppose that this company was frivolously sued and spent half a million dollars defending itself. This company would likely sustain a net operating loss in the year that it was sued but would nevertheless owe the State of Texas a franchise tax on income that was never realized. In addition, **HB 3** does not take into consideration the numerous other expenses that are not related to payroll. For example, rent, phones, advertising, maintenance contracts on business equipment, casualty insurance, key man insurance, property taxes on real estate and business equipment, bank interest on notes, lease payments on equipment, occupancy taxes, filing fees, and a myriad of other expenses are not deductible under this new tax scheme.

Many supporters of **HB 3** have argued that this new tax actually reflects a tax shift, shifting the tax burden from property owners to businesses that are currently not paying the franchise tax. I agree that this bill creates a tax shift, not a shift from property owners to businesses, but a shift from big business to thousands of small businesses. The governor's own policy advisor has informed members of the house that the average small service sector business will pay more in taxes and in most cases double, triple, or even quadruple what they are currently paying under the current franchise tax system.

This new tax is bad public policy and is harmful to most of our small businesses. More importantly, my constituents can see through this subterfuge and recognize this tax to be what it actually is, a state income tax. For the cited reasons, I must respectfully oppose this measure.

Elkins

My vote for **HB 3** was a vote for the groundwork to deliver the biggest property tax cut in Texas history. All of our freedoms as Texans and Americans flow from our ability as individuals to own property. My vote not only sets the standard for greatly lowering property taxes during this special session, but it also will help more Texans live the American dream of home ownership. I am a business owner. I understand the complexity of business taxes. This vote was not a tax revenue bill but rather a tax swap bill, shifting from property taxes to a tax that is more appropriate for the economy of 2006. My vote was a vote for my constituents, so that I could best answer the call from so many of my friends and neighbors who are desperate for property tax relief.

Kolkhorst

I voted against **HB 3** because if the legislature is going to raise \$3.5 billion in new taxes, then much of that money needs to be spent on public education. I have long been supportive of a broad-based business tax that lowers the current franchise tax and spreads the tax burden over more businesses. But any new revenue derived from a tax increase must include money for public education. None of the revenue generated by this bill will be sent to our public schools. Our teachers are in need of a much-deserved raise, our growing communities need funding to build new schools, and our children need the newest and best instructional materials. Because revenue from this tax bill would only be spent on lowering property taxes with no new money for public education, I could not support it.

Leibowitz

On the eve of debate of **HB 3**, the leadership instituted unprecedented rules limiting debate and, in effect, prohibited the Texas House of Representatives from considering educational reforms and restoring cuts to education.

HB 3 was touted as a fair and equitable solution to our outdated tax system. We were told by the members of the Ways & Means Committee and the Texas Tax Commission that this restructured tax system would bring more businesses into our state tax system. As the process moved forward, it became apparent that this bill would not strive to be fair or equitable. It would not attempt to treat all businesses similarly. As the floor debate continued, loopholes and tax exemptions were given to big business and special interests groups undermining what little equity the bill offered.

While this bill has been lauded by many, the numbers tell a different tale. 51% of the property tax relief generated by **HB 1** will go to businesses in Texas, to the tune of \$3.2 billion. The tax revenue generated by **HB 3** is \$3.4 billion. The net effect of **HB 3** resulted in a \$200 million gain in additional tax revenue. This is not tax reform—it is simply a tax swap. Respectfully, given the facts, I cannot in good conscience conclude **HB 3** is our state's best opportunity to modernize and equalize our tax system.

Whenever this legislature is ready to take on real tax reform and tax equity, I stand ready to assist. Whenever this legislature is ready to take on school finance based on the principles of excellence and equity, I will be there to fight for every dollar my school districts deserve. I won't, however, be a party to passing the largest tax increase in Texas history without one penny going to our school children. I will continue to vote "no" whenever the majority's policies fail our children, our schools, and our state.

Martinez Fischer

HB 2 ON THIRD READING
(by Pitts, Kolkhorst, Callegari, et al.)

HB 2, A bill to be entitled An Act relating to the allocation of certain revenue from franchise taxes, motor vehicle sales and use taxes, and taxes on cigarettes and other tobacco products to provide property tax relief.

A record vote was requested.

HB 2 was passed by (Record 38): 82 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; England; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard, C.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bailey; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Haggerty; Hamilton; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jones, D.; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, R.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

STATEMENT OF VOTE

I was shown voting yes on Record No. 38. I intended to vote no.

Casteel

HB 1 ON THIRD READING

(by Chisum, Eissler, Branch, C. Howard, Hartnett, et al.)

HB 1, A bill to be entitled An Act relating to public school finance and property tax rate compression; making an appropriation.

A record vote was requested.

HB 1 was passed by (Record 39): 146 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen, A.; Anchia; Anderson; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte, V.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Hupp; Isett, C.N.; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.;

Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, R.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Burnam; Coleman.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alonzo.

The speaker stated that **HB 1** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

REASON FOR VOTE

I hesitantly voted today in support of **HB 1**. I believe that **HB 1** fails to ease the burden of property taxes that Austin families deserve. However, it does provide a small amount of new funding for our schools and it prevents the disaster that now looms over our schools, our children, and our taxpayers.

Our leadership was not open to considering a truly meaningful restructure of Texas taxes. **HB 1** keeps our schools open, it gives our school board a small amount of discretion over the new tax rate, and it does provide a small tax break to the disabled and elderly; but most Austin homeowners should be warned. Total school property taxes are not going down this year.

Based on information from the Travis County Appraisal District and other known data, most Travis County homeowners will face slightly higher school taxes due to a 16% overall increase in appraisals.

In the final analysis, it was better to support the benefits of **HB 1** over our present situation. I wish we could have been more courageous and done more for the improvement of our public schools.

Rodriguez

HB 4 ON THIRD READING

(by Swinford)

HB 4, A bill to be entitled An Act relating to motor vehicle sales and use taxes.

A record vote was requested.

HB 4 was passed by (Record 40): 80 Yeas, 67 Nays, 2 Present, not voting.

Yeas — Anderson; Bailey; Berman; Blake; Bohac; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; England; Farabee; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Hill; Homer; Hope; Hopson; Howard, C.; Howard, D.; Hunter; Hupp; Isett, C.N.; Jackson; Keel; Keffer, J.; King, P.; Krusee; Luna;

Madden; McCall; McReynolds; Morrison; Mowery; Naishtat; Nixon; Orr; Otto; Pickett; Pitts; Quintanilla; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Bonnen; Branch; Burnam; Casteel; Castro; Chavez; Coleman; Corte, V.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farrar; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Harper-Brown; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hughes; Jones, D.; Jones, J.; Keffer, B.; King, T.; Kolkhorst; Kuempel; Laubenberg; Leibowitz; Martinez; Martinez Fischer; McClendon; Menendez; Merritt; Miller; Moreno, P.; Noriega, R.; Oliveira; Olivo; Paxton; Peña; Phillips; Puente; Raymond; Rodriguez; Solis; Solomons; Talton; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

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

Absent, Excused — Alonzo.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 40. I intended to vote no.

Anderson

I was shown voting yes on Record No. 40. I intended to vote no.

Riddle

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Environmental Regulation will convene on Tuesday, April 25 at 10 a.m. instead of 8 a.m. as posted.

Agriculture and Livestock will meet on Tuesday, April 25 as posted.

Business and Industry and State Affairs joint meeting will meet on Tuesday, April 25 as posted.

Higher Education will meet on Tuesday, April 25 at 8 a.m. as posted.

Elections will still meet Wednesday, April 26 at 2 p.m. in the posted committee room.

Ways and Means, upon recess today, Tuesday, April 25, Desk 108, for a formal meeting, to consider **HB 5**.

RECESS

Representative Gonzalez Toureilles moved that the house recess until 11 a.m. Thursday, April 27 in memory of Maria R. Alonzo of Crystal City and Dallas, mother of Representative Alonzo.

The motion prevailed.

The house accordingly, at 12:01 a.m., April 25 recessed until 11 a.m. Thursday, April 27.

ADDENDUM

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 80 (By B. Brown), Relating to releasing the question and answer keys for certain academic assessment instruments administered to public school students.

To Public Education.

HB 81 (By Hughes), Relating to the minimum salary schedule for certain professional public school employees.

To Public Education.

HB 82 (By Hughes), Relating to the minimum salary for public school teachers, librarians, counselors, and nurses.

To Public Education.

HB 83 (By Hochberg and Raymond), Relating to public school finance matters; making an appropriation.

To Public Education.

HB 84 (By Delisi), Relating to teacher retention demonstration projects in public schools.

To Public Education.

HB 85 (By Luna), Relating to bilingual education and special language programs in public schools.

To Public Education.

HB 86 (By Martinez), Relating to increasing the amount of the residence homestead exemption from ad valorem taxation by a school district to \$45,000, providing for an adjustment of the limitation on the total amount of ad valorem taxes that may be imposed by a school district on the homesteads of the elderly or disabled to reflect the increased exemption amount and changes in the school district's ad valorem tax rate, and protecting school districts against the resulting loss in local revenue.

To Ways and Means.

HB 87 (By Madden), Relating to the capacity of certain correctional facilities operated under contracts between the Texas Board of Criminal Justice and a private vendor or county commissioners court.

To Corrections.

HB 88 (By Delisi, Deshotel, and Uresti), Relating to the salary paid to certain professional public school employees.

To Public Education.

HB 89 (By Delisi), Relating to compensation supplementation for certain educational employees.

To Public Education.

HB 90 (By Uresti and Delisi), Relating to the eligibility of children of certain military personnel for free prekindergarten classes.

To Public Education.

HB 91 (By Pitts, et al.), Relating to certification of and salaries for certain professional public school employees, public school finance, and school property tax rates.

To Public Education.

HB 92 (By Hartnett), Relating to the administration and operation of certain trusts.

To Judiciary.

HB 93 (By Naishtat), Relating to reporting of certain gifts to public officials.

To Elections.

HB 94 (By Hochberg), Relating to the authority of members of the board of trustees of an independent school district to obtain student information.

To Public Education.

HB 95 (By Villarreal), Relating to disclosure and use of sales price information for ad valorem tax purposes.

To Ways and Means.

HB 96 (By Delisi), Relating to an instructional excellence program in public schools to provide for educator leadership, collaboration, and long-term career paths.

To Public Education.

HB 97 (By McCall), Relating to prohibiting certain disruptions at a funeral service; creating an offense.

To Criminal Jurisprudence.

HB 98 (By B. Keffer and Paxton), Relating to the use of current and future state budget surpluses to reduce local school district property tax rates; making an appropriation.

To Ways and Means.

HCR 21 (By Taylor), Honoring the Distinguished Graduates of La Marque High School of 2006.

To Rules and Resolutions.

HCR 22 (By Guillen), Welcoming director Melissa Reyna and the young men and women of the Cantare Community Youth Choir to the State Capitol.

To Rules and Resolutions.

HCR 23 (By Guillen), Honoring Hector Trevino on the occasion of his retirement from the U.S. Border Patrol.

To Rules and Resolutions.

HCR 24 (By Dutton), Requesting The University of Texas at Austin to lead a study by several Texas public universities to examine how young black males in Texas are affected by the benefits and detriments of living in Texas.

To Higher Education.

HCR 25 (By Hilderbran), In memory of legendary Texas songwriter Cindy Walker of Mexia.

To Rules and Resolutions.

HJR 27 (By Martinez), Proposing a constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes to \$45,000 and providing for an adjustment of the limitation on the total amount of taxes that may be imposed for those purposes on the homesteads of the elderly or disabled to reflect the increased exemption amount and changes in the rate of the tax imposed for those purposes.

To Ways and Means.

HJR 28 (By Paxton and B. Keffer), Proposing a constitutional amendment providing for school district property tax rate reduction through the dedication of a portion of available state revenue for that purpose.

To Ways and Means.

HR 150 (By Seaman), Honoring The University of Texas Marine Science Institute on the occasion of its 60th anniversary.

To Rules and Resolutions.

HR 151 (By Hughes), In memory of Dr. Charles A. Berry, Jr., president emeritus of Jarvis Christian College.

To Rules and Resolutions.

HR 152 (By Branch), Honoring the tennis team of Highland Park High School in Dallas on winning the UIL Class 4A State Championship for team tennis.

To Rules and Resolutions.

HR 153 (By Branch), Honoring the football team of Highland Park High School in Dallas on winning the UIL Class 4A State Championship.

To Rules and Resolutions.

HR 154 (By Branch), Honoring the girls' swimming and diving team of Highland Park High School in Dallas on winning the UIL Class 4A State Championship.

To Rules and Resolutions.

HR 157 (By Chisum), In memory of the Honorable Johnnie C. Lee of Spearman.

To Rules and Resolutions.

HR 158 (By Delisi), Honoring Joan Mints Hoffman of Salado on the selection of her artwork by the Texas Commission on the Arts for the state's official heirloom birth and commemorative wedding certificates.

To Rules and Resolutions.

HR 161 (By Craddick), Honoring Ed and Frances Stewart on their 50th wedding anniversary.

To Rules and Resolutions.

HR 163 (By Dunnam), In memory of Lyndon Lowell Olson, Sr., of Waco.

To Rules and Resolutions.

HR 164 (By West), Honoring First Christian Church of Odessa on its 100th anniversary in 2006.

To Rules and Resolutions.

HR 165 (By Hilderbran), Commemorating the 150th anniversary of the founding of Llano County.

To Rules and Resolutions.

HR 166 (By Hilderbran), Honoring Bandera County on its 150th anniversary.

To Rules and Resolutions.

HR 167 (By Branch), Honoring the wrestling team of Highland Park High School in Dallas for winning the UIL Tournament State Championship and the THSWCA State Dual Tournament Championship.

To Rules and Resolutions.

HR 168 (By R. Noriega), Honoring Alicia Ybarra and Reynaldo Nino of Houston on their 50th wedding anniversary.

To Rules and Resolutions.

HR 169 (By Bonnen), Congratulating Abdul Pasha on being named Youth of the Year for the Boys and Girls Club of Brazoria County.

To Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 3

HCR 15

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
Monday, April 24, 2006

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:

SCR 1 Barrientos
Honoring the University of Texas Longhorn football team.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

ENROLLED

April 22 - HCR 15