



# THE FLYNN REPORT

*April 28, 2006*

**Greetings constituents, supporters and friends:**

**The Texas Legislature began Governor Rick Perry's call for a Special Session on Monday, April 17, to answer the Texas Supreme Courts ruling that Texas' current property tax system is unconstitutional and must be reformed by June 1, 2006.**

**Under the Texas Constitution the legislature can only hear and work on legislation that fits within the call of the Governor. The items in the call include property tax reduction, the development of a business margin tax and the elimination of the current franchise tax, increasing taxes on cigarettes and other tobacco products, a tax on motor vehicle sales which also includes a tax on the difference between a book and sales price on a used automobile, and appropriations of funds to the Texas Education Agency.**

**It is important to understand what is not in the call and what could happen if the Legislature is successful in meeting the items in the call in a timely fashion. If that is accomplished Governor Perry has committed to opening the call to other important educational issues, once we have satisfied the Supreme Court's requirements. Those other items could include additional funds to our state's schools, to reform public education, or to offer pay raises to teachers and public school employees as well as items already spent on hurricane relief funding, additional appropriations needed to approve textbooks funding, Medicare expenditures, and Nursing Home funding.**

**Texas property owners have been shouldering the tax burden for far too long and relief must be forthcoming. The tax reform plan that was put before the Legislature appears to be a fair, low-rate and broad-based alternative tax plan. Many have requested a plan that does not single out a specific industry and closes loopholes that have given some an unfair advantage allowing them to avoid paying their fair share.**

**House Bill 1**, buys down property taxes \$0.17 in the first year and will go into effect this year. It uses \$2.4 billion in state surplus funds to accomplish this. Since this bill will go into effect this year and by itself it meets the requirements of the Texas Supreme Court's order to lower the state's reliance on local property taxes to fund public schools. With the passage of this bill and meeting the minimum requirements set by the Supreme Court and fixing the unconstitutional property tax system it will make for a successful special session.

The SFtate will use \$2.4 billion to offset the districts' loss of 17 cents of local tax revenue. Several amendments passed that addressed concerns from advocates for poorer school districts as well as senior citizens and the disabled. One amendment ensured that the 17 cents of discretionary revenue available to districts are subject to Robin Hood. There was also one that would use formula funding to drive the education system as a whole toward greater equity and an amendment that extended property tax relief to senior citizens and the disabled who have had their property taxes frozen. House Bill 1 passed the House by an overwhelming margin of 139-5.

**House Bill 2** dedicates all the revenue raised in the bill to school district property tax relief. It also dedicates all the revenue raised in HB's 1, 3, 4, and 5 to property tax relief. House Bill 2 dedicates all the revenue raised in the bills passed by the House to school district property tax relief. It creates a Property Tax Relief Fund a tax relief "lock box" outside of the general revenue fund. Revenues generated by changes in franchise, cigarette and sales taxes on used motor vehicles must go into the Property Tax Relief Fund, which can only be appropriated to cut school property tax rates.

**House Bill 3** revises the franchise tax provisions to ensure that each business that is subject to the tax pays its fair share of education costs. Under the new plan the primary franchise tax rate will be lowered from 4.5 percent to 1 percent. This will bring an estimated \$3.8 billion to the state from the numerous businesses that currently avoid paying the franchise tax by taking advantage of loopholes. House Bill 3 revises the franchise tax provisions closes the franchise tax loopholes with a broad low rate of 1% or less. Retail and wholesale firms will pay a 0.5% rate. It is the primary source of funds used to buy down property tax rates. It will generate over \$3 billion annually and is the primary source to provide ongoing property tax relief. The bill was amended several times before it was finally passed. One important amendment adopted was important to companies that rent cars, construction equipment and rail cars. It allowed these entities to subtract, as costs of goods sold, the depreciation in value of the items rented.

**House Bill 4** tightens the language and the requirements for the sale of used motor vehicles to replace the document that was previously call the "liar's affidavit. The state

will receive the proper amount of revenue from these transactions. The bill attempts to tighten the language and the requirements for the sale of used motor vehicles. It requires sellers to reveal and pay tax on the true sale amount of a vehicle.

**House Bill 5** increases the tax on the sale of tobacco products to raise additional revenue for property tax relief. Raising the tax to \$1 could bring an estimated \$623 million to the state in 2007. Once passed, House Bill 5 will raise the cigarette tax by \$1. All revenue generated from the tax will be dedicated to property tax relief.

Using the surplus alone for property tax reductions would have been a mistake. By using the combination of the budget surplus and tax reforms, our tax relief will grow over time. Using the entire unknown projected surplus would have been unwise and fiscally irresponsible.

Texas taxpayers deserve this true tax relief that is provided for in this plan. By dedicating portions of the "surplus" to lowering property taxes and using only a portion of the surplus at this time it actually reduces the tax burden making Texas an even more attractive place to live, raise our families and to invest. When the actual amount of the "surplus" is known it will allow lawmakers to prudently use even more of the surplus for future property tax relief. It is important to dedicate to property tax relief all revenues from new and increased taxes developed during this special session.

This attempt by the House reflects the Legislatures dedication to bringing down property taxes and providing for the "meaningful discretion" required by the Supreme Court ruling so that local school districts do have a say in the decisions about how their districts are taxed. I believe this effort goes a long way towards reassuring taxpayers that the Texas Legislature is more interested in protecting the taxpayers and providing a healthy economy, than in growing big government.

This tax bill, like any other legislation, can possibly be improved, but most believe it is a sound framework for more efficient, equitable and constitutional, taxation. At the same time, it gives the hard working taxpayers much welcomed tax relief and meets the requirements of the Texas Supreme Court. This plan creates the largest property tax cut in Texas history with more than \$6 billion in relief.

A key provision of this reformed franchise tax bill includes taxpayer protections and business incentives. Any future increase in the business tax rate will require a statewide referendum approved by the majority of registered voters in Texas. By requiring voter approval, businesses are less likely to see frequent tax hikes creating a stable economy for the future. In addition, small businesses that have gross receipts of less than \$300,000 or a total tax liability of \$1,000 or less will be completely exempt

under the reformed business tax. As an incentive, the more an employer spends on paychecks, healthcare and pensions the less taxes they will pay.

Since businesses will not make their first payment under the reformed plan until May of 2008, the Legislature will have the opportunity to study any concerns during the interim and address any unintentional consequences during the 80th Legislative session beginning January 2008.

**My staff and I welcome your input and questions. You can reach us in our offices located in Austin at the State Capitol in the capitol extension: E1.324. The Canton District office located in The American National Bank Building on Highway 243: The Greenville District office is located in The Paul Mathews Exchange Building, Suite 802, 2500 Stonewall Ave. Phone: 1-800-734-9515 Mailing address: P. O. Box 2910, Austin, TX 78768. Email [District2.Flynn@house.state.tx.us](mailto:District2.Flynn@house.state.tx.us)**

**God bless you and God bless Texas,**

**Dan Flynn  
State Representative, District – 2**

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