

Amend CSHB 1 by striking all below the enacting clause and substituting the following:

SECTION 1.01. Because education is the foundation for the economic and cultural future of the State of Texas, the purpose of this Act is to create a school finance system that ensures student performance and accountability, to provide a reduction in local school property taxes while also providing permanent relief to property taxpayers by capping the future growth in appraised value for property tax purposes of residential real property, capping the future growth of local property tax revenue, and reforming the property tax appraisal process, and to provide for payment by the state of a greater share of the cost of the public education system through the imposition of a state property tax on nonresidential property, changes in taxes and fees on cigarette and tobacco products, the business franchise tax, sales and use taxes on automobiles, taxes and fees on adult entertainment venues, and the collection of state taxes, and by authorizing the operation of state video lottery games by persons licensed to conduct wagering on horse races or greyhound races or by recognized Indian tribes.

ARTICLE 1. SCHOOL FINANCE

PART A. EDUCATION FUNDING

SECTION 1A.01. Section 42.153(a), Education Code, is amended to read as follows:

(a) For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.12 [~~0.1~~].

SECTION 1A.02. Section 42.251(b), Education Code, is amended to read as follows:

(b) The program shall be financed by:

(1) revenue generated by the state ad valorem tax on nonresidential property under Subchapter I, Chapter 45, as authorized by Section 1-e, Article VIII, Texas Constitution [~~ad valorem tax revenue generated by an equalized uniform school district effort~~];

(2) [~~ad valorem tax~~] revenue generated by local school district ad valorem taxes on residential real property authorized

under Subchapter A, Chapter 45 [~~effort in excess of the equalized uniform school district effort~~];

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

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

SECTION 1A.03. Section 42.253, Education Code, is amended by amending Subsection (e-1) and adding Subsection (e-2) to read as follows:

(e-1) Subject to Subsection (e-2), for [~~For~~] the [~~2003-2004, 2004-2005,~~] 2005-2006, 2006-2007, 2007-2008, or 2008-2009 school year, the limit authorized under Subsection (e) is increased by an amount equal to the portion of a school district's maintenance and operations tax for that year necessary for the district, when added to state funds received under this chapter for that portion of the tax, to comply with Section 1581.052 [~~3, Article 3.50-9~~], Insurance Code. For the 2005-2006 and 2007-2008 school years, the limit authorized under Subsection (e) does not include any portion of a school district's maintenance and operations tax rate for which the limit under Subsection (e) applicable to the district was increased under this subsection. The commissioner may adopt rules necessary to administer this subsection. A determination of the commissioner under this subsection is final and may not be appealed. This subsection expires September 1, 2009.

(e-2) For the 2005-2006 and 2006-2007 school years, the limit authorized by Subsection (e) is reduced by \$0.25. This subsection expires September 1, 2007.

SECTION 1A.04. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2541 to read as follows:

Sec. 42.2541. MINIMUM PER-STUDENT AID. (a) Notwithstanding any other provision of this subtitle, a school district is entitled to an amount of state aid per student in weighted average daily attendance that is equal to the amount of state and local funds for maintenance and operations per student in weighted average daily attendance the district would have received

for the 2004-2005 school year under Chapters 41, 42, and 45, as those chapters existed on August 31, 2004, including any amounts the district would have received under Rider 82 to the appropriation to the Texas Education Agency in Article III, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003, or under another law authorizing a school district to impose a tax for maintenance and operations, or a greater amount as provided by appropriation. For purposes of this subsection, the amount of state and local funds for maintenance and operations per student in weighted average daily attendance a district would have received for the 2004-2005 school year does not include any amounts the district would have paid for:

(1) the purchase of attendance credits under former Subchapter D, Chapter 41; or

(2) the education of nonresident students under former Subchapter E, Chapter 41.

(b) Each year, the commissioner shall determine for each school district whether the amount of state aid to which the district is entitled under Section 42.253(c) is less than the amount specified under Subsection (a) and shall provide additional state aid in an amount equal to the difference, if any.

(c) Additional state aid under this section shall be funded from general revenue and designated in a separate line item in the General Appropriations Act.

(d) A determination by the commissioner under this section is final and may not be appealed.

(e) The commissioner may adopt rules to implement this section.

SECTION 1A.05. Sections 42.302(a) and (b), Education Code, are amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of maintenance and operations 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:

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

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 \$29 [~~\$27.14~~] 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.

(b) In computing the district [~~enrichment~~] tax rate of a school district, the total amount of maintenance and operations taxes collected by the school district does not include the amount of:

(1) the district's local fund assignment under Section 42.252;

(2) the district's enrichment tax under Subchapter I;

or

(3) [(2)] taxes paid into a tax increment fund under Chapter 311, Tax Code.

SECTION 1A.06. Effective September 1, 2006, Section

42.302(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of maintenance and operations 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:

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

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 \$29.50 [~~\$27.14~~] 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.

SECTION 1A.07. Section 42.303, Education Code, is amended to read as follows:

Sec. 42.303. LIMITATION ON DISTRICT [~~ENRICHMENT~~] TAX RATE.

The district [~~enrichment~~] tax rate ("DTR") under Section 42.302 may not exceed \$0.39 [~~\$0.64~~] per \$100 of valuation, or a greater amount for any year provided by appropriation.

SECTION 1A.08. Chapter 42, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. ENRICHMENT TAX

Sec. 42.451. ALLOTMENT. (a) In this section, "wealth per student" means a school district's taxable value of property, as determined, except as provided by Subsection (c), under Subchapter M, Chapter 403, Government Code, divided by the number of students in average daily attendance in the district.

(b) Each school district is guaranteed a specified amount per student in state and local funds for each cent of enrichment tax effort up to the maximum level specified in this subchapter. The amount of state support is determined by the formula:

$$\text{EGYA} = (\text{EGL} \times \text{WADA} \times \text{DETR} \times 100) - \text{LR}$$

where:

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

"EGL" is the dollar amount guaranteed level of state and local enrichment funds per student per cent of tax effort, which is the amount of district enrichment tax revenue per cent of tax effort available to a school district at the 90th percentile in wealth per student, as determined by the commissioner;

"WADA" is the number of students in weighted average daily attendance, as determined under Section 42.302(a);

"DETR" is the district enrichment tax rate of the school district, which is determined by dividing the total amount of enrichment taxes collected by the school district for the applicable school year by the district's taxable value of property for the current year as determined, except as provided by Subsection (c), under Subchapter M, Chapter 403, Government Code, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DETR" by the quotient of the district's taxable value of property for the current year as determined, except as provided by Subsection (c), under Subchapter M, Chapter 403, Government Code,

divided by 100.

(c) For purposes of this section, a school district's taxable value of property is not reduced by the total dollar amount of any residence homestead tax exemptions granted under Section 11.13(n), Tax Code.

Sec. 42.452. DISTRICT ENRICHMENT TAX. (a) Subject to Section 42.453, the board of trustees of a school district may impose an annual ad valorem tax on residential real property as defined by Section 45.002 for the enrichment of the public schools in the district.

(b) The district enrichment tax rate may not exceed \$0.15 for each \$100 of taxable value of property.

(c) An exemption adopted by the board of trustees of a school district under Section 11.13(n), Tax Code, does not apply to a tax imposed under this section.

(d) A school district may not increase the enrichment tax rate in any fiscal biennium by an amount exceeding \$0.05 on the \$100 valuation of taxable property.

(e) Notwithstanding Subsection (d):

(1) for the 2005 tax year, a school district may not adopt an enrichment tax;

(2) for the 2006 tax year, the enrichment tax rate may not exceed \$0.05 on the \$100 valuation of taxable property; and

(3) for the 2007 and 2008 tax years, the enrichment tax rate may not exceed \$0.10 on the \$100 valuation of taxable property.

(f) Subsection (e) and this subsection expire January 1, 2009.

Sec. 42.453. ENRICHMENT TAX ELECTION. (a) A school district may not impose an enrichment tax under Section 42.452 unless authorized by a majority of the qualified voters of the district voting at an election held for that purpose. The election must be held on a uniform election date under Section 41.001, Election Code.

(b) A proposition submitted to authorize the imposition of an enrichment tax must include the question of whether the board of trustees may impose annual ad valorem taxes for the further enrichment of public schools, at a rate not to exceed the rate

stated in the proposition.

Sec. 42.454. DISTRIBUTION OF ENRICHMENT PROGRAM FUNDS. (a)
For each school year, the commissioner shall:

(1) determine the guaranteed yield amount of state enrichment program funds to which a school district is entitled under Section 42.451; and

(2) approve and transmit warrants to school districts.

(b) If the total amount of state enrichment funds allocated to districts under this subchapter for a fiscal year exceeds the amount appropriated for that year, the commissioner shall reduce the total amount of state enrichment funds allocated to each district proportionately. The following fiscal year, a district's entitlement under this subchapter is increased by an amount equal to the reduction made under this subsection.

Sec. 42.455. USE OF ALLOTMENT. State enrichment funds allocated under this subchapter may be used for any legal purpose, including capital outlay and debt service.

Sec. 42.456. COMPUTATION OF ENRICHMENT AID FOR DISTRICT ON MILITARY RESERVATION OR AT STATE SCHOOL. State enrichment funds allocated under this subchapter for a school district located on a federal military installation or at Moody State School are computed using the average district enrichment tax rate and property value per student of school districts in the county, as determined by the commissioner.

SECTION 1A.09. Section 45.002, Education Code, is amended to read as follows:

Sec. 45.002. MAINTENANCE AND OPERATIONS TAXES. (a) The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may levy, assess, and collect annual ad valorem taxes on all residential real property in the district for the further maintenance and operation of public schools in the district, subject to Section 45.003.

(b) In this section, "residential real property" means real

property that is used primarily for residential purposes and on which a structure used for residential purposes is located, including a single-family residence, a multifamily residence, or a mobile home. The term also includes the residential portion, not to exceed 20 acres, of farm or ranch property. The term does not include real property on which a hotel, motel, or similar structure is located that is designed to provide temporary lodging or accommodations.

SECTION 1A.10. Section 45.003, Education Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) A proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate, which may be not more than \$1.25 [~~\$1.50~~] on the \$100 valuation of taxable property in the district, stated in the proposition.

(e) An election held before January 1, 2004, authorizing a maintenance tax at a rate of at least \$1.25 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.25 or less.

(f) A district permitted by special law on January 1, 2004, to impose an ad valorem tax at a rate greater than \$1.50 on the \$100 valuation of taxable property may continue to impose that higher rate without additional authority.

SECTION 1A.11. Section 46.002, Education Code, is amended by adding Subsection (c) to read as follows:

(c) The commissioner's rules must include requirements limiting the eligibility for state assistance under this subchapter to instructional facilities that meet state standards for cost per square foot as determined by the commissioner.

PART B. CONFORMING AMENDMENTS AND REPEALERS

SECTION 1B.01. Section 12.013(b), Education Code, is amended to read as follows:

(b) A home-rule school district is subject to:

(1) a provision of this title establishing a criminal

offense;

(2) a provision of this title relating to limitations on liability; and

(3) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001;

(C) criminal history records under Subchapter C, Chapter 22;

(D) student admissions under Section 25.001;

(E) school attendance under Sections 25.085, 25.086, and 25.087;

(F) inter-district or inter-county transfers of students under Subchapter B, Chapter 25;

(G) elementary class size limits under Section 25.112, in the case of any campus in the district that is considered low-performing under Section 39.132;

(H) high school graduation under Section 28.025;

(I) special education programs under Subchapter A, Chapter 29;

(J) bilingual education under Subchapter B, Chapter 29;

(K) prekindergarten programs under Subchapter E, Chapter 29;

(L) safety provisions relating to the transportation of students under Sections 34.002, 34.003, 34.004, and 34.008;

(M) computation and distribution of state aid under Chapters 31, 42, and 43;

(N) extracurricular activities under Section 33.081;

(O) health and safety under Chapter 38;

(P) public school accountability under

Subchapters B, C, D, and G, Chapter 39;

(Q) [~~equalized wealth under Chapter 41,~~

[~~(R)~~] a bond or other obligation or tax rate under Chapters 42, 43, and 45; and

(R) [~~(S)~~] purchasing under Chapter 44.

SECTION 1B.02. Section 12.029(b), Education Code, is amended to read as follows:

(b) If [~~Except as provided by Subchapter H, Chapter 41, if~~] two or more school districts having different status, one of which is home-rule school district status, consolidate into a single district, the petition under Section 13.003 initiating the consolidation must state the status for the consolidated district. The ballot shall be printed to permit voting for or against the proposition: "Consolidation of (names of school districts) into a single school district governed as (status of school district specified in the petition)."

SECTION 1B.03. Section 12.106(a), Education Code, is amended to read as follows:

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 as if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue ("LR") for purposes of Section 42.302. In determining funding for an open-enrollment charter school, adjustments under Sections 42.102, 42.103, 42.104, and 42.105 and the district [~~enrichment~~] tax rate ("DTR") under Section 42.302 are based on the average adjustment and average district enrichment tax rate for the state.

SECTION 1B.04. Section 21.402(a), Education Code, is amended to read as follows:

(a) Except as provided by Subsection (d), (e), or (f), a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience, determined by the following formula:

$$MS = SF \times FS$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of state and local funds per weighted student available to a district eligible to receive state assistance under Section 42.302 with a district ~~[an enrichment]~~ tax rate, as defined by Section 42.302, equal to the maximum rate authorized under Section 42.303, except that the amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187 ~~[H.B. No. 3343]~~, Acts of the 77th Legislature, Regular Session, 2001.

SECTION 1B.05. Section 21.410(h), Education Code, is amended to read as follows:

(h) A grant a school district receives under this section is in addition to the ~~[any]~~ funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled as soon as practicable after the end of the school year as determined by the commissioner. ~~[A district to which Chapter 41 applies is entitled to the grants paid under this section. The commissioner shall determine the timing of the distribution of grants to a district that does not receive Foundation School Program payments.]~~

SECTION 1B.06. Section 21.411(h), Education Code, is amended to read as follows:

(h) A grant a school district receives under this section is in addition to the ~~[any]~~ funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled as soon as practicable after the end of the school year as determined by the commissioner. ~~[A district to which Chapter 41 applies is entitled to the grants paid under this section. The commissioner shall determine the timing of the distribution of grants to a district that does not receive Foundation School Program payments.]~~

SECTION 1B.07. Section 21.412(h), Education Code, is

amended to read as follows:

(h) A grant a school district receives under this section is in addition to the ~~[any]~~ funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled as soon as practicable after the end of the school year as determined by the commissioner. ~~[A district to which Chapter 41 applies is entitled to the grants paid under this section. The commissioner shall determine the timing of the distribution of grants to a district that does not receive Foundation School Program payments.]~~

SECTION 1B.08. Section 21.413(h), Education Code, as added by Section 2, Chapter 430, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(h) A grant a school district receives under this section is in addition to the ~~[any]~~ funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled as soon as practicable after the end of the school year as determined by the commissioner. ~~[A district to which Chapter 41 applies is entitled to the grants paid under this section. The commissioner shall determine the timing of the distribution of grants to a district that does not receive Foundation School Program payments.]~~

SECTION 1B.09. Section 29.087(j), Education Code, is amended to read as follows:

(j) For purposes of funding under Chapters ~~[41]~~ 42~~[7]~~ and 46, a student attending a program authorized by this section may be counted in attendance only for the actual number of hours each school day the student attends the program, in accordance with Sections 25.081 and 25.082.

SECTION 1B.10. Section 29.203(b), Education Code, is amended to read as follows:

(b) A school district is entitled to the allotment provided by Section 42.157 for each eligible student using a public education grant. ~~[If the district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth~~

~~level, a school district is entitled under rules adopted by the commissioner to additional state aid in an amount equal to the difference between the cost to the district of providing services to a student using a public education grant and the sum of the state aid received because of the allotment under Section 42.157 and money from the available school fund attributable to the student.]~~

SECTION 1B.11. Section 37.0061, Education Code, is amended to read as follows:

Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN JUVENILE RESIDENTIAL FACILITIES. A school district that provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board is entitled to count such students in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. ~~[If the district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between the average Foundation School Program costs per student of the district providing education services and the sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.]~~

SECTION 1B.12. Section 42.2512(a), Education Code, is amended to read as follows:

(a) A school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount, as determined by the commissioner, equal to the difference, if any, between:

(1) an amount equal to the product of \$3,000 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402; and

(2) an amount equal to 80 percent of the amount of additional funds to which the district is entitled due to the increases made by Chapter 396 [~~S.B. No. 4~~], Acts of the 76th Legislature, Regular Session, 1999, to:

(A) [~~the equalized wealth level under Section 41.002,~~

~~[(B)]~~ the basic allotment under Section 42.101; and

(B) [~~(C)~~] the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302.

SECTION 1B.13. Section 42.2514(b), Education Code, is amended to read as follows:

(b) For each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, or a participating charter school is entitled to state aid in an amount, as determined by the commissioner, equal to the difference, if any, between:

(1) the amount determined by multiplying the amount of \$900 or the amount specified in the General Appropriations Act for that year for purposes of the state contribution under Section 1579.251 [~~9, Article 3.50-7~~], Insurance Code, by the number of district or school employees who participate in a group health coverage plan provided by or through the district or school; and

(2) an amount equal to 75 percent of the amount of:

(A) additional funds to which the district or school is entitled due to the increase made by Chapter 1187 [~~H.B. No. 3343~~], Acts of the 77th Legislature, Regular Session, 2001, to[+]

~~[(i) the equalized wealth level under Section 41.002, and~~

~~[(ii)]~~ the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302; or

(B) additional state aid to which the district is entitled under Section 42.2513.

SECTION 1B.14. Section 42.2521(a), Education Code, is

amended to read as follows:

(a) For purposes of Chapter [~~Chapters 41 and~~] 46 and this chapter, and to the extent money specifically authorized to be used under this section is available, the commissioner shall adjust the taxable value of property in a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline in the tax base used in calculating taxable values in excess of four percent of the tax base used in the preceding year.

SECTION 1B.15. Sections 42.2531(a), (b), and (c), Education Code, are amended to read as follows:

(a) The commissioner may make adjustments to amounts due to a school district under this chapter or Chapter 46 [~~, or to amounts necessary for a district to comply with the requirements of Chapter 41, as provided by this section~~].

(b) A school district that has a major taxpayer, as determined by the commissioner, that because of a protest of the valuation of the taxpayer's property fails to pay all or a portion of the ad valorem taxes due to the district may apply to the commissioner to have the district's taxable value of property or ad valorem tax collections adjusted for purposes of this chapter or Chapter [~~41 or~~] 46. The commissioner may make the adjustment only to the extent the commissioner determines that making the adjustment will not:

(1) in the fiscal year in which the adjustment is made, cause the amount to which school districts are entitled under this chapter to exceed the amount appropriated for purposes of the Foundation School Program for that year; and

(2) if the adjustment is made in the first year of a state fiscal biennium, cause the amount to which school districts are entitled under this chapter for the second year of the biennium to exceed the amount appropriated for purposes of the Foundation School Program for that year.

(c) The commissioner shall recover the benefit of any adjustment made under this section by making offsetting adjustments in the school district's taxable value of property or ad valorem tax collections for purposes of this chapter or Chapter [~~41 or~~] 46 on a final determination of the taxable value of property that was the

basis of the original adjustment, or in the second school year following the year in which the adjustment is made, whichever is earlier.

SECTION 1B.16. Section 42.260(b), Education Code, is amended to read as follows:

(b) For each year, the commissioner shall certify to each school district or participating charter school the amount of:

(1) additional funds to which the district or school is entitled due to the increase made by Chapter 1187 [~~H.B. No. 3343~~], Acts of the 77th Legislature, Regular Session, 2001, to [~~+~~

~~[(A) the equalized wealth level under Section 41.002; or~~

~~[(B)] the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302; or~~

(2) additional state aid to which the district or school is entitled under Section 42.2513.

SECTION 1B.17. Section 403.302(a), Government Code, is amended to read as follows:

(a) The comptroller shall conduct an annual study using comparable sales and generally accepted auditing and sampling techniques to determine the total taxable value of all property in each school district. The study shall determine the taxable value of all property and of each category of property in the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. [~~The comptroller shall make appropriate adjustments in the study to account for actions taken under Chapter 41, Education Code.~~]

SECTION 1B.18. Section 6.02(b), Tax Code, is amended to read as follows:

(b) A taxing unit that has boundaries extending into two or more counties may choose to participate in only one of the appraisal districts. In that event, the boundaries of the district chosen extend outside the county to the extent of the unit's boundaries. To be effective, the choice must be approved by resolution of the board of directors of the district chosen. [~~The choice of a school~~

~~district to participate in a single appraisal district does not apply to property annexed to the school district under Subchapter C or G, Chapter 41, Education Code, unless:~~

~~[(1) the school district taxes property other than property annexed to the district under Subchapter C or G, Chapter 41, Education Code, in the same county as the annexed property; or~~

~~[(2) the annexed property is contiguous to property in the school district other than property annexed to the district under Subchapter C or G, Chapter 41, Education Code.]~~

SECTION 1B.19. Section 21.01, Tax Code, is amended to read as follows:

Sec. 21.01. REAL PROPERTY. Real property is taxable by a taxing unit if located in the unit on January 1 [~~, except as provided by Chapter 41, Education Code~~].

SECTION 1B.20 Section 21.02(a), Tax Code, is amended to read as follows:

(a) Except as provided by [~~Subsection (b) and~~] 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 section~~].

SECTION 1B.21. Section 39.901(d), Utilities Code, is amended to read as follows:

(d) Not later than May 1 of each year, subject to Section 39.903(b), the commission shall transfer from the system benefit

fund to the foundation school fund the amount determined by the Texas Education Agency under Subsection (b) to the extent that funds are available. Amounts transferred from the system benefit fund under this section may be appropriated only for the support of the Foundation School Program and are available, in addition to any amounts allocated by the General Appropriations Act, to finance actions under Section ~~[41.002(b) or]~~ 42.2521, Education Code.

SECTION 1B.22. (a) Sections 1 and 3, Chapter 201, Acts of the 78th Legislature, Regular Session, 2003, are repealed.

(b) The following provisions of the Education Code are repealed:

(1) Chapter 41; and

(2) Sections 4.003, 7.055(b)(34), 29.203(g), 42.103(e), and 42.158(e).

(c) Section 466.355(c), Government Code, is repealed.

(d) Sections 6.02(g), 6.03(m), 21.02(b) and (c), and 25.25(k), Tax Code, are repealed.

SECTION 1B.23. (a) For the 2005 tax year, a school district may not, except as provided by Subsection (b) of this section, impose a maintenance and operations tax under Section 45.002, Education Code, at a rate that exceeds \$1.25 on the \$100 valuation of property.

(b) Notwithstanding Section 45.003(e), Education Code, as added by this part, for the 2005 tax year, a school district permitted by special law on January 1, 2004, to impose an ad valorem tax for maintenance and operations at a rate greater than \$1.50 on the \$100 valuation of taxable property may not impose that tax at a rate that exceeds the rate that is \$0.25 less than the rate the district imposed for the 2004 tax year.

SECTION 1B.24. (a) Except as otherwise provided by this Act, this article takes effect September 1, 2005, and applies beginning with the 2005-2006 school year.

(b) Except as otherwise provided by this Act, Sections 1A.08-1A.10 of this Act take effect January 1, 2005, and apply to the 2005 ad valorem tax year.

ARTICLE 2. EDUCATION REFORMS

SECTION 2.01. Subchapter H, Chapter 21, Education Code, is

amended by adding Sections 21.358-21.360 to read as follows:

Sec. 21.358. TEACHER EXCELLENCE INCENTIVE FUND. (a) The teacher excellence incentive fund is an account in the general revenue fund.

(b) The fund consists of amounts transferred to the fund at the direction of the legislature for purposes of Sections 21.359 and 21.360 and donations and grants made to the fund for purposes of the fund.

(c) The commissioner must approve each payment from the fund and may adopt rules for the payment of incentive grants from the fund.

Sec. 21.359. CLASSROOM EXCELLENCE INCENTIVE PROGRAMS. (a) A school district may:

(1) establish a program to reward:

(A) individual teachers who demonstrate excellence in the classroom; or

(B) all teachers at a campus at which students demonstrate significant academic achievement; and

(2) apply to the commissioner for a grant from the teacher excellence incentive fund to assist the district in paying incentives under the district's program.

(b) The commissioner shall adopt criteria for evaluating school districts' classroom excellence incentive programs. A program must award incentives in part based on the academic achievement of teachers' students. Academic achievement may not be measured solely by students' performance on assessment instruments administered under Subchapter B, Chapter 39. A program may award incentives in part based on teacher appraisals, peer reviews, or other appropriate measures of teachers' performance.

(c) To receive a grant under this section for any school year, a school district must apply to the commissioner for a grant for that year. In addition to other information required by the commissioner, the application must state the maximum number of teachers who may be entitled to an incentive award under the district's classroom excellence incentive program. For any school year, a grant under this section may not exceed \$2,500 for each teacher eligible for an incentive award.

(d) The commissioner shall evaluate each application for a grant under this section and rank each application. In ranking a school district's application, the commissioner shall consider:

(1) the extent to which the district's classroom excellence incentive program complies with the commissioner's criteria adopted under Subsection (b); and

(2) how the number of teachers eligible for an incentive award under the program affects the commissioner's ability to award grants to other districts.

(e) The commissioner shall award grant funds beginning with the school district with the highest-ranked program and ending with the district with the lowest-ranked program for which funds are available. A district may use funds received under this section only to pay classroom excellence incentive awards directly to qualifying teachers. The board of trustees of the district shall determine which teachers qualify for an incentive award based on criteria adopted by the board. For any school year, a district may not pay more than \$2,500 in funds received under this section to a teacher, but may supplement that award with other funds. A decision by the commissioner or a board of trustees under this subsection is final and may not be appealed.

(f) A school district's classroom excellence incentive program may provide an incentive award to each teacher at a campus that qualifies for an award under criteria adopted by the board of trustees. A district that establishes a program described by this subsection is not required to publicly identify individual teachers who are responsible for the achievement of the students attending the campus but may make such information available to appropriate persons for a purpose permitted by this chapter.

Sec. 21.360. STRUGGLING SCHOOL INCENTIVE PROGRAMS. (a) A school district may:

(1) establish a program to reward teachers whose performance improves student achievement at a struggling school; and

(2) apply to the commissioner for a grant from the teacher excellence incentive fund to assist the district in paying incentives under the district's program.

(b) Not later than July 1 of each year, the commissioner shall identify the campuses in the state that will be considered struggling schools for the following school year. In identifying a campus as struggling, the commissioner shall consider:

(1) the performance of the students attending the campus on state assessment instruments under Subchapter B, Chapter 39;

(2) the percentage of students attending the campus who are educationally disadvantaged;

(3) the percentage of students attending the campus who are at risk of dropping out of school, as defined by Section 29.081;

(4) the percentage of teachers assigned to the campus who are inappropriately certified or uncertified teachers, as defined by Section 21.057; and

(5) other factors the commissioner considers relevant.

(c) The commissioner shall adopt criteria for evaluating school districts' struggling school incentive programs. A program must award incentives to individual teachers at struggling schools in part based on the academic achievement of the teachers' students. Academic achievement may not be measured solely by students' performance on assessment instruments administered under Subchapter B, Chapter 39.

(d) To receive a grant under this section for any school year, a school district must apply to the commissioner for a grant for that year. In addition to other information required by the commissioner, the application must state the maximum number of teachers who may be entitled to an incentive award under the district's struggling schools incentive program. For any school year, a grant under this section may not exceed \$5,000 for each teacher eligible for an incentive award.

(e) The commissioner shall evaluate each application for a grant under this section and rank each application. In ranking a school district's application, the commissioner shall consider how the number of teachers eligible for an incentive award under the struggling school incentive program affects the commissioner's

ability to award grants to other districts.

(f) The commissioner shall award grant funds beginning with the school district with the highest-ranked program and ending with the district with the lowest-ranked program for which funds are available. A district may use funds received under this section only to pay struggling school incentive awards directly to qualifying teachers. The board of trustees of the school district shall determine which teachers qualify for an incentive award based on criteria adopted by the board. For any school year, a district shall pay \$5,000 in funds received under this section to a qualifying teacher and may supplement that award with other funds. A decision by the commissioner or a board of trustees under this subsection is final and may not be appealed.

SECTION 2.02. The heading to Section 21.357, Education Code, is amended to read as follows:

Sec. 21.357. PERFORMANCE INCENTIVES FOR PRINCIPALS.

SECTION 2.03. Section 39.030(b), Education Code, is amended to read as follows:

(b) The results of individual student performance on academic skills assessment instruments administered under this subchapter are confidential and may be used or released only in accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and district and made available to the public, with appropriate interpretations, at regularly scheduled meetings of the board of trustees of each school district. Information made available to the public under this subsection [~~The information~~] may not contain the names of individual students or teachers.

SECTION 2.04. Sections 39.053(a) and (e), Education Code, are amended to read as follows:

(a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

(1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;

(2) the performance rating for the district as provided under Section 39.072(a) and the performance rating of each campus in the district as provided under Section 39.072(c);

(3) the district's current special education compliance status with the agency;

(4) a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students; ~~and~~

(6) the findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent amendments; ~~and~~

(7) information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner; and

(8) as determined by the commissioner, financial information, including amounts and types of revenue received by the district from any source, including local, state, or federal funding, amounts and types of expenditures made by the state on the district's behalf, and amounts and types of expenditures made by the district.

(e) The report may include the following information:

(1) student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

(2) ~~financial information, including revenues and expenditures,~~

~~(3)~~ staff information, including number and type of staff by gender, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;

(3) [~~(4)~~] program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

(4) [~~(5)~~] the number of students placed in a disciplinary alternative education program under Chapter 37.

SECTION 2.05. Section 39.202, Education Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The system must include uniform indicators adopted by the commissioner by which to measure a district's financial management performance. The indicators must include consideration of the following factors:

(1) a district's administrative costs;

(2) the percentage of funding a district spends directly on classroom instruction;

(3) the rate and total amount of ad valorem taxes collected by a district, as compared to similarly situated districts;

(4) the method a district uses to protect the district against fraudulent use of district money and other property;

(5) a comparison of a district's expenditures and the performance of district students on assessment instruments administered under Subchapter B;

(6) a district's personnel management practices; and

(7) any other information that a district is required to report under Section 39.203.

(c) A school district that does not satisfy the financial accountability performance standards adopted by the commissioner under this section is considered financially low-performing.

SECTION 2.06. Subchapter I, Chapter 39, Education Code, is amended by adding Section 39.2021 to read as follows:

Sec. 39.2021. FINANCIAL ACCOUNTABILITY SANCTIONS. If the commissioner rates a district as financially low-performing under Section 39.202, the commissioner may take any of the actions listed in Section 39.131(a)(1), (2), (4), (5), (6), (7), or (8), in order of severity, to the extent the commissioner determines necessary.

SECTION 2.07. Section 39.203(c), Education Code, is amended

to read as follows:

(c) The report must also [~~may~~] include:

(1) information concerning the district's:

(A) financial allocations;

(B) tax collections;

(C) financial strength;

(D) operating cost management;

(E) personnel management;

(F) debt management;

(G) facility acquisition and construction management;

(H) cash management;

(I) budgetary planning;

(J) overall business management;

(K) compliance with rules; and

(L) data quality; [~~and~~]

(2) a detailed description of:

(A) amounts and types of revenue received by the district from any source, including local, state, or federal funding;

(B) amounts and types of expenditures made by the state on the district's behalf; and

(C) amounts and types of expenditures made by the district; and

(3) any other information the board of trustees determines to be necessary or useful.

SECTION 2.08. Chapter 39, Education Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. STUDENT EXCELLENCE

AND IMPROVEMENT INCENTIVES

Sec. 39.221. DEFINITIONS. In this subchapter:

(1) "Commended performance" means answering correctly at least 90 percent of the questions for which credit is given on each assessment instrument under Section 39.023(a), (c), or (l) that a student is required to take during a school year.

(2) "Student at risk of dropping out of school" has the meaning assigned by Section 29.081.

(3) "Student of limited English proficiency" has the meaning assigned by Section 29.052.

Sec. 39.222. DISTINGUISHED ACHIEVEMENT PROGRAM INCENTIVE. In addition to any other funds to which a school campus is entitled under this code, each school year, except as provided by Section 39.227(c), each campus is entitled to:

(1) \$1,000 for each student who graduates completing the curriculum requirements, including the additional components and advanced measures, for an advanced high school program as determined under Section 28.025; and

(2) an additional \$1,000 for each student at risk of dropping out of school who graduates completing the curriculum requirements, including the additional components and advanced measures, for an advanced high school program as determined under Section 28.025.

Sec. 39.223. COMMENDED PERFORMANCE INCENTIVE. In addition to any other funds to which a school campus is entitled under this code, each school year, except as provided by Section 39.227(c), each campus is entitled to:

(1) \$100 for each student who achieves commended performance; and

(2) an additional \$100 for each student at risk of dropping out of school who achieves commended performance.

Sec. 39.224. HIGH SCHOOL ADVANCEMENT INCENTIVE. In addition to any other funds to which a school campus is entitled under this code, each school year, except as provided by Section 39.227(c), each campus is entitled to:

(1) \$100 for each student advancing to grade 10 who has:

(A) performed successfully on each assessment instrument required under Section 39.023(a) in grade nine; and

(B) earned at least six credits that satisfy curriculum requirements for a recommended or advanced high school program as determined under Section 28.025;

(2) \$200 for each student advancing to grade 11 who has:

(A) performed successfully on each assessment

instrument required under Section 39.023(a) in grade 10; and

(B) earned at least 12 credits that satisfy curriculum requirements for a recommended or advanced high school program as determined under Section 28.025; and

(3) \$300 for each student advancing to grade 12 who has:

(A) performed successfully on each section of the exit-level assessment instrument required under Section 39.023(c); and

(B) earned at least 18 credits that satisfy curriculum requirements for a recommended or advanced high school program as determined under Section 28.025.

Sec. 39.225. INCENTIVE FOR STUDENTS OF LIMITED ENGLISH PROFICIENCY. In addition to any other funds to which a school campus is entitled under this code, each school year, except as provided by Section 39.227(c), each campus is entitled to:

(1) \$100 for each student of limited English proficiency who performs successfully on each assessment instrument required under Section 39.023(a), (c), or (l); and

(2) an additional \$100 for each student of limited English proficiency who achieves commended performance on each assessment instrument required under Section 39.023(a), (c), or (l), even if the campus is also entitled to funds for that student's performance under Section 39.223.

Sec. 39.226. ALGEBRA I INCENTIVE. In addition to any other funds to which a school campus is entitled under this code, each school year, except as provided by Section 39.227(c), each campus is entitled to:

(1) \$100 for each student who performs successfully on the end-of-course assessment instrument for Algebra I developed under Section 39.023(j); and

(2) an additional \$100 for each student at risk of dropping out of school who performs successfully on the end-of-course assessment instrument for Algebra I.

Sec. 39.227. DISTRIBUTION AND USE OF FUNDS. (a) Funds distributed under Sections 39.222-39.226 shall be distributed to the school district that contains the school campus entitled to the

funds under the applicable section. The funds must be used on the campus entitled to the funds, except that if the campus that would be entitled to the funds is rated exemplary under Section 39.072, the district may use the funds on another district campus.

(b) A school district or campus may use funds distributed under Sections 39.222-39.226 only for academic enhancement purposes. The funds may not be used for any purpose related to athletics and may not be used to substitute for or replace funds already in the regular budget for a district or campus.

(c) The amount of any funds to which a district is otherwise entitled under Sections 39.222-39.226 is reduced by 10 percent if the district is considered financially low-performing under Section 39.202.

Sec. 39.228. STUDENT IMPROVEMENT INCENTIVE. (a) In this section, "fund" means the successful school fund.

(b) The successful school fund is an account in the general revenue fund and consists of money appropriated to the fund and donations and grants made for purposes of the fund. Money in the fund may be used only for providing a grant to a school district in accordance with this section and with rules adopted by the commissioner under this section.

(c) A school district may apply for a grant from the fund.

(d) The commissioner may award a grant from the fund to a school district whose students achieve significant improvement, as determined by commissioner rule, toward meeting each objective under Sections 39.222-39.226.

(e) The commissioner by rule shall establish:

(1) forms and procedures a school district must use in applying for a grant under this section;

(2) criteria for selecting among eligible districts, if necessary, for grants under this section; and

(3) the amount of grants under this section, which may vary based on criteria specified by the commissioner.

(f) In addition to the rules adopted under Subsections (d) and (e), the commissioner may adopt any other rules necessary to carry out this section.

SECTION 2.09. Section 822.201(b), Government Code, is

amended to read as follows:

(b) "Salary and wages" as used in Subsection (a) means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) amounts by which the member's salary is reduced under a salary reduction agreement authorized by Chapter 610;

(3) amounts that would otherwise qualify as salary and wages under Subdivision (1) but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986, if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance programs, or group legal services plans;

(4) performance pay awarded to an employee by a school district as part of a total compensation plan approved by the board of trustees of the district and meeting the requirements of Subsection (e);

(5) the benefit replacement pay a person earns under Subchapter H, Chapter 659, except as provided by Subsection (c);

(6) stipends paid to teachers in accordance with Section 21.410, 21.411, 21.412, or 21.413, Education Code;

(7) amounts by which the member's salary is reduced or that are deducted from the member's salary as authorized by Subchapter J, Chapter 659; ~~and~~

(8) a merit salary increase made under Section 51.962, Education Code;

(9) classroom excellence incentive awards under Section 21.359, Education Code; and

(10) struggling school incentive awards under Section 21.360, Education Code.

SECTION 2.10. Except as otherwise provided by this Act, this article takes effect September 1, 2005, and applies beginning with the 2005-2006 school year.

ARTICLE 3. PROPERTY TAX AND LOCAL REVENUE

PART A. STATE AND LOCAL

SCHOOL PROPERTY TAXES

SECTION 3A.01. Chapter 45, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. STATE AD VALOREM TAX

Sec. 45.251. STATE AD VALOREM TAX. (a) A state ad valorem tax for elementary and secondary public school purposes is levied on all nonresidential property.

(b) The state ad valorem tax rate is \$1.40 per \$100 of valuation of taxable nonresidential property, subject to a reduction in the rate determined in accordance with a general law enacted under Section 67, Article III, Texas Constitution.

(c) Except as otherwise provided by law, the state shall be treated, for purposes of the state ad valorem tax, as a taxing unit under Title 1, Tax Code.

(d) In this section, "nonresidential property" means all taxable real and tangible personal property in each county of this state that is not taxable for maintenance and operations purposes by a school district under Section 45.002.

Sec. 45.252. APPRAISAL OF PROPERTY. (a) Property subject to the state ad valorem tax shall be appraised by the appraisal district for the county in which the property is located.

(b) Property subject to the state ad valorem tax shall be appraised in the manner provided by Title 1, Tax Code, for the appraisal of property that is subject to ad valorem taxation by a county.

Sec. 45.253. TAX COLLECTION. (a) In each county, the assessor-collector for the county shall assess and collect state ad valorem taxes imposed on property in that county.

(b) If the commissioners court of a county contracts with an official, taxing unit, or political subdivision of this state for the assessment or collection of the ad valorem taxes of the county, the official, taxing unit, or political subdivision shall also

assess or collect, as applicable, the state ad valorem taxes imposed on property in that county.

(c) Each assessor or collector of state ad valorem taxes is entitled to be reimbursed by the comptroller for the actual costs incurred by the assessor or collector in assessing or collecting state ad valorem taxes. However, an assessor or collector is not entitled to be reimbursed for any amount that is greater than the additional incremental costs incurred in assessing or collecting the state ad valorem taxes.

(d) The comptroller shall:

(1) prescribe methods of accounting for and remitting state ad valorem taxes;

(2) prescribe methods for establishing an assessor's or collector's additional incremental costs incurred in assessing or collecting state ad valorem taxes;

(3) prescribe and furnish forms for periodic reports relating to state ad valorem taxes; and

(4) periodically examine the records of each assessor or collector of state ad valorem taxes to verify the accuracy of any reports required under this subsection.

Sec. 45.254. DUTIES AND POWERS OF COMPTROLLER. (a) Except as otherwise provided by this subchapter, a duty imposed on or power granted to the governing body of a taxing unit by Title 1, Tax Code, may, for purposes of the state ad valorem tax under this subchapter, be exercised by the comptroller. A reference to the presiding officer of a governing body in Title 1, Tax Code, is a reference to the comptroller for the purposes of the state tax under this subchapter.

(b) The comptroller may delegate to the county assessor-collector any function of the comptroller with respect to the state ad valorem tax and may designate the county assessor-collector as the comptroller's agent for purposes of administration of the state ad valorem tax.

Sec. 45.255. ADMINISTRATION AND REFUND ACCOUNTS. The comptroller shall deposit to the credit of the general revenue fund in appropriately designated accounts an amount of revenue collected from the state ad valorem tax to pay for the comptroller's expenses

in administering this subchapter and for the payment of tax refunds that may become payable.

Sec. 45.256. NONAPPLICABILITY OF CERTAIN OTHER TAX LAWS. Title 2, Tax Code, does not apply to the state ad valorem tax under this subchapter.

Sec. 45.257. TAX INCREMENT FINANCING. (a) Except as otherwise provided by this section, the state may not pay any portion of the tax increment produced by the state into the tax increment fund for a reinvestment zone designated under Chapter 311, Tax Code.

(b) If a reinvestment zone was designated under Chapter 311, Tax Code, before May 1, 2004, and a school district entered into an agreement with the governing body of the municipality that created the zone to pay into the tax increment fund for the zone any portion of the school district's tax increment produced from property located in the zone, the portion of the tax increment produced by the school district that must be paid into the tax increment fund shall be determined as provided by this subsection, notwithstanding the terms of the agreement, and the state shall pay a portion of the tax increment produced by the state into the tax increment fund as determined by this subsection. The collector for the municipality shall calculate the portion of the total amount of tax increment produced by the school district and the state that the school district would be required to pay into the tax increment fund under the agreement if that total amount of tax increment were produced solely by the school district. That amount shall be apportioned between the school district and the state in proportion to the amount of tax increment produced by each of those entities, and each entity shall pay the amount apportioned to it into the tax increment fund.

(c) If the reinvestment zone was designated under Chapter 311, Tax Code, before this subchapter took effect, the tax increment base of the state is calculated under Section 311.012, Tax Code, as if this subchapter were in effect for the year in which the zone was designated.

(d) If the reinvestment zone includes property taxable by more than one school district, the amount of tax increment required

to be paid into the tax increment fund by each school district and the state shall be calculated as provided by Subsection (b) separately for the portion of the reinvestment zone located in each school district.

Sec. 45.258. TAX ABATEMENT. (a) Except as otherwise provided by this section, the state may not participate in tax abatement under Section 311.0125 or 311.013(g) or Chapter 312, Tax Code.

(b) If school district property taxes on property located in the taxing jurisdiction of a school district are abated under a tax abatement agreement entered into by the school district under Chapter 312, Tax Code, the terms of the agreement regarding the portion of the value of the property that is to be exempted from taxation in each year of the agreement apply to the taxation of the property by the state. A modification of the agreement by the parties to the agreement under Section 312.208, Tax Code, that increases the portion of the value of the property that is to be exempted from taxation or that extends the duration of the agreement does not apply to the taxation of the property by the state unless the modification is entered into before May 1, 2004.

SECTION 3A.02. Subchapter A, Chapter 6, Tax Code, is amended by adding Section 6.038 to read as follows:

Sec. 6.038. STATE PARTICIPATION. (a) The comptroller and the state do not participate in the election of the board of directors of an appraisal district, the governance or management of the district, or the determination of the district's finances and budget.

(b) The comptroller by rule shall establish guidelines and criteria under which, if the comptroller finds that generally accepted appraisal standards and practices were not used by the appraisal district appraising property subject to the state ad valorem tax or that the appraised values assigned to property subject to that tax are invalid, the comptroller may:

(1) withhold payment of all or part of the portion of the amount of the budget of the appraisal district that is allocated to the state until the district takes appropriate actions to remedy the deficiencies in appraisals found by the comptroller; or

(2) direct that all or any part of the portion of the amount of the budget of the district allocated to the state be applied to remedying those deficiencies.

SECTION 3A.03. Section 6.06(d), Tax Code, is amended to read as follows:

(d) The state and each ~~Each~~ taxing unit participating in the district are each ~~is~~ allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the district by the state or taxing unit for the tax year in which the budget proposal is prepared bears to the sum of the total dollar amount of property taxes imposed in the district by the state and each participating unit for that year. For purposes of this subsection, only state ad valorem taxes imposed in the county for which the district is established are considered as state ad valorem taxes imposed in the district. If a taxing unit participates in two or more districts, only the taxes imposed in a district are used to calculate the unit's cost allocations in that district. If the number of real property parcels in a taxing unit is less than 5 percent of the total number of real property parcels in the district and the taxing unit imposes in excess of 25 percent of the total amount of the property taxes imposed in the district by all of the participating taxing units for a year, the unit's allocation may not exceed a percentage of the appraisal district's budget equal to three times the unit's percentage of the total number of real property parcels appraised by the district.

SECTION 3A.04. Section 11.14, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) Subsection (c) does not apply to the comptroller or to the state ad valorem tax.

SECTION 3A.05. Section 11.251(i), Tax Code, is amended to read as follows:

(i) The exemption provided by Subsection (b) does not apply to a taxing unit that takes action to tax the property under Article VIII, Section 1-j, Subsection (b), of the Texas Constitution. If the property is located in a school district that taxes the property in the tax year, the property is not exempt from state ad valorem

taxes imposed under Section 1-n, Article VIII, Texas Constitution, in that tax year.

SECTION 3A.06. Section 21.03(a), Tax Code, is amended to read as follows:

(a) If personal property that is taxable by this state or a taxing unit of this state is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the total market value of the property that fairly reflects its use in this state.

SECTION 3A.07. Section 21.031(a), Tax Code, is amended to read as follows:

(a) If a vessel or other watercraft that is taxable by this state or a taxing unit of this state is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the total market value of the vessel or watercraft that fairly reflects its use in this state. The appraisal office shall not allocate to this state the portion of the total market value of the vessel or watercraft that fairly reflects its use in another state or country, in international waters, or beyond the Gulfward boundary of this state.

SECTION 3A.08. Section 23.46(d), Tax Code, is amended to read as follows:

(d) A tax lien attaches to the land on the date the sale or change of use occurs to secure payment of the additional tax and interest imposed by Subsection (c) [~~of this section~~] and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

SECTION 3A.09. Section 23.55(b), Tax Code, is amended to read as follows:

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

SECTION 3A.10. Section 23.76(b), Tax Code, is amended to read as follows:

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

SECTION 3A.11. Section 23.86(b), Tax Code, is amended to read as follows:

(b) A tax lien attaches to the land on the date the change of use occurs or the deed restriction expires to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

SECTION 3A.12. Section 23.96(b), Tax Code, is amended to read as follows:

(b) A tax lien attaches to the property on the date the deed restriction expires to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

SECTION 3A.13. Section 23.9807(c), Tax Code, is amended to read as follows:

(c) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of the state and all taxing units for which the additional tax is imposed.

SECTION 3A.14. Section 24.39, Tax Code, is amended to read as follows:

Sec. 24.39. IMPOSITION OF TAX. (a) The county assessor-collector and commissioners court may not change the apportioned values certified as provided by this subchapter.

(b) The county assessor-collector shall add each owner's rolling stock and the value apportioned to the county as certified to that official [~~him~~] to the appraisal roll certified to that official [~~him~~] by the chief appraiser as provided by Section 26.01 [~~of this code~~] for county tax purposes and to the appraisal roll for state ad valorem taxes. The county assessor-collector [~~He~~] shall

calculate the county and state taxes [~~tax~~] due on the rolling stock as provided by Section 26.09 [~~of this code~~].

SECTION 3A.15. Section 25.19(b), Tax Code, as amended by Chapters 1358 and 1517, Acts of the 76th Legislature, Regular Session, 1999, is reenacted and amended to read as follows:

(b) The chief appraiser shall separate real from personal property and include in the notice for each:

(1) a list of the taxing units in which the property is taxable and, if applicable, a statement that the property is subject to the state tax to support the public schools;

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

(3) the taxable value of the property in the preceding year for each taxing unit taxing the property and, if applicable, for state taxation;

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

(5) if the appraised value is greater than it was in the preceding year, the amount of tax that would be imposed on the property on the basis of the tax rate for each local taxing unit for the preceding year;

(6) in italic typeface, the following statement: "The Texas Legislature does not set the amount of your local taxes. Your local property tax burden is decided by your locally elected officials, and all inquiries concerning your local taxes should be directed to those officials";

(7) a detailed explanation of the time and procedure for protesting the value;

(8) the date and place the appraisal review board will begin hearing protests; and

(9) a brief explanation that the governing body of each local taxing unit decides whether [~~or not~~] taxes on the property will increase and the appraisal district only determines the value of the property.

SECTION 3A.16. The heading to Section 26.01, Tax Code, is amended to read as follows:

Sec. 26.01. SUBMISSION OF ROLLS TO STATE AND TAXING UNITS.

SECTION 3A.17. Sections 26.01(a), (c), and (d), Tax Code, are amended to read as follows:

(a) By July 25, the chief appraiser shall prepare and certify to the assessor for each taxing unit participating in the district that part of the appraisal roll for the district that lists the property taxable by the unit. By that date the chief appraiser shall prepare and certify to the comptroller that part of the appraisal roll for the district that lists property taxable by the state. The part certified to the assessor or the comptroller is the appraisal roll for the taxing unit or the state. The chief appraiser shall consult with the assessor for each taxing unit and the comptroller and notify each taxing unit and the comptroller in writing by April 1 of the form in which the roll will be provided to each unit and to the comptroller.

(c) The chief appraiser shall prepare and certify to the assessor for each taxing unit and the comptroller a listing of those properties which are taxable by that unit or the state but which are under protest and therefore not included on the appraisal roll approved by the appraisal review board and certified by the chief appraiser. This listing shall include the appraised market value, productivity value (if applicable), and taxable value as determined by the appraisal district and shall also include the market value, taxable value, and productivity value (if applicable) as claimed by the property owner filing the protest if available. If the property owner does not claim a value and the appraised value of the property in the current year is equal to or less than its value in the preceding year, the listing shall include a reasonable estimate of the market value, taxable value, and productivity value (if applicable) that would be assigned to the property if the taxpayer's claim is upheld. If the property owner does not claim a value and the appraised value of the property is higher than its appraised value in the preceding year, the listing shall include the appraised market value, productivity value (if applicable) and taxable value of the property in the preceding year, except that if there is a reasonable likelihood that the appraisal review board will approve a lower appraised value for the property than its

appraised value in the preceding year, the chief appraiser shall make a reasonable estimate of the taxable value that would be assigned to the property if the property owner's claim is upheld. The taxing unit shall use the lower value for calculations as prescribed in Sections 26.04 and 26.041 [~~of this code~~].

(d) The chief appraiser shall prepare and certify to the assessor for each taxing unit and the comptroller a list of those properties of which the chief appraiser has knowledge that are reasonably likely to be taxable by that unit or the state but that are not included on the appraisal roll certified to the assessor or the comptroller under Subsection (a) or included on the listing certified to the assessor or the comptroller under Subsection (c). The chief appraiser shall include on the list for each property the market value, appraised value, and kind and amount of any partial exemptions as determined by the appraisal district for the preceding year and a reasonable estimate of the market value, appraised value, and kind and amount of any partial exemptions for the current year. Until the property is added to the appraisal roll, the assessor for the taxing unit shall include each property on the list in the calculations prescribed by Sections 26.04 and 26.041, and for that purpose shall use the lower market value, appraised value, or taxable value, as appropriate, included on or computed using the information included on the list for the property.

SECTION 3A.18. Chapter 26, Tax Code, is amended by adding Section 26.011 to read as follows:

Sec. 26.011. PROVISIONS NOT APPLICABLE TO STATE TAX. Sections 26.04, 26.041, 26.05, 26.051, 26.06, 26.07, and 26.08 do not apply to the state ad valorem tax or to the comptroller.

SECTION 3A.19. Sections 26.09(b) and (c), Tax Code, are amended to read as follows:

(b) The county assessor-collector shall add the properties and their values certified to that official [~~him~~] as provided by Chapter 24 [~~of this code~~] to the appraisal roll for county tax purposes and to the appraisal roll for state ad valorem taxes. The county assessor-collector shall use the appropriate appraisal roll certified to that official [~~him~~] as provided by Section 26.01 with

the added properties and values to calculate county and state taxes.

(c) The tax is calculated by:

(1) subtracting from the appraised value of a property as shown on the appraisal roll for a taxing ~~[the]~~ unit or the state the amount of any partial exemption allowed the property owner that applies to appraised value to determine taxable ~~[net appraised]~~ value; and

~~(2) [multiplying the net appraised value by the assessment ratio to determine assessed value;~~

~~[(3) subtracting from the assessed value the amount of any partial exemption allowed the property owner to determine taxable value; and~~

~~[(4)]~~ multiplying the taxable value by the applicable tax rate.

SECTION 3A.20. Section 26.12, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) For purposes of this section, the state is not a taxing unit.

SECTION 3A.21. Section 26.15(c), Tax Code, is amended to read as follows:

(c) At any time, the governing body of a taxing unit, on motion of the assessor for the unit or of a property owner, shall direct by written order changes in the tax roll to correct errors in the mathematical computation of a tax. The assessor shall enter the corrections ordered by the governing body. The comptroller may order changes in the state tax roll to correct errors in the mathematical computation of the state tax.

SECTION 3A.22. Section 31.11(a), Tax Code, is amended to read as follows:

(a) If a taxpayer applies to the tax collector of a taxing unit for a refund of an overpayment or erroneous payment of taxes and the auditor for the unit or the comptroller in the case of the state ad valorem tax determines that the payment was erroneous or excessive, the tax collector shall refund the amount of the excessive or erroneous payment from available current tax collections or from funds appropriated by the unit for making

refunds. For taxes other than state ad valorem taxes [~~However~~], the collector may not make the refund unless:

(1) in the case of a collector who collects taxes for one taxing unit, the governing body of the taxing unit also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds:

(A) \$2,500 for a refund to be paid by a county with a population of 1.5 million or more; or

(B) \$500 for a refund to be paid by any other taxing unit; or

(2) in the case of a collector who collects taxes for more than one taxing unit, the governing body of the taxing unit that employs the collector also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds \$2,500.

SECTION 3A.23. Sections 32.01(a) and (d), Tax Code, are amended to read as follows:

(a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year by the state or a taxing unit on the property, whether or not the taxes are imposed in the year the lien attaches. The lien to secure the payment of state ad valorem taxes and applicable penalties and interest exists in favor of the state. The lien to secure the payment of taxes imposed by a taxing unit and applicable penalties and interest exists in favor of the [~~each~~] taxing unit having power to tax the property.

(d) The lien under this section is perfected on attachment and, except as provided by Section 32.03(b), perfection requires no further action by the state or taxing unit.

SECTION 3A.24. Section 33.01(a), Tax Code, is amended to read as follows:

(a) A delinquent tax, including a delinquent state ad valorem tax, incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of twelve

percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent. A delinquent tax continues to incur the penalty provided by this subsection as long as the tax remains unpaid, regardless of whether a judgment for the delinquent tax has been rendered.

SECTION 3A.25. Subchapter A, Chapter 33, Tax Code, is amended by adding Section 33.11 to read as follows:

Sec. 33.11. COLLECTION OF DELINQUENT STATE AD VALOREM TAXES; PENALTY. (a) Except as provided by Subsection (b), the attorney general shall represent the state to enforce the collection of delinquent state ad valorem taxes. The attorney general may delegate the attorney general's duties under this subsection to a county or district attorney or may contract with a private attorney for the performance of those duties.

(b) If the commissioners court of a county contracts with a private attorney for the collection of delinquent county ad valorem taxes, the contract applies to the collection of delinquent state ad valorem taxes on property taxable in that county without further action. The compensation of the private attorney for collecting delinquent state ad valorem taxes is equal to a percentage of the amount collected that represents the portion of that amount attributable to the additional penalty provided by Subsection (c). If the commissioners court of a county contracts with an official, taxing unit, or political subdivision of this state for the collection of the ad valorem taxes of the county that includes the collection of delinquent county taxes, the contract applies to the collection of delinquent state ad valorem taxes on property taxable in that county without further action.

(c) State ad valorem taxes that remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection if the collection of the delinquent taxes is covered by a contract with a private attorney under Subsection (a) or (b). The amount of the penalty is 15 percent of the amount of the taxes, penalty, and interest due.

(d) A tax lien attaches in favor of the state to the property on which the tax is imposed to secure payment of the penalty.

(e) The attorney general or the person responsible for

collecting the delinquent tax shall deliver a notice of delinquency and of the penalty to the property owner at least 30 and not more than 60 days before July 1.

(f) Sections 6.30, 33.07, and 33.08 do not apply to the state ad valorem tax.

SECTION 3A.26. Sections 33.21(a) and (b), Tax Code, are amended to read as follows:

(a) A person's personal property is subject to seizure for the payment of a delinquent tax, penalty, and interest the person [~~he~~] owes the state or a taxing unit on property.

(b) A person's personal property is subject to seizure for the payment of a tax imposed by the state or a taxing unit on the person's [~~his~~] property before the tax becomes delinquent if:

(1) the collector discovers that property on which the tax has been or will be imposed is about to be removed from the county; and

(2) the collector knows of no other personal property in the county from which the tax may be satisfied.

SECTION 3A.27. Section 33.23(b), Tax Code, is amended to read as follows:

(b) A bond may not be required of the state or a taxing unit for issuance or delivery of a tax warrant, and a fee or court cost may not be charged for issuance or delivery of a warrant.

SECTION 3A.28. Section 33.44(b), Tax Code, is amended to read as follows:

(b) For purposes of joining a county, citation may be served on the county [~~tax~~] assessor-collector. For purposes of joining any other taxing unit, citation may be served on the officer charged with collecting taxes for the unit or on the presiding officer or secretary of the governing body of the unit. For purposes of joining the state, citation shall be served on the county assessor-collector. Citation may be served by certified mail, return receipt requested. A person on whom service is authorized by this subsection may waive the issuance and service of citation in behalf of the person's [~~his~~] taxing unit.

SECTION 3A.29. Section 34.04(b), Tax Code, is amended to read as follows:

(b) A copy of the petition shall be served, in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended, or that rule's successor, on all parties to the underlying action not later than the 20th day before the date set for a hearing on the petition. The attorney general represents the state at the hearing unless the attorney general delegates that duty to the county or district attorney.

SECTION 3A.30. The heading to Chapter 41, Tax Code, is amended to read as follows:

CHAPTER 41. ADMINISTRATIVE [~~LOCAL~~] REVIEW

SECTION 3A.31. Section 41.03, Tax Code, is amended to read as follows:

Sec. 41.03. CHALLENGE BY STATE OR TAXING UNIT. (a) The state or a [A] taxing unit is entitled to challenge before the appraisal review board:

(1) the level of appraisals of any category of property in the district or in any territory in the district, but not the appraised value of a single taxpayer's property;

(2) an exclusion of property from the appraisal records;

(3) a grant in whole or in part of a partial exemption;

(4) a determination that land qualifies for appraisal as provided by Subchapter C, D, E, or H, Chapter 23; or

(5) failure to identify the taxing unit as one in which a particular property is taxable.

(b) If the state or a taxing unit challenges a determination that land qualifies for appraisal under Subchapter H, Chapter 23, on the ground that the land is not located in an aesthetic management zone, critical wildlife habitat zone, or streamside management zone, the state or the taxing unit must first seek a determination letter from the director of the Texas Forest Service. The appraisal review board shall accept the letter as conclusive proof of the type, size, and location of the zone.

SECTION 3A.32. Subchapter A, Chapter 41, Tax Code, is amended by adding Section 41.031 to read as follows:

Sec. 41.031. CHALLENGE BY COMPTROLLER. The comptroller is entitled to challenge before the appraisal review board the

exclusion of property from the appraisal roll for state ad valorem taxes.

SECTION 3A.33. Section 41.06(a), Tax Code, is amended to read as follows:

(a) The secretary of the appraisal review board shall deliver to the comptroller and the presiding officer of the governing body of each taxing unit entitled to appear at a challenge hearing written notice of the date, time, and place fixed for the hearing. The secretary shall deliver the notice not later than the 10th day before the date of the hearing.

SECTION 3A.34. Section 41.07(d), Tax Code, is amended to read as follows:

(d) The board shall deliver by certified mail a notice of the issuance of the order and a copy of the order to the taxing unit. If the order of the board excludes property from the appraisal roll for state ad valorem taxes, the board shall also deliver a notice of issuance and a copy of the order to the comptroller in the manner prescribed by the comptroller.

SECTION 3A.35. Section 41.41(a), Tax Code, is amended to read as follows:

(a) A property owner is entitled to protest before the appraisal review board the following actions:

(1) determination of the appraised value of the owner's property or, in the case of land appraised as provided by Subchapter C, D, E, or H, Chapter 23, determination of its appraised or market value;

(2) unequal appraisal of the owner's property;

(3) inclusion of the owner's property on the appraisal records;

(4) denial to the property owner in whole or in part of a partial exemption;

(5) determination that the owner's land does not qualify for appraisal as provided by Subchapter C, D, E, or H, Chapter 23;

(6) identification of the taxing units in which the owner's property is taxable in the case of the appraisal district's appraisal roll;

(7) determination that the property owner is the owner of property;

(8) a determination that a change in use of land appraised under Subchapter C, D, E, or H, Chapter 23, has occurred; ~~[or]~~

(9) the inclusion of the property on or the exclusion of the property from the appraisal roll for state ad valorem taxes;
or

(10) any other action of the chief appraiser, appraisal district, or appraisal review board that applies to and adversely affects the property owner.

SECTION 3A.36. Section 41.47(d), Tax Code, is amended to read as follows:

(d) The board shall deliver by certified mail a notice of issuance of the order and a copy of the order to the property owner and the chief appraiser. If the order of the board excludes property from the appraisal roll for state ad valorem taxes, the board shall also deliver a notice of issuance and a copy of the order to the comptroller in the manner prescribed by the comptroller.

SECTION 3A.37. Subchapter A, Chapter 42, Tax Code, is amended by adding Section 42.032 to read as follows:

Sec. 42.032. RIGHT OF APPEAL BY COMPTROLLER. (a) The comptroller is entitled to appeal an order of the appraisal review board excluding property from the appraisal roll for state ad valorem taxes.

(b) The attorney general shall represent the comptroller in an appeal under this section. The attorney general may delegate its duties under this section to a county or district attorney or may contract with a private attorney for the performance of those duties.

SECTION 3A.38. Sections 42.06(a) and (c), Tax Code, are amended to read as follows:

(a) To exercise the party's right to appeal an order of an appraisal review board, a party other than a property owner must file written notice of appeal within 15 days after the date the party receives the notice required by Section 41.47 or, in the case

of a taxing unit or the comptroller, by Section 41.07 that the order appealed has been issued. To exercise the right to appeal an order of the comptroller, a party other than a property owner must file written notice of appeal within 15 days after the date the party receives the comptroller's order. A property owner is not required to file a notice of appeal under this section.

(c) If the chief appraiser, a taxing unit, ~~[or]~~ a county, or the comptroller appeals, the chief appraiser, if the appeal is of an order of the appraisal review board, or the comptroller, if the appeal is of an order of the comptroller, shall deliver a copy of the notice to the property owner whose property is involved in the appeal within 10 days after the date the notice is filed.

SECTION 3A.39. Sections 42.43(a), (b), and (c), Tax Code, are amended to read as follows:

(a) If the final determination of an appeal that decreases a property owner's tax liability occurs after the property owner has paid the owner's ~~[his]~~ taxes, the taxing unit and the comptroller, if the property is subject to the state ad valorem tax, shall refund to the property owner the difference between the amount of taxes paid and amount of taxes for which the property owner is liable.

(b) For a refund made under this section because an exemption under Section 11.20 that was denied by the chief appraiser or appraisal review board is granted, the taxing unit or the comptroller shall include with the refund interest on the amount refunded calculated at an annual rate that is equal to the auction average rate quoted on a bank discount basis for three-month treasury bills issued by the United States government, as published by the Federal Reserve Board, for the week in which the taxes became delinquent, but not more than 10 percent, calculated from the delinquency date for the taxes until the date the refund is made. For any other refund made under this section, the taxing unit or the comptroller shall include with the refund interest on the amount refunded at an annual rate of eight percent, calculated from the delinquency date for the taxes until the date the refund is made.

(c) Notwithstanding Subsection (b), if a taxing unit or the comptroller does not make a refund, including interest, required by

this section before the 60th day after the date the chief appraiser certifies a correction to the appraisal roll under Section 42.41, the taxing unit or the comptroller shall include with the refund interest on the amount refunded at an annual rate of 12 percent, calculated from the delinquency date for the taxes until the date the refund is made.

SECTION 3A.40. Sections 43.01 and 43.04, Tax Code, are amended to read as follows:

Sec. 43.01. AUTHORITY TO BRING SUIT. The comptroller or a [A] taxing unit may sue the appraisal district that appraises property for the state or the unit to compel the appraisal district to comply with the provisions of this title, rules of the comptroller, or other applicable law.

Sec. 43.04. SUIT TO COMPEL COMPLIANCE WITH DEADLINES. The comptroller or the governing body of a taxing unit may sue the chief appraiser or members of the appraisal review board, as applicable, for failure to comply with the deadlines imposed by Section 25.22(a), 26.01(a), or 41.12. If the court finds that the chief appraiser or appraisal review board failed to comply for good cause shown, the court shall enter an order fixing a reasonable deadline for compliance. If the court finds that the chief appraiser or appraisal review board failed to comply without good cause, the court shall enter an order requiring the chief appraiser or appraisal review board to comply with the deadline not later than the 10th day after the date the judgment is signed. In a suit brought under this section, the court may enter any other order the court considers necessary to ensure compliance with the court's deadline or the applicable statutory requirements. Failure to obey an order of the court is punishable as contempt.

SECTION 3A.41. Section 403.302, Government Code, is amended by amending Subsections (d) and (i) and adding Subsections (c-1) and (m) to read as follows:

(c-1) In this section, "taxable value" for purposes of maintenance and operations taxes means the market value of residential real property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax

Code, in the year that is the subject of the study;

(2) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law; and

(3) the amount by which the market value of property to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(d) In [~~For the purposes of~~] this section, "taxable value" for purposes of debt service taxes means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(6) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(7) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(8) a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code;

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

(10) the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(11) the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(12) the amount by which the market value of property [~~a residence homestead~~] to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(i) If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (c-1) or (d), as applicable, as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (c-1) or (d), shall for purposes of Subsection (c-1)(3) or (d)(12) subtract from the market value as determined by the appraisal district of properties [~~residence homesteads~~] to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (c-1) or (d), as applicable, as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (c-1) or (d), shall for purposes of Subsection (c-1)(3) or (d)(12) subtract from the market value as estimated by the comptroller of properties [~~residence homesteads~~] to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

(m) In this section, "residential property" has the meaning assigned by Section 45.002, Education Code.

SECTION 3A.42. The changes in law made by this part to Chapter 41, Tax Code, apply only to a challenge or protest under

that chapter for which the notice is filed on or after the effective date of this part. A challenge or protest for which the notice is filed before the effective date of this part is covered by the law in effect when the notice of protest was filed, and the former law is continued in effect for that purpose.

SECTION 3A.43. The changes in law made by this part apply to each tax year that begins on or after January 1, 2005. The changes in law do not apply to a tax year that begins before January 1, 2005, and the law as it existed before January 1, 2005, is continued in effect for purposes of taxes imposed in that tax year.

PART B. CAPS ON LOCAL PROPERTY TAX REVENUES

SECTION 3B.01. Section 26.012, Tax Code, is amended by adding Subdivisions (2-a) and (10-a) and amending Subdivision (10) to read as follows:

(2-a) "Consumer price index" means the average over a calendar year of the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, or its successor in function, published monthly by the United States Bureau of Labor Statistics.

(10) "Excess collections" means the amount, if any, by which debt taxes collected in the preceding year exceeded the amount anticipated in the preceding year's calculation of the capped tax ~~[rollback]~~ rate, as certified by the collector under Section 26.04(b) ~~[of this code]~~.

(10-a) "Inflation rate" means the amount, expressed in decimal form rounded to the nearest thousandth, computed by:

(A) determining the percentage change in the consumer price index for each of the three preceding calendar years as compared to the consumer price index for the calendar year preceding each of those calendar years; and

(B) averaging the percentages computed under Paragraph (A).

SECTION 3B.02. Section 26.04, Tax Code, is amended by adding Subsection (b-1) and amending Subsections (c)-(e), (f), (i), and (j) to read as follows:

(b-1) By August 1 or as soon thereafter as practicable, the comptroller shall determine the inflation rate for the current year and publish the rate in the Texas Register.

(c) An officer or employee designated by the governing body shall calculate the effective tax rate and the capped [~~rollback~~] tax rate for the unit, where:

(1) "Effective tax rate" means a rate expressed in dollars per \$100 of taxable value calculated according to the following formula:

$$\text{EFFECTIVE TAX RATE} = \frac{(\text{LAST YEAR'S LEVY} - \text{LOST PROPERTY LEVY})}{(\text{CURRENT TOTAL VALUE} - \text{NEW PROPERTY VALUE})}$$

; and

(2) "Capped [~~Rollback~~] tax rate" means a rate expressed in dollars per \$100 of taxable value calculated according to the following formula:

$$\text{CAPPED } [\text{ROLLBACK}] \text{ TAX RATE} = (\text{EFFECTIVE MAINTENANCE AND OPERATIONS RATE} \times \frac{(1 + \text{INFLATION RATE})}{1.08}) + \text{CURRENT DEBT RATE}$$

(d) The effective tax rate for a county is the sum of the effective tax rates calculated for each type of tax the county levies, and the capped [~~rollback~~] tax rate for a county is the sum of the capped [~~rollback~~] tax rates calculated for each type of tax the county levies.

(e) By August 7 or as soon thereafter as practicable, the designated officer or employee shall submit the rates to the governing body. The officer or employee [~~He~~] shall deliver by mail to each property owner in the unit or publish in a newspaper in the form prescribed by the comptroller:

(1) the effective tax rate, the capped [~~rollback~~] tax rate, and an explanation of how they were calculated;

(2) the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligation;

(3) a schedule of the unit's debt obligations showing:

(A) the amount of principal and interest that will be paid to service the unit's debts in the next year from property tax revenue, including payments of lawfully incurred

contractual obligations providing security for the payment of the principal of and interest on bonds and other evidences of indebtedness issued on behalf of the unit by another political subdivision and, if the unit is created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, payments on debts that the unit anticipates to incur in the next calendar year;

(B) the amount by which taxes imposed for debt are to be increased because of the unit's anticipated collection rate; and

(C) the total of the amounts listed in Paragraphs (A)-(B), less any amount collected in excess of the previous year's anticipated collections certified as provided in Subsection (b);

(4) the amount of additional sales and use tax revenue anticipated in calculations under Section 26.041;

(5) a statement that the adoption of a tax rate equal to the effective tax rate would result in an increase or decrease, as applicable, in the amount of taxes imposed by the unit as compared to last year's levy, and the amount of the increase or decrease;

(6) in the year that a taxing unit calculates an adjustment under Subsection (i) or (j), a schedule that includes the following elements:

(A) the name of the unit discontinuing the department, function, or activity;

(B) the amount of property tax revenue spent by the unit listed under Paragraph (A) to operate the discontinued department, function, or activity in the 12 months preceding the month in which the calculations required by this chapter are made; and

(C) the name of the unit that operates a distinct department, function, or activity in all or a majority of the territory of a taxing unit that has discontinued operating the distinct department, function, or activity; and

(7) in the year following the year in which a taxing unit raised its capped tax [~~rollback~~] rate as required by Subsection (j), a schedule that includes the following elements:

(A) the amount of property tax revenue spent by

the unit to operate the department, function, or activity for which the taxing unit raised the capped tax [~~rollback~~] rate as required by Subsection (j) for the 12 months preceding the month in which the calculations required by this chapter are made; and

(B) the amount published by the unit in the preceding tax year under Subdivision (6)(B).

(f) If as a result of consolidation of taxing units a taxing unit includes territory that was in two or more taxing units in the preceding year, the amount of taxes imposed in each in the preceding year is combined for purposes of calculating the effective and capped [~~rollback~~] tax rates under this section.

(i) This subsection applies to a taxing unit that has agreed by written contract to transfer a distinct department, function, or activity to another taxing unit and discontinues operating that distinct department, function, or activity if the operation of that department, function, or activity in all or a majority of the territory of the taxing unit is continued by another existing taxing unit or by a new taxing unit. The capped [~~rollback~~] tax rate of a taxing unit to which this subsection applies in the first tax year in which a budget is adopted that does not allocate revenue to the discontinued department, function, or activity is calculated as otherwise provided by this section, except that last year's levy used to calculate the effective maintenance and operations rate of the unit is reduced by the amount of maintenance and operations tax revenue spent by the taxing unit to operate the department, function, or activity for the 12 months preceding the month in which the calculations required by this chapter are made and in which the unit operated the discontinued department, function, or activity. If the unit did not operate that department, function, or activity for the full 12 months preceding the month in which the calculations required by this chapter are made, the unit shall reduce last year's levy used for calculating the effective maintenance and operations rate of the unit by the amount of the revenue spent in the last full fiscal year in which the unit operated the discontinued department, function, or activity.

(j) This subsection applies to a taxing unit that had agreed by written contract to accept the transfer of a distinct

department, function, or activity from another taxing unit and operates a distinct department, function, or activity if the operation of a substantially similar department, function, or activity in all or a majority of the territory of the taxing unit has been discontinued by another taxing unit, including a dissolved taxing unit. The capped [~~rollback~~] tax rate of a taxing unit to which this subsection applies in the first tax year after the other taxing unit discontinued the substantially similar department, function, or activity in which a budget is adopted that allocates revenue to the department, function, or activity is calculated as otherwise provided by this section, except that last year's levy used to calculate the effective maintenance and operations rate of the unit is increased by the amount of maintenance and operations tax revenue spent by the taxing unit that discontinued operating the substantially similar department, function, or activity to operate that department, function, or activity for the 12 months preceding the month in which the calculations required by this chapter are made and in which the unit operated the discontinued department, function, or activity. If the unit did not operate the discontinued department, function, or activity for the full 12 months preceding the month in which the calculations required by this chapter are made, the unit may increase last year's levy used to calculate the effective maintenance and operations rate by an amount not to exceed the amount of property tax revenue spent by the discontinuing unit to operate the discontinued department, function, or activity in the last full fiscal year in which the discontinuing unit operated the department, function, or activity.

SECTION 3B.03. Sections 26.041(a)-(c) and (e), Tax Code, are amended to read as follows:

(a) In the first year in which an additional sales and use tax is required to be collected, the effective tax rate and capped [~~rollback~~] tax rate for the unit are calculated according to the following formulas:

EFFECTIVE TAX RATE = (LAST YEAR'S LEVY - LOST PROPERTY LEVY)

(CURRENT TOTAL VALUE - NEW PROPERTY VALUE)

- SALES TAX GAIN RATE

and

$$\begin{aligned} \text{CAPPED TAX } [\text{ROLLBACK}] \text{ RATE} = & (\text{EFFECTIVE MAINTENANCE AND OPERATIONS} \\ & \text{RATE} \times \underline{(1 + \text{INFLATION RATE})} \text{ [1.08]}) \\ & + \text{CURRENT DEBT RATE} - \text{SALES TAX GAIN} \\ & \text{RATE} \end{aligned}$$

where "sales tax gain rate" means a number expressed in dollars per \$100 of taxable value, calculated by dividing the revenue that will be generated by the additional sales and use tax in the following year as calculated under Subsection (d) [~~of this section~~] by the current total value.

(b) Except as provided by Subsections (a) and (c) [~~of this section~~], in a year in which a taxing unit imposes an additional sales and use tax the capped [~~rollback~~] tax rate for the unit is calculated according to the following formula, regardless of whether the unit levied a property tax in the preceding year:

$$\begin{aligned} & \text{CAPPED TAX } [\text{ROLLBACK}] \text{ RATE} = \\ & [(\text{LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE} \times \underline{(1 + \text{INFLATION} \\ & \text{RATE})} \text{ [1.08]}) / ((\text{TOTAL} \text{ CURRENT } \underline{\text{TOTAL}} \text{ VALUE} - \text{NEW PROPERTY} \\ & \text{VALUE}))] + (\text{CURRENT DEBT RATE} - \text{SALES TAX REVENUE RATE}) \end{aligned}$$

where "last year's maintenance and operations expense" means the amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year, and "sales tax revenue rate" means a number expressed in dollars per \$100 of taxable value, calculated by dividing the revenue that will be generated by the additional sales and use tax in the current year as calculated under Subsection (d) [~~of this section~~] by the current total value.

(c) In a year in which a taxing unit that has been imposing an additional sales and use tax ceases to impose an additional sales and use tax the effective tax rate and the capped [~~rollback~~] tax rate for the unit are calculated according to the following formulas:

$$\begin{aligned} & \text{EFFECTIVE TAX RATE} = \\ & [(\text{LAST YEAR'S LEVY} - \text{LOST PROPERTY LEVY}) / (\text{CURRENT TOTAL} \\ & \text{VALUE} - \text{NEW PROPERTY VALUE})] + \text{SALES TAX LOSS RATE} \end{aligned}$$

and

$$\text{CAPPED } [\text{ROLLBACK}] \text{ TAX RATE} =$$

$$\left[\left(\text{LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE} \times \frac{(1 + \text{INFLATION RATE})}{[1.08]} \right) / \left(\frac{[\text{TOTAL}] \text{ CURRENT } [\text{TOTAL}] \text{ VALUE} - \text{NEW PROPERTY VALUE}}{[\text{TOTAL}] \text{ CURRENT } [\text{TOTAL}] \text{ VALUE}} \right) \right] + \text{CURRENT DEBT RATE}$$

where "sales tax loss rate" means a number expressed in dollars per \$100 of taxable value, calculated by dividing the amount of sales and use tax revenue generated in the last four quarters for which the information is available by the current total value and "last year's maintenance and operations expense" means the amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year.

(e) If a city that imposes an additional sales and use tax receives payments under the terms of a contract executed before January 1, 1986, in which the city agrees not to annex certain property or a certain area and the owners or lessees of the property or of property in the area agree to pay at least annually to the city an amount determined by reference to all or a percentage of the property tax rate of the city and all or a part of the value of the property subject to the agreement or included in the area subject to the agreement, the governing body, by order adopted by a majority vote of the governing body, may direct the designated officer or employee to add to the effective and capped ~~rollback~~ tax rates the amount that, when applied to the total taxable value submitted to the governing body, would produce an amount of taxes equal to the difference between the total amount of payments for the tax year under contracts described by this subsection under the capped ~~rollback~~ tax rate calculated under this section and the total amount of payments for the tax year that would have been obligated to the city if the city had not adopted an additional sales and use tax.

SECTION 3B.04. Sections 26.043(a) and (b), Tax Code, are amended to read as follows:

(a) In the tax year in which a city has set an election on the question of whether to impose a local sales and use tax under Subchapter H, Chapter 453, Transportation Code, the officer or employee designated to make the calculations provided by Section 26.04 may not make those calculations until the outcome of the election is determined. If the election is determined in favor of

the imposition of the tax, the representative shall subtract from the city's capped [~~rollback~~] and effective tax rates the amount that, if applied to the city's current total value, would impose an amount equal to the amount of property taxes budgeted in the current tax year to pay for expenses related to mass transit services.

(b) In a tax year to which this section applies, a reference in this chapter to the city's effective or capped [~~rollback~~] tax rate refers to that rate as adjusted under this section.

SECTION 3B.05. The heading to Section 26.045, Tax Code, is amended to read as follows:

Sec. 26.045. ADJUSTMENT TO CAPPED TAX RATE [~~ROLLBACK RELIEF~~] FOR POLLUTION CONTROL REQUIREMENTS.

SECTION 3B.06. Sections 26.045(a) and (c)-(f), Tax Code, are amended to read as follows:

(a) The capped [~~rollback~~] tax rate for a political subdivision of this state is increased by the rate that, if applied to the current total [~~current~~] value, would impose an amount of taxes equal to the amount the political subdivision will spend out of its maintenance and operation funds under Section 26.012(16) [~~7 Tax Code,~~] to pay for a facility, device, or method for the control of air, water, or land pollution that is necessary to meet the requirements of a permit issued by the Texas Natural Resource Conservation Commission or the Texas Commission on Environmental Quality.

(c) To receive an adjustment to the capped [~~rollback~~] tax rate under this section, a political subdivision shall present information to the executive director of the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality in a permit application or in a request for any exemption from a permit that would otherwise be required detailing:

(1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;

(2) the estimated cost of the pollution control facility, device, or method; and

(3) the purpose of the installation of the facility, device, or method, and the proportion of the installation that is

pollution control property.

(d) Following submission of the information required by Subsection (c), the executive director of the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality shall determine if the facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. If the executive director determines that the facility, device, or method is used wholly or partly to control pollution, the director shall issue a letter to the political subdivision stating that determination and the portion of the cost of the installation that is pollution control property.

(e) The Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality may charge a political subdivision seeking a determination that property is pollution control property an additional fee not to exceed its administrative costs for processing the information, making the determination, and issuing the letter required by this section. The commission may adopt rules to implement this section.

(f) A political subdivision of the state seeking an adjustment in its capped [~~rollback~~] tax rate under this section shall provide to its tax assessor a copy of the letter issued by the executive director of the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality under Subsection (d). The tax assessor shall accept the copy of the letter from the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property and shall adjust the capped [~~rollback~~] tax rate for the political subdivision as provided for by Subsection (a).

SECTION 3B.07. Section 26.05(d), Tax Code, is amended to read as follows:

(d) The governing body of a taxing unit [~~district~~] other than a school district may not adopt a tax rate that exceeds the lower of the capped [~~rollback~~] tax rate or 103 percent of the effective tax rate calculated as provided by this chapter until the governing body has held a public hearing on the proposed tax rate and has otherwise complied with Section 26.06 and Section 26.065. The governing body of a taxing unit shall reduce a tax rate set by

law or by vote of the electorate to the lower of the capped [~~rollback~~] tax rate or 103 percent of the effective tax rate and may not adopt a higher rate unless it first complies with Section 26.06.

SECTION 3B.08. Sections 26.06(b), (d), and (e), Tax Code, are amended to read as follows:

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

(1) contain a statement in the following form:

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

"NOTICE OF PUBLIC HEARING ON TAX INCREASE

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

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

(2) contain the following information:

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

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

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

years; and the average taxable value of a residence homestead in the unit in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;

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

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

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

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

"The (name of the taxing unit) conducted a public hearing on a proposal to increase the total tax revenues of the (name of the taxing unit) from properties on the tax roll in the preceding year by (percentage by which proposed tax rate exceeds lower of capped [~~rollback~~] tax rate or effective tax rate calculated under this chapter) percent on (date and time public hearing was conducted).

"NOTICE OF VOTE ON TAX RATE

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

(e) The meeting to vote on the tax increase may not be earlier than the third day or later than the 14th day after the date of the public hearing. The meeting must be held inside the boundaries of the taxing unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. If the governing body does not adopt a tax rate that exceeds the lower of the capped [~~rollback~~] tax rate or 103 percent of the effective tax rate by the 14th day, it must give a new notice under Subsection (d) before it may adopt a rate that exceeds the lower of the capped [~~rollback~~] tax rate or 103 percent of the effective tax rate.

SECTION 3B.09. Section 26.07, Tax Code, is amended to read as follows:

Sec. 26.07. ELECTION TO RATIFY TAX [~~REPEAL~~] INCREASE OF TAXING UNIT OTHER THAN SCHOOL DISTRICT. (a) If the governing body of a taxing unit other than a school district adopts a proposed tax rate that exceeds the capped [~~rollback~~] tax rate calculated as provided by this chapter, the qualified voters of the taxing unit at [~~by petition may require that~~] an election called for that purpose must [~~be held to~~] determine whether [~~or not~~] to approve [~~reduce~~] the proposed tax rate [~~adopted for the current year to the rollback tax rate calculated as provided by this chapter~~].

(b) The [~~A petition is valid only if:~~

~~(1) it states that it is intended to require an election in the taxing unit on the question of reducing the tax rate for the current year;~~

~~(2) it is signed by a number of registered voters of the taxing unit equal to at least 10 percent of the number of registered voters of the taxing unit according to the most recent official list of registered voters; and~~

~~(3) it is submitted to the governing body on or before the 90th day after the date on which the governing body adopted the tax rate for the current year.~~

~~(c) Not later than the 20th day after the day a petition is submitted, the governing body shall determine whether or not the petition is valid and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is~~

~~treated as if it had been found valid.~~

~~[(d) If the] governing body [~~finds that the petition is valid (or fails to act within the time allowed), it]~~ shall order that the [an] election be held in the taxing unit on an authorized uniform election [a] date prescribed by the Election Code that is not less than 30 [or more than 90] days after the [last] day on which the governing body adopted the proposed tax rate [it could have acted to approve or disapprove the petition. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section]. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving [Reducing] the proposed ad valorem tax rate of \$_____ per \$100 valuation in (name of taxing unit) for the current year, a rate that is \$_____ higher per \$100 valuation than the [from (the rate adopted) to (the rollback] tax rate that would allow (name of taxing unit) to maintain ad valorem tax revenues at the same level, adjusted for inflation, as in the preceding year [calculated as provided by this chapter]." The ballot proposition must include the proposed tax rate and the difference between that rate and the capped tax rate in the appropriate places.~~

(c) [(e)] If a majority of the votes cast [qualified voters voting on the question] in the election favor the proposition, the proposition is approved and the tax rate for the [taxing unit for the] current year is the proposed [rollback] tax rate that was [calculated as provided by this chapter; otherwise, the tax rate for the current year is the one] adopted by the governing body.

(d) [(f)] If the proposition is not approved as provided by Subsection (c), the governing body may not adopt a tax rate for the taxing unit for the current year that exceeds the taxing unit's capped tax rate [is reduced by an election called under this section after tax bills for the unit are mailed, the assessor for the unit shall prepare and mail corrected tax bills. He shall include with the bill a brief explanation of the reason for and effect of the corrected bill. The date on which the taxes become delinquent for the year is extended by a number of days equal to the number of days between the date the first tax bills were sent and the date the

~~corrected tax bills were sent].~~

(e) If, without holding an election under this section or following an election in which a proposition is not approved as provided by Subsection (c), the governing body of a taxing unit other than a school district adopts a tax rate for the taxing unit that does not exceed the taxing unit's capped tax rate calculated as provided by this chapter, by August 1 of the year following the tax year for which the tax rate was adopted or as soon thereafter as practicable:

(1) the assessor for the taxing unit shall redetermine the amounts specified by Section 26.04(a) for that tax year, taking into account any appraisal roll supplements and corrections made since the assessor originally determined those amounts, and certify those amounts to the governing body of the taxing unit; and

(2) the collector for the taxing unit shall determine the actual collection rate for that tax year and certify the rate to the governing body.

(f) As soon as practicable after the amounts and collection rate are certified under Subsection (e), an officer or employee designated by the governing body of the taxing unit shall:

(1) recalculate the taxing unit's capped tax rate for that tax year based on the information certified under Subsection (e); and

(2) submit the recalculated capped tax rate to the governing body.

(g) If the tax rate adopted by the governing body of a taxing unit for a tax year in which Subsection (e) applies exceeds the taxing unit's capped tax rate for that tax year as recalculated under Subsection (f) [a property owner pays taxes calculated using the higher tax rate when the rate is reduced by an election called under this section], the taxing unit not later than October 1 of the year in which the capped tax rate is recalculated shall refund to each person who paid taxes for that tax year the difference between the amount of taxes paid by the taxpayer for that tax year and the amount that would have been due had the governing body adopted a tax rate equal to the taxing unit's recalculated capped tax rate [under the reduced rate] if the difference between the amount of taxes paid

and the amount that would have been due under the recalculated [~~reduced~~] rate is \$1 or more. If the difference between the amount of taxes paid and the amount that would have been due under the recalculated [~~reduced~~] rate is less than \$1, the taxing unit shall refund the difference only on request of the taxpayer. An application for a refund of less than \$1 must be made within 90 days after the date the refund becomes due or the taxpayer forfeits the right to the refund. For taxes that have not been paid, the collector shall reduce the amount due to the amount of taxes that would have been due under the recalculated capped tax rate and shall correct the amount of any penalty or interest due on those taxes accordingly.

SECTION 3B.10. Sections 26.08(a)-(d), (g), (i), and (k), Tax Code, are amended to read as follows:

(a) If the governing body of a school district adopts a proposed tax rate that exceeds the district's capped [~~rollback~~] tax rate, the registered voters of the district at an election held for that purpose must determine whether to approve the proposed [~~adopted~~] tax rate. When increased expenditure of money by a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, or other calamity, but not including a drought, that has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election is not required under this section to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs.

(b) The governing body shall order that the election be held in the school district on an authorized uniform election [~~a~~] date prescribed by the Election Code that is not less than 30 [~~or more than 90~~] days after the day on which the governing body [~~it~~] adopted the proposed tax rate. [~~Section 41.001, Election Code, does not apply to the election unless a date specified by that section falls within the time permitted by this section.~~] At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving the proposed ad valorem tax rate of \$_____ per \$100 valuation in (name of school district) for the current year, a rate that is \$_____ higher per \$100 valuation than the

~~[school district rollback]~~ tax rate that would allow (name of school district) to maintain state and local revenues at the same level, adjusted for inflation, as in the preceding year." The ballot proposition must include the proposed ~~[adopted]~~ tax rate and the difference between that rate and the capped ~~[rollback]~~ tax rate in the appropriate places.

(c) If a majority of the votes cast in the election favor the proposition, the proposition is approved and the tax rate for the current year is the proposed tax rate that was adopted by the governing body.

(d) If the proposition is not approved as provided by Subsection (c), the governing body may not adopt a tax rate for the school district for the current year that exceeds the school district's capped ~~[rollback]~~ tax rate.

(g) In a school district that received distributions from an equalization tax imposed under former Chapter 18, Education Code, the effective rate of that tax as of the date of the county unit system's abolition is added to the district's capped ~~[rollback]~~ tax rate.

(i) For purposes of this section, the capped ~~[rollback]~~ tax rate of a school district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been available to the district in the preceding year if the funding elements for Chapter ~~[Chapters 41 and]~~ 42, Education Code, for the current year had been in effect for the preceding year;

(2) the rate of \$0.06 per \$100 of taxable value; and

(3) the district's current debt rate.

(k) For purposes of this section, for the 2003, 2004, 2005, 2006, 2007, or 2008 tax year, for a school district that is entitled to state funds under Section 1581.1015(a), (b), (c), (d), (e), or

(f) [~~4(a-1), (a-2), (a-3), (a-4), (a-5), or (a-6), Article 3.50-9~~], Insurance Code, the capped [~~rollback~~] tax rate of the district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been available to the district in the preceding year if the funding elements for Chapter [~~Chapters 41 and~~] 42, Education Code, for the current year had been in effect for the preceding year;

(2) the tax rate that, applied to the current total value for the district, would impose taxes in the amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, permits the district to comply with Section 1581.052 [~~Section 3, Article 3.50-9~~], Insurance Code;

(3) the rate of \$0.06 per \$100 of taxable value; and

(4) the district's current debt rate.

SECTION 3B.11. Section 31.12(b), Tax Code, is amended to read as follows:

(b) For purposes of this section, liability for a refund arises:

(1) if the refund is required by Section 11.431(b), on the date the chief appraiser notifies the collector for the unit of the approval of the late homestead exemption;

(2) if the refund is required by Section 26.07(g), on the date specified by that section by which the refund must be paid [~~the results of the election to reduce the tax rate are certified~~];

(3) if the refund is required by Section 26.15(f):

(A) for a correction to the tax roll made under Section 26.15(b), on the date the change in the tax roll is certified to the assessor for the taxing unit under Section 25.25; or

(B) for a correction to the tax roll made under Section 26.15(c), on the date the change in the tax roll is ordered by the governing body of the taxing unit;

(4) if the refund is required by Section 31.11, on the date the auditor for the taxing unit determines that the payment was erroneous or excessive or, if the amount of the refund exceeds the applicable amount specified by Section 31.11(a), on the date the governing body of the unit approves the refund; or

(5) if the refund is required by Section 31.111, on the date the collector for the taxing unit determines that the payment was erroneous.

SECTION 3B.12. Section 33.08(b), Tax Code, is amended to read as follows:

(b) The governing body of the taxing unit or appraisal district, in the manner required by law for official action, may provide that taxes that become delinquent on or after June 1 under Section [~~26.07(f)~~] 26.15(e), 31.03, 31.031, 31.032, or 31.04 incur an additional penalty to defray costs of collection. The amount of the penalty may not exceed the amount of the compensation specified in the applicable contract with an attorney under Section 6.30 to be paid in connection with the collection of the delinquent taxes.

SECTION 3B.13. Section 313.029, Tax Code, is amended to read as follows:

Sec. 313.029. TAX RATE LIMITATION. If the governing body of a school district grants an application for a limitation on appraised value under this subchapter, for each of the first two tax years that begins after the date the application is approved, the governing body of the school district may not adopt a tax rate that exceeds the school district's capped [~~rollback~~] tax rate under Section 26.08 for that year. If, in any tax year in which a restriction on the school district's tax rate under this section is in effect, the governing body approves a subsequent application for a limitation on appraised value under this section, the restriction on the school district's tax rate is extended until the first tax year that begins after the second anniversary of the date the subsequent application is approved.

SECTION 3B.14. Section 42.2522(e), Education Code, is

amended to read as follows:

(e) The commissioner shall notify school districts as soon as practicable as to the availability of funds under this section. For purposes of computing a capped [~~rollback~~] tax rate under Section 26.08, Tax Code, a district shall adjust the district's tax rate limit to reflect assistance received under this section.

SECTION 3B.15. Sections 44.004(c) and (i), Education Code, are amended to read as follows:

(c) The notice of public meeting to discuss and adopt the budget and the proposed tax rate may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. Subject to Subsection (d), the notice must:

(1) contain a statement in the following form:

"NOTICE OF PUBLIC MEETING TO DISCUSS BUDGET AND PROPOSED TAX RATE

"The (name of school district) will hold a public meeting at (time, date, year) in (name of room, building, physical location, city, state). The purpose of this meeting is to discuss the school district's budget that will determine the tax rate that will be adopted. Public participation in the discussion is invited." The statement of the purpose of the meeting must be in bold type. In reduced type, the notice must state: "The tax rate that is ultimately adopted at this meeting or at a separate meeting at a later date may not exceed the proposed rate shown below unless the district publishes a revised notice containing the same information and comparisons set out below and holds another public meeting to discuss the revised notice.";

(2) contain a section entitled "Comparison of Proposed Rates with Last Year's Rates," which must:

(A) show in rows the tax rates described by Subparagraphs (i)-(iii), expressed as amounts per \$100 valuation of property, for columns entitled "Maintenance & Operations," "Interest & Sinking Fund," and "Total," which is the sum of "Maintenance & Operations" and "Interest & Sinking Fund":

(i) the school district's "Last Year's Rate";

(ii) the "Rate to Maintain Same Level of

Maintenance & Operations Revenue & Pay Debt Service," which:

(a) in the case of "Maintenance & Operations," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 42, would provide the same amount of maintenance and operations taxes and state funds distributed under Chapter 42 per student in average daily attendance for the applicable school year that was available to the district in the preceding school year; and

(b) in the case of "Interest & Sinking Fund," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, and when multiplied by the district's anticipated collection rate, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 46 and any excess taxes collected to service the district's debt during the preceding year but not used for that purpose during that year, would provide the amount required to service the district's debt; and

(iii) the "Proposed Rate";

(B) contain fourth and fifth columns aligned with the columns required by Paragraph (A) that show, for each row required by Paragraph (A):

(i) the "Local Revenue per Student," which is computed by multiplying the district's total taxable value of property, as certified by the chief appraiser for the applicable school year under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, by the total tax rate, and dividing the product by the number of students in average daily attendance in the district for the applicable school year; and

(ii) the "State Revenue per Student," which is computed by determining the amount of state aid received or to be

received by the district under Chapters 42, 43, and 46 and dividing that amount by the number of students in average daily attendance in the district for the applicable school year; and

(C) contain an asterisk after each calculation for "Interest & Sinking Fund" and a footnote to the section that, in reduced type, states "The Interest & Sinking Fund tax revenue is used to pay for bonded indebtedness on construction, equipment, or both. The bonds, and the tax rate necessary to pay those bonds, were approved by the voters of this district.";

(3) contain a section entitled "Comparison of Proposed Levy with Last Year's Levy on Average Residence," which must:

(A) show in rows the information described by Subparagraphs (i)-(iv), rounded to the nearest dollar, for columns entitled "Last Year" and "This Year":

(i) "Average Market Value of Residences," determined using the same group of residences for each year;

(ii) "Average Taxable Value of Residences," determined after taking into account the limitation on the appraised value of residences under Section 23.23, Tax Code, and after subtracting all homestead exemptions applicable in each year, other than exemptions available only to disabled persons or persons 65 years of age or older or their surviving spouses, and using the same group of residences for each year;

(iii) "Last Year's Rate Versus Proposed Rate per \$100 Value"; and

(iv) "Taxes Due on Average Residence," determined using the same group of residences for each year; and

(B) contain the following information: "Increase (Decrease) in Taxes" expressed in dollars and cents, which is computed by subtracting the "Taxes Due on Average Residence" for the preceding tax year from the "Taxes Due on Average Residence" for the current tax year;

(4) contain the following statement in bold print: "Under state law, the dollar amount of school taxes imposed on the residence of a person 65 years of age or older, [or] of the surviving spouse of such a person, if the surviving spouse was 55 years of age or older when the person died, or of a disabled person

may not be increased above the amount paid in the first year after the person qualified for the limitation [~~turned 65~~], regardless of changes in tax rate or property value.";

(5) contain the following statement in bold print: "Notice of Capped Tax [~~Rollback~~] Rate: The highest proposed tax rate the district can adopt before requiring voter approval at an election is (the school district capped tax [~~rollback~~] rate determined under Section 26.08, Tax Code). This election will be automatically held if the district adopts a proposed tax rate in excess of the capped tax [~~rollback~~] rate of (the school district capped tax [~~rollback~~] rate)."; and

(6) contain a section entitled "Fund Balances," which must include the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding debt obligation, less estimated funds necessary for the operation of the district before the receipt of the first payment under Chapter 42 in the succeeding school year.

(i) A school district that uses a certified estimate, as authorized by Subsection (h), may adopt a budget at the public meeting designated in the notice prepared using the estimate, but the district may not adopt a tax rate before the district receives the certified appraisal roll for the district required by Section 26.01(a), Tax Code. After receipt of the certified appraisal roll, the district must publish a revised notice and hold another public meeting before the district may adopt a tax rate that exceeds:

(1) the rate proposed in the notice prepared using the estimate; or

(2) the district's capped tax [~~rollback~~] rate determined under Section 26.08, Tax Code, using the certified appraisal roll.

SECTION 3B.16. Section 281.106(j), Health and Safety Code, as added by Chapter 55, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(j) The portion of the rate of ad valorem tax that is to be levied and assessed each year by or for the district that is

allocated by the district to the payment of the principal of and the interest on bonds and other obligations or the maintenance of reserves therefor in accordance with this section shall be applied as a payment on current debt in calculating the current debt rate under the applicable tax rate [~~rollback~~] provisions of Chapter 26, Tax Code.

SECTION 3B.17. The following provisions of the Water Code are repealed:

- (1) Sections 49.107(g) and 49.108(f);
- (2) Section 49.236, as added by Chapter 248, Acts of the 78th Legislature, Regular Session, 2003; and
- (3) Section 49.236, as added by Chapter 335, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 3B.18. The change in law made by this part applies to the ad valorem tax rate of a taxing unit beginning with the 2005 tax year. The change in law does not apply to the ad valorem tax rate of a taxing unit for a tax year before the 2005 tax year, and the law in effect when that tax rate was adopted applies to that tax year.

PART C. LIMITATION ON RESIDENTIAL REAL PROPERTY APPRAISALS

SECTION 3C.01. Section 1.12(d), Tax Code, is amended to read as follows:

(d) For purposes of this section, the appraisal ratio of residential real property [~~a homestead~~] to which Section 23.23 applies is the ratio of the property's market value as determined by the appraisal district or appraisal review board, as applicable, to the market value of the property according to law. The appraisal ratio is not calculated according to the appraised value of the property as limited by Section 23.23.

SECTION 3C.02. Section 23.23, Tax Code, is amended to read as follows:

Sec. 23.23. LIMITATION ON APPRAISED VALUE OF RESIDENTIAL REAL PROPERTY [~~RESIDENCE HOMESTEAD~~]. (a) The appraised value of residential real property [~~a residence homestead~~] for a tax year may not exceed the lesser of:

- (1) the market value of the property; or
- (2) the sum of:

(A) three [~~10~~] percent of the appraised value of the property for the last year in which the property was appraised for taxation times the number of years since the property was last appraised;

(B) the appraised value of the property for the last year in which the property was appraised; and

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

(b) When appraising residential real property [~~a residence homestead~~], the chief appraiser shall:

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

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

(c) The limitation provided by Subsection (a) takes effect as to a parcel of residential real property [~~residence homestead~~] on January 1 of the tax year following the first tax year in which the owner owns [~~qualifies~~] the property on January 1, or, if the property qualifies as the residence homestead of the owner [~~for an exemption~~] under Section 11.13 in the tax year in which the owner acquires the property, the limitation takes effect on January 1 of the tax year following that tax year. Except as provided by Subsections (d) and (e), the [~~The~~] limitation expires on January 1 of the first tax year following the year in which [~~that neither~~] the owner of the property ceases to own the property [~~when the limitation took effect nor the owner's spouse or surviving spouse qualifies for an exemption under Section 11.13~~].

(d) If residential real property subject to a limitation under Subsection (a) qualifies for an exemption under Section 11.13 when the ownership of the property is transferred to the owner's spouse or surviving spouse, the limitation expires on January 1 of the first tax year following the year in which the owner's spouse or surviving spouse ceases to own the property, unless the limitation is further continued under this subsection on the subsequent transfer to a spouse or surviving spouse.

(e) If residential real property subject to a limitation under Subsection (a), other than a residence homestead, is owned by

two or more persons, the limitation expires on January 1 of the first tax year following the year in which the ownership of at least a 50 percent interest in the property is sold or otherwise transferred to a person other than those owners.

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

(g) ~~(e)~~ In this section: ~~(f)~~

(1) "New ~~new~~ improvement" means an improvement to residential real property ~~[a residence homestead]~~ that is made after the most recent appraisal of the property ~~[for the preceding year]~~ and that increases the market value of the property. The term does not include ordinary upkeep, repair, or maintenance of an existing structure or the grounds or another feature of the property.

(2) "Residential real property" has the meaning assigned by Section 45.002, Education Code.

(h) ~~(f)~~ Notwithstanding Subsections (a) and (g)(1) ~~(e)~~ and except as provided by Subdivision (2), an improvement to property that would otherwise constitute a new improvement is not treated as a new improvement if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by mold or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted a new improvement:

(1) the last year in which the property was appraised for taxation before the casualty or damage occurred is considered to be the last year in which the property was appraised for taxation for purposes of Subsection (a)(2)(A); and

(2) the replacement structure is considered to be a new improvement only to the extent it is a significant improvement over the replaced structure as that structure existed before the casualty or damage occurred.

(i) For purposes of applying the limitation provided by Subsection (a) in the first tax year after the 2004 tax year in which the residential real property is appraised for taxation:

(1) the property is considered to have been appraised for taxation in the 2004 tax year at a market value equal to the

appraised value of the property for that tax year;

(2) a person who acquired real property in a tax year before the 2004 tax year is considered to have acquired the property on January 1, 2004; and

(3) a person who qualified the property for an exemption under Section 11.13 as the person's residence homestead for any portion of the 2004 tax year is considered to have acquired the property in the 2004 tax year.

SECTION 3C.03. Section 42.26(d), Tax Code, is amended to read as follows:

(d) For purposes of this section, the value of the property subject to the suit and the value of a comparable property or sample property that is used for comparison must be the market value determined by the appraisal district when the property is [~~a residence homestead~~] subject to the limitation on appraised value imposed by Section 23.23.

SECTION 3C.04. The change in law made by this part applies only to the appraisal of property for ad valorem tax purposes for a tax year that begins on or after January 1, 2005. The appraisal of property for ad valorem tax purposes for a tax year that begins before January 1, 2005, is covered by the law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

PART D. APPRAISAL ROLL APPROVAL BOARD

SECTION 3D.01. Sections 25.01-25.25, Tax Code, are redesignated as Subchapter A, Chapter 25, Tax Code, and a subchapter heading is added to that subchapter to read as follows:

SUBCHAPTER A. APPRAISAL ROLL

SECTION 3D.02. Section 25.04, Tax Code, is amended to read as follows:

Sec. 25.04. SEPARATE ESTATES OR INTERESTS. Except as otherwise provided by this subchapter [~~chapter~~], when different persons own land and improvements in separate estates or interests, each separately owned estate or interest shall be listed separately in the name of the owner of each if the estate or interest is described in a duly executed and recorded instrument of title.

SECTION 3D.03. Section 25.24, Tax Code, is amended to read

as follows:

Sec. 25.24. APPRAISAL ROLL. The appraisal records, as changed by order of the appraisal review board and approved by that board, constitute the preliminary appraisal roll for the district. The chief appraiser shall submit the preliminary appraisal roll to the appraisal roll approval board under Section 25.409 for certification as required by Section 25.410. The preliminary appraisal roll as certified by the appraisal roll approval board constitutes the appraisal roll for the district.

SECTION 3D.04. Section 25.25(a), Tax Code, is amended to read as follows:

(a) Except as provided by Section 25.410, by Chapters 41 and 42, [of this code] and by this section, the appraisal roll may not be changed.

SECTION 3D.05. Chapter 25, Tax Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. CERTIFICATION OF APPRAISAL ROLL BY APPRAISAL ROLL APPROVAL BOARD

Sec. 25.401. APPRAISAL ROLL APPROVAL BOARD. (a) An appraisal roll approval board is established for each appraisal district.

(b) The board consists of five members. The following officials are members of the board by virtue of their offices:

(1) the county assessor-collector and the county judge of the county for which the appraisal district is established;

(2) the presiding officer of the governing body of the most populous incorporated city or town that participates in the district; and

(3) the presiding officer of the governing body of the most populous school district that participates in the district.

(c) One member is appointed by vote of the governing bodies of the incorporated cities and towns that participate in the district, other than the most populous incorporated city or town, and at the time of appointment must be the presiding officer of the governing body of one of the incorporated cities or towns entitled to vote on the appointment.

(d) For purposes of determining the most populous

incorporated city or town or school district that participates in an appraisal district under this section, the portion of the population of a city, town, or school district attributable to territory for which the appraisal district does not appraise property for taxation by the city, town, or school district is excluded from consideration.

(e) A position on the board to be filled under the other provisions of this section by the presiding officer of an incorporated city or town shall be filled by a county commissioner of the county for which the appraisal district is established if there are not enough incorporated cities or towns participating in the district to fill the position in the prescribed manner. The commissioners court shall select the member of the board by lot.

Sec. 25.402. TERM OF APPOINTED MEMBER. The appointed member of the appraisal roll approval board serves a two-year term beginning on January 1 of each odd-numbered year.

Sec. 25.403. VOTING ENTITLEMENT OF CITY OR TOWN. (a) The governing body of an incorporated city or town entitled to vote for a candidate for a position on the appraisal roll approval board may not cast its votes for more than one candidate for that position.

(b) The voting entitlement of an incorporated city or town that is entitled to vote for a candidate for a position on the board is determined by dividing the total dollar amount of property taxes imposed in the district by the city or town for the preceding tax year by the sum of the total dollar amount of property taxes imposed in the district for that year by each city or town that is entitled to vote for a candidate for that position, by multiplying the quotient by 1,000, and by rounding the product to the nearest whole number. A city or town participating in two or more districts is entitled to vote in each district in which it participates as provided by Section 25.401, but only the taxes imposed in a district are used to calculate the city or town's voting entitlement in that district.

(c) The chief appraiser shall calculate the number of votes to which each incorporated city or town is entitled and shall deliver written notice to each of those cities or towns of its voting entitlement before October 1 of each even-numbered year.

The chief appraiser shall deliver the notice to the presiding officer of the governing body of each incorporated city or town participating in the appraisal district other than the most populous incorporated city or town participating in the district, to the city manager of each of those cities or towns having a city manager, and to the city secretary or clerk, if there is one, of each of those cities or towns that does not have a city manager.

Sec. 25.404. NOMINATING CANDIDATE FOR APPRAISAL ROLL APPROVAL BOARD. (a) Each incorporated city or town that is entitled to vote for a candidate for a position on the appraisal roll approval board may nominate by resolution adopted by its governing body one candidate for that position. The presiding officer of the governing body of the city or town shall submit the name of the city or town's nominee to the chief appraiser before October 15.

(b) Before October 30, the chief appraiser shall prepare a ballot for the board position to be filled, listing the candidates whose names were timely submitted under Subsection (a) alphabetically according to the first letter in each candidate's surname, and shall deliver a copy of the appropriate ballot to the presiding officer of the governing body of each city or town that is entitled to vote on the appointment.

Sec. 25.405. DEADLINE TO DETERMINE VOTE FOR APPOINTED CANDIDATE. The governing body of each incorporated city or town entitled to vote shall determine its vote by resolution and submit it to the chief appraiser before December 15. The chief appraiser shall count the votes, declare the candidate who receives the largest cumulative vote total for the position to be filled elected, and submit the results before December 31 to the governing body of each taxing unit in the district and to the candidates. The chief appraiser shall resolve a tie vote by any method of chance.

Sec. 25.406. VACANCY IN APPOINTIVE BOARD MEMBER POSITION. If a vacancy occurs in the appointive position on the appraisal roll approval board, each incorporated city or town that is entitled to vote for a candidate for that position may nominate by resolution adopted by its governing body an eligible candidate to fill the vacancy. The unit shall submit the name of its nominee to the chief

appraiser within 45 days after notification from the board of the existence of the vacancy, and the chief appraiser shall prepare and deliver to the board within the next five days a list of the nominees. The board shall appoint by majority vote of its members one of the nominees to fill the vacancy.

Sec. 25.407. ORGANIZATION, MEETINGS, AND COMPENSATION. (a) A majority of the appraisal roll approval board constitutes a quorum. The board shall elect from its members a presiding officer and a secretary.

(b) The board may meet at any time at the call of the presiding officer or as provided by board rule. The board shall meet to examine the preliminary appraisal roll as soon as practicable after the date the chief appraiser submits the preliminary appraisal roll to the board. This subsection does not prohibit the board from meeting at an earlier date to prepare for the examination of the preliminary appraisal roll.

(c) Members of the board may not receive compensation for service on the board but are entitled to reimbursement by the appraisal district for actual and necessary expenses incurred in the performance of their board duties if provided by the appraisal district budget.

Sec. 25.408. ASSISTANCE BY APPRAISAL DISTRICT. The chief appraiser shall provide the appraisal roll approval board with the information and technical assistance the board requires to perform its functions.

Sec. 25.409. SUBMISSION OF PRELIMINARY APPRAISAL ROLL TO APPRAISAL ROLL REVIEW BOARD. On the approval of the appraisal records by the appraisal review board, the chief appraiser shall submit the preliminary appraisal roll to the appraisal roll approval board for certification.

Sec. 25.410. CERTIFICATION OF PRELIMINARY APPRAISAL ROLL.

(a) On receipt of the preliminary appraisal roll, the appraisal roll approval board shall determine whether:

(1) the overall median level of appraisal for all property in the district is excessive; or

(2) the difference between the median levels of appraisal for two or more classes of property in the district is

excessive.

(b) If the board makes an affirmative determination under Subsection (a)(1) or (2), the board shall notify the chief appraiser of its determination. The board shall include in the notice the information or a reference to the information that the board relied on in making its determination. Following receipt of the notice, the chief appraiser may provide information to the board supporting the appraisal levels at issue in the determination. If the chief appraiser does not establish to the satisfaction of the board that the relevant appraisal levels are correct, the board shall order the chief appraiser to change the preliminary appraisal roll as necessary so as to resolve the issue raised by the board's determination. The board may not order a change that would result in an increase in the appraised value of a particular parcel of property.

(c) The board shall certify the preliminary appraisal roll if the board:

(1) makes a negative determination under Subsections (a)(1) and (2); or

(2) makes an affirmative determination under Subsection (a)(1) or (2) and the chief appraiser with respect to each determination:

(A) establishes as provided by Subsection (b) to the satisfaction of the board that the relevant appraisal levels are correct; or

(B) changes the preliminary appraisal roll as necessary so as to resolve to the satisfaction of the board the issue raised by the board's determination.

SECTION 3D.06. Section 26.01(a), Tax Code, is amended to read as follows:

(a) By July 25 or as soon thereafter as practicable, the chief appraiser shall prepare and certify to the assessor for each taxing unit participating in the district that part of the appraisal roll for the district that lists the property taxable by the unit. The part certified to the assessor is the appraisal roll for the unit. The chief appraiser shall consult with the assessor for each taxing unit and notify each unit in writing by April 1 of

the form in which the roll will be provided to each unit.

SECTION 3D.07. Section 41.44(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsections (b) and (c), to be entitled to a hearing and determination of a protest, the property owner initiating the protest must file a written notice of the protest with the appraisal review board having authority to hear the matter protested:

(1) before June 1 or not later than the 30th day after the date that notice was delivered to the property owner as provided by Section 25.19, whichever is later;

(2) in the case of a protest of a change in the appraisal records ordered as provided by Subchapter A of this chapter or by Subchapter A, Chapter 25, not later than the 30th day after the date notice of the change is delivered to the property owner; or

(3) in the case of a determination that a change in the use of land appraised under Subchapter C, D, E, or H, Chapter 23, has occurred, not later than the 30th day after the date the notice of the determination is delivered to the property owner.

SECTION 3D.08. Section 1151.002(1), Occupations Code, is amended to read as follows:

(1) "Appraisal" means a function described by Chapter 23 or Subchapter A, Chapter 25, Tax Code, that:

(A) is performed by an employee of a political subdivision or by a person acting on behalf of a political subdivision; and

(B) involves an opinion of value of a property interest.

SECTION 3D.09. (a) Subchapter B, Chapter 25, Tax Code, as added by this part, applies to an appraisal roll for a tax year that begins on or after January 1, 2005.

(b) The terms of the initial members of an appraisal roll approval board begin January 1, 2005. Notwithstanding Section 25.401(c), Tax Code, as added by this part, as soon as practicable after January 1, 2005, the commissioners court of the county for which an appraisal district is established shall appoint a person

who is eligible for appointment under that subsection to the initial term of the appointed member of the appraisal roll approval board.

PART E. STATE AND LOCAL PROPERTY TAX RATE REDUCTION

SECTION 3E.01. Chapter 316, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. APPROPRIATION OF
INCREASES IN AVAILABLE STATE REVENUE

Sec. 316.101. DEFINITIONS. In this subchapter, "available state revenue" and "increase in available state revenue" have the meanings assigned by Section 67, Article III, Texas Constitution.

Sec. 316.102. CERTIFICATION BY COMPTROLLER. In the statement required by Section 49a, Article III, Texas Constitution, the comptroller shall certify:

(1) the amount, if any, of the increase in available state revenue for the succeeding fiscal biennium;

(2) the total amount of state ad valorem taxes levied under Section 1-e, Article VIII, Texas Constitution, for the tax year beginning in the second year of the current fiscal biennium;
and

(3) the total amount of school district maintenance and operations taxes levied under Section 3(e), Article VII, Texas Constitution, for the tax year beginning in the second year of the current fiscal biennium.

Sec. 316.103. APPROPRIATION OF INCREASES IN AVAILABLE STATE REVENUE. (a) Before the legislature may enact the General Appropriations Act for the fiscal biennium following a certification under Section 316.102, the legislature shall enact appropriate statutory provisions that, subject to Subsection (d), apply one-third of the increase in available state revenue for the fiscal biennium to reduce the following tax rates for the two tax years that begin in the fiscal biennium:

(1) the rate of the state ad valorem tax levied under Section 1-e, Article VIII, Texas Constitution; and

(2) the rate of school district maintenance and operations taxes levied under Section 3(e)(1), Article VII, Texas Constitution.

(b) A reduction in school district maintenance and operations taxes must apply to:

(1) the rates of maintenance and operations taxes actually levied by school districts for the tax year beginning in the second year of the current fiscal biennium; and

(2) the maximum maintenance and operations tax rate permitted under Section 45.003(d), Education Code.

(c) The rates of the state ad valorem tax and school district maintenance and operations taxes must be reduced by the same percentage, which must be equal to the percentage determined by dividing the amount specified by Subsection (a) by the sum of the amounts certified under Sections 316.102(2) and (3) and multiplying the quotient by 100, except that a rate may not be reduced to less than 75 cents for each \$100 of taxable value.

(d) Notwithstanding Subsection (a), the maximum amount that may be applied to reduce tax rates under that subsection may not exceed the amount necessary for the applicable tax years to reduce the rate of the state ad valorem tax imposed under Section 1-e, Article VIII, Texas Constitution, to 75 cents for each \$100 of taxable value and to make the proportional reductions in school district maintenance and operations tax rates in accordance with Subsection (c). The remaining portion of the one-third of the increase in available state revenue otherwise required by Subsection (a) to be applied to tax rate reduction shall be deposited to the credit of the Texas educational excellence fund.

(e) In addition to any amount deposited under Subsection (d), in each fiscal biennium the comptroller shall deposit one-third of an increase in available state revenue to the credit of the Texas educational excellence fund.

(f) Amounts required by Subsection (a) to be applied to tax rate reduction shall be deposited to the credit of the Texas educational excellence fund. Amounts deposited to the credit of the Texas educational excellence fund under Subsection (d) or (e) may be appropriated only for a purpose related to public education other than tax rate reduction.

SECTION 3E.02. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2518 to read as follows:

Sec. 42.2518. ADDITIONAL STATE AID FOR PROPERTY TAX RELIEF.

(a) For any school year, a school district is entitled to additional state aid to the extent that an increase in the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302 applicable to that school year does not compensate the district for a reduction in district ad valorem tax revenue caused by ad valorem tax rate reduction made pursuant to Section 67, Article III, Texas Constitution, and general law enacted under that section.

(b) A determination by the commissioner under this section is final and may not be appealed.

PART F. UNFUNDED MANDATE RELIEF

SECTION 3F.01. Chapter 322, Government Code, is amended by adding Section 322.019 to read as follows:

Sec. 322.019. UNFUNDED LEGISLATIVE MANDATES. (a) In this section, "legislative mandate" has the meaning assigned by Section 68, Article III, Texas Constitution.

(b) On or before the September 1 following a regular session of the legislature and on or before the 90th day after the last day of a special session of the legislature, the board shall publish a list of legislative mandates for which the legislature has not provided reimbursement as provided by Subsection (c) and that were enacted by the legislature during that legislative session. By that same date the board shall:

(1) remove from the list of legislative mandates for a previous legislative session a legislative mandate:

(A) for which the legislature has provided reimbursement as provided by Subsection (c); or

(B) that is no longer in effect; and

(2) add to the list a legislative mandate from a previous legislative session for which reimbursement was provided as provided by Subsection (c) in the previous session but for which reimbursement was not provided in the most recent regular session or in any subsequent special session.

(c) A legislative mandate is considered to be a mandate for which the legislature has provided reimbursement if the legislature appropriates or otherwise provides funds for a state fiscal year,

other than revenue of the political subdivision, estimated to be sufficient to meet the cost incurred by all affected political subdivisions in the fiscal year of financing the expenditure.

(d) The board shall deliver the list prepared under Subsection (b) to the secretary of state for publication in the Texas Register.

(e) This section does not apply to a legislative mandate to which Section 68, Article III, does not apply.

SECTION 3F.02. Chapter 320, Government Code, is repealed.

ARTICLE 4. CIGARETTES AND TOBACCO PRODUCTS

PART A. TAX RATES

SECTION 4A.01. 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.

SECTION 4A.02. Section 154.603, Tax Code, is amended to read as follows:

Sec. 154.603. DISPOSITION OF REVENUE. (a) After the deductions for the purposes provided by Section 154.602 [~~of this code~~], the revenue remaining of the first \$2 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the first \$4.10 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand is allocated:

(1) 18.75 percent to the foundation school fund; and

(2) 81.25 percent to the general revenue fund.

(b) The revenue remaining after the deductions for the purposes provided by Section 154.602 [~~of this code~~] and allocation under Subsection (a) of the next \$18.50 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the next \$18.50 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand [~~this section~~] is allocated to the general revenue fund.

(c) The revenue remaining after the deductions for the purposes provided by Section 154.602 and allocation under Subsections (a) and (b) shall be deposited to the credit of the Texas education excellence fund.

SECTION 4A.03. Section 155.021(b), Tax Code, is amended to read as follows:

(b) The tax rates are:

(1) 3.44 cents [~~one cent~~] per 10 or fraction of 10 on cigars weighing three pounds or less per thousand;

(2) \$25.80 [~~\$7.50~~] per thousand on cigars that:

(A) weigh more than three pounds per thousand;
and

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for 3.3 cents or less each;

(3) \$37.84 [~~\$11~~] per thousand on cigars that:

(A) weigh more than three pounds per thousand;
(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain no substantial amount of nontobacco ingredients; and

(4) \$51.60 [~~\$15~~] per thousand on cigars that:

(A) weigh more than three pounds per thousand;
(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain a substantial amount of nontobacco ingredients.

SECTION 4A.04. Section 155.0211(b), Tax Code, is amended to read as follows:

(b) The tax rate for tobacco products other than cigars is 121 [~~35.213~~] percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal.

SECTION 4A.05. Section 155.241, Tax Code, is amended to read as follows:

Sec. 155.241. ALLOCATION OF TAX. (a) Revenue collected

under this chapter at the following rates shall be deposited to the credit of the general revenue fund:

(1) the revenue from the first one cent per 10 or fraction of 10 on cigars weighing three pounds or less per thousand;

(2) the revenue from the first \$7.50 per thousand on cigars that:

(A) weigh more than three pounds per thousand;
and

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for 3.3 cents or less each;

(3) the revenue from the first \$11 per thousand on cigars that:

(A) weigh more than three pounds per thousand;
(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain no substantial amount of nontobacco ingredients;

(4) the revenue from the first \$15 per thousand on cigars that:

(A) weigh more than three pounds per thousand;
(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain a substantial amount of nontobacco ingredients; and

(5) the revenue from the tax on tobacco products other than cigars imposed at the rate of 35.213 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal.

(b) The revenue remaining after the allocation under Subsection (a) shall be deposited to the credit of the Texas education excellence fund.

SECTION 4A.06. This part takes effect January 1, 2005.

PART B. FEE ON CIGARETTES MANUFACTURED
BY CERTAIN COMPANIES

SECTION 4B.01. Chapter 161, Health and Safety Code, is amended by adding Subchapter U to read as follows:

SUBCHAPTER U. FEE ON CIGARETTES MANUFACTURED
BY CERTAIN COMPANIES

Sec. 161.601. PURPOSE. The purpose of this subchapter is to:

(1) ensure that nonsettling manufacturers pay fees to this state that are comparable to the cost attributable to the use of the cigarettes;

(2) prevent nonsettling manufacturers from undermining this state's policy of discouraging underage smoking by offering cigarettes at prices that are substantially below the prices of cigarettes of other manufacturers; and

(3) protect funding, which has been reduced because of the growth of sales of nonsettling manufacturers' cigarettes, for programs that are funded wholly or partly by payments to this state under the tobacco settlement agreement.

Sec. 161.602. DEFINITIONS. In this chapter:

(1) "Cigarette" has the meaning assigned by Section 154.001, Tax Code.

(2) "Nonsettling manufacturer" means a manufacturer of cigarettes that is not making payments to this state under the tobacco settlement agreement.

(3) "Tobacco settlement agreement" means the Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in the United States District Court, Eastern District of Texas, in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91. The term includes the subsequent Clarification of Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in that litigation.

Sec. 161.603. FEE IMPOSED. (a) A fee is imposed on each person who uses or disposes of cigarettes manufactured by a nonsettling manufacturer. The fee is imposed and becomes due and payable when a person in this state receives those cigarettes to make a first sale.

(b) The fee is imposed at the rate of:

(1) \$25 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.

(c) The fee is in addition to the tax imposed by Chapter 154, Tax Code. The fee does not apply to the use or disposition of a cigarette unless the tax imposed by Chapter 154, Tax Code, applies to that use or disposition.

Sec. 161.604. ADMINISTRATION OF FEE. The fee imposed by this chapter is administered, imposed, collected, and enforced in the same manner as the tax under Chapter 154, Tax Code, is administered, imposed, collected, and enforced.

Sec. 161.605. DISPOSITION OF PROCEEDS. The comptroller shall deposit the proceeds from the fee imposed under this chapter to the credit of the Texas education excellence fund.

SECTION 4B.02. This part takes effect January 1, 2005.

ARTICLE 5. FRANCHISE TAX

SECTION 5.01. Section 171.001(a), Tax Code, is amended to read as follows:

(a) A franchise tax is imposed on:

(1) each corporation that does business in this state or that is organized under the laws of [~~chartered in~~] this state; and

(2) each limited liability company that does business in this state or that is organized under the laws of this state.

SECTION 5.02. Section 171.001(b), Tax Code, is amended by amending Subdivision (5) and by adding Subdivisions (9)-(20) to read as follows:

(5) "Internal Revenue Code" means, except as otherwise provided by this chapter, the Internal Revenue Code of 1986 in effect for the federal tax year beginning on or after January 1, 1996, and before January 1, 1997, and any regulations adopted under that code applicable to that period.

(9)(A) "Investment partnership":

(i) means a partnership in which:

(a) not less than 90 percent of either the original federal income tax basis under the Internal Revenue Code or the current fair market value of the partnership's total assets consist of qualified investment securities and operating assets reasonably necessary to carry on the partnership's investment activities and not less than 90 percent of the partnership's gross income is passive investment income; or

(b) not less than 90 percent of the partnership interests are owned directly or indirectly by an employee stock ownership plan that has received a favorable determination letter from the Internal Revenue Service; and

(ii) does not include a partnership that is a dealer in securities, as defined by Section 475(c)(1), Internal Revenue Code.

(B) For purposes of Paragraph (A)(i)(a), a partnership shall exclude the basis in or value of an interest in a limited liability company and the gross income from an interest in a limited liability company unless the limited liability company would qualify as an investment partnership if the limited liability company were organized as a partnership.

(10) "Investment partnership interest" means a limited partnership interest in an investment partnership or a beneficial interest in a trust or business trust that is an investment partnership.

(11) "Partner" includes a beneficiary in a trust or business trust.

(12) "Partnership" includes:

- (A) a joint venture;
- (B) a general partnership;
- (C) a limited partnership; and
- (D) a trust or business trust.

(13) "Partnership interest" includes a beneficial interest in a trust or business trust.

(14) "Passive investment income" means dividends, interest, or other gross income attributable to the ownership or disposition of qualified investment securities.

(15) "Public partnership" means a partnership that is:

(A) a publicly traded partnership as defined by Section 7704(b), Internal Revenue Code of 1986, as effective January 1, 2004, that was formed on or before January 1, 2004, regardless of whether the partnership qualifies under any exceptions to Section 7704(a), Internal Revenue Code of 1986, as effective January 1, 2004;

(B) a limited partnership to the extent the limited partnership interests are owned directly or indirectly by an entity described by Paragraph (A) or a trust or business trust to the extent the beneficial interests are owned directly or indirectly by an entity described by Paragraph (A);

(C) a limited partnership to the extent the limited partnership interests are owned directly or indirectly by an entity qualifying as a:

(i) financial asset securitization investment trust as defined by Section 860L, Internal Revenue Code of 1986, as effective January 1, 2004;

(ii) real estate investment trust as defined by Section 856, Internal Revenue Code of 1986, as effective January 1, 2004;

(iii) qualified REIT subsidiary as defined by Section 856(i), Internal Revenue Code of 1986, as effective January 1, 2004;

(iv) real estate mortgage investment conduit as defined by Section 860D, Internal Revenue Code of 1986, as effective January 1, 2004; or

(v) regulated investment company as defined by Section 851, Internal Revenue Code of 1986, as effective January 1, 2004; or

(D) a trust or business trust that qualifies as an entity described by Paragraph (C).

(16) "Public partnership interest" means:

(A) a limited partnership interest in a publicly traded partnership as defined by Section 7704(b), Internal Revenue Code of 1986, as effective January 1, 2004, that was formed on or before January 1, 2004, regardless of whether the partnership qualifies under any exceptions to Section 7704(a), Internal Revenue

Code of 1986, as effective January 1, 2004;

(B) a limited partnership interest owned directly or indirectly by an entity described by Paragraph (A) or a beneficial interest in a trust or business trust owned directly or indirectly by an entity described by Paragraph (A);

(C) a limited partnership interest owned directly or indirectly by an entity qualifying as a:

(i) financial asset securitization investment trust as defined by Section 860L, Internal Revenue Code of 1986, as effective January 1, 2004;

(ii) real estate investment trust as defined by Section 856, Internal Revenue Code of 1986, as effective January 1, 2004;

(iii) qualified REIT subsidiary as defined by Section 856(i), Internal Revenue Code of 1986, as effective January 1, 2004;

(iv) real estate mortgage investment conduit as defined by Section 860D, Internal Revenue Code of 1986, as effective January 1, 2004; or

(v) regulated investment company as defined by Section 851, Internal Revenue Code of 1986, as effective January 1, 2004; or

(D) a beneficial interest in a trust or business trust that qualifies as an entity described by Paragraph (C).

(17) "Qualified investment securities":

(A) means:

(i) common stock, including preferred or debt securities convertible into common stock, and preferred stock;

(ii) bonds, debentures, and other debt securities;

(iii) deposits and any other obligations of banks and other financial institutions;

(iv) stock and bond index securities, futures contracts, options on securities, and other similar financial securities and instruments;

(v) an investment partnership interest or a public partnership interest; and

(vi) an interest in a limited liability company that would qualify as an investment partnership if the limited liability company were organized as a partnership; and

(B) does not include an interest in a partnership unless that partnership is an investment partnership or a public partnership.

(18) "Temporary amortization" means the amortization of the Texas asset basis using the straight-line method over 30 privilege periods, beginning with the privilege period covered by the report that corresponds to the first period a limited partner became subject to the franchise tax under Subsection (d).

(19) "Texas asset basis" means a limited partner's total net asset basis for financial accounting purposes computed in accordance with generally accepted accounting principles less the adjusted tax basis of the partner's total net assets for federal income tax purposes as of the first day of the tax year covered by the report that corresponds to the first period a limited partner became subject to the franchise tax under Subsection (d).

(20) "Tiered partnership arrangement" means an ownership structure in which some or all of the interests in one partnership (a "lower tier partnership") are owned by a second partnership (an "upper tier partnership"). A tiered partnership arrangement may have two or more tiers.

SECTION 5.03. Section 171.001, Tax Code, is amended by adding Subsection (d) to read as follows:

(d)(1) Except as otherwise provided by this subsection, a corporation does business in this state if the corporation is a general or limited partner in a partnership whose activities, if conducted directly by the corporation, would cause that corporation to be subject to the tax imposed by this chapter.

(2) Notwithstanding any other provision of this subsection, a corporation is not doing business in this state solely because the corporation owns an investment partnership interest or a public partnership interest.

(3) A corporation is not doing business in this state solely because the corporation owns a beneficial interest in a trust or business trust that does business in this state, unless the

corporation and corporation's related entities, as defined by Section 171.1101(a), have the power to:

(A) remove or replace the trustee of the trust or business trust or, if there is more than one trustee, a majority of the trustees of the trust or business trust; or

(B) compel the trustee or trustees of the trust or business trust to take an action, or refrain from taking an action, relating to the management, activities, or policies of the trust or business trust.

(4) A partner who owns an interest in an upper tier partnership is considered to be a partner in a lower tier partnership for purposes of this subsection, except that a partner that owns an upper tier public partnership interest is not considered to be a partner in a lower tier partnership.

(5) If this subsection is found by any court of competent jurisdiction to be invalid as extending the tax imposed by this chapter beyond the limits of the United States Constitution or federal law adopted under the United States Constitution:

(A) the tax imposed by this chapter shall be imposed on the partnership; and

(B) the franchise tax liability of the partnership shall be computed under Section 171.006(c) as if the partnership were a corporation.

SECTION 5.04. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.006 to read as follows:

Sec. 171.006. WITHHOLDING TAX OBLIGATION IMPOSED ON PARTNERSHIPS WITH RESPECT TO NONREPORTING CORPORATE PARTNERS. (a)

In this section:

(1) "Corporate partner" means a direct partner or an indirect partner that is a corporation or limited liability company that is not exempted from the tax imposed by this chapter. The term does not include:

(A) an interest directly or indirectly owned by a corporation or limited liability company in or through an investment partnership interest or a public partnership interest;
or

(B) a beneficial interest directly or indirectly

held or owned by a corporation or limited liability company in a trust or business trust that is not considered to be doing business in this state under Section 171.001(d)(2) or (d)(3).

(2) "Direct partner" means a person that directly owns an interest in a partnership.

(3) "Indirect partner" means, with respect to a lower tier partnership, a person that owns an interest in an upper tier partnership.

(4) "Nonreporting corporate partner" means a corporate partner that does not file a partner reporting agreement with a partnership. The term does not include:

(A) an interest directly or indirectly owned by a corporation or limited liability company in or through an investment partnership interest or a public partnership interest;
or

(B) a beneficial interest directly or indirectly held or owned by a corporation or limited liability company in a trust or business trust that is not considered to be doing business in this state under Section 171.001(d)(2) or (d)(3).

(5) "Partner reporting agreement" means a form prescribed by the comptroller in which a corporate partner:

(A) consents to the imposition of the tax imposed by this chapter on the corporate partner;

(B) agrees to file returns and make timely payments of all taxes imposed by this chapter; and

(C) agrees to be subject to personal jurisdiction in this state for the collection of any unpaid tax imposed by this chapter, together with related interest and penalties.

(b) A partnership that does business in this state, other than a public partnership or an investment partnership, is subject to a franchise tax withholding obligation as provided by this section.

(c) The amount of the withholding tax payable by a partnership under this section is equal to the amount of tax computed under Section 171.002 that the partnership would pay if the partnership were a corporation, multiplied by the nonreporting corporate partners' percentage share of the partnership's federal

taxable income determined as if the partnership were a corporation. If a lower tier partnership is subject to this section, an upper tier partnership's income attributable to the interest in the lower tier partnership shall be deducted in computing the upper tier partnership's withholding tax payable under this section.

(d) In determining whether a partner is a nonreporting corporate partner, a partnership may rely on the statement of a person owning an interest in the partnership that the person is not a corporate partner. The statement must be made on a form prescribed by the comptroller. An upper tier partnership submitting a statement under this subsection to a lower tier partnership must disclose any direct partner or indirect partner in the upper tier partnership or any tiered partnership arrangement that is a corporate partner. A public partnership or investment partnership is not required to identify or disclose interests directly or indirectly owned by a corporation or limited liability company.

(e) A nonreporting corporate partner shall be allowed a credit against its tax liability under this chapter for any withholding tax paid by a partnership in connection with the nonreporting corporate partner's interest in the partnership.

(f) A partnership is not liable for failing to withhold tax as required by this section with respect to the interest of a nonreporting corporate partner to the extent the nonreporting corporate partner pays the tax against which the withholding tax may be credited.

(g) A partnership is subject to the provisions of Subchapters D and E, other than Section 171.203, with regard to any withholding tax imposed by this section as if the partnership were a corporation. A partnership that does not owe any withholding tax for a period specified by Subchapter D because it does not have any nonreporting corporate partners is not required to file a report under Section 171.201 or 171.202 for that period, but shall file an information report for that period stating that the partnership does not have any nonreporting corporate partners. The information report must also include any other information the comptroller may require. A report required by this subsection must include copies

of all partner reporting agreements received by the partnership during any partnership reporting period. If a partnership fails to timely file a copy of a partner reporting agreement, the partnership shall treat the corporate partner submitting the agreement as a nonreporting corporate partner.

(h) A partner reporting agreement filed with a partnership is effective until revoked in writing by a corporate partner or until the comptroller notifies the partnership in writing to treat the interest of a corporate partner as an interest of a nonreporting corporate partner because of the corporate partner's failure to comply with the terms of the partner reporting agreement.

(i) A partnership that withholds tax under this section shall furnish to each nonreporting corporate partner a written statement, as prescribed by the comptroller, that states the amount of withheld tax under this section allocable to that corporate partner's interest in the partnership and any other information the comptroller may require.

SECTION 5.05. Section 171.1032(c), Tax Code, is amended to read as follows:

(c) A corporation shall include in its gross receipts computed under Subsection (a) the corporation's share of the gross receipts of each partnership and joint venture in which the corporation directly or indirectly owns an interest [~~of which the corporation is a part~~] apportioned to this state as though the corporation directly earned the receipts [~~, including receipts from business done with the corporation~~]. A corporation that owns an interest in an upper tier partnership is considered to be a partner in each lower tier partnership, and the corporation's share of the gross receipts of each partnership shall be computed and apportioned to this state as though the corporation directly earned the receipts at the partnership tier at which the receipts were originally earned.

SECTION 5.06. Section 171.1051(d), Tax Code, is amended to read as follows:

(d) A corporation shall include in its gross receipts computed under Subsection (a) the corporation's share of the gross receipts of each partnership and joint venture in which the

corporation directly or indirectly owns an interest [of which the corporation is a part]. A corporation that owns an interest in an upper tier partnership is considered to be a partner in each lower tier partnership, and the corporation's share of the gross receipts of each partnership shall be computed as though the corporation directly earned the receipts at the partnership tier at which the receipts were originally earned.

SECTION 5.07. Section 171.110(d), Tax Code, is amended to read as follows:

(d) A corporation's reportable federal taxable income is the corporation's federal taxable income after Schedule C special deductions and before net operating loss deductions as computed under the Internal Revenue Code, except that an S corporation's reportable federal taxable income is the amount of the income reportable to the Internal Revenue Service as taxable to the corporation's shareholders. A corporation shall include in the corporation's earned surplus and gross receipts for earned surplus the corporation's share of a partnership's items of income or loss, regardless of whether the partnership is taxed as a corporation for federal income tax purposes.

SECTION 5.08. Subchapter C, Chapter 171, Tax Code, is amended by adding Sections 171.1101-171.1103 to read as follows:

Sec. 171.1101. RELATED PARTY EXPENSE ADD-BACK. (a) In this section:

(1)(A) "Arm's length rate of interest and terms" means a circumstance in which:

(i) two or more related entities enter into a written agreement for the lending of funds;

(ii) the agreement is of a duration and contains interest rates and repayment terms substantially similar to those that the related member would be able to obtain from an unrelated lender, except that collateral is not required when borrowing from another related member when repayment of the loan can otherwise be reasonably anticipated; and

(iii) the borrower substantially adheres to the repayment terms of the agreement governing the loan transaction and any amendments to that agreement.

(B) An interest rate is considered arm's length if the rate is less than or equal to 120 percent of the interest rate prescribed by Section 111.060(b), as determined at the time the loan transaction was entered into or during the term of the loan.

(2) "Intangible expenses and costs" means any amount paid, accrued, or incurred for the use of trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, and similar types of intangible assets, specifically including royalty and copyright fees, that is directly or indirectly allowed as a deduction in determining taxable income under the Internal Revenue Code.

(3) "Interest expenses and costs" means amounts that are directly or indirectly allowed as a deduction under Section 163, Internal Revenue Code of 1986, as effective January 1, 2004, in determining taxable income under the Internal Revenue Code.

(4)(A) "Related entity" means a person that, with respect to the corporation during all or any part of a privilege period, is:

(i) a component member as defined by Section 1563(b), Internal Revenue Code;

(ii) a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e), Internal Revenue Code;

(iii) a person that, notwithstanding its form of organization, bears the same relationship to the corporation as a person described by Subparagraphs (i) and (ii);

(iv) a stockholder who is an individual, or a member of the stockholder's family enumerated in Section 318, Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the value of the corporation's outstanding stock;

(v) a stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own, directly, indirectly, beneficially, or

constructively, in the aggregate, at least 50 percent of the value of the corporation's outstanding stock; or

(vi) a corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Internal Revenue Code, if the corporation owns, directly, indirectly, beneficially, or constructively, at least 50 percent of the value of the corporation's outstanding stock.

(B) The attribution rules prescribed by Section 318, Internal Revenue Code, apply in determining whether the ownership requirements of this subdivision have been met.

(b) In determining net taxable earned surplus under Section 171.110, a corporation shall add back to reportable federal taxable income interest expenses and costs paid, accrued, or incurred to any related entity during the taxable year to the extent deducted in computing reportable federal taxable income. The add-back is not required for any portion of the interest expenses and costs paid, accrued, or incurred if:

(1) the rate of interest used to compute interest expenses does not exceed the interest rate prescribed by Section 111.060(b), as determined at the time the loan transaction was entered into or during the term of the loan;

(2) the corporation and the comptroller agree to an alternative method of computing deductible interest and costs;

(3) the related entity uses funds that are borrowed from a third party or that are charged or passed through to a third party to finance the indebtedness between the corporation and the related entity at an arm's length rate of interest and terms; or

(4) the indebtedness is part of a regular and systematic funds management or portfolio investment activity conducted by the related entity in which the funds of two or more related entities are aggregated to achieve the benefits of the centralized management of funds or economics of scale or for another valid business purpose, as defined by Section 171.1102(a), including the internal financing of the active business operations of related entities, the expansion of the active business

operations of related entities, and the pass-through of acquisition-related indebtedness to related entities, provided that the regular and systematic funds management or portfolio investment activities reflect an arm's length rate of interest and terms, and that the parties' books and records accurately reflect the transactions.

(c) In determining net taxable earned surplus under Section 171.110, a corporation shall add back to reportable federal taxable income any intangible expenses and costs paid, accrued, or incurred to a related entity during the taxable year to the extent deducted in computing reportable federal taxable income. The add-back is not required for any portion of the intangible expenses and costs paid, accrued, or incurred if:

(1) the corporation and the comptroller agree to an alternative method of computing deductible intangible expenses and costs;

(2) the related entity paid, accrued, or incurred during the same taxable year similar amounts of income from or to foreign affiliates that were determined to be an arm's length payment by the Internal Revenue Service in an audit of the related entity under Section 482, Internal Revenue Code of 1986, as effective on January 1, 2004; or

(3) the related entity paid, accrued, or incurred during the same taxable year to a person who is not a related entity an amount of intangible expenses and costs greater than or equal to the amount of the intangible expenses and costs received from the corporation.

(d) In determining net taxable earned surplus under Section 171.110, a corporation shall add back to reportable federal taxable income any management fees paid, accrued, or incurred to a related entity during the taxable year to the extent deducted in computing reportable federal taxable income. The add-back is not required for any portion of the management fees paid, accrued, or incurred to the extent that:

(1) the management fee charged by the related entity is composed solely of an allocation of the entity's actual costs of items such as payroll, plant and equipment, and business expenses

incurred in connection with the management activity;

(2) the corporation and the comptroller agree to an alternative method of computing deductible management fees;

(3) the related entity provides the services for which a management fee is received in the ordinary course of business, has substantial business operations, and has a reasonable possibility of obtaining a profit, apart from achieving tax benefits; or

(4) the corporation can show, on request by the comptroller, that, in the corresponding taxable year of the related entity, the corresponding item of income received by the related entity was:

(A) subject to tax based on or measured by the related entity's reportable federal taxable income in this state or net income in any other state that has a maximum rate of income tax applied to the management fees received equal to or greater than 4.5 percent; or

(B) subject to tax based on or measured by the related entity's net income by a foreign nation that has in force an income tax treaty with the United States, if the recipient was a "resident," as defined in the income tax treaty, of the foreign nation.

(e) In Subsection (d)(4), "subject to tax" means that the related entity that received the income payment must report and include that income for purposes of a tax on net income, and the income is not eliminated in a combined or consolidated return that includes the corporation.

(f) For taxable years beginning on or after January 1, 2005, any amount added to the federal taxable income of a corporation under Subsection (b), (c), or (d) shall be subtracted from the federal taxable income of the related entity that received the amount if the related entity is subject to the tax imposed by this chapter on that amount of income.

Sec. 171.1102. DISREGARD OF RELATED PARTY TRANSACTIONS.

(a) In this section:

(1) "Economic substance" means a circumstance in which the separate businesses of the corporation and the related entity have a reasonable possibility of obtaining a profit, apart from

achieving tax benefits, each party maintains books and records that reflect the transactions at issue, and the related entity has an identifiable place of business with supporting business records.

(2) "Valid business purpose" means one or more business purposes that alone or in combination constitute the motivation for a business activity or transaction that changes in a meaningful way, apart from tax benefits, the economic position of the taxpayer.

(b) The comptroller may disregard any reorganization or restructuring among related entities unless the corporation can establish by a preponderance of the evidence that the reorganization or restructuring has a valid business purpose, other than tax avoidance, and economic substance.

(c) The comptroller may disregard any transaction, deduction, exemption, credit, or allowance among related entities unless the corporation can establish by a preponderance of the evidence that the transaction, deduction, exemption, credit, or allowance has a valid business purpose, other than tax avoidance, and economic substance. For purposes of this subsection, the comptroller may require combined reporting among related entities if the comptroller determines that combined reporting is necessary to clearly reflect the taxable earned surplus of the related entities. The comptroller may not require combined reporting if the corporation establishes by the preponderance of the evidence that combined reporting would be unreasonable. If the comptroller requires combined reporting for related entities for a taxable year, the related entities may not be required to pay the tax on taxable capital for that taxable year.

Sec. 171.1103. TEMPORARY AMORTIZATION OF TEXAS ASSET BASIS. In determining net taxable earned surplus under Section 171.110, a corporate limited partner may deduct the temporary amortization of the Texas asset basis from reportable federal taxable income.

SECTION 5.09. Section 171.1121(e), Tax Code, is amended to read as follows:

(e) A corporation shall include in its earned surplus and gross receipts for earned surplus the corporation's share of a partnership's items of income or loss, regardless of whether the

partnership is taxed as a corporation for federal income tax purposes [A corporation's share of a partnership's gross receipts that is included in the corporation's federal taxable income must be used in computing the corporation's gross receipts under this section]. Unless otherwise provided by this chapter, a corporation may not deduct costs incurred from the corporation's share of a partnership's gross receipts. The gross receipts must be apportioned as though the corporation directly earned them. A corporation that owns an interest in an upper tier partnership is considered to be a partner in each lower tier partnership, and the corporation's share of the gross receipts of each partnership shall be computed and apportioned as though the corporation directly earned the receipts at the partnership tier at which the receipts were originally earned.

SECTION 5.10. Subchapter F, Chapter 171, Tax Code, is amended by adding Section 171.2515 to read as follows:

Sec. 171.2515. FORFEITURE OF RIGHT OF PARTNERSHIP TO TRANSACT BUSINESS IN THIS STATE. (a) The comptroller may, for the same reasons and using the same procedures the comptroller uses in relation to the forfeiture of the corporate privileges of a corporation, forfeit the right of a partnership subject to a tax imposed by this subchapter to transact business in this state.

(b) The provisions of this subchapter, including Section 171.255, that apply to the forfeiture of corporate privileges apply to the forfeiture of a partnership's right to transact business in this state.

SECTION 5.11. Subchapter G, Chapter 171, Tax Code, is amended by adding Section 171.3015 to read as follows:

Sec. 171.3015. FORFEITURE OF CERTIFICATE OR REGISTRATION OF PARTNERSHIP. (a) A partnership's certificate or registration may be forfeited for the same reasons and using the same procedures that are used in relation to the forfeiture of a corporation's charter or certificate of authority.

(b) The provisions of this subchapter that apply to the forfeiture of a corporation's charter or certificate of authority apply to the forfeiture of a partnership's certificate or registration.

SECTION 5.12. Section 171.401, Tax Code, is amended to read as follows:

Sec. 171.401. ALLOCATION OF REVENUE [~~DEPOSITED IN GENERAL REVENUE FUND~~]. (a) Except as provided by Subsection (b), the [The] revenue from the tax imposed by this chapter on corporations shall be deposited to the credit of the general revenue fund.

(b) The amount of net revenue received in a state fiscal year from the tax imposed by this chapter that exceeds the amount of the revenue from that tax that was deposited to the credit of the general revenue fund in the fiscal year ending August 31, 2004, shall be deposited to the credit of the Texas education excellence fund.

SECTION 5.13. (a) This article takes effect September 1, 2004.

(b) A corporation that becomes subject to the tax imposed by Chapter 171, Tax Code, as amended by this article, by the addition of Section 171.001(d)(1), Tax Code, shall pay that tax for each of the following:

(1) an initial period beginning on September 1, 2004, and ending on December 31, 2004; and

(2) a regular annual period beginning on January 1, 2005 and ending on December 31, 2005.

(c) For purposes of Sections 171.153 and 171.1532, Tax Code, the tax covering the initial period prescribed by Subsection (b) of this section is based on the business done by the corporation during the period beginning on September 1, 2004, and ending on December 31, 2004. The corporation shall pay the tax covering that initial period not later than April 1, 2005.

ARTICLE 6. PAYMENT AND COLLECTION OF CERTAIN TAXES AND FEES

PART A. SALES TAX ON MOTOR VEHICLES

SECTION 6A.01. Section 152.002, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding Subsection (a), the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412.

SECTION 6A.02. Section 152.041(a), Tax Code, is amended to read as follows:

(a) The tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made shall collect taxes imposed by this chapter, subject to Section 152.0412, unless another person is required by this chapter to collect the taxes.

SECTION 6A.03. Subchapter C, Chapter 152, Tax Code, is amended by adding Section 152.0412 to read as follows:

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive value" means the average retail value of a motor vehicle as determined by the Texas Department of Transportation, based on a nationally recognized motor vehicle industry reporting service.

(b) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is equal to or greater than the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the amount paid.

(c) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is less than the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the standard presumptive value unless the purchaser establishes the retail value of the vehicle as provided by Subsection (d).

(d) A county tax assessor-collector shall compute the tax imposed by this chapter on the retail value of a motor vehicle if:

(1) the retail value is shown on an appraisal certified by an adjuster licensed under Chapter 407, Acts of the 63rd Legislature, Regular Session, 1973, or by a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code;

(2) the appraisal is on a form prescribed by the comptroller for that purpose; and

(3) the purchaser of the vehicle obtains the appraisal not later than the 20th day after the date of purchase.

(e) On request, a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, shall provide a certified appraisal of the retail value of a motor vehicle. The comptroller by rule shall establish a fee that a dealer may charge

for providing the certified appraisal. The county tax assessor-collector shall retain a copy of a certified appraisal received under this section for a period prescribed by the comptroller.

(f) The Texas Department of Transportation shall maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system. The department shall update the information at least quarterly each calendar year.

SECTION 6A.04. (a) Except as provided by Subsection (b) of this section, this part takes effect on the date on which the constitutional amendment proposed by __.J.R. No. ____, 78th Legislature, 4th Called Session, 2004, takes effect.

(b) Section 152.0412, Tax Code, as added by this part, takes effect January 1, 2005.

(c) Not later than January 1, 2005, the Texas Department of Transportation shall:

(1) establish standard presumptive values for motor vehicles as provided by Section 152.0412, Tax Code, as added by this part;

(2) modify the department's registration and title system as needed to include that information and administer that section; and

(3) make that information available through the system to all county tax assessor-collectors.

PART B. PREPAYMENT OF CERTAIN TAXES

SECTION 6B.01. Section 151.401(a), Tax Code, is amended to read as follows:

(a) Except as provided by Section 151.4015, the ~~The~~ taxes imposed by this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month unless a taxpayer qualifies as a quarterly filer under Subsection (b) of this section or unless the taxpayer prepays the tax on a quarterly basis as permitted by Section 151.424 of this code.

SECTION 6B.02. Subchapter I, Chapter 151, Tax Code, is amended by adding Section 151.4015 to read as follows:

Sec. 151.4015. MONTHLY PREPAYMENTS. (a) A taxpayer required to pay taxes monthly under Section 151.401(a) shall make monthly prepayments of the taxes due under this chapter. The taxpayer shall make the prepayment not later than the last day of the month for which the prepayment is made.

(b) The amount of the prepayment required by this section must be equal to 95 percent of the lesser of:

(1) a reasonable estimate of the taxpayer's tax liability for the month for which the prepayment is made; or

(2) the amount of tax paid in the same month of the previous year.

(c) A prepayment made under Subsection (b)(1) is not considered to be based on a reasonable estimate of tax liability if the payment is equal to or less than 90 percent of the tax ultimately due for the month in which the prepayment is made.

(d) A taxpayer who is required to prepay the tax liability under this section must file a report when due as provided by Section 151.402. The amount of a prepayment shall be credited against the amount of the taxpayer's actual tax liability as shown on the tax report.

(e) If the amount prepaid under this section exceeds the amount of the taxpayer's actual tax liability, the excess of the prepayment shall be credited against future tax liability or refunded to the taxpayer as provided by Subchapter C, Chapter 111.

SECTION 6B.03. Section 171.152, Tax Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) Except as otherwise provided by Subsection (d), payment [~~Payment~~] of the tax covering the regular annual period is due May 15, of each year after the beginning of the regular annual period. However, if the first anniversary of the corporation's beginning date is after October 3 and before January 1, the payment of the tax covering the first regular annual period is due on the same date as the tax covering the initial period.

(d) A corporation shall make quarterly prepayments of tax under this section if the corporation estimates that the corporation's net tax liability for the next regular annual period

will exceed \$500. The corporation shall make the prepayments on:

(1) April 15;

(2) July 15;

(3) October 15; and

(4) January 15 of the regular annual period for which the prepayment is made.

(e) The tax paid on each date under Subsection (d) must be equal to 25 percent of the lesser of:

(1) the corporation's estimated net tax liability for the regular annual period for which the prepayment is made; or

(2) the tax the corporation paid under this chapter for the previous regular annual period.

SECTION 6B.04. Sections 171.202(c), (e), and (f), Tax Code, are amended to read as follows:

(c) The comptroller shall grant an extension of time to a corporation that is not required by rule to make its tax payments by electronic funds transfer for the filing of a report required by this section to any date on or before the next November 15, if a corporation:

(1) requests the extension, on or before May 15, on a form provided by the comptroller; and

(2) remits with the request:

(A) not less than 90 percent of the amount of the unpaid tax reported as due on the report filed on or before November 15; or

(B) 100 percent of the tax reported as due for the previous calendar year on the report due in the previous calendar year and filed on or before May 14.

(e) The comptroller shall grant an extension of time for the filing of a report required by this section by a corporation required by rule to make its tax payments by electronic funds transfer to any date on or before the next August 15, if the corporation:

(1) requests the extension, on or before May 15, on a form provided by the comptroller; and

(2) remits with the request:

(A) not less than 90 percent of the amount of the

unpaid tax reported as due on the report filed on or before August 15; or

(B) 100 percent of the tax reported as due for the previous calendar year on the report due in the previous calendar year and filed on or before May 14.

(f) The comptroller shall grant an extension of time to a corporation required by rule to make its tax payments by electronic funds transfer for the filing of a report due on or before August 15 to any date on or before the next November 15, if the corporation:

(1) requests the extension, on or before August 15, on a form provided by the comptroller; and

(2) remits with the request the difference between the amount remitted under Subsection (e) and 100 percent of the amount of the unpaid tax reported as due on the report filed on or before November 15.

SECTION 6B.05. (a) This part takes effect January 1, 2005.

(b) Section 151.4015, Tax Code, as added by this part, applies only to taxes imposed on or after the effective date of this part. Taxes imposed before that date are governed by the law in effect on the date those taxes were imposed, and that law is continued in effect for that purpose.

SECTION 6B.06. (a) Sections 6B.03 and 6B.04 of this part apply only to a report originally due on or after the effective date of this part.

(b) Not later than April 15, 2005, a corporation shall make the first quarterly prepayment required by Section 171.152(d), Tax Code, as added by this part, for the tax covering the regular annual period that begins on January 1, 2006. This subsection does not affect the duty of a corporation to pay the tax covering the regular annual period beginning on January 1, 2004, as provided by Section 171.152(a), Tax Code, as that section existed on December 31, 2004.

PART C. ADULT ENTERTAINMENT FEE

SECTION 6C.01. Sections 46.001-46.004, Business & Commerce Code, as added by Chapter 402, Acts of the 78th Legislature, Regular Session, 2003, are redesignated as Subchapter A, Chapter 46, Business & Commerce Code, and a subchapter heading is added to read as follows:

SUBCHAPTER A. RESTRICTION ON OWNERS, OPERATORS, MANAGERS, OR
EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES

SECTION 6C.02. Section 46.001, Business & Commerce Code, as added by Chapter 402, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

Sec. 46.001. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Sex offender" means a person who has been convicted of or placed on deferred adjudication for an offense for which a person is subject to registration under Chapter 62, Code of Criminal Procedure.

(2) "Sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

SECTION 6C.03. Chapter 46, Business & Commerce Code, as added by Chapter 402, Acts of the 78th Legislature, Regular Session, 2003, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. FEE ON ADMISSIONS TO CERTAIN SEXUALLY ORIENTED
BUSINESSES

Sec. 46.051. DEFINITIONS. In this subchapter:

(1) "Nude" means:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the person is female, or any portion of the genitals or buttocks.

(2) "Sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

Sec. 46.052. ADMISSION FEE. (a) A fee is imposed on a sexually oriented business that provides live nude entertainment or performances in an amount equal to the greater of:

(1) \$5 for each entry by each customer admitted to the business; or

(2) for each customer admitted to the business, 50 percent of the amount that the business charged the customer for admission.

(b) For purposes of this section, the amount that a business charges a customer for admission includes a membership fee or a multiple-entry admission charge.

Sec. 46.053. REMISSION OF FEE TO COMPTROLLER; DEPOSIT IN GENERAL REVENUE. A sexually oriented business shall remit the fee imposed by Section 46.052 to the comptroller each quarter in the manner prescribed by the comptroller for deposit to the credit of the general revenue fund.

Sec. 46.054. ADMINISTRATION, COLLECTION, AND ENFORCEMENT. The comptroller shall adopt any necessary rules for the administration, payment, collection, and enforcement of the fee imposed by this chapter.

SECTION 6C.04. (a) The fee imposed by Section 46.052, Business & Commerce Code, as added by this part, as computed under Section 46.052(a)(1), Business & Commerce Code, applies only to a customer admitted to a sexually oriented business on or after the effective date of this part.

(b) The fee imposed by Section 46.052, Business & Commerce Code, as added by this part, as computed under Section 46.052(a)(2), Business & Commerce Code, applies only to a charge for admission to a sexually oriented business collected on or after the effective date of this part.

SECTION 6C.05. This part takes effect January 1, 2005.

PART D. COLLECTION OF DELINQUENT TAXES

SECTION 6D.01. Subchapter A, Chapter 402, Government Code, is amended by adding Section 402.010 to read as follows:

Sec. 402.010. USE OF PRIVATE COLLECTION AGENCIES FOR COLLECTING DELINQUENT TAXES. (a) The attorney general may contract with a private collection agency to assist in the collection of delinquent taxes owed to this state.

(b) Under a contract with a private collection agency under this section, the attorney general may delegate the power to perform certain specific duties as required.

(c) The attorney general may contract with and assign certain cases to a private collection agency for the collection of delinquent taxes owed to this state only if the attorney general adopts procedures for the assignment and collection process.

(d) For a case assigned to a private collection agency by the attorney general for the collection of delinquent taxes owed to this state, the agency may retain from the amount collected, in

accordance with procedures adopted under this section:

(1) the costs associated with the collection of the tax; and

(2) a percentage, not to exceed 10 percent, of the tax, a penalty associated with the tax, or both the tax and the penalty.

SECTION 6D.02. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.0095 to read as follows:

Sec. 111.0095. REFERRAL TO ATTORNEY GENERAL. If the amount of a determination made under this subtitle has not been paid on or before the 90th day after the date that amount becomes due and payable under Section 111.0081 or on or before the 90th day after the date a determination under Section 111.022 becomes final, as appropriate, the comptroller shall refer the delinquent taxes to the attorney general for collection.

SECTION 6D.03. This part takes effect January 1, 2005.

ARTICLE 7. [Reserved]

ARTICLE 8. [Reserved]

ARTICLE 9. VIDEO LOTTERY

SECTION 9.01. Subtitle E, Title 4, Government Code, is amended by adding Chapter 466A to read as follows:

CHAPTER 466A. VIDEO LOTTERY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 466A.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Lottery Commission.

(2) "Division" means the lottery division established by the commission under Chapter 467.

(3) "Video lottery" means the conduct of video lottery games as authorized under this chapter.

(4) "Video lottery game" means any game of chance, including a game of chance in which the outcome may be partially determined by skill or ability, that for consideration may be played by an individual on an electronic machine or video display.

(5) "Video lottery retailer" means a person licensed under this chapter to conduct video lottery.

[Sections 466A.002-466A.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION

Sec. 466A.051. POWERS AND DUTIES OF COMMISSION AND

EXECUTIVE DIRECTOR. (a) The commission and executive director have broad authority and shall exercise strict control and close supervision over video lottery games operated in this state to promote and ensure integrity, security, honesty, and fairness in the conduct and administration of video lottery.

(b) The executive director may contract with or employ a person to perform a function, activity, or service in connection with video lottery as prescribed by the executive director.

Sec. 466A.052. RULES. The commission shall adopt all rules necessary to conduct or supervise video lottery, administer this chapter, and provide security for video lottery.

Sec. 466A.053. ANNUAL REPORT. The commission shall make an annual report to the governor, the comptroller, and the legislature that provides a summary of video lottery revenues, prize disbursements, and other expenses for the state fiscal year preceding the report. The report must be in the form and reported in the time provided by the General Appropriations Act.

Sec. 466A.054. INVESTIGATIONS. In addition to other appropriate officials, the attorney general may investigate a violation or alleged violation of:

(1) this chapter by any person; or

(2) the penal laws of this state in connection with the conduct or administration of video lottery by the commission or its personnel, a video lottery retailer, or a video lottery technology provider.

[Sections 466A.055-466A.100 reserved for expansion]

SUBCHAPTER C. LICENSE AND CONTRACT REQUIREMENTS

Sec. 466A.101. RESTRICTIONS ON VIDEO LOTTERY. (a) A person may not conduct video lottery in this state unless the person:

(1) is a video lottery retailer that conducts the video lottery on the same premises on which the retailer operates the retailer's licensed racetrack described by Section 466A.103(1); or

(2) is an Indian tribe described by Section 47(f), Article III, Texas Constitution, that has contracted with the commission under this chapter to operate video lottery games on behalf of this state on tribal land.

(b) A person may not provide video lottery technology for use in this state unless the person holds a license to provide video lottery technology under this chapter.

(c) A person may not conduct a video lottery game in this state unless:

(1) the commission owns a proprietary interest in the game software or other intellectual property component of the game;

(2) the type of game is approved for use by the commission; and

(3) the machine on which the game is played is actively linked to and controlled by the commission's video lottery central computer system.

Sec. 466A.102. VIDEO LOTTERY CENTRAL COMPUTER SYSTEM. The commission shall establish and maintain a video lottery central computer system to link all video lottery machines operated under this chapter to provide the information, control, and security measures required by the commission.

Sec. 466A.103. VIDEO LOTTERY RETAILER LICENSE. On application, the commission shall issue a video lottery retailer license to a pari-mutuel license holder in good standing under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) who:

(1) holds a Class 1 or Class 2 racetrack license or is licensed to conduct greyhound races under that act; and

(2) is not ineligible to hold the license under another provision of this chapter or a commission rule.

Sec. 466A.104. VIDEO LOTTERY TECHNOLOGY PROVIDER LICENSE. (a) The commission shall issue a video lottery technology provider license to an eligible person with equipment and technology the commission determines to be compatible with the video lottery central computer system to provide video lottery machines and services to video lottery retailers and Indian tribes conducting video lottery under this chapter.

(b) A person licensed as a video lottery technology provider may not provide video lottery technology or equipment to any person without the consent of the commission.

Sec. 466A.105. CONTRACT WITH INDIAN TRIBE. As authorized by Section 47(f), Article III, Texas Constitution, the commission

may contract with an Indian tribe for the operation of video lottery games on behalf of this state by the Indian tribe on tribal land.

[Sections 466A.106-466A.150 reserved for expansion]

SUBCHAPTER D. REVENUE

Sec. 466A.151. DIVISION OF REVENUE OF VIDEO LOTTERY RETAILER. (a) At the times and in the manner prescribed by commission rule, a video lottery retailer shall pay to the commission ____ percent of the net terminal income derived from video lottery games operated by the retailer.

(b) The remainder of the net terminal income shall be retained by the video lottery retailer.

Sec. 466A.152. REVENUE FROM INDIAN TRIBE VIDEO LOTTERY. A contract under Section 466A.105 must provide for the commission to receive not less than ____ percent of the net terminal income derived from video lottery games operated under the contract.

Sec. 466A.153. STATE VIDEO LOTTERY ACCOUNT. The state video lottery account is a special account in the Texas educational excellence fund. The account consists of all revenue received by the commission from video lottery, fees received under this chapter, and all money credited to the account from any other fund or source under law.

[Sections 466A.154-466A.200 reserved for expansion]

SUBCHAPTER E. OFFENSE; PENALTIES

Sec. 466A.201. MANIPULATION OR TAMPERING. (a) A person commits an offense if the person intentionally or knowingly manipulates the outcome of a video lottery game, the amount of a video lottery game prize, or the operation of a video lottery machine by physical, electronic, or other means, other than in accordance with commission rules.

(b) An offense under this section is a felony of the third degree.

Sec. 466A.202. SALE OF VIDEO LOTTERY GAME TO PERSON YOUNGER THAN 18 YEARS OF AGE. (a) A video lottery retailer or an employee or agent of a video lottery retailer or an employee, agent, or member of an Indian tribe commits an offense if the person intentionally or knowingly:

(1) sells or offers to sell a play of a video lottery

game to an individual the person knows is younger than 18 years of age or permits the individual to purchase a play of a video lottery game; or

(2) pays money or issues a video credit slip or other winnings for a play of a video lottery game to an individual the person knows is younger than 18 years of age.

(b) An individual who is younger than 18 years of age commits an offense if the individual:

(1) purchases a play of a video lottery game;

(2) accepts money, a video credit slip, or other payment of winnings for play of a video lottery game; or

(3) falsely represents the individual to be 18 years of age or older by displaying evidence of age that is false or fraudulent or misrepresents in any way the individual's age in order to purchase a play of a video lottery game.

(c) An offense under Subsection (a) is a Class B misdemeanor.

(d) An offense under Subsection (b) is a misdemeanor punishable by a fine not to exceed \$250.

Sec. 466A.203. ADMINISTRATIVE PENALTY. The commission may impose an administrative penalty against a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

SECTION 9.02. Section 466.024(b), Government Code, is amended to read as follows:

(b) The commission shall adopt rules prohibiting the operation of any game using a video lottery machine or machine, except in accordance with Chapter 466A.

SECTION 9.03. Section 47.09, Penal Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) It is a defense to prosecution under this chapter that the conduct:

(1) was authorized under:

(A) Chapter 2001, Occupations Code;

(B) Chapter 2002, Occupations Code; or

(C) the Texas Racing Act (Article 179e, Vernon's

Texas Civil Statutes);

(2) consisted entirely of participation in the state lottery authorized by Chapter 466, Government Code, or in video lottery authorized by Chapter 466A, Government Code; or

(3) was a necessary incident to the operation of the state lottery or video lottery and was directly or indirectly authorized by:

(A) Chapter 466 or 466A, Government Code;

(B) the lottery division of the Texas Lottery Commission;

(C) the Texas Lottery Commission; or

(D) the director of the lottery division of the Texas Lottery Commission.

(c) Subsection (a)(3) applies to a person manufacturing, possessing, or operating a gambling device with the authorization of the Texas Lottery Commission under Chapter 466A, Government Code, or under a contract entered into with the commission under that chapter.

SECTION 9.04. Chapter 47, Penal Code, is amended by adding Section 47.095 to read as follows:

Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is a defense to prosecution under this chapter that a person sells, leases, transports, possesses, stores, or manufactures a gambling device with the authorization of the Texas Lottery Commission under Chapter 466A, Government Code, for transportation in interstate or foreign commerce.

SECTION 9.05. Article 6, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Section 6.011 to read as follows:

Sec. 6.011. OPERATION OF VIDEO LOTTERY. (a) A racetrack license holder may operate a video lottery game on behalf of the Texas Lottery Commission as a video lottery retailer under Chapter 466A, Government Code.

(b) The commission may adopt rules necessary to implement this section.

SECTION 9.06. (a) As soon as practicable after the effective date of this Act, the Texas Lottery Commission shall

adopt the rules necessary to implement video lottery in accordance with Chapter 466A, Government Code, as added by this article.

(b) The commission may adopt initial rules for purposes of implementing video lottery in accordance with Chapter 466A, Government Code, as added by this article, that expire not later than May 1, 2005. Chapter 2001, Government Code, does not apply to the adoption of those rules. This subsection expires June 1, 2005.

ARTICLE 10. EFFECTIVE DATE

SECTION 10.01. Except as otherwise provided by this Act, this Act takes effect January 1, 2005, but only if the constitutional amendment proposed by __JR ____, 78th Legislature, 4th Called Session, 2004, is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.