

1 AN ACT

2 relating to technical changes to taxes and fees administered by the
3 comptroller; providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 161.122, Health and Safety Code, is
6 amended by adding Subsection (f) to read as follows:

7 (f) A person commits an offense if the person places or
8 authorizes the placement of a sign in violation of this section. An
9 offense under this subsection is a Class C misdemeanor.

10 SECTION 2. Article 1.16(b), Insurance Code, is amended to
11 read as follows:

12 (b) Assessments for the expenses of such domestic
13 examination which shall be sufficient to meet all the expenses and
14 disbursements necessary to comply with the provisions of the laws
15 of Texas relating to the examination of insurance companies and to
16 comply with the provisions of this Article and Articles 1.17 and
17 1.18 of this Code, shall be made by the State Board of Insurance
18 upon the corporations or associations to be examined taking into
19 consideration annual premium receipts, and/or admitted assets that
20 are not attributable to 90 percent of pension plan contracts as
21 defined in Section 818(a) of the Internal Revenue Code of 1986 (26
22 U.S.C. Section 818(a)), and/or insurance in force; provided such
23 assessments shall be made and collected as follows: (1) expenses
24 attributable directly to a specific examination including

1 employees' salaries and expenses and expenses provided by Article
2 1.28 of this Code shall be collected at the time of examination;
3 (2) assessments calculated annually for each corporation or
4 association which take into consideration annual premium receipts,
5 and/or admitted assets that are not attributable to 90 percent of
6 pension plan contracts as defined in Section 818(a) of the Internal
7 Revenue Code of 1986 (26 U.S.C. Section 818(a)), and/or insurance
8 in force shall be assessed annually for each such corporation or
9 association. In computing the assessments, the board may not
10 consider insurance premiums for insurance contracted for by a state
11 or federal governmental entity to provide welfare benefits to
12 designated welfare recipients or contracted for in accordance with
13 or in furtherance of Title 2, Human Resources Code, or the federal
14 Social Security Act (42 U.S.C. Section 301 et seq.). The amount of
15 all examination and evaluation fees [~~the assessments~~] paid in each
16 taxable year to [~~or for the use of~~] the State of Texas by an [~~any~~]
17 insurance carrier [~~corporation or association hereby affected~~]
18 shall be allowed as a credit on the amount of premium taxes due
19 under this article [~~to be paid by any such insurance corporation or~~
20 ~~association for such taxable year except as provided by Article~~
21 ~~1.28 of this Code~~]. The limitations provided by Sections
22 803.007(1) and (2)(B) of this code for domestic insurance companies
23 apply to foreign insurance companies.

24 SECTION 3. Section 1, Article 4.10, Insurance Code, is
25 amended to read as follows:

26 Sec. 1. PAYMENT OF TAX. Every insurance carrier, including
27 Lloyd's and reciprocal or interinsurance exchanges and any other

1 organization or concern receiving gross premiums from the business
2 of fire, marine, marine inland, accident, credit, livestock,
3 fidelity, guaranty, surety, casualty, workers' compensation,
4 employers' liability, or any other kind or character of insurance,
5 except title insurance and except as provided in Sections 2, 3, and
6 4 of this article, shall pay to the comptroller a tax upon such
7 gross premium receipts as provided in this article. Any such
8 insurance carrier doing other kinds of insurance business shall pay
9 the tax levied upon its gross premiums received from such other
10 kinds of business as provided in Articles 4.03 and 4.11 of this
11 code.

12 SECTION 4. Section 13, Article 4.10, Insurance Code, is
13 amended to read as follows:

14 Sec. 13. EXAMINATION AND EVALUATION FEE CREDITS. The
15 amount of all examination and evaluation fees paid in each taxable
16 year to ~~[or for the use of]~~ the State of Texas by an insurance
17 carrier shall be allowed as a credit on the amount of premium taxes
18 due under this article ~~[except as provided by Article 1.28 of this~~
19 ~~code]~~. The limitations provided by Sections 803.007(1) and (2)(B)
20 of this code for domestic insurance companies apply to foreign
21 insurance companies. Any credit allowed by the provisions of this
22 section is in addition to any other credits allowable by statute.

23 SECTION 5. Section 8, Article 4.11, Insurance Code, is
24 amended to read as follows:

25 Sec. 8. EXAMINATION AND EVALUATION ~~[VALUATION]~~ FEES ALLOWED
26 AS CREDITS. The amount of all examination and evaluation
27 ~~[valuation]~~ fees paid in ~~[during]~~ each taxable ~~[tax]~~ year to ~~[or for]~~

1 ~~the use of]~~ the State of Texas by an insurance carrier shall be
2 allowed as a credit on the amount of premium taxes due under this
3 article [~~except as provided by Article 1.28 of this code~~]. The
4 limitations provided by Sections 803.007(1) and (2)(B) of this code
5 for domestic insurance companies apply to foreign insurance
6 companies. Any credit allowed by the provisions of this section is
7 in addition to any other credits allowable by statute.

8 SECTION 6. Article 4.17(a), Insurance Code, is amended to
9 read as follows:

10 (a) The commissioner shall annually determine the rate of
11 assessment of a maintenance tax to be paid on an annual, semiannual,
12 or other periodic basis, as determined by the comptroller. The rate
13 of assessment may not exceed .04 percent of the correctly reported
14 gross premiums of life, health, and accident insurance coverages
15 and the gross considerations for annuity and endowment contracts
16 collected by all authorized insurers writing life, health, and
17 accident insurance, annuity, or endowment contracts in this state.
18 The comptroller shall collect the maintenance tax. For purposes of
19 this article, the gross premiums on which an assessment is based may
20 not include:

21 (1) premiums received from this state or the United
22 States for insurance contracted for by this state or the United
23 States for the purpose of providing welfare benefits to designated
24 welfare recipients or for insurance contracted for by this state or
25 the United States in accordance with or in furtherance of Title 2,
26 Human Resources Code, or the federal Social Security Act (42 U.S.C.
27 Section 301 et seq.); or

1 (2) premiums paid on group health, accident, and life
2 policies in which the group covered by the policy consists of a
3 single nonprofit trust established to provide coverage primarily
4 for employees of:

5 (A) a municipality, county, or hospital district
6 in this state; or

7 (B) a county or municipal hospital, without
8 regard to whether the employees are employees of the county or
9 municipality or of an entity operating the hospital on behalf of the
10 county or municipality.

11 SECTION 7. Section 7, Article 9.59, Insurance Code, is
12 amended to read as follows:

13 Sec. 7. EXAMINATION AND EVALUATION FEE CREDITS. The amount
14 of all examination and evaluation fees paid in each taxable year to
15 ~~[or for the use of]~~ the State of Texas by a title insurance company
16 shall be allowed as a credit on the amount of premium taxes due
17 under this article ~~[except as provided by Article 1.28 of this~~
18 ~~code]~~. The limitations provided by Sections 803.007(1) and (2)(B)
19 of this code for domestic insurance companies apply to foreign
20 insurance companies. Any credit allowed by this section is in
21 addition to any other credits allowed by law.

22 SECTION 8. Section 33(d), Texas Health Maintenance
23 Organization Act (Article 20A.33, Vernon's Texas Insurance Code),
24 is amended to read as follows:

25 (d) The commissioner shall annually determine the rate of
26 assessment of a per capita maintenance tax to be paid on an annual
27 or semiannual basis, on the correctly reported gross revenues for

1 the issuance of health maintenance certificates or contracts
2 collected by all authorized health maintenance organizations
3 issuing such coverages in this state. The rate of assessment may
4 not exceed \$2 for each enrollee. The rate of assessment may differ
5 between basic health care plans, limited health care service plans,
6 and single health care service plans and shall equitably reflect
7 any differences in regulatory resources attributable to each type
8 of plan. The comptroller shall collect the maintenance tax. For
9 purposes of this section, the amount of maintenance tax assessed
10 may not be computed on:

11 (1) enrollees who as individual certificate holders or
12 their dependents are covered by a master group policy paid for by
13 revenues received from this state or the United States for
14 insurance contracted for by this state or the United States for the
15 purpose of providing welfare benefits to designated welfare
16 recipients or for insurance contracted for by this state or the
17 United States in accordance with or in furtherance of Title 2, Human
18 Resources Code, or the federal Social Security Act (42 U.S.C.
19 Section 301 et seq.); or

20 (2) revenues paid on group health, accident, and life
21 certificates or contracts in which the group covered by the
22 certificate or contract consists of a single nonprofit trust
23 established to provide coverage primarily for employees of:

24 (A) a municipality, county, or hospital district
25 in this state; or

26 (B) a county or municipal hospital, without
27 regard to whether the employees are employees of the county or

1 municipality or of an entity operating the hospital on behalf of the
2 county or municipality.

3 SECTION 9. Section 101.053(b), Insurance Code, as effective
4 June 1, 2003, is amended to read as follows:

5 (b) Sections 101.051 and 101.052 do not apply to:

6 (1) the lawful transaction of surplus lines insurance
7 under Chapter 981;

8 (2) the lawful transaction of reinsurance by insurers;

9 (3) a transaction in this state that:

10 (A) involves a policy that:

11 (i) is lawfully solicited, written, and
12 delivered outside this state; and

13 (ii) covers, at the time the policy is
14 issued, only subjects of insurance that are not resident, located,
15 or expressly to be performed in this state; and

16 (B) takes place after the policy is issued;

17 (4) a transaction:

18 (A) that involves an insurance contract
19 independently procured by the insured from an insurance company not
20 authorized to do insurance business in this state through
21 negotiations occurring entirely outside this state;

22 (B) that is reported; and

23 (C) on which premium tax is paid in accordance
24 with this chapter;

25 (5) a transaction in this state that:

26 (A) involves group life, health, or accident
27 insurance, other than credit insurance, and group annuities in

1 which the master policy for the group was lawfully issued and
2 delivered in a state in which the insurer or person was authorized
3 to do insurance business; and

4 (B) is authorized by a statute of this state;

5 (6) an activity in this state by or on the sole behalf
6 of a nonadmitted captive insurance company that insures solely:

7 (A) directors' and officers' liability insurance
8 for the directors and officers of the company's parent and
9 affiliated companies;

10 (B) the risks of the company's parent and
11 affiliated companies; or

12 (C) both the individuals and entities described
13 by Paragraphs (A) and (B);

14 (7) the issuance of a qualified charitable gift
15 annuity under Chapter 102; or

16 (8) a lawful transaction by a servicing company of the
17 Texas workers' compensation employers' rejected risk fund under
18 Section 4.08, Article 5.76-2, as that article existed before its
19 repeal.

20 SECTION 9A. Subchapter L, Chapter 843, Insurance Code, is
21 amended by adding Section 843.409 to read as follows:

22 Sec. 843.409. EXAMINATION EXPENSES. (a) A credit against
23 the amount of premium taxes to be paid by a health maintenance
24 organization in a taxable year may not be allowed on:

25 (1) an examination fee or expense paid to another
26 state; or

27 (2) an examination expense:

1 (A) directly attributable to an examination of
2 the books, records, accounts, or principal offices of a health
3 maintenance organization located outside this state; or

4 (B) paid in a different taxable year.

5 (b) The limitations provided by Subsections (a)(1) and
6 (a)(2)(B) apply to foreign health maintenance organizations.

7 SECTION 10. Section 912.002(b), Insurance Code, as
8 effective June 1, 2003, is amended to read as follows:

9 (b) A county mutual insurance company is subject to:

10 (1) Sections 38.001 and 822.204; and

11 (2) Articles 1.15, 1.15A, 1.16, 1.35B, 2.10, 4.10,
12 5.12, 5.37, 5.38, 5.39, 5.40, 5.49, 21.21, and 21.49.

13 SECTION 11. Section 376.470, Local Government Code, as
14 added by Chapter 1433, Acts of the 77th Legislature, Regular
15 Session, 2001, is amended by adding Subsection (d) to read as
16 follows:

17 (d) Chapter 321, Tax Code, applies to the imposition,
18 computation, administration, enforcement, and collection of the
19 sales and use tax imposed by this section except to the extent it is
20 inconsistent with this chapter.

21 SECTION 12. Section 2153.153(a), Occupations Code, is
22 amended to read as follows:

23 (a) A license applicant must file with the comptroller a
24 license application that:

25 (1) contains a complete statement about the ownership
26 of the business that is the subject of the application, including:

27 (A) the nature of the business entity; and

1 (B) except as provided by Subsection (b), the
2 name and residence address of each person who has a financial
3 interest in the business, including the nature, type, and extent of
4 the interest;

5 (2) designates:

6 (A) an individual, as described by Subsection
7 (c), responsible for maintaining a record of and reporting to the
8 comptroller information as required by Section 2153.202; and

9 (B) an office located in this state where the
10 applicant proposes to maintain the records required by this
11 chapter, a rule adopted under this chapter, or other law;

12 (3) is accompanied by:

13 (A) a written statement executed by the
14 individual designated under Subdivision (2) that the individual
15 accepts the responsibility described by that subdivision; and

16 (B) a cashier's check, ~~or~~ money order, personal
17 check, or other method of payment authorized by the comptroller, in
18 an amount equal to the annual license fee under Section 2153.154;

19 (4) includes any other relevant information required
20 by the comptroller; and

21 (5) states that the information contained in the
22 application is true and correct.

23 SECTION 13. Section 111.0046, Tax Code, is amended to read
24 as follows:

25 Sec. 111.0046. [~~REFUSAL TO~~] PERMIT OR LICENSE. (a) The
26 comptroller shall refuse to issue or renew any permit or license to
27 a person who:

1 (1) is not permitted or licensed as required by law for
2 a different tax or activity administered by the comptroller, except
3 if the issuance or renewal of such license or permit is pending
4 before the comptroller; or

5 (2) is currently delinquent in the payment of any tax
6 collected by the comptroller.

7 (b) The comptroller by rule may establish a minimum age for
8 a person to be eligible to apply for a permit or license issued by
9 the comptroller.

10 SECTION 14. Sections 111.012(a) and (g), Tax Code, are
11 amended to read as follows:

12 (a) If the comptroller finds that a tax imposed by this
13 title is insecure, the comptroller may require a taxpayer [~~who is~~
14 ~~delinquent in the payment of the tax~~] to:

15 (1) provide security for the payment of taxes; or

16 (2) establish a tax escrow account at a bank or other
17 financial institution.

18 (g) If a taxpayer does not furnish security to the
19 comptroller or establish a tax escrow account as required by the
20 comptroller before the expiration of 10 days following the day on
21 which notice is received, the comptroller may:

22 (1) bring suit in a district court in Travis County for
23 an order enjoining the taxpayer from engaging in business until the
24 security is furnished or the tax escrow account is established; or

25 (2) pursue any other remedies or collection actions
26 available to the comptroller under this chapter or Chapter 113 to
27 ensure the security is furnished or the tax escrow account is

1 established. [~~Venue for a suit under this section is in Travis~~
2 ~~County.~~]

3 SECTION 15. Section 113.006(b), Tax Code, is amended to
4 read as follows:

5 (b) One tax lien notice is sufficient to cover all taxes of
6 any [~~the same~~] nature administered by the comptroller, including
7 penalty and interest computed by reference to the amount of tax,
8 that may have accrued before or after the filing of the notice.

9 SECTION 16. Section 151.0035, Tax Code, is amended to read
10 as follows:

11 Sec. 151.0035. "DATA PROCESSING SERVICE." "Data processing
12 service" includes word processing, data entry, data retrieval, data
13 search, information compilation, payroll and business accounting
14 data production, the performance of a totalisator service with the
15 use of computational equipment [~~equipment~~] required by the Texas
16 Racing Act (Article 179e, Vernon's Texas Civil Statutes), and other
17 computerized data and information storage or manipulation. "Data
18 processing service" also includes the use of a computer or computer
19 time for data processing whether the processing is performed by the
20 provider of the computer or computer time or by the purchaser or
21 other beneficiary of the service. "Data processing service" does
22 not include the transcription of medical dictation by a medical
23 transcriptionist. "Data storage," as used in this section, does not
24 include a classified advertisement, banner advertisement, vertical
25 advertisement, or link when the item is displayed on an Internet
26 website owned by another person.

27 SECTION 17. Section 151.005, Tax Code, is amended to read as

1 follows:

2 Sec. 151.005. "SALE" OR "PURCHASE." "Sale" or "purchase"
3 means any of the following when done or performed for
4 consideration:

5 (1) a transfer of title or possession of tangible
6 personal property;

7 (2) the exchange, barter, lease, or rental of tangible
8 personal property;

9 (3) the performance of a taxable service, the charge
10 for an extended warranty or service contract for the performance of
11 a taxable service, or, in the case of an amusement service, a
12 transfer of title to or possession of a ticket or other admission
13 document, the collection of an admission fee, whether by individual
14 performance, subscription series, or membership privilege, the
15 collection of dues or a fee, charge, or assessment, including an
16 initiation fee, by a club or organization for membership or a
17 special privilege, status, or membership classification in the club
18 or organization, or the use of a coin-operated machine;

19 (4) the production, fabrication, processing,
20 printing, or imprinting of tangible personal property for consumers
21 who directly or indirectly furnish the materials used in the
22 production, fabrication, processing, printing, or imprinting;

23 (5) the furnishing and distribution of tangible
24 personal property by a social club or fraternal organization to
25 anyone;

26 (6) the furnishing, preparation, or service of food,
27 meals, or drinks;

1 (7) a transfer of the possession of tangible personal
2 property if the title to the property is retained by the seller as
3 security for the payment of the price; or

4 (8) a transfer of the title or possession of tangible
5 personal property that has been produced, fabricated, or printed to
6 the special order of the customer.

7 SECTION 18. Section 151.056, Tax Code, is amended by adding
8 Subsection (f) to read as follows:

9 (f) A contractor is not eligible for the exemption provided
10 by Section 151.318 on items used in the performance of a contract to
11 improve real property.

12 SECTION 19. Section 151.313(a), Tax Code, is amended to
13 read as follows:

14 (a) The following items are exempted from the taxes imposed
15 by this chapter:

16 (1) a drug or medicine, other than insulin, if
17 prescribed or dispensed for a human or animal by a licensed
18 practitioner of the healing arts;

19 (2) insulin;

20 (3) subject to Subsection (c), a drug or medicine,
21 without regard to whether it is prescribed or dispensed by a
22 licensed practitioner of the healing arts;

23 (4) a hypodermic syringe or needle;

24 (5) a brace; hearing aid or audio loop; orthopedic,
25 dental, or prosthetic device; ileostomy, colostomy, or ileal
26 bladder appliance; or supplies or replacement parts for the listed
27 items;

1 (6) a therapeutic appliance, device, and any related
2 supplies specifically designed for those products, if dispensed or
3 prescribed by a licensed practitioner of the healing arts, when
4 those items are purchased and used by an individual for whom the
5 items listed in this subdivision were dispensed or prescribed;

6 (7) corrective lens and necessary and related
7 supplies, if dispensed or prescribed by an ophthalmologist or
8 optometrist;

9 (8) specialized printing or signalling equipment used
10 by the deaf for the purpose of enabling the deaf to communicate
11 through the use of an ordinary telephone and all materials, paper,
12 and printing ribbons used in that equipment;

13 (9) a braille wristwatch, braille writer, braille
14 paper and braille electronic equipment that connects to computer
15 equipment, and the necessary adaptive devices and adaptive computer
16 software;

17 (10) each of the following items if purchased for use
18 by the blind to enable them to function more independently: a slate
19 and stylus, print enlarger, light probe, magnifier, white cane,
20 talking clock, large print terminal, talking terminal, or harness
21 for guide dog;

22 (11) hospital beds;

23 (12) blood glucose monitoring test strips;

24 (13) an adjustable eating utensil used to facilitate
25 independent eating if purchased for use by a person, including a
26 person who is elderly or physically disabled, has had a stroke, or
27 is a burn victim, who does not have full use or control of the

1 person's hands or arms; ~~and~~

2 (14) subject to Subsection (d), a dietary supplement;
3 and

4 (15) intravenous systems, supplies, and replacement
5 parts used in the treatment of humans.

6 SECTION 20. Section 151.314(e), Tax Code, is amended to
7 read as follows:

8 (e) Food products, candy, carbonated beverages, and diluted
9 juices are exempted from the taxes imposed by this chapter if sold
10 at an exempt sale qualifying under this subsection or if stored or
11 used by the purchaser of the item at the exempt sale. A sale is
12 exempted under this subsection if:

13 (1) the sale is made by a ~~[person under 19 years old~~
14 ~~who is a]~~ member of or volunteer for a nonprofit organization
15 devoted to the exclusive purpose of education or religious or
16 physical training or by a group associated with a public or private
17 elementary or secondary school;

18 (2) the sale is made as a part of a fund-raising drive
19 sponsored by the organization or group; and

20 (3) all net proceeds from the sale go to the
21 organization or group for its exclusive use.

22 SECTION 21. Section 151.319(f), Tax Code, is amended to
23 read as follows:

24 (f) In this section, "newspaper" means a publication that is
25 printed on newsprint, the average sales price of which for each copy
26 over a 30-day period does not exceed \$1.50 ~~[75 cents]~~, and that is
27 printed and distributed at a daily, weekly, or other short interval

1 for the dissemination of news of a general character and of a
2 general interest. "Newspaper" does not include a magazine,
3 handbill, circular, flyer, sales catalog, or similar printed item
4 unless the printed item is printed for distribution as a part of a
5 newspaper and is actually distributed as a part of a newspaper. For
6 the purposes of this section, an advertisement is news of a general
7 character and of a general interest. Notwithstanding any other
8 provision of this subsection, "newspaper" includes:

9 (1) a publication containing articles and essays of
10 general interest by various writers and advertisements that is
11 produced for the operator of a licensed and certified carrier of
12 persons and distributed by the operator to its customers during
13 their travel on the carrier; and

14 (2) a publication for the dissemination of news of a
15 general character and of a general interest that is printed on
16 newsprint and distributed to the general public free of charge at a
17 daily, weekly, or other short interval.

18 SECTION 22. Section 151.323, Tax Code, is amended to read as
19 follows:

20 Sec. 151.323. CERTAIN TELECOMMUNICATIONS SERVICES. (a)
21 There are exempted from the taxes imposed by this chapter the
22 receipts from the sale, use, or other consumption in this state of:

23 (1) long-distance telecommunications services that
24 are not both originated from and billed to a telephone number or
25 billing or service address within Texas;

26 (2) access to a local exchange telephone company's
27 network by a regulated provider of telecommunications services; and

1 (3) broadcasts, other than cable television service,
2 by commercial radio or television stations licensed or regulated by
3 the Federal Communications Commission.

4 (b) The exemption provided by this section does not apply to
5 mobile telecommunications services.

6 SECTION 23. Subchapter H, Chapter 151, Tax Code, is amended
7 by adding Section 151.3501 to read as follows:

8 Sec. 151.3501. LABOR TO RESTORE, REPAIR, OR REMODEL
9 HISTORIC SITES. (a) Labor to restore, repair, or remodel an
10 improvement to real property is exempted from the taxes imposed by
11 this chapter if:

12 (1) the amount of the charge for labor is separately
13 itemized; and

14 (2) the restoration, repair, or remodeling is
15 performed on an improvement to real property listed in the National
16 Register of Historic Places.

17 (b) The exemption provided by this section does not apply to
18 tangible personal property transferred by the service provider to
19 the purchaser as part of the service.

20 SECTION 24. Section 151.355, Tax Code, as amended by
21 Chapters 966 and 1234, Acts of the 77th Legislature, Regular
22 Session, 2001, is reenacted and amended to read as follows:

23 Sec. 151.355. WATER-RELATED EXEMPTIONS. The following are
24 exempted from taxes imposed by this chapter:

25 (1) rainwater harvesting equipment or supplies, water
26 recycling and reuse equipment or supplies, or other equipment,
27 services, or supplies used solely to reduce or eliminate water use;

1 (2) equipment, services, or supplies used solely for
2 desalination of surface water or groundwater;

3 (3) equipment, services, or supplies used solely for
4 brush control designed to enhance the availability of water;

5 (4) equipment, services, or supplies used solely for
6 precipitation enhancement;

7 (5) equipment, services, or supplies used solely to
8 construct or operate a water or wastewater system certified by the
9 Texas Commission on Environmental Quality [~~Natural Resource~~
10 ~~Conservation Commission~~] as a regional system; and

11 (6) equipment, services, or supplies used solely to
12 construct or operate a water supply or wastewater system by a
13 private entity as a public-private partnership as certified by the
14 political subdivision that is a party to the project.

15 SECTION 25. Section 152.086(a), Tax Code, is amended to
16 read as follows:

17 (a) The taxes imposed by this chapter do not apply to the
18 sale or use of a motor vehicle that:

19 (1) has been or will be modified before the second
20 anniversary of the date of purchase for operation by, or for the
21 transportation of, an orthopedically handicapped person; and

22 (2) is driven by or used for the transportation of an
23 orthopedically handicapped person.

24 SECTION 26. Subchapter F, Chapter 152, Tax Code, is amended
25 by adding Section 152.106 to read as follows:

26 Sec. 152.106. PROHIBITED ADVERTISING; CRIMINAL PENALTY.

27 (a) A person who is required by Chapter 503, Transportation Code,

1 to hold a dealer's general distinguishing number commits an offense
2 if the person directly or indirectly advertises, holds out, or
3 states to a customer or to the public that the person:

4 (1) will assume, absorb, or refund a part of the tax
5 imposed by this chapter; or

6 (2) will not add the tax imposed by this chapter to the
7 sales price of the motor vehicle sold, leased, or rented.

8 (b) An offense under this section is a Class C misdemeanor.

9 SECTION 27. Section 155.002, Tax Code, is amended to read as
10 follows:

11 Sec. 155.002. STORAGE. (a) The commercial business
12 location where tobacco products are stored or kept cannot be a
13 residence or a unit in a public storage facility.

14 (b) This section does not apply to a manufacturer's
15 representative.

16 SECTION 28. Section 156.051(a), Tax Code, is amended to
17 read as follows:

18 (a) A tax is imposed on a person who, under a lease,
19 concession, permit, right of access, license, contract, or
20 agreement, pays for the use or possession or for the right to the
21 use or possession of a room or space in a hotel costing \$15 [~~\$2~~] or
22 more each day.

23 SECTION 29. Section 156.102(b), Tax Code, is amended to
24 read as follows:

25 (b) For purposes of this section:

26 (1) a corporation or association that is organized and
27 operated exclusively for the cleaning of beaches and that has no

1 part of its net earnings inure to the benefit of a private
2 shareholder or individual is organized and operated exclusively for
3 a charitable purpose; and

4 (2) a public or private institution of higher
5 education is organized and operated exclusively for an educational
6 purpose only if the institution is defined as a Texas [~~an~~]
7 institution of higher education or as a Texas private or
8 independent institution of higher education under any subdivision
9 of Section 61.003, Education Code.

10 SECTION 30. Subchapter C, Chapter 156, Tax Code, is amended
11 by adding Section 156.104 to read as follows:

12 Sec. 156.104. EXEMPTION CERTIFICATE. (a) The right to use
13 or possess a room or space in a hotel is exempt from taxation under
14 this chapter if the person required to collect the tax receives, in
15 good faith from a guest, a properly completed exemption certificate
16 stating that the guest is qualified for an exemption under Section
17 156.102 or 156.103. An exemption certificate must be supported by
18 the documentation required under rules adopted by the comptroller.

19 (b) The comptroller shall produce and maintain a list of
20 entities that have been provided a letter of exemption from the
21 state hotel occupancy tax under Section 156.102. The comptroller
22 shall make the list available on the comptroller's Internet
23 website.

24 SECTION 31. Section 171.001(a), Tax Code, is amended to
25 read as follows:

26 (a) A franchise tax is imposed on:

27 (1) each corporation that does business in this state

1 or that is chartered [~~or authorized to do business~~] in this state;
2 [~~7~~] and

3 (2) each limited liability company that does business
4 in this state or that is organized under the laws of this state [~~or~~
5 ~~is authorized to do business in this state~~].

6 SECTION 32. Section 171.001(b)(2), Tax Code, is amended to
7 read as follows:

8 (2) "Beginning date" means:

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

11 (B) for a foreign corporation, [~~the earlier of~~]
12 the date on which [~~+~~

13 [~~(i) the corporation's certificate of~~
14 ~~authority takes effect; or~~

15 [~~(ii)~~] the corporation begins doing
16 business in this state.

17 SECTION 33. Section 171.052, Tax Code, is amended to read as
18 follows:

19 Sec. 171.052. CERTAIN CORPORATIONS. An insurance
20 organization, title insurance company, or title insurance agent
21 authorized to engage in insurance business in this state now
22 required to pay an annual tax under Chapter 4 or 9, Insurance Code,
23 measured by its gross premium receipts is exempted from the
24 franchise tax. A [~~An insurance organization performing management~~
25 ~~or accounting activities in this state on behalf of a~~] nonadmitted
26 [~~captive~~] insurance organization [~~company under Chapter 101,~~
27 ~~Insurance Code,~~] that is required to pay a gross premium receipts

1 tax during a tax year is exempted from the franchise tax for that
2 same tax year. Farm mutuals, local mutual aid associations, and
3 burial associations are not subject to the franchise tax.

4 SECTION 34. Section 171.084(c), Tax Code, is amended to
5 read as follows:

6 (c) In this section, "wholesale center" means a permanent
7 wholesale facility that has permanent tenants and that promotes at
8 least four national or regional trade shows in a calendar year. A
9 tenant leasing space at a wholesale center for a period longer than
10 the period prescribed by Subsection (b) may qualify for the
11 exemption provided by this section only if the tenant solicits
12 orders on an occasional basis at the trade show as prescribed by
13 Subsection (b).

14 SECTION 35. Section 171.1032(b), Tax Code, is amended to
15 read as follows:

16 (b) A corporation shall deduct from its gross receipts
17 computed under Subsection (a) any amount to the extent included
18 under Subsection (a) because of the application of Section 78 or
19 Sections 951-964, Internal Revenue Code, any amount excludable
20 under Section 171.110(k), and dividends received from a subsidiary,
21 associate, or affiliated corporation that does not transact a
22 substantial portion of its business or regularly maintain a
23 substantial portion of its assets in the United States.

24 SECTION 36. Section 171.1051(c), Tax Code, is amended to
25 read as follows:

26 (c) A corporation shall deduct from its gross receipts
27 computed under Subsection (a) any amount to the extent included in

1 Subsection (a) because of the application of Section 78 or Sections
2 951-964, Internal Revenue Code, any amount excludable under Section
3 171.110(k), and dividends received from a subsidiary, associate, or
4 affiliated corporation that does not transact a substantial portion
5 of its business or regularly maintain a substantial portion of its
6 assets in the United States.

7 SECTION 37. Section 171.106, Tax Code, is amended by adding
8 Subsection (i) to read as follows:

9 (i) Receipts from services that a defense readjustment
10 project performs in a defense economic readjustment zone are not
11 receipts from business done in this state.

12 SECTION 38. Section 171.109, Tax Code, is amended by adding
13 Subsection (a-1) to read as follows:

14 (a-1) A legally enforceable obligation that requires the
15 return of a like-kind property that was borrowed will be considered
16 debt if it is a liability according to generally accepted
17 accounting principles and if the return must be made within an
18 ascertainable period of time or on demand. The amount that will be
19 considered debt is the fair market value measured on the last day on
20 which the report is based as required by Section 171.153. For
21 purposes of this subsection, "like-kind property" means the same
22 quantity, quality, and nature or character as the property
23 borrowed.

24 SECTION 39. Section 171.110, Tax Code, is amended by
25 amending Subsection (a) and adding Subsections (k) and (l) to read
26 as follows:

27 (a) The net taxable earned surplus of a corporation is

1 computed by:

2 (1) determining the corporation's reportable federal
3 taxable income, subtracting from that amount any amount excludable
4 under Subsection (k), any amount included in reportable federal
5 taxable income under Section 78 or Sections 951-964, Internal
6 Revenue Code, and dividends received from a subsidiary, associate,
7 or affiliated corporation that does not transact a substantial
8 portion of its business or regularly maintain a substantial portion
9 of its assets in the United States, and adding to that amount any
10 compensation of officers or directors, or if a bank, any
11 compensation of directors and executive officers, to the extent
12 excluded in determining federal taxable income to determine the
13 corporation's taxable earned surplus;

14 (2) apportioning the corporation's taxable earned
15 surplus to this state as provided by Section 171.106(b) or (c), as
16 applicable, to determine the corporation's apportioned taxable
17 earned surplus;

18 (3) adding the corporation's taxable earned surplus
19 allocated to this state as provided by Section 171.1061; and

20 (4) subtracting from that amount any allowable
21 deductions and any business loss that is carried forward to the tax
22 reporting period and deductible under Subsection (e).

23 (k) Dividends and interest received from federal
24 obligations are not included in earned surplus or gross receipts
25 for earned surplus purposes.

26 (1) In this section:

27 (1) "Federal obligations" means:

1 (A) stocks and other direct obligations of, and
2 obligations unconditionally guaranteed by, the United States
3 government and United States government agencies; and

4 (B) direct obligations of a United States
5 government-sponsored agency.

6 (2) "Obligation" means any bond, debenture, security,
7 mortgage-backed security, pass-through certificate, or other
8 evidence of indebtedness of the issuing entity. The term does not
9 include a deposit, a repurchase agreement, a loan, a lease, a
10 participation in a loan or pool of loans, a loan collateralized by
11 an obligation of a United States government agency, or a loan
12 guaranteed by a United States government agency.

13 (3) "United States government" means any department or
14 ministry of the federal government, including a federal reserve
15 bank. The term does not include a state or local government, a
16 commercial enterprise owned wholly or partly by the United States
17 government, or a local governmental entity or commercial enterprise
18 whose obligations are guaranteed by the United States government.

19 (4) "United States government agency" means an
20 instrumentality of the United States government whose obligations
21 are fully and explicitly guaranteed as to the timely payment of
22 principal and interest by the full faith and credit of the United
23 States government. The term includes the Government National
24 Mortgage Association, the Department of Veterans Affairs, the
25 Federal Housing Administration, the Farmers Home Administration,
26 the Export-Import Bank, the Overseas Private Investment
27 Corporation, the Commodity Credit Corporation, the Small Business

1 Administration, and any successor agency.

2 (5) "United States government-sponsored agency" means
3 an agency originally established or chartered by the United States
4 government to serve public purposes specified by the United States
5 Congress but whose obligations are not explicitly guaranteed by the
6 full faith and credit of the United States government. The term
7 includes the Federal Home Loan Mortgage Corporation, the Federal
8 National Mortgage Association, the Farm Credit System, the Federal
9 Home Loan Bank System, the Student Loan Marketing Association, and
10 any successor agency.

11 SECTION 40. Sections 171.110(b) and (c), Tax Code, are
12 amended to read as follows:

13 (b) Except as provided by Subsection (c), a [A] corporation
14 is not required to add the compensation of officers or directors as
15 required by Subsection (a)(1) if the corporation is:

16 (1) a corporation that has not more than 35
17 shareholders; or

18 (2) an S corporation, as that term is defined by
19 Section 1361, Internal Revenue Code.

20 (c) A subsidiary corporation may not claim the exclusion
21 under Subsection (b) if it has a parent corporation that does not
22 qualify for the exclusion. For purposes of this subsection, a
23 corporation qualifies as a parent if it ultimately controls the
24 subsidiary, even if the control arises through a series or group of
25 other subsidiaries or entities. Control is presumed if a parent
26 corporation directly or indirectly owns, controls, or holds a
27 majority of the outstanding voting stock of a corporation or

1 ownership interests in another entity [~~Subsection (b) does not~~
2 ~~apply to a subsidiary corporation unless it applies to the~~
3 ~~subsidiary's parent corporation~~].

4 SECTION 41. Section 171.203, Tax Code, is amended by adding
5 Subsection (f) to read as follows:

6 (f) A public information report that is filed
7 electronically complies with the signature and certification
8 requirements prescribed by Subsection (d).

9 SECTION 42. Subchapter O, Chapter 171, Tax Code, is amended
10 by adding Section 171.731 to read as follows:

11 Sec. 171.731. ASSIGNMENT PROHIBITED. A corporation may not
12 convey, assign, or transfer the credit allowed under this
13 subchapter to another entity unless all of the assets of the
14 corporation are conveyed, assigned, or transferred in the same
15 transaction.

16 SECTION 43. Section 171.751(1), Tax Code, is amended to
17 read as follows:

18 (1) "Agricultural processing" means an establishment
19 primarily engaged in activities described in categories 0724,
20 2011-2099, 2211, 2231, 2824, 2833, 2834, 2835, 2836, 2841,
21 3111-3199, 3262, or 3952, in product classes 28692 or 28698 of
22 category 2869, or in product classes 28992 or 28994 of category 2899
23 of the 1987 Standard Industrial Classification Manual published by
24 the federal Office of Management and Budget.

25 SECTION 44. Subchapter P, Chapter 171, Tax Code, is amended
26 by adding Section 171.7515 to read as follows:

27 Sec. 171.7515. "QUALIFIED BUSINESS." (a) In addition to the

1 meaning assigned by Section 171.751(8), "qualified business" also
2 means a corporation that has been designated as an enterprise
3 project or as a defense readjustment project and is certified by the
4 Texas Department of Economic Development as a qualified business
5 under Section 2303.402 or 2310.302, Government Code.

6 (b) This section expires January 1, 2005.

7 SECTION 45. Section 171.753, Tax Code, is amended to read as
8 follows:

9 Sec. 171.753. CALCULATION OF CREDIT. A corporation may
10 establish a credit equal to five percent of the total wages and
11 salaries paid by the corporation for qualifying jobs during the
12 period upon which the tax is based, on each of five consecutive
13 reports beginning with the report based on the period during which
14 the qualifying jobs were created.

15 SECTION 46. Subchapter P, Chapter 171, Tax Code, is amended
16 by adding Section 171.7541 to read as follows:

17 Sec. 171.7541. LENGTH OF CREDIT. Notwithstanding Section
18 171.753, a corporation that has been designated as an enterprise
19 project or as a defense readjustment project on or after September
20 1, 2001, may, beginning on the date the project is designated,
21 establish a credit equal to 25 percent of the total wages and
22 salaries paid by the corporation for qualifying jobs. Subject to
23 Section 171.755, the corporation may claim the entire credit earned
24 on a report originally due on or after September 1, 2003, and before
25 January 1, 2005. This section expires January 1, 2005.

26 SECTION 47. Section 171.802, Tax Code, is amended by adding
27 Subsections (d) and (e) to read as follows:

1 (d) A corporation that has been designated as an enterprise
2 project or as a defense readjustment project and is certified by the
3 Texas Department of Economic Development as a qualified business
4 under Section 2303.402 or 2310.302, Government Code, may qualify
5 for the credit provided by this subchapter, regardless of whether
6 the corporation meets the qualifications prescribed by Subsection
7 (b). This subsection expires January 1, 2005.

8 (e) A corporation may claim a credit or take a carryforward
9 credit for a qualified capital investment made on or after January
10 1, 2003, without regard to whether the county in which it makes the
11 qualified capital investment has lost its designation as a
12 strategic investment area if:

13 (1) the corporation committed to the investment in
14 that county before January 2003;

15 (2) at the time the corporation made the commitment,
16 the county was designated as a strategic investment area;

17 (3) the total investment is at least \$100 million;

18 (4) the county has a population of less than 15,700;

19 and

20 (5) the corporation made a qualified capital
21 investment in the county in each of the two years preceding the year
22 in which the corporation made the qualified capital investment
23 under this subsection.

24 SECTION 48. Section 171.803, Tax Code, is amended to read as
25 follows:

26 Sec. 171.803. CALCULATION OF CREDIT. (a) Except as
27 provided by Subsection (b), a [A] corporation may establish a

1 credit equal to 7.5 percent of the qualified capital investment
2 during the period upon which the tax is based.

3 (b) A corporation that has been designated as an enterprise
4 project or as a defense readjustment project on or after September
5 1, 2001, may, beginning on the date the project is designated,
6 establish a credit equal to 7.5 percent of the qualified capital
7 investment. This subsection expires January 1, 2005.

8 SECTION 49. Section 171.804(b), Tax Code, as effective
9 September 1, 2003, is amended to read as follows:

10 (b) Subject to Section 171.805, a corporation that has been
11 designated as an enterprise project or as a defense readjustment
12 project may claim the entire credit earned on a report originally
13 due on or after September 1, 2003, and before January 1, 2006
14 ~~[during an accounting period against the taxes imposed for the~~
15 ~~corresponding reporting period].~~

16 SECTION 50. Section 171.853(c), Tax Code, is amended to
17 read as follows:

18 (c) The credit claimed for each privilege period may not
19 exceed 50 percent of the amount of ~~[net]~~ franchise tax due, before
20 ~~[after]~~ any other applicable tax credits, for the privilege period.

21 SECTION 51. Chapter 171, Tax Code, is amended by adding
22 Subchapter U to read as follows:

23 SUBCHAPTER U. TAX CREDIT FOR TITLE INSURANCE HOLDING

24 COMPANIES

25 Sec. 171.891. APPLICABILITY OF DEFINITIONS. In this
26 subchapter:

27 (1) "Control" has the meaning described by Sections

1 823.005 and 823.151, Insurance Code.

2 (2) "Controlled insurer," "domestic insurer," and
3 "holding company" have the meanings assigned by Section 823.002,
4 Insurance Code.

5 (3) "Title insurance," "title insurance agent," and
6 "title insurance company" have the meanings assigned by Article
7 9.02, Insurance Code.

8 Sec. 171.892. ELIGIBILITY. A corporation is entitled to a
9 credit as provided by this subchapter against the tax imposed under
10 this chapter if the corporation:

11 (1) is a title insurance holding company subject to
12 Chapter 823, Insurance Code; and

13 (2) controls one or more domestic title insurance
14 companies that are subject to the tax on premiums imposed under
15 Article 9.59, Insurance Code.

16 Sec. 171.893. AMOUNT; LIMITATIONS. (a) The amount of the
17 credit for each controlled domestic title insurance company is
18 computed by multiplying the amount of tax on premiums paid by that
19 company in the most recent calendar year ending before the
20 franchise tax report is due by the percentage of ownership of the
21 title insurance holding company in the controlled domestic title
22 insurance company. The percentage of ownership of a controlled
23 domestic title insurance company is determined as of the accounting
24 year-end on which the report is based.

25 (b) A claim for a credit is subject to the following
26 limitations:

27 (1) if the total amount of the credit for all

1 controlled title insurance companies exceeds the franchise tax due,
2 the credit is an amount equal to the franchise tax due;

3 (2) no portion of a credit may be applied to another
4 year's franchise tax report; and

5 (3) a corporation may not take credit for the same tax
6 on premiums more than once.

7 Sec. 171.894. EFFECT ON OTHER TAXES. This subchapter does
8 not exempt a title insurance holding company, a title insurance
9 company, or a title insurance agent from paying a tax imposed by
10 this code, except that a title insurance company or a title
11 insurance agent whose principal activity is the business of title
12 insurance is exempt from a tax imposed by this chapter.

13 SECTION 52. Section 201.057(c), Tax Code, is amended to
14 read as follows:

15 (c) High-cost gas as defined in Subsection (a)(2)(A)
16 produced from a well that is spudded or completed after August 31,
17 1996, [~~and before September 1, 2010,~~] is entitled to a reduction of
18 the tax imposed by this chapter for the first 120 consecutive
19 calendar months beginning on the first day of production, or until
20 the cumulative value of the tax reduction equals 50 percent of the
21 drilling and completion costs incurred for the well, whichever
22 occurs first. The amount of tax reduction shall be computed by
23 subtracting from the tax rate imposed by Section 201.052 the
24 product of that tax rate times the ratio of drilling and completion
25 costs incurred for the well to twice the median drilling and
26 completion costs for high-cost wells as defined in Subsection
27 (a)(2)(A) spudded or completed during the previous state fiscal

1 year, except that the effective rate of tax may not be reduced below
2 zero.

3 SECTION 53. Section 202.054(c), Tax Code, is amended to
4 read as follows:

5 (c) This section applies to an enhanced recovery project
6 that begins active operation on or after September 1, 1989, and to
7 an expansion that the commission approves on or after September 1,
8 1991. An application for approval under this section must be filed
9 on or after September 1, 1989, [~~and before January 1, 2008,~~] for a
10 new enhanced recovery project. An application for approval under
11 this section must be filed on or after September 1, 1991, [~~and~~
12 ~~before January 1, 2008,~~] for an expansion of an existing enhanced
13 recovery project. A project may not qualify as an expansion if the
14 project has qualified as a new enhanced recovery project under this
15 section. An application may be filed on or after September 1, 1989,
16 even if a separate application for approval of the project or
17 expansion has already been filed under Subchapter B, Chapter 101,
18 Natural Resources Code, or for approval as a tertiary recovery
19 project for purposes of Section 4993, Internal Revenue Code of
20 1986, if the operation of a new project or the expansion of an
21 existing project, other than a co-production project, does not
22 begin before the application for approval under this section is
23 approved by the commission; provided, however, nothing herein
24 shall require commission approval of a co-production project prior
25 to commencing active operations on such project in order for such
26 project to be eligible for the recovered oil tax rate.

27 SECTION 54. Subchapter B, Chapter 321, Tax Code, is amended

1 by adding Section 321.107 to read as follows:

2 Sec. 321.107. ADMINISTRATION OF LOCAL SALES AND USE TAXES
3 IMPOSED BY OTHER GOVERNMENTAL ENTITIES. The imposition,
4 computation, administration, enforcement, and collection of any
5 local sales and use tax imposed by any other local governmental
6 entity is governed by this chapter, except as otherwise provided by
7 law. In this section, "other local governmental entity" includes
8 any governmental entity created by the legislature that has a
9 limited purpose or function, that has a defined or restricted
10 geographic territory, and that is authorized by law to impose a
11 local sales and use tax. The term does not include a county, county
12 health services district, county landfill and criminal detention
13 center district, metropolitan transportation authority, economic
14 development district, crime control district, hospital district,
15 emergency services district, or library district.

16 SECTION 55. Section 321.203(j), Tax Code, is amended to
17 read as follows:

18 (j) The sale of [~~cable television~~] services delivered
19 through a cable system is consummated at the point of delivery to
20 the consumer.

21 SECTION 56. Section 322.001(a), Tax Code, is amended to
22 read as follows:

23 (a) This chapter applies to the imposition, assessment,
24 collection, administration, and enforcement of a sales and use tax
25 imposed under Chapter 451, 452, [~~or~~] 453, or 460, Transportation
26 Code.

27 SECTION 57. Section 322.002(1), Tax Code, is amended to

1 read as follows:

2 (1) "Taxing entity" means a rapid transit authority, a
3 regional transit authority, including a subregional transportation
4 authority, or a municipal mass transit department created under
5 Chapter 451, 452, or 453, Transportation Code, or a coordinated
6 county transportation authority created under Chapter 460,
7 Transportation Code, that has adopted a sales and use tax under the
8 law authorizing the creation of the entity.

9 SECTION 58. Section 323.203(j), Tax Code, is amended to
10 read as follows:

11 (j) The sale of [~~cable television~~] services delivered
12 through a cable system is consummated at the point of delivery to
13 the consumer.

14 SECTION 59. The following are repealed:

15 (1) Section 171.754, Tax Code;

16 (2) Section 2.08, Chapter 1134, Acts of the 77th
17 Legislature, Regular Session, 2001; and

18 (3) Section 16, Article 9.59, Insurance Code.

19 SECTION 60. Each change in law made to the following
20 provisions by this Act is a clarification of existing law and does
21 not imply that existing law may be construed as inconsistent with
22 the law as amended by this Act:

23 (1) Section 1, Article 4.10, Insurance Code;

24 (2) Article 4.17(a), Insurance Code;

25 (3) Section 33(d), Texas Health Maintenance
26 Organization Act (Article 20A.33, Vernon's Texas Insurance Code);

27 (4) Section 101.053(b), Insurance Code;

- 1 (5) Section 912.002(b), Insurance Code;
- 2 (6) Section 376.470(d), Local Government Code, as
- 3 added by Chapter 1433, Acts of the 77th Legislature, Regular
- 4 Session, 2001;
- 5 (7) Section 2153.153(a), Occupations Code;
- 6 (8) Section 151.0035, Tax Code;
- 7 (9) Section 151.005, Tax Code;
- 8 (10) Section 151.056(f), Tax Code;
- 9 (11) Section 151.313(a), Tax Code;
- 10 (12) Section 151.3501, Tax Code;
- 11 (13) Section 151.355, Tax Code;
- 12 (14) Section 171.052, Tax Code;
- 13 (15) Section 171.084(c), Tax Code;
- 14 (16) Section 171.1032(b), Tax Code;
- 15 (17) Section 171.1051(c), Tax Code;
- 16 (18) Section 171.106(i), Tax Code;
- 17 (19) Sections 171.110(a), (b), (c), (k), and (l), Tax
- 18 Code;
- 19 (20) Section 171.731, Tax Code;
- 20 (21) Section 171.751(1), Tax Code;
- 21 (22) Subchapter U, Chapter 171, Tax Code;
- 22 (23) Section 321.107, Tax Code;
- 23 (24) Section 322.001(a), Tax Code;
- 24 (25) Section 322.002(1), Tax Code; and
- 25 (26) Section 151.319(c), Tax Code.

26 SECTION 61. To the extent of any conflict, SECTIONS 1-60 of
27 this Act prevail over another Act of the 78th Legislature, Regular

1 Session, 2003, relating to nonsubstantive codifications of law or
2 nonsubstantive additions to and corrections in enacted codes.

3 SECTION 62. (a) Subtitle C, Title 4, Local Government Code,
4 is amended by adding Chapter 133 to read as follows:

5 CHAPTER 133. CRIMINAL AND CIVIL FEES PAYABLE TO THE COMPTROLLER

6 SUBCHAPTER A. GENERAL PROVISIONS

7 Sec. 133.001. PURPOSE. The purpose of this chapter is to
8 consolidate and standardize:

9 (1) collection of fees in criminal and civil matters
10 by:

11 (A) an officer of a court for deposit in a county
12 or municipal treasury; or

13 (B) an officer of a county or municipality for
14 deposit in the county or municipal treasury, as appropriate;

15 (2) remittance of those fees to the comptroller as
16 required by this chapter and other law; and

17 (3) distribution of those fees by the comptroller to
18 the proper accounts and funds in the state treasury.

19 Sec. 133.002. DEFINITIONS. In this chapter:

20 (1) "Fee" means:

21 (A) a criminal fee listed under Section 133.003;
22 and

23 (B) a civil fee listed under Section 133.004.

24 (2) "Indigent" means an individual who earns not more
25 than 125 percent of the income standard established by applicable
26 federal poverty guidelines.

27 (3) "Treasurer" means the custodian of money in a

1 municipal or county treasury, as appropriate.

2 Sec. 133.003. CRIMINAL FEES. This chapter applies to the
3 following criminal fees:

4 (1) the consolidated fee imposed under Section
5 133.102;

6 (2) the time payment fee imposed under Section
7 133.103;

8 (3) fees for services of peace officers employed by
9 the state imposed under Article 102.011, Code of Criminal
10 Procedure, and forwarded to the comptroller as provided by Section
11 133.104;

12 (4) costs on conviction imposed in certain statutory
13 county courts under Section 51.702, Government Code, and deposited
14 in the judicial fund;

15 (5) costs on conviction imposed in certain county
16 courts under Section 51.703, Government Code, and deposited in the
17 judicial fund;

18 (6) the administrative fee for failure to appear or
19 failure to pay or satisfy a judgment imposed under Section 706.006,
20 Transportation Code; and

21 (7) fines on conviction imposed under Section
22 621.506(g), Transportation Code.

23 Sec. 133.004. CIVIL FEES. This chapter applies to the
24 following civil fees:

25 (1) the consolidated fee on filing in district court
26 imposed under Section 133.151;

27 (2) the filing fee in district court for basic civil

1 legal services for indigents imposed under Section 133.152;

2 (3) the filing fee in courts other than district court
3 for basic civil legal services for indigents imposed under Section
4 133.153;

5 (4) the filing fees for the judicial fund imposed in
6 certain statutory county courts under Section 51.702, Government
7 Code;

8 (5) the filing fees for the judicial fund imposed in
9 certain county courts under Section 51.703, Government Code;

10 (6) the filing fees for the judicial fund imposed in
11 certain statutory probate courts under Section 51.704, Government
12 Code;

13 (7) fees collected under Section 118.015;

14 (8) marriage license fees for the family trust fund
15 collected under Section 118.018; and

16 (9) marriage license or declaration of informal
17 marriage fees for the child abuse and neglect prevention trust fund
18 account collected under Section 118.022.

19 [Sections 133.005-133.050 reserved for expansion]

20 SUBCHAPTER B. REPORTING, COLLECTION, AND REMITTANCE OF FEES

21 Sec. 133.051. COLLECTION AND REMITTANCE OF FEES. A
22 municipality or county shall collect, record, account for, and
23 remit to the comptroller all fees in the manner provided by this
24 subchapter.

25 Sec. 133.052. DEPOSIT OF FEES. (a) An officer collecting a
26 fee in a case in municipal court shall deposit the money in the
27 municipal treasury.

1 (b) An officer collecting a fee in a justice, county, or
2 district court shall deposit the money in the county treasury.

3 (c) A municipal or county clerk collecting a fee shall
4 deposit the money in the municipal or county treasury, as
5 appropriate.

6 Sec. 133.053. INTEREST-BEARING ACCOUNT. (a) The treasurer
7 may deposit fees in an interest-bearing account.

8 (b) The municipality or county may retain any interest
9 accrued on the money the treasurer deposited in the treasury if the
10 treasurer remits the funds to the comptroller within the period
11 prescribed by Section 133.055(a).

12 Sec. 133.054. RECORDS. (a) An officer or clerk collecting
13 a fee shall keep a record of the money collected.

14 (b) The treasurer shall keep a record of the money collected
15 and on deposit in the treasury.

16 Sec. 133.055. QUARTERLY REMITTANCE OF FEES TO THE
17 COMPTROLLER. (a) On or before the last day of the month following
18 each calendar quarter, the treasurer shall:

19 (1) remit to the comptroller the money from all fees
20 collected during the preceding quarter, except as provided by
21 Section 133.058; and

22 (2) submit to the comptroller the report required
23 under Section 133.056 for criminal fees and Section 133.057 for
24 civil fees.

25 (b) If the treasurer does not collect any fees during a
26 calendar quarter, the treasurer shall file the report required for
27 the quarter in the regular manner. The report must state that no

1 fees were collected. This subsection does not apply to fees
2 collected under Sections 14 and 19, Article 42.12, Code of Criminal
3 Procedure, or under Section 76.013, Government Code.

4 Sec. 133.056. QUARTERLY REPORT FOR CRIMINAL FEES. (a) On
5 the last day of the month following a calendar quarter, the
6 treasurer shall report the criminal fees collected for the
7 preceding calendar quarter.

8 (b) For fees collected for convictions of offenses
9 committed on or after January 1, 2004, a municipality or county
10 shall report the fees collected for a calendar quarter categorized
11 according to the class of offense.

12 (c) For fees collected for convictions of offenses
13 committed before January 1, 2004, a municipality or county shall
14 report the total of fees collected for a calendar quarter.

15 Sec. 133.057. QUARTERLY REPORT FOR CIVIL FEES. On the last
16 day of the month following a calendar quarter, the treasurer shall
17 report the civil fees collected for the preceding calendar quarter.

18 Sec. 133.058. PORTION OF FEE RETAINED. (a) Except as
19 otherwise provided by this section, a municipality or county may
20 retain 10 percent of the money collected from fees as a service fee
21 for the collection if the municipality or county remits the
22 remainder of the fees to the comptroller within the period
23 prescribed by Section 133.055(a).

24 (b) A municipality or county may retain an amount greater
25 than 10 percent of the money collected from fees if retention of the
26 greater amount is authorized by law.

27 (c) A county may retain five percent of the money collected

1 as a service fee on the basic civil legal service for indigents
2 filing fee.

3 (d) A county may not retain a service fee on the collection
4 of a fee:

5 (1) for the judicial fund; or

6 (2) under Sections 14 and 19, Article 42.12, Code of
7 Criminal Procedure.

8 Sec. 133.059. AUDIT. (a) The comptroller may audit the
9 records of a county or municipality relating to fees collected
10 under this chapter.

11 (b) Money spent from fees collected under this chapter is
12 subject to audit by the state auditor.

13 [Sections 133.060-133.100 reserved for expansion]

14 SUBCHAPTER C. CRIMINAL FEES

15 Sec. 133.101. MEANING OF CONVICTION. In this subchapter, a
16 person is considered to have been convicted in a case if:

17 (1) a judgment, a sentence, or both a judgment and a
18 sentence are imposed on the person;

19 (2) the person receives community supervision,
20 deferred adjudication, or deferred disposition; or

21 (3) the court defers final disposition of the case or
22 imposition of the judgment and sentence.

23 Sec. 133.102. CONSOLIDATED FEES ON CONVICTION. (a) A
24 person convicted of an offense shall pay as a court cost, in
25 addition to all other costs:

26 (1) \$133 on conviction of a felony;

27 (2) \$83 on conviction of a Class A or Class B

1 misdemeanor; or

2 (3) \$40 on conviction of a nonjailable misdemeanor
3 offense, including a criminal violation of a municipal ordinance,
4 other than a conviction of an offense relating to a pedestrian or
5 the parking of a motor vehicle.

6 (b) The court costs under Subsection (a) shall be collected
7 and remitted to the comptroller in the manner provided by
8 Subchapter B.

9 (c) The money collected under this section as court costs
10 imposed on offenses committed on or after January 1, 2004, shall be
11 allocated according to the percentages provided in Subsection (e).

12 (d) The money collected as court costs imposed on offenses
13 committed before January 1, 2004, shall be distributed using
14 historical data so that each account or fund receives the same
15 amount of money the account or fund would have received if the court
16 costs for the accounts and funds had been collected and reported
17 separately.

18 (e) The comptroller shall allocate the court costs received
19 under this section to the following accounts and funds so that each
20 receives to the extent practicable, utilizing historical data as
21 applicable, the same amount of money the account or fund would have
22 received if the court costs for the accounts and funds had been
23 collected and reported separately, except that the account or fund
24 may not receive less than the following percentages:

25 (1) abused children's counseling 0.0088 percent;

26 (2) crime stoppers assistance 0.2581 percent;

27 (3) breath alcohol testing 0.5507 percent;

1 (2) the remainder may be used only to pay expenses
2 related to continuing education for persons licensed under Chapter
3 1701, Occupations Code.

4 Sec. 133.103. TIME PAYMENT FEE. (a) A person convicted of
5 an offense shall pay, in addition to all other costs, a fee of \$25 if
6 the person:

7 (1) has been convicted of a felony or misdemeanor; and

8 (2) pays any part of a fine, court costs, or
9 restitution on or after the 31st day after the date on which a
10 judgment is entered assessing the fine, court costs, or
11 restitution.

12 (b) The treasurer shall send 50 percent of the fees
13 collected under this section to the comptroller. The comptroller
14 shall deposit the fees received to the credit of the general revenue
15 fund.

16 (c) The treasurer shall deposit 10 percent of the fees
17 collected under this section in the general fund of the county or
18 municipality for the purpose of improving the efficiency of the
19 administration of justice in the county or municipality. The
20 county or municipality shall prioritize the needs of the judicial
21 officer who collected the fees when making expenditures under this
22 subsection and use the money deposited to provide for those needs.

23 (d) The treasurer shall deposit the remainder of the fees
24 collected under this section in the general revenue account of the
25 county or municipality.

26 Sec. 133.104. FEES FOR SERVICES OF PEACE OFFICERS EMPLOYED
27 BY THE STATE. (a) Fees imposed under Article 102.011, Code of

1 Criminal Procedure, for services performed by peace officers
2 employed by the state shall be forwarded to the comptroller after
3 deducting four-fifths of the amount of each fee received for a
4 service performed under Subsection (a)(1) or (a)(2) of that
5 article, in a manner directed by the comptroller.

6 (b) The comptroller shall credit fees received under
7 Subsection (a) to the general revenue fund.

8 [Sections 133.105-133.150 reserved for expansion]

9 SUBCHAPTER D. CIVIL FEES

10 Sec. 133.151. CONSOLIDATED CIVIL FEE ON FILING A CIVIL SUIT
11 IN DISTRICT COURT. (a) In addition to each fee collected under
12 Section 51.317(b)(1), Government Code, the clerk of a district
13 court shall collect the following fees on the filing of any civil
14 suit:

15 (1) \$45 for family law cases and proceedings as
16 defined by Section 25.0002, Government Code; and

17 (2) \$50 for any case other than a case described by
18 Subdivision (1).

19 (b) The fees under Subsection (a) shall be collected and
20 remitted to the comptroller in the manner provided by Subchapter B.

21 (c) The comptroller shall allocate the fees received under
22 this section to the following accounts and funds so that each
23 receives to the extent practicable, utilizing historical data as
24 applicable, the same amount of money the account or fund would have
25 received if the fees for the accounts and funds had been collected
26 and reported separately:

27 (1) the judicial fund to be used for court-related

1 purposes for the support of the judiciary; and

2 (2) the basic civil legal services account of the
3 judicial fund for use in programs approved by the supreme court that
4 provide basic civil legal services to an indigent.

5 Sec. 133.152. ADDITIONAL FILING FEES FOR CERTAIN ACTIONS
6 AND PROCEEDINGS IN DISTRICT COURT FOR BASIC CIVIL LEGAL SERVICES
7 FOR INDIGENTS. (a) In addition to other fees authorized or
8 required by law, the clerk of a district court shall collect the
9 following fees on the filing of any civil action or proceeding
10 requiring a filing fee, including an appeal, and on the filing of
11 any counterclaim, cross-action, intervention, interpleader, or
12 third-party action requiring a filing fee:

13 (1) \$5 in family law cases and proceedings as defined
14 by Section 25.0002, Government Code; and

15 (2) \$10 in any case other than a case described by
16 Subdivision (1).

17 (b) The fees under this section shall be collected and
18 remitted to the comptroller in the manner provided by Subchapter B.

19 (c) The comptroller shall deposit the fees to the credit of
20 the basic civil legal services account of the judicial fund for use
21 in programs approved by the supreme court that provide basic civil
22 legal services to an indigent.

23 Sec. 133.153. ADDITIONAL FILING FEES FOR CERTAIN ACTIONS
24 AND PROCEEDINGS IN COURTS OTHER THAN DISTRICT COURT FOR BASIC CIVIL
25 LEGAL SERVICES FOR INDIGENTS. (a) In addition to other fees
26 authorized or required by law, the clerk of a court other than a
27 district court, the courts of appeals, or the supreme court shall

1 collect the following fees on the filing of any civil action or
2 proceeding requiring a filing fee, including an appeal, and on the
3 filing of any counterclaim, cross-action, intervention,
4 interpleader, or third-party action requiring a filing fee:

5 (1) \$5 for statutory and constitutional county courts;
6 and

7 (2) \$2 for justice of the peace courts.

8 (b) The fees shall be collected and remitted to the
9 comptroller in the manner provided by Subchapter B.

10 (c) The comptroller shall deposit the fees to the credit of
11 the basic civil legal services account of the judicial fund for use
12 in programs approved by the supreme court that provide basic civil
13 legal services to an indigent.

14 (b) This section takes effect January 1, 2004.

15 SECTION 63. (a) Subsection (e), Section 14, Article 42.12,
16 Code of Criminal Procedure, is amended to read as follows:

17 (e) The clerk of a court that collects a fee imposed under
18 Subsection (c)(2) shall deposit the fee to be sent to the
19 comptroller as provided by Subchapter B, Chapter 133, Local
20 Government Code [~~remit the fee to the comptroller~~], and the
21 comptroller shall deposit the fee into the general revenue fund. In
22 requiring the payment of a fee under Subsection (c)(2), the judge
23 shall consider fines, fees, and other necessary expenses for which
24 the defendant is obligated in establishing the amount of the fee.
25 The judge may not:

26 (1) establish the fee in an amount that is greater than
27 25 percent of the defendant's gross income while the defendant is a

1 participant in residential aftercare; or

2 (2) require the defendant to pay the fee at any time
3 other than a time at which the defendant is both employed and a
4 participant in residential aftercare.

5 (b) This section takes effect January 1, 2004.

6 SECTION 64. (a) Subsection (f), Section 19, Article 42.12,
7 Code of Criminal Procedure, is amended to read as follows:

8 (f) A community corrections and supervision department
9 shall deposit the ~~[remit]~~ fees collected under Subsection (e) of
10 this section to be sent to the comptroller as provided by Subchapter
11 B, Chapter 133, Local Government Code. The comptroller shall
12 deposit the fee in the ~~[special revenue fund to the credit of the]~~
13 sexual assault program fund ~~[established]~~ under Section 420.008,
14 Government ~~[44.0061, Health and Safety]~~ Code.

15 (b) This section takes effect January 1, 2004.

16 SECTION 65. (a) Article 45.048, Code of Criminal
17 Procedure, is amended to read as follows:

18 Art. 45.048. DISCHARGED FROM JAIL. (a) A defendant placed
19 in jail on account of failure to pay the fine and costs shall be
20 discharged on habeas corpus by showing that the defendant:

21 (1) is too poor to pay the fine and costs; or

22 (2) has remained in jail a sufficient length of time to
23 satisfy the fine and costs, at the rate of not less than \$50 ~~[\$100]~~
24 for each period of time served, as specified by the convicting court
25 in the judgment in the case.

26 (b) A convicting court may specify a period of time that is
27 not less than eight hours or more than 24 hours as the period for

1 which a defendant who fails to pay the fines and costs in the case
2 must remain in jail to satisfy \$50 [~~\$100~~] of the fine and costs.

3 (b) This section takes effect January 1, 2004.

4 (c) The change in law made by this section to Article
5 45.048, Code of Criminal Procedure, applies only to a defendant
6 serving a sentence for an offense committed on or after the
7 effective date of this section. A defendant serving a sentence for
8 an offense committed before the effective date of this section is
9 covered by the law in effect when the offense was committed, and the
10 former law is continued in effect for that purpose. For purposes of
11 this subsection, an offense is committed before the effective date
12 of this section if any element of the offense occurs before that
13 date.

14 SECTION 66. (a) Subsection (e), Article 45.049, Code of
15 Criminal Procedure, is amended to read as follows:

16 (e) A defendant is considered to have discharged not less
17 than \$50 [~~\$100~~] of fines or costs for each eight hours of community
18 service performed under this article.

19 (b) This section takes effect January 1, 2004.

20 (c) The change in law made by this section to Article
21 45.049, Code of Criminal Procedure, applies only to a defendant
22 serving a sentence for an offense committed on or after the
23 effective date of this section. A defendant serving a sentence for
24 an offense committed before the effective date of this section is
25 covered by the law in effect when the offense was committed, and the
26 former law is continued in effect for that purpose. For purposes of
27 this subsection, an offense is committed before the effective date

1 of this section if any element of the offense occurs before that
2 date.

3 SECTION 67. (a) Article 102.004, Code of Criminal
4 Procedure, is amended by adding Subsection (c) to read as follows:

5 (c) In this article, "conviction" has the meaning assigned
6 by Section 133.101, Local Government Code.

7 (b) This section takes effect January 1, 2004.

8 SECTION 68. (a) Article 102.011, Code of Criminal
9 Procedure, is amended by adding Subsection (j) to read as follows:

10 (j) In this article, "conviction" has the meaning assigned
11 by Section 133.101, Local Government Code.

12 (b) This section takes effect January 1, 2004.

13 SECTION 69. (a) Subsection (e), Article 102.014, Code of
14 Criminal Procedure, is amended to read as follows:

15 (e) In this article, a person is considered to have been
16 convicted in a case if the person would be considered to have been
17 convicted under Section 133.101, Local Government Code [+

18 ~~[(1) a sentence is imposed,~~

19 ~~[(2) the defendant receives probation or deferred~~
20 ~~adjudication, or~~

21 ~~[(3) the court defers final disposition of the case].~~

22 (b) This section takes effect January 1, 2004.

23 SECTION 70. (a) Subsection (d), Section 51.702, Government
24 Code, is amended to read as follows:

25 (d) The clerk shall deposit [~~send~~] the fees and costs
26 collected under this section to be sent to the comptroller as
27 provided by Subchapter B, Chapter 133, Local Government Code [~~at~~

1 ~~least as frequently as monthly~~]. The comptroller shall deposit the
2 fees in the judicial fund.

3 (b) This section takes effect January 1, 2004.

4 SECTION 71. (a) Subsection (d), Section 51.703, Government
5 Code, is amended to read as follows:

6 (d) The clerk shall deposit ~~send~~ the fees and costs
7 collected under this section to be sent to the comptroller as
8 provided by Subchapter B, Chapter 133, Local Government Code ~~at~~
9 ~~least as frequently as monthly~~]. The comptroller shall deposit the
10 fees in the judicial fund.

11 (b) This section takes effect January 1, 2004.

12 SECTION 72. (a) Subsection (c), Section 51.704, Government
13 Code, is amended to read as follows:

14 (c) The clerk shall deposit ~~send~~ the fees collected under
15 this section to be sent to the comptroller as provided by Subchapter
16 B, Chapter 133, Local Government Code ~~at least as frequently as~~
17 ~~monthly~~]. The comptroller shall deposit the fees in the judicial
18 fund.

19 (b) This section takes effect January 1, 2004.

20 SECTION 73. (a) Section 51.941, Government Code, is
21 amended to read as follows:

22 Sec. 51.941. ADDITIONAL FILING FEE IN APPELLATE COURTS FOR
23 BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) In addition to other
24 fees authorized or required by law, the clerk of the supreme court
25 and courts of appeals ~~each court~~ shall collect a \$25 fee ~~the~~
26 ~~following fees~~ on the filing of any civil action or proceeding
27 requiring a filing fee, including an appeal, and on the filing of

1 any counterclaim, cross-action, intervention, interpleader, or
2 third-party action requiring a filing fee[*

3 [~~(1) supreme court and courts of appeals \$25,~~

4 [~~(2) district courts, for other than divorce and other
5 family law matters \$10,~~

6 [~~(3) district courts, divorce and other family law
7 matters \$5,~~

8 [~~(4) statutory and constitutional county courts . . . \$5,~~

9 [~~(5) justice of the peace courts \$2].~~

10 (b) Court fees under this section [~~subchapter~~] shall be
11 collected in the same manner as other fees, fines, or costs in the
12 case.

13 (c) The clerk shall send the fees collected under this
14 section [~~Subsection (a)(1)~~] to the comptroller not later than the
15 last day of the month following [~~10th day after the end of~~] each
16 calendar quarter.

17 (d) [~~The clerk shall remit the fees collected under~~
18 ~~Subsections (a)(2)-(5) at least as frequently as monthly to the~~
19 ~~county treasurer or the person who performs the duties of the county~~
20 ~~treasurer. The county treasurer or the person performing the~~
21 ~~duties of the county treasurer shall keep a record of the amount of~~
22 ~~money received under this subsection. The county treasurer or the~~
23 ~~person who performs the duties of the county treasurer shall remit~~
24 ~~the fees collected, minus an amount ordered retained by the county~~
25 ~~commissioners court as provided by Subsection (c), to the~~
26 ~~comptroller not later than the 10th day after the end of each~~
27 ~~quarter.~~

1 ~~[(c) The commissioners court by order may require the county~~
2 ~~treasurer or the person who performs the duties of the county~~
3 ~~treasurer to deposit in the county's general revenue account five~~
4 ~~percent of the fees collected under Subsections (a)(2)-(5) to~~
5 ~~reimburse the county for the expense of collecting and remitting~~
6 ~~the fees collected under Subsections (a)(2)-(5).~~

7 ~~[(f)]~~ The comptroller shall deposit the fees received under
8 this section to the credit of the basic civil legal services account
9 of the judicial fund for use in programs approved by the supreme
10 court that provide basic civil legal services to the indigent.

11 (e) ~~[(g)]~~ In this section, "indigent" ~~[+~~

12 ~~[(1) "Family law matters" has the meaning assigned~~
13 ~~"family law cases and proceedings" by Section 25.0002.~~

14 ~~[(2) "Indigent"]~~ means an individual who earns not
15 more than 125 percent of the income standard established by
16 applicable federal poverty guidelines.

17 (b) This section takes effect January 1, 2004.

18 SECTION 74. (a) Subsection (b), Section 118.015, Local
19 Government Code, is amended to read as follows:

20 (b) A county clerk who collects a fee under this section for
21 a certified copy of a birth certificate shall deposit the fee into
22 the county treasury. The state's portion of the fee shall be sent
23 ~~[deduct 20 cents of that fee to apply to the clerk's administrative~~
24 ~~costs and remit \$1.80 of that fee]~~ to the comptroller as provided by
25 Subchapter B, Chapter 133, for deposit in the work and family
26 policies fund.

27 (b) This section takes effect January 1, 2004.

1 SECTION 75. (a) Subsection (c), Section 118.018, Local
2 Government Code, is amended to read as follows:

3 (c) A county clerk who collects a fee under this section
4 from a marriage license applicant shall deposit [~~remit~~] \$3 of that
5 fee to be sent to the comptroller as provided by Subchapter B,
6 Chapter 133, for deposit in the family trust fund established under
7 Section 2.014, Family Code.

8 (b) This section takes effect January 1, 2004.

9 SECTION 76. (a) Subsection (a), Section 118.022, Local
10 Government Code, is amended to read as follows:

11 (a) The county clerk shall deposit, as provided by
12 Subchapter B, Chapter 133, [~~not later than the 10th day of each~~
13 ~~month, send to the comptroller of public accounts~~] \$12.50 of each
14 fee collected [~~during the preceding month~~] for issuance of a
15 marriage license or declaration of informal marriage to be sent to
16 the comptroller and deposited as provided by Subsection (b).

17 (b) This section takes effect January 1, 2004.

18 SECTION 77. (a) Section 542.403, Transportation Code, is
19 amended by adding Subsection (c) to read as follows:

20 (c) In this section, "conviction" has the meaning assigned
21 by Section 133.101, Local Government Code.

22 (b) This section takes effect January 1, 2004.

23 SECTION 78. (a) Section 621.506, Transportation Code, is
24 amended by amending Subsection (g) and adding Subsection (h) to
25 read as follows:

26 (g) Except as provided by Subsection (h), a [A] governmental
27 entity that collects a fine under this section for an offense

1 involving a vehicle having a single axle weight, tandem axle
2 weight, or gross weight that is more than 5,000 pounds heavier than
3 the vehicle's allowable weight shall send an amount equal to 50
4 percent of the fine to the comptroller in the manner provided by
5 Subchapter B, Chapter 133, Local Government Code.

6 (h) If ~~[unless]~~ the offense described by Subsection (g)
7 occurred within 20 miles of an international border, ~~[in which~~
8 ~~event]~~ the entire amount of the fine shall be deposited for the
9 purposes of road maintenance in:

10 (1) the municipal treasury, if the fine was imposed by
11 a municipal court; or

12 (2) the county treasury, if the fine was imposed by a
13 justice court.

14 (b) This section takes effect January 1, 2004.

15 SECTION 79. (a) Subsection (a), Section 706.006,
16 Transportation Code, is amended to read as follows:

17 (a) A person who fails to appear for a complaint or citation
18 for an offense described by Section 706.002(a) shall be required to
19 pay an administrative fee of \$30 for each complaint or citation
20 reported to the department under this chapter ~~[violation for which~~
21 ~~the person failed to appear]~~, unless the person is acquitted of the
22 charges for which the person failed to appear. The person shall pay
23 the fee when:

24 (1) the court enters judgment on the underlying
25 offense reported to the department;

26 (2) the underlying offense is dismissed; or

27 (3) bond or other security is posted to reinstate the

1 charge for which the warrant was issued.

2 (b) This section takes effect January 1, 2004.

3 SECTION 80. (a) Subsections (a), (b), and (c), Section
4 706.007, Transportation Code, are amended to read as follows:

5 (a) An officer collecting a fee under Section 706.006 shall
6 keep records and deposit the money as provided by Subchapter B,
7 Chapter 133, Local Government Code~~[-~~

8 [~~(1) keep separate records of the money; and~~

9 [~~(2) deposit the money in the appropriate municipal or~~
10 ~~county treasury]~~.

11 (b) The custodian of the municipal or county treasury may~~[-~~

12 [~~(1)]~~ deposit each fee collected under Section 706.006
13 as provided by Subchapter B, Chapter 133, Local Government Code [~~in~~
14 ~~an interest-bearing account; and~~

15 [~~(2) retain for the municipality or county the~~
16 ~~interest earned on money in the account]~~.

17 (c) The custodian shall keep records of money received and
18 disbursed under this section as provided by Subchapter B, Chapter
19 133, Local Government Code, and shall provide an annual report, in
20 the form approved by the comptroller, of all money received and
21 disbursed under this section to:

22 (1) the comptroller;

23 (2) the department; and

24 (3) another entity as provided by interlocal contract.

25 (b) This section takes effect January 1, 2004.

26 SECTION 81. (a) Subchapter G, Chapter 51, Government Code,
27 is amended by adding Section 51.607 to read as follows:

1 Sec. 51.607. IMPLEMENTATION OF NEW OR AMENDED COURT COSTS
2 AND FEES. (a) Following each regular session of the legislature,
3 the comptroller shall identify each law enacted by that
4 legislature, other than a law disapproved by the governor, that
5 imposes or changes the amount of a court cost or fee collected by
6 the clerk of a district, county, statutory county, municipal, or
7 justice court from a party to a civil case or a defendant in a
8 criminal case, including a filing or docketing fee, jury fee, cost
9 on conviction, or fee or charge for services or to cover the
10 expenses of a public official or agency. This subsection does not
11 apply to attorney's fees, civil or criminal fines or penalties, or
12 amounts charged, paid, or collected on behalf of another party to a
13 proceeding other than the state in a criminal case, including
14 restitution or damages.

15 (b) The comptroller shall prepare a list of each court cost
16 or fee covered by Subsection (a) to be imposed or changed and shall
17 publish the list in the Texas Register not later than August 1 after
18 the end of the regular session of the legislature at which the law
19 imposing or changing the amount of the cost or fee was enacted. The
20 comptroller shall include with the list a statement describing the
21 operation of this section and stating the date the imposition or
22 change in the amount of the court cost or fee will take effect under
23 Subsection (c).

24 (c) Notwithstanding the effective date of the law imposing
25 or changing the amount of a court cost or fee included on the list,
26 the imposition or change in the amount of the court cost or fee does
27 not take effect until the next January 1 after the law takes effect.

1 SUBCHAPTER A. JUDICIAL SYSTEM IMPACT NOTES

2 SECTION 84. Chapter 319, Government Code, is amended by
3 adding Subchapter B to read as follows:

4 SUBCHAPTER B. LEGISLATION RELATING TO COURT COSTS

5 Sec. 319.021. IMPACT STATEMENT ON LEGISLATION IMPOSING
6 COURT COSTS ON CRIMINAL DEFENDANTS. (a) This section applies only
7 to a new court cost or fee that is remitted to the comptroller.

8 (b) The Legislative Budget Board shall prepare an impact
9 statement for each resolution proposing a constitutional amendment
10 or bill that proposes imposing a new court cost or fee on a person
11 charged with a criminal offense or increasing the amount of an
12 existing court cost or fee imposed on a person charged with a
13 criminal offense, including a court cost or fee imposed on
14 conviction or other disposition or postponed disposition of the
15 criminal charge.

16 (c) The impact statement must show the total amount of court
17 costs and fees that persons will be required to pay under the bill
18 or resolution when considered together with all other applicable
19 laws.

20 (d) The state auditor shall provide the Legislative Budget
21 Board with the initial data needed to develop a mechanism that will
22 be used to produce the impact statements.

23 SECTION 85. (a) The following are repealed:

- 24 (1) Article 56.55, Code of Criminal Procedure;
25 (2) Article 56.56, Code of Criminal Procedure;
26 (3) Article 56.57, Code of Criminal Procedure;
27 (4) Article 56.59, Code of Criminal Procedure;

1 (5) Subsections (f), (g), and (h), Article 102.011,
2 Code of Criminal Procedure;

3 (6) Article 102.019, Code of Criminal Procedure;

4 (7) Article 102.075, Code of Criminal Procedure;

5 (8) Section 51.701, Government Code;

6 (9) Section 51.921, Government Code; and

7 (10) Subsections (b) through (h), Section 56.001,
8 Government Code.

9 (b) This section takes effect January 1, 2004.

10 SECTION 86. (a) Section 151.025, Tax Code, is amended by
11 adding Subsection (d) to read as follows:

12 (d) If any nontaxable charges are combined with and not
13 separately stated from taxable telecommunications service charges
14 on the customer bill or invoice of a provider of telecommunications
15 services, the combined charge is subject to tax unless the provider
16 can identify the portion of the charges that are nontaxable through
17 the provider's books and records kept in the regular course of
18 business. If the nontaxable charges cannot reasonably be
19 identified, the charges from the sale of both nontaxable services
20 and taxable telecommunications services are attributable to
21 taxable telecommunications services. The provider of
22 telecommunications services has the burden of proving nontaxable
23 charges.

24 (b) Section 151.025(c), Tax Code, is repealed.

25 SECTION 87. Section 351.006, Tax Code, is amended by adding
26 Subsection (g) to read as follows:

27 (g) The right to use or possess a room in a hotel is exempt

1 from taxation under this chapter if the person required to collect
2 the tax receives, in good faith from a guest, an exemption
3 certificate stating qualification for an exemption provided in
4 Subsection (c). The exemption must be supported by the
5 documentation required under rules adopted by the comptroller and
6 the municipality.

7 SECTION 88. Section 352.007, Tax Code, is amended by adding
8 Subsection (g) to read as follows:

9 (g) The right to use or possess a room in a hotel is exempt
10 from taxation under this chapter if the person required to collect
11 the tax receives, in good faith from a guest, an exemption
12 certificate stating qualification for an exemption provided in
13 Subsection (c). The exemption must be supported by the
14 documentation required under rules adopted by the comptroller and
15 the county.

16 SECTION 89. Section 334.256(a), Local Government Code, is
17 amended to read as follows:

18 (a) Each bill or other receipt for a hotel charge subject to
19 the tax imposed under this subchapter must contain a statement in a
20 conspicuous location stating the applicable hotel occupancy tax
21 rate collected by the hotel from the customer for the State of Texas
22 (insert state rate of tax) and the tax rate and identity of each
23 other taxing authority that has imposed a hotel occupancy tax for
24 the room night (insert rate of tax). [~~:"_____ (insert name of~~
25 ~~taxing municipality or county) requires that an additional tax of~~
26 ~~_____ percent (insert rate of tax) be imposed on each hotel charge~~
27 ~~for the purpose of financing a venue project. In addition to the~~

1 ~~tax imposed to finance a venue project, the State of Texas requires~~
2 ~~that a tax of six percent be imposed on each hotel charge."]~~

3 SECTION 90. Section 351.101(a), Tax Code, is amended to
4 read as follows:

5 (a) Revenue from the municipal hotel occupancy tax may be
6 used only to promote tourism and the convention and hotel industry,
7 and that use is limited to the following:

8 (1) the acquisition of sites for and the construction,
9 improvement, enlarging, equipping, repairing, operation, and
10 maintenance of convention center facilities or visitor information
11 centers, or both;

12 (2) the furnishing of facilities, personnel, and
13 materials for the registration of convention delegates or
14 registrants;

15 (3) advertising and conducting solicitations and
16 promotional programs to attract tourists and convention delegates
17 or registrants to the municipality or its vicinity;

18 (4) the encouragement, promotion, improvement, and
19 application of the arts, including instrumental and vocal music,
20 dance, drama, folk art, creative writing, architecture, design and
21 allied fields, painting, sculpture, photography, graphic and craft
22 arts, motion pictures, radio, television, tape and sound recording,
23 and other arts related to the presentation, performance, execution,
24 and exhibition of these major art forms;

25 (5) historical restoration and preservation projects
26 or activities or advertising and conducting solicitations and
27 promotional programs to encourage tourists and convention

1 delegates to visit preserved historic sites or museums:

2 (A) at or in the immediate vicinity of convention
3 center facilities or visitor information centers; or

4 (B) located elsewhere in the municipality or its
5 vicinity that would be frequented by tourists and convention
6 delegates; and

7 (6) for a municipality located in a county with a
8 population of 290,000 [~~65,000~~] or less, expenses, including
9 promotion expenses, directly related to a sporting event in which
10 the majority of participants are tourists who substantially
11 increase economic activity at hotels and motels within the
12 municipality or its vicinity.

13 SECTION 91. Section 351.102, Tax Code, is amended by adding
14 Subsection (c) to read as follows:

15 (c) A municipality to which Subsection (b) applies is
16 entitled to receive all funds that an owner of a project may receive
17 under Section 151.429(h).

18 SECTION 92. Section 2303.406, Government Code, is amended
19 by adding Subsection (e) to read as follows:

20 (e) The department may designate multiple concurrent
21 enterprise projects in the same enterprise zone and may designate
22 the same qualified business as more than one enterprise project.

23 SECTION 93. The change in law made by this Act to Chapter
24 2303, Government Code, applies only to:

25 (1) an application for enterprise project designation
26 submitted on or after September 1, 2003; or

27 (2) an application for enterprise project designation

1 approved by the Texas Department of Economic Development or its
2 successor on or after September 1, 2003, for which the application
3 for enterprise project designation was submitted in calendar year
4 2002.

5 SECTION 94. Section 151.319(c), Tax Code, is amended to
6 read as follows:

7 (c) The [~~A transaction involving the~~] sale of a handbill,
8 circular, flyer, advertising supplement, or similar item that is
9 printed to the special order of a customer and tangible personal
10 property that will become an ingredient or component part of such
11 item are [~~is~~] exempted from the taxes imposed by this chapter if the
12 item is printed for the exclusive purpose of being distributed as a
13 part of a newspaper, is actually distributed as a part of the
14 newspaper, and is delivered to the person who is responsible for the
15 distribution of the newspaper in which the item is distributed and
16 not to the customer.

17 SECTION 95. Subchapter Q, Chapter 171, Tax Code, is amended
18 by adding Section 171.8015 to read as follows:

19 Sec. 171.8015. TANGIBLE PERSONAL PROPERTY FIRST PLACED IN
20 SERVICE IN AN ENTERPRISE ZONE. For purposes of determining whether
21 an investment is a "qualified capital investment" under Section
22 171.801, "tangible personal property first placed in service in an
23 enterprise zone" includes tangible personal property:

24 (1) purchased by a qualified business for placement in
25 an incomplete improvement that is under active construction or
26 other physical preparation;

27 (2) identified by a purchase order, invoice, billing,

1 sales slip, or contract; and

2 (3) physically present at the enterprise zone and in
3 use by the qualified business not later than September 30, 2005.

4 SECTION 96. Contingent on H.B. No. 2458, Acts of the 78th
5 Legislature, Regular Session, 2003, being enacted and becoming law,
6 and effective January 1, 2004, Sections 162.405(a) and (d), Tax
7 Code, are amended to read as follows:

8 (a) An offense under Section 162.403(1), (2), (3), (4), (5),
9 (6), [~~(7)~~], or (8) is a Class C misdemeanor.

10 (d) An offense under Section 162.403(7), (22), (23), (24),
11 (25), (26), (27), (28), or (29) is a felony of the third degree.

12 SECTION 97. (a) Except as otherwise provided by this or
13 another section, this Act takes effect September 1, 2003.

14 (b) Sections 14, 28, and 29 of this Act take effect October
15 1, 2003.

16 (c) Section 15 of this Act applies only to a tax lien filed
17 on or after the effective date of this Act. A tax lien filed before
18 the effective date of this Act is governed by the law in effect on
19 the date the tax lien is filed, and that law is continued in effect
20 for that purpose.

21 (d) Sections 2, 4, 5, 7, 8, and 9A of this Act take effect
22 January 1, 2004.

23 (e) Sections 38, 41, and 50 of this Act take effect January
24 1, 2004, and apply to reports originally due on or after that date.
25 A report originally due before January 1, 2004, is governed by the
26 law in effect on the date the report is originally due, and that law
27 is continued in effect for that purpose.

1 (f) Sections 43, 44, 45, 46, 47, 48, 49, and 95 of this Act
2 apply only to a report originally due on or after the effective date
3 of this Act.

4 (g) Section 156.104(b), Tax Code, as added by Section 30 of
5 this Act, takes effect January 1, 2004.

6 (h) This Act takes effect July 1, 2003, if it receives a vote
7 of two-thirds of all the members elected to each house, as provided
8 by Section 39, Article III, Texas Constitution. If this Act does
9 not receive the vote necessary for effect on that date, this Act
10 takes effect October 1, 2003. The change in law made by this Act
11 does not affect taxes imposed before the effective date of this Act,
12 and the law in effect before the effective date of this Act is
13 continued in effect for purposes of the liability for and
14 collection of those taxes.

President of the Senate

Speaker of the House

I certify that H.B. No. 2424 was passed by the House on May 16, 2003, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 2424 on May 30, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2424 on June 1, 2003, by a non-record vote; and that the House adopted S.C.R. No. 67 authorizing certain corrections in H.B. No. 2424 on June 2, 2003, by a non-record vote.

Chief Clerk of the House

H.B. No. 2424

I certify that H.B. No. 2424 was passed by the Senate, with amendments, on May 28, 2003, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2424 on June 1, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate adopted S.C.R. No. 67 authorizing certain corrections in H.B. No. 2424 on June 1, 2003.

Secretary of the Senate

APPROVED: _____

Date

Governor