

1-1 By: McCall (Senate Sponsor - Armbrister) H.B. No. 2424  
1-2 (In the Senate - Received from the House May 19, 2003;  
1-3 May 20, 2003, read first time and referred to Committee on Finance;  
1-4 May 26, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 11, Nays 0; May 26, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2424 By: Zaffirini

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to technical changes to taxes and fees administered by the  
1-11 comptroller; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 161.122, Health and Safety Code, is  
1-14 amended by adding Subsection (f) to read as follows:

1-15 (f) A person commits an offense if the person places or  
1-16 authorizes the placement of a sign in violation of this section. An  
1-17 offense under this subsection is a Class C misdemeanor.

1-18 SECTION 2. Article 1.16(b), Insurance Code, is amended to  
1-19 read as follows:

1-20 (b) Assessments for the expenses of such domestic  
1-21 examination which shall be sufficient to meet all the expenses and  
1-22 disbursements necessary to comply with the provisions of the laws  
1-23 of Texas relating to the examination of insurance companies and to  
1-24 comply with the provisions of this Article and Articles 1.17 and  
1-25 1.18 of this Code, shall be made by the State Board of Insurance  
1-26 upon the corporations or associations to be examined taking into  
1-27 consideration annual premium receipts, and/or admitted assets that  
1-28 are not attributable to 90 percent of pension plan contracts as  
1-29 defined in Section 818(a) of the Internal Revenue Code of 1986 (26  
1-30 U.S.C. Section 818(a)), and/or insurance in force; provided such  
1-31 assessments shall be made and collected as follows: (1) expenses  
1-32 attributable directly to a specific examination including  
1-33 employees' salaries and expenses and expenses provided by Article  
1-34 1.28 of this Code shall be collected at the time of examination;  
1-35 (2) assessments calculated annually for each corporation or  
1-36 association which take into consideration annual premium receipts,  
1-37 and/or admitted assets that are not attributable to 90 percent of  
1-38 pension plan contracts as defined in Section 818(a) of the Internal  
1-39 Revenue Code of 1986 (26 U.S.C. Section 818(a)), and/or insurance  
1-40 in force shall be assessed annually for each such corporation or  
1-41 association. In computing the assessments, the board may not  
1-42 consider insurance premiums for insurance contracted for by a state  
1-43 or federal governmental entity to provide welfare benefits to  
1-44 designated welfare recipients or contracted for in accordance with  
1-45 or in furtherance of Title 2, Human Resources Code, or the federal  
1-46 Social Security Act (42 U.S.C. Section 301 et seq.). The amount of  
1-47 all examination and evaluation fees [the assessments] paid in each  
1-48 taxable year to [or for the use of] the State of Texas by an [any]  
1-49 insurance carrier [corporation or association hereby affected]  
1-50 shall be allowed as a credit on the amount of premium taxes due  
1-51 under this article [to be paid by any such insurance corporation or  
1-52 association for such taxable year except as provided by Article  
1-53 1.28 of this Code]. The limitations provided by Sections  
1-54 803.007(1) and (2)(B) of this code for domestic insurance companies  
1-55 apply to foreign insurance companies.

1-56 SECTION 3. Section 1, Article 4.10, Insurance Code, is  
1-57 amended to read as follows:

1-58 Sec. 1. PAYMENT OF TAX. Every insurance carrier, including  
1-59 Lloyd's and reciprocal or interinsurance exchanges and any other  
1-60 organization or concern receiving gross premiums from the business  
1-61 of fire, marine, marine inland, accident, credit, livestock,  
1-62 fidelity, guaranty, surety, casualty, workers' compensation,  
1-63 employers' liability, or any other kind or character of insurance,

2-1 except title insurance and except as provided in Sections 2, 3, and  
2-2 4 of this article, shall pay to the comptroller a tax upon such  
2-3 gross premium receipts as provided in this article. Any such  
2-4 insurance carrier doing other kinds of insurance business shall pay  
2-5 the tax levied upon its gross premiums received from such other  
2-6 kinds of business as provided in Articles 4.03 and 4.11 of this  
2-7 code.

2-8 SECTION 4. Section 13, Article 4.10, Insurance Code, is  
2-9 amended to read as follows:

2-10 Sec. 13. EXAMINATION AND EVALUATION FEE CREDITS. The  
2-11 amount of all examination and evaluation fees paid in each taxable  
2-12 year to ~~[or for the use of]~~ the State of Texas by an insurance  
2-13 carrier shall be allowed as a credit on the amount of premium taxes  
2-14 due under this article ~~[except as provided by Article 1.28 of this~~  
2-15 ~~code].~~ The limitations provided by Sections 803.007(1) and (2)(B)  
2-16 of this code for domestic insurance companies apply to foreign  
2-17 insurance companies. Any credit allowed by the provisions of this  
2-18 section is in addition to any other credits allowable by statute.

2-19 SECTION 5. Section 8, Article 4.11, Insurance Code, is  
2-20 amended to read as follows:

2-21 Sec. 8. EXAMINATION AND EVALUATION ~~[VALUATION]~~ FEES ALLOWED  
2-22 AS CREDITS. The amount of all examination and evaluation  
2-23 [valuation] fees paid in [during] each taxable [tax] year to [or for  
2-24 the use of] the State of Texas by an insurance carrier shall be  
2-25 allowed as a credit on the amount of premium taxes due under this  
2-26 article ~~[except as provided by Article 1.28 of this code].~~ The  
2-27 limitations provided by Sections 803.007(1) and (2)(B) of this code  
2-28 for domestic insurance companies apply to foreign insurance  
2-29 companies. Any credit allowed by the provisions of this section is  
2-30 in addition to any other credits allowable by statute.

2-31 SECTION 6. Article 4.17(a), Insurance Code, is amended to  
2-32 read as follows:

2-33 (a) The commissioner shall annually determine the rate of  
2-34 assessment of a maintenance tax to be paid on an annual, semiannual,  
2-35 or other periodic basis, as determined by the comptroller. The rate  
2-36 of assessment may not exceed .04 percent of the correctly reported  
2-37 gross premiums of life, health, and accident insurance coverages  
2-38 and the gross considerations for annuity and endowment contracts  
2-39 collected by all authorized insurers writing life, health, and  
2-40 accident insurance, annuity, or endowment contracts in this state.  
2-41 The comptroller shall collect the maintenance tax. For purposes of  
2-42 this article, the gross premiums on which an assessment is based may  
2-43 not include:

2-44 (1) premiums received from this state or the United  
2-45 States for insurance contracted for by this state or the United  
2-46 States for the purpose of providing welfare benefits to designated  
2-47 welfare recipients or for insurance contracted for by this state or  
2-48 the United States in accordance with or in furtherance of Title 2,  
2-49 Human Resources Code, or the federal Social Security Act (42 U.S.C.  
2-50 Section 301 et seq.); or

2-51 (2) premiums paid on group health, accident, and life  
2-52 policies in which the group covered by the policy consists of a  
2-53 single nonprofit trust established to provide coverage primarily  
2-54 for employees of:

2-55 (A) a municipality, county, or hospital district  
2-56 in this state; or

2-57 (B) a county or municipal hospital, without  
2-58 regard to whether the employees are employees of the county or  
2-59 municipality or of an entity operating the hospital on behalf of the  
2-60 county or municipality.

2-61 SECTION 7. Section 7, Article 9.59, Insurance Code, is  
2-62 amended to read as follows:

2-63 Sec. 7. EXAMINATION AND EVALUATION FEE CREDITS. The amount  
2-64 of all examination and evaluation fees paid in each taxable year to  
2-65 ~~[or for the use of]~~ the State of Texas by a title insurance company  
2-66 shall be allowed as a credit on the amount of premium taxes due  
2-67 under this article ~~[except as provided by Article 1.28 of this~~  
2-68 ~~code].~~ The limitations provided by Sections 803.007(1) and (2)(B)  
2-69 of this code for domestic insurance companies apply to foreign

3-1 insurance companies. Any credit allowed by this section is in  
3-2 addition to any other credits allowed by law.

3-3 SECTION 8. Article 20A.33(d), Insurance Code, is amended to  
3-4 read as follows:

3-5 (d) The commissioner shall annually determine the rate of  
3-6 assessment of a per capita maintenance tax to be paid on an annual  
3-7 or semiannual basis, on the correctly reported gross revenues for  
3-8 the issuance of health maintenance certificates or contracts  
3-9 collected by all authorized health maintenance organizations  
3-10 issuing such coverages in this state. The rate of assessment may  
3-11 not exceed \$2 for each enrollee. The rate of assessment may differ  
3-12 between basic health care plans, limited health care service plans,  
3-13 and single health care service plans and shall equitably reflect  
3-14 any differences in regulatory resources attributable to each type  
3-15 of plan. The comptroller shall collect the maintenance tax. For  
3-16 purposes of this section, the amount of maintenance tax assessed  
3-17 may not be computed on:

3-18 (1) enrollees who as individual certificate holders or  
3-19 their dependents are covered by a master group policy paid for by  
3-20 revenues received from this state or the United States for  
3-21 insurance contracted for by this state or the United States for the  
3-22 purpose of providing welfare benefits to designated welfare  
3-23 recipients or for insurance contracted for by this state or the  
3-24 United States in accordance with or in furtherance of Title 2, Human  
3-25 Resources Code, or the federal Social Security Act (42 U.S.C.  
3-26 Section 301 et seq.); or

3-27 (2) revenues paid on group health, accident, and life  
3-28 certificates or contracts in which the group covered by the  
3-29 certificate or contract consists of a single nonprofit trust  
3-30 established to provide coverage primarily for employees of:

3-31 (A) a municipality, county, or hospital district  
3-32 in this state; or

3-33 (B) a county or municipal hospital, without  
3-34 regard to whether the employees are employees of the county or  
3-35 municipality or of an entity operating the hospital on behalf of the  
3-36 county or municipality.

3-37 SECTION 9. Section 101.053(b), Insurance Code, as effective  
3-38 June 1, 2003, is amended to read as follows:

3-39 (b) Sections 101.051 and 101.052 do not apply to:

3-40 (1) the lawful transaction of surplus lines insurance  
3-41 under Chapter 981;

3-42 (2) the lawful transaction of reinsurance by insurers;

3-43 (3) a transaction in this state that:

3-44 (A) involves a policy that:

3-45 (i) is lawfully solicited, written, and  
3-46 delivered outside this state; and

3-47 (ii) covers, at the time the policy is  
3-48 issued, only subjects of insurance that are not resident, located,  
3-49 or expressly to be performed in this state; and

3-50 (B) takes place after the policy is issued;

3-51 (4) a transaction:

3-52 (A) that involves an insurance contract  
3-53 independently procured by the insured from an insurance company not  
3-54 authorized to do insurance business in this state through  
3-55 negotiations occurring entirely outside this state;

3-56 (B) that is reported; and

3-57 (C) on which premium tax is paid in accordance  
3-58 with this chapter;

3-59 (5) a transaction in this state that:

3-60 (A) involves group life, health, or accident  
3-61 insurance, other than credit insurance, and group annuities in  
3-62 which the master policy for the group was lawfully issued and  
3-63 delivered in a state in which the insurer or person was authorized  
3-64 to do insurance business; and

3-65 (B) is authorized by a statute of this state;

3-66 (6) an activity in this state by or on the sole behalf  
3-67 of a nonadmitted captive insurance company that insures solely:

3-68 (A) directors' and officers' liability insurance  
3-69 for the directors and officers of the company's parent and

4-1 affiliated companies;  
 4-2 (B) the risks of the company's parent and  
 4-3 affiliated companies; or  
 4-4 (C) both the individuals and entities described  
 4-5 by Paragraphs (A) and (B);  
 4-6 (7) the issuance of a qualified charitable gift  
 4-7 annuity under Chapter 102; or  
 4-8 (8) a lawful transaction by a servicing company of the  
 4-9 Texas workers' compensation employers' rejected risk fund under  
 4-10 Section 4.08, Article 5.76-2, as that article existed before its  
 4-11 repeal.

4-12 SECTION 9A. Subchapter L, Chapter 843, Insurance Code, is  
 4-13 amended to read as follows:

4-14 Sec. 843.409. EXAMINATION EXPENSES. (a) A credit against  
 4-15 the amount of premium taxes to be paid by a health maintenance  
 4-16 organization in a taxable year may not be allowed on:

4-17 (1) an examination fee or expense paid to another  
 4-18 state; or

4-19 (2) an examination expense:

4-20 (A) directly attributable to an examination of  
 4-21 the books, records, accounts, or principal offices of a health  
 4-22 maintenance organization located outside this state; or

4-23 (B) paid in a different taxable year.

4-24 (b) The limitations provided by Subsections (a)(1) and  
 4-25 (a)(2)(B) apply to foreign health maintenance organizations.

4-26 SECTION 10. Section 912.002(b), Insurance Code, as  
 4-27 effective June 1, 2003, is amended to read as follows:

4-28 (b) A county mutual insurance company is subject to:

4-29 (1) Sections 38.001 and 822.204; and

4-30 (2) Articles 1.15, 1.15A, 1.16, 1.35B, 2.10, 4.10,  
 4-31 5.12, 5.37, 5.38, 5.39, 5.40, 5.49, 21.21, and 21.49.

4-32 SECTION 11. Section 376.470, Local Government Code, as  
 4-33 added by Chapter 1433, Acts of the 77th Legislature, Regular  
 4-34 Session, 2001, is amended by adding Subsection (d) to read as  
 4-35 follows:

4-36 (d) Chapter 321, Tax Code, applies to the imposition,  
 4-37 computation, administration, enforcement, and collection of the  
 4-38 sales and use tax imposed by this section except to the extent it is  
 4-39 inconsistent with this chapter.

4-40 SECTION 12. Section 2153.153(a), Occupations Code, is  
 4-41 amended to read as follows:

4-42 (a) A license applicant must file with the comptroller a  
 4-43 license application that:

4-44 (1) contains a complete statement about the ownership  
 4-45 of the business that is the subject of the application, including:

4-46 (A) the nature of the business entity; and

4-47 (B) except as provided by Subsection (b), the  
 4-48 name and residence address of each person who has a financial  
 4-49 interest in the business, including the nature, type, and extent of  
 4-50 the interest;

4-51 (2) designates:

4-52 (A) an individual, as described by Subsection  
 4-53 (c), responsible for maintaining a record of and reporting to the  
 4-54 comptroller information as required by Section 2153.202; and

4-55 (B) an office located in this state where the  
 4-56 applicant proposes to maintain the records required by this  
 4-57 chapter, a rule adopted under this chapter, or other law;

4-58 (3) is accompanied by:

4-59 (A) a written statement executed by the  
 4-60 individual designated under Subdivision (2) that the individual  
 4-61 accepts the responsibility described by that subdivision; and

4-62 (B) a cashier's check, ~~or~~ money order, personal  
 4-63 check, or other method of payment authorized by the comptroller, in  
 4-64 an amount equal to the annual license fee under Section 2153.154;

4-65 (4) includes any other relevant information required  
 4-66 by the comptroller; and

4-67 (5) states that the information contained in the  
 4-68 application is true and correct.

4-69 SECTION 13. Section 111.0046, Tax Code, is amended to read

5-1 as follows:

5-2 Sec. 111.0046. [~~REFUSAL TO~~] PERMIT OR LICENSE. (a) The  
5-3 comptroller shall refuse to issue or renew any permit or license to  
5-4 a person who:

5-5 (1) is not permitted or licensed as required by law for  
5-6 a different tax or activity administered by the comptroller, except  
5-7 if the issuance or renewal of such license or permit is pending  
5-8 before the comptroller; or

5-9 (2) is currently delinquent in the payment of any tax  
5-10 collected by the comptroller.

5-11 (b) The comptroller by rule may establish a minimum age for  
5-12 a person to be eligible to apply for a permit or license issued by  
5-13 the comptroller.

5-14 SECTION 14. Sections 111.012(a) and (g), Tax Code, are  
5-15 amended to read as follows:

5-16 (a) If the comptroller finds that a tax imposed by this  
5-17 title is insecure, the comptroller may require a taxpayer [~~who is~~  
5-18 ~~delinquent in the payment of the tax~~] to:

5-19 (1) provide security for the payment of taxes; or

5-20 (2) establish a tax escrow account at a bank or other  
5-21 financial institution.

5-22 (g) If a taxpayer does not furnish security to the  
5-23 comptroller or establish a tax escrow account as required by the  
5-24 comptroller before the expiration of 10 days following the day on  
5-25 which notice is received, the comptroller may:

5-26 (1) bring suit in a district court in Travis County for  
5-27 an order enjoining the taxpayer from engaging in business until the  
5-28 security is furnished or the tax escrow account is established; or

5-29 (2) pursue any other remedies or collection actions  
5-30 available to the comptroller under this chapter or Chapter 113 to  
5-31 ensure the security is furnished or the tax escrow account is  
5-32 established. [Venue for a suit under this section is in Travis  
5-33 County.]

5-34 SECTION 15. Section 113.006(b), Tax Code, is amended to  
5-35 read as follows:

5-36 (b) One tax lien notice is sufficient to cover all taxes of  
5-37 any [the same] nature administered by the comptroller, including  
5-38 penalty and interest computed by reference to the amount of tax,  
5-39 that may have accrued before or after the filing of the notice.

5-40 SECTION 16. Section 151.0035, Tax Code, is amended to read  
5-41 as follows:

5-42 Sec. 151.0035. "DATA PROCESSING SERVICE." "Data processing  
5-43 service" includes word processing, data entry, data retrieval, data  
5-44 search, information compilation, payroll and business accounting  
5-45 data production, the performance of a totalisator service with the  
5-46 use of computational equipment [~~equipment~~] required by the Texas  
5-47 Racing Act (Article 179e, Vernon's Texas Civil Statutes), and other  
5-48 computerized data and information storage or manipulation. "Data  
5-49 processing service" also includes the use of a computer or computer  
5-50 time for data processing whether the processing is performed by the  
5-51 provider of the computer or computer time or by the purchaser or  
5-52 other beneficiary of the service. "Data processing service" does  
5-53 not include the transcription of medical dictation by a medical  
5-54 transcriptionist. "Data storage," as used in this section, does not  
5-55 include a classified advertisement, banner advertisement, vertical  
5-56 advertisement, or link when the item is displayed on an Internet  
5-57 website owned by another person.

5-58 SECTION 17. Section 151.005, Tax Code, is amended to read as  
5-59 follows:

5-60 Sec. 151.005. "SALE" OR "PURCHASE." "Sale" or "purchase"  
5-61 means any of the following when done or performed for  
5-62 consideration:

5-63 (1) a transfer of title or possession of tangible  
5-64 personal property;

5-65 (2) the exchange, barter, lease, or rental of tangible  
5-66 personal property;

5-67 (3) the performance of a taxable service, the charge  
5-68 for an extended warranty or service contract for the performance of  
5-69 a taxable service, or, in the case of an amusement service, a

6-1 transfer of title to or possession of a ticket or other admission  
6-2 document, the collection of an admission fee, whether by individual  
6-3 performance, subscription series, or membership privilege, the  
6-4 collection of dues or a fee, charge, or assessment, including an  
6-5 initiation fee, by a club or organization for membership or a  
6-6 special privilege, status, or membership classification in the club  
6-7 or organization, or the use of a coin-operated machine;

6-8 (4) the production, fabrication, processing,  
6-9 printing, or imprinting of tangible personal property for consumers  
6-10 who directly or indirectly furnish the materials used in the  
6-11 production, fabrication, processing, printing, or imprinting;

6-12 (5) the furnishing and distribution of tangible  
6-13 personal property by a social club or fraternal organization to  
6-14 anyone;

6-15 (6) the furnishing, preparation, or service of food,  
6-16 meals, or drinks;

6-17 (7) a transfer of the possession of tangible personal  
6-18 property if the title to the property is retained by the seller as  
6-19 security for the payment of the price; or

6-20 (8) a transfer of the title or possession of tangible  
6-21 personal property that has been produced, fabricated, or printed to  
6-22 the special order of the customer.

6-23 SECTION 18. Section 151.056, Tax Code, is amended by adding  
6-24 Subsection (f) to read as follows:

6-25 (f) A contractor is not eligible for the exemption provided  
6-26 by Section 151.318 on items used in the performance of a contract to  
6-27 improve real property.

6-28 SECTION 19. Section 151.313(a), Tax Code, is amended to  
6-29 read as follows:

6-30 (a) The following items are exempted from the taxes imposed  
6-31 by this chapter:

6-32 (1) a drug or medicine, other than insulin, if  
6-33 prescribed or dispensed for a human or animal by a licensed  
6-34 practitioner of the healing arts;

6-35 (2) insulin;

6-36 (3) subject to Subsection (c), a drug or medicine,  
6-37 without regard to whether it is prescribed or dispensed by a  
6-38 licensed practitioner of the healing arts;

6-39 (4) a hypodermic syringe or needle;

6-40 (5) a brace; hearing aid or audio loop; orthopedic,  
6-41 dental, or prosthetic device; ileostomy, colostomy, or ileal  
6-42 bladder appliance; or supplies or replacement parts for the listed  
6-43 items;

6-44 (6) a therapeutic appliance, device, and any related  
6-45 supplies specifically designed for those products, if dispensed or  
6-46 prescribed by a licensed practitioner of the healing arts, when  
6-47 those items are purchased and used by an individual for whom the  
6-48 items listed in this subdivision were dispensed or prescribed;

6-49 (7) corrective lens and necessary and related  
6-50 supplies, if dispensed or prescribed by an ophthalmologist or  
6-51 optometrist;

6-52 (8) specialized printing or signalling equipment used  
6-53 by the deaf for the purpose of enabling the deaf to communicate  
6-54 through the use of an ordinary telephone and all materials, paper,  
6-55 and printing ribbons used in that equipment;

6-56 (9) a braille wristwatch, braille writer, braille  
6-57 paper and braille electronic equipment that connects to computer  
6-58 equipment, and the necessary adaptive devices and adaptive computer  
6-59 software;

6-60 (10) each of the following items if purchased for use  
6-61 by the blind to enable them to function more independently: a slate  
6-62 and stylus, print enlarger, light probe, magnifier, white cane,  
6-63 talking clock, large print terminal, talking terminal, or harness  
6-64 for guide dog;

6-65 (11) hospital beds;

6-66 (12) blood glucose monitoring test strips;

6-67 (13) an adjustable eating utensil used to facilitate  
6-68 independent eating if purchased for use by a person, including a  
6-69 person who is elderly or physically disabled, has had a stroke, or

7-1 is a burn victim, who does not have full use or control of the  
7-2 person's hands or arms; ~~and~~

7-3 (14) subject to Subsection (d), a dietary supplement;  
7-4 and

7-5 (15) intravenous systems, supplies, and replacement  
7-6 parts used in the treatment of humans.

7-7 SECTION 20. Section 151.314(e), Tax Code, is amended to  
7-8 read as follows:

7-9 (e) Food products, candy, carbonated beverages, and diluted  
7-10 juices are exempted from the taxes imposed by this chapter if sold  
7-11 at an exempt sale qualifying under this subsection or if stored or  
7-12 used by the purchaser of the item at the exempt sale. A sale is  
7-13 exempted under this subsection if:

7-14 (1) the sale is made by a ~~[person under 19 years old~~  
7-15 ~~who is a]~~ member of or volunteer for a nonprofit organization  
7-16 devoted to the exclusive purpose of education or religious or  
7-17 physical training or by a group associated with a public or private  
7-18 elementary or secondary school;

7-19 (2) the sale is made as a part of a fund-raising drive  
7-20 sponsored by the organization or group; and

7-21 (3) all net proceeds from the sale go to the  
7-22 organization or group for its exclusive use.

7-23 SECTION 21. Section 151.319(f), Tax Code, is amended to  
7-24 read as follows:

7-25 (f) In this section, "newspaper" means a publication that is  
7-26 printed on newsprint, the average sales price of which for each copy  
7-27 over a 30-day period does not exceed \$1.50 ~~[75 cents]~~, and that is  
7-28 printed and distributed at a daily, weekly, or other short interval  
7-29 for the dissemination of news of a general character and of a  
7-30 general interest. "Newspaper" does not include a magazine,  
7-31 handbill, circular, flyer, sales catalog, or similar printed item  
7-32 unless the printed item is printed for distribution as a part of a  
7-33 newspaper and is actually distributed as a part of a newspaper. For  
7-34 the purposes of this section, an advertisement is news of a general  
7-35 character and of a general interest. Notwithstanding any other  
7-36 provision of this subsection, "newspaper" includes:

7-37 (1) a publication containing articles and essays of  
7-38 general interest by various writers and advertisements that is  
7-39 produced for the operator of a licensed and certified carrier of  
7-40 persons and distributed by the operator to its customers during  
7-41 their travel on the carrier; and

7-42 (2) a publication for the dissemination of news of a  
7-43 general character and of a general interest that is printed on  
7-44 newsprint and distributed to the general public free of charge at a  
7-45 daily, weekly, or other short interval.

7-46 SECTION 22. Section 151.323, Tax Code, is amended to read as  
7-47 follows:

7-48 Sec. 151.323. CERTAIN TELECOMMUNICATIONS SERVICES. (a)  
7-49 There are exempted from the taxes imposed by this chapter the  
7-50 receipts from the sale, use, or other consumption in this state of:

7-51 (1) long-distance telecommunications services that  
7-52 are not both originated from and billed to a telephone number or  
7-53 billing or service address within Texas;

7-54 (2) access to a local exchange telephone company's  
7-55 network by a regulated provider of telecommunications services; and

7-56 (3) broadcasts, other than cable television service,  
7-57 by commercial radio or television stations licensed or regulated by  
7-58 the Federal Communications Commission.

7-59 (b) The exemption provided by this section does not apply to  
7-60 mobile telecommunications services.

7-61 SECTION 23. Subchapter H, Chapter 151, Tax Code, is amended  
7-62 by adding Section 151.3501 to read as follows:

7-63 Sec. 151.3501. LABOR TO RESTORE, REPAIR, OR REMODEL  
7-64 HISTORIC SITES. (a) Labor to restore, repair, or remodel an  
7-65 improvement to real property is exempted from the taxes imposed by  
7-66 this chapter if:

7-67 (1) the amount of the charge for labor is separately  
7-68 itemized; and

7-69 (2) the restoration, repair, or remodeling is

8-1 performed on an improvement to real property listed in the National  
8-2 Register of Historic Places.

8-3 (b) The exemption provided by this section does not apply to  
8-4 tangible personal property transferred by the service provider to  
8-5 the purchaser as part of the service.

8-6 SECTION 24. Section 151.355, Tax Code, as amended by  
8-7 Chapters 966 and 1234, Acts of the 77th Legislature, Regular  
8-8 Session, 2001, is reenacted and amended to read as follows:

8-9 Sec. 151.355. WATER-RELATED EXEMPTIONS. The following are  
8-10 exempted from taxes imposed by this chapter:

8-11 (1) rainwater harvesting equipment or supplies, water  
8-12 recycling and reuse equipment or supplies, or other equipment,  
8-13 services, or supplies used solely to reduce or eliminate water use;

8-14 (2) equipment, services, or supplies used solely for  
8-15 desalination of surface water or groundwater;

8-16 (3) equipment, services, or supplies used solely for  
8-17 brush control designed to enhance the availability of water;

8-18 (4) equipment, services, or supplies used solely for  
8-19 precipitation enhancement;

8-20 (5) equipment, services, or supplies used solely to  
8-21 construct or operate a water or wastewater system certified by the  
8-22 Texas Commission on Environmental Quality [~~Natural Resource~~  
8-23 ~~Conservation Commission~~] as a regional system; and

8-24 (6) equipment, services, or supplies used solely to  
8-25 construct or operate a water supply or wastewater system by a  
8-26 private entity as a public-private partnership as certified by the  
8-27 political subdivision that is a party to the project.

8-28 SECTION 25. Section 152.086(a), Tax Code, is amended to  
8-29 read as follows:

8-30 (a) The taxes imposed by this chapter do not apply to the  
8-31 sale or use of a motor vehicle that:

8-32 (1) has been or will be modified before the second  
8-33 anniversary of the date of purchase for operation by, or for the  
8-34 transportation of, an orthopedically handicapped person; and

8-35 (2) is driven by or used for the transportation of an  
8-36 orthopedically handicapped person.

8-37 SECTION 26. Subchapter F, Chapter 152, Tax Code, is amended  
8-38 by adding Section 152.106 to read as follows:

8-39 Sec. 152.106. PROHIBITED ADVERTISING; CRIMINAL PENALTY.

8-40 (a) A person who is required by Chapter 503, Transportation Code,  
8-41 to hold a dealer's general distinguishing number commits an offense  
8-42 if the person directly or indirectly advertises, holds out, or  
8-43 states to a customer or to the public that the person:

8-44 (1) will assume, absorb, or refund a part of the tax  
8-45 imposed by this chapter; or

8-46 (2) will not add the tax imposed by this chapter to the  
8-47 sales price of the motor vehicle sold, leased, or rented.

8-48 (b) An offense under this section is a Class C misdemeanor.

8-49 SECTION 27. Section 153.013(a), Tax Code, is amended to  
8-50 read as follows:

8-51 (a) A distributor, supplier, dealer, interstate trucker,  
8-52 jobber, dyed diesel fuel bonded user, [~~or~~] agricultural bonded  
8-53 user, or other user who fails to keep a record, issue an invoice, or  
8-54 file a report required by this chapter, is presumed to have sold or  
8-55 used for taxable purposes all motor fuel shown by an audit by the  
8-56 comptroller to have been sold to the distributor, supplier, dealer,  
8-57 interstate trucker, jobber, dyed diesel fuel bonded user, [~~or~~]  
8-58 agricultural bonded user, or other user. Motor fuel unaccounted  
8-59 for is presumed to have been sold or used for taxable purposes. The  
8-60 comptroller may fix or establish the amount of taxes, penalties,  
8-61 and interest due the state from the records of deliveries or from  
8-62 any records or information available to him. If a tax claim, as  
8-63 developed from this procedure, is not paid, after the opportunity  
8-64 to request a redetermination, the claim and any audit made by the  
8-65 comptroller or any report filed by the distributor, supplier,  
8-66 dealer, interstate trucker, jobber, dyed diesel fuel bonded user,  
8-67 [~~or~~] agricultural bonded user, or other user, are evidence in any  
8-68 suit or judicial proceedings filed by the attorney general, and are  
8-69 prima facie evidence of the correctness of the claim or audit. A



9-1 prima facie presumption of the correctness of the claim may be  
 9-2 overcome at the trial by evidence adduced by the distributor,  
 9-3 supplier, dealer, interstate trucker, jobber, dyed diesel fuel  
 9-4 bonded user, ~~[or]~~ agricultural bonded user, or other user.

9-5 SECTION 28. Section 153.117, Tax Code, is amended by adding  
 9-6 Subsection (i) to read as follows:

9-7 (i) A bulk user who files a claim for refund shall keep:

9-8 (1) a record showing the number of gallons of:

9-9 (A) all gasoline purchased or received, showing  
 9-10 the name of the seller and date of purchase;

9-11 (B) all gasoline deliveries into the fuel supply  
 9-12 tanks of motor vehicles;

9-13 (C) gasoline used for other purposes, showing the  
 9-14 purpose for which used; and

9-15 (D) all gasoline lost by fire, theft, or  
 9-16 accident; and

9-17 (2) a distribution log if used by a bulk user for  
 9-18 documentation to support a refund claim.

9-19 SECTION 29. Section 153.120, Tax Code, is amended by adding  
 9-20 Subsection (d) to read as follows:

9-21 (d) A distribution log filed with the comptroller to support  
 9-22 the number of gallons of gasoline removed from a bulk user's own  
 9-23 bulk storage must contain the name and address of the bulk user  
 9-24 making the delivery stamped or preprinted on it and for each  
 9-25 individual delivery from the bulk storage:

9-26 (1) the date of delivery;

9-27 (2) the number of gallons of gasoline delivered;

9-28 (3) the signature of the bulk user; and

9-29 (4) the type or description of off-highway equipment  
 9-30 into which the gasoline was delivered, or the type of licensed motor  
 9-31 vehicle into which the gasoline was delivered, including the state  
 9-32 highway license plate number or vehicle identification number, and  
 9-33 the odometer or hubmeter reading.

9-34 SECTION 30. Section 153.205, Tax Code, as amended by  
 9-35 Chapters 1263 and 1444, Acts of the 77th Legislature, Regular  
 9-36 Session, 2001, is reenacted and amended to read as follows:

9-37 Sec. 153.205. STATEMENT FOR PURCHASE OF DIESEL FUEL TAX  
 9-38 FREE. (a) The first sale or use of diesel fuel in this state is  
 9-39 taxable, except that sales of dyed diesel fuel, or of undyed diesel  
 9-40 fuel if the fuel will be used for an agricultural nonhighway  
 9-41 purpose, may be made without collecting the tax if the purchaser  
 9-42 furnishes to a permitted supplier a signed statement, including an  
 9-43 end user number or agricultural exemption number issued by the  
 9-44 comptroller. A person who wants to use a signed statement to  
 9-45 purchase dyed diesel fuel must apply to the comptroller for an end  
 9-46 user number to be used in conjunction with a signed statement. A  
 9-47 person who wants to use a signed statement to purchase dyed or  
 9-48 undyed diesel fuel for an agricultural nonhighway purpose must  
 9-49 apply to the comptroller for an agricultural exemption number to be  
 9-50 used in conjunction with a signed statement. A supplier may not make  
 9-51 a tax-free sale of any diesel fuel to a purchaser using a signed  
 9-52 statement unless the purchaser has an end user number or  
 9-53 agricultural exemption number issued by the comptroller under this  
 9-54 section.

9-55 (b) A sale of dyed diesel fuel may be made without  
 9-56 collecting the tax if the purchaser furnishes to a permitted  
 9-57 supplier a signed statement, including an end user number issued by  
 9-58 the comptroller, that stipulates that:

9-59 (1) all ~~[none]~~ of the diesel fuel purchased on the  
 9-60 signed statement will be dyed diesel fuel ~~[is of a type that may~~  
 9-61 legally be used on the public highway];

9-62 (2) all of the dyed diesel fuel purchased on the signed  
 9-63 statement will be consumed by the purchaser ~~[, or all of the diesel~~  
 9-64 fuel will be consumed by the purchaser in oil or gas production, as  
 9-65 applicable,] and will not be resold; and

9-66 (3) none of the dyed diesel fuel purchased on the  
 9-67 signed statement will be delivered or permitted to be delivered  
 9-68 into the fuel supply tank of a motor vehicle operated on the public  
 9-69 highways of this state.

10-1 (c) A sale of dyed or undyed diesel fuel for an agricultural  
 10-2 nonhighway use may be made without collecting the tax if the  
 10-3 purchaser furnishes to a permitted supplier a signed statement,  
 10-4 including an agricultural exemption number issued by the  
 10-5 comptroller, that stipulates that:

10-6 (1) all of the dyed and undyed diesel fuel purchased on  
 10-7 the signed statement will be used exclusively in agricultural  
 10-8 nonhighway equipment;

10-9 (2) all of the dyed and undyed diesel fuel purchased on  
 10-10 the signed statement will be consumed by the purchaser and will not  
 10-11 be resold; and

10-12 (3) none of the dyed or undyed diesel fuel purchased on  
 10-13 the signed statement will be delivered or permitted to be delivered  
 10-14 into the fuel supply tank of a motor vehicle operated on the public  
 10-15 highways of this state.

10-16 (d) A person may not make a tax-free purchase and a  
 10-17 permitted supplier may not make a tax-free sale to a purchaser of  
 10-18 any diesel fuel under this section using a signed statement:

10-19 (1) for the purchase or the sale of more than 7,400  
 10-20 gallons of dyed or undyed diesel fuel in a single [~~transaction or~~]  
 10-21 delivery; or

10-22 (2) in a calendar month in which the person has  
 10-23 previously purchased from all sources or in which the permitted  
 10-24 supplier has previously sold to that purchaser more than:

10-25 (A) 10,000 gallons of dyed diesel fuel [~~from all~~  
 10-26 ~~sources~~];

10-27 (B) 25,000 gallons of dyed diesel fuel [~~from all~~  
 10-28 ~~sources~~] if the purchaser stipulates in the signed statement that  
 10-29 all of the fuel will be consumed by the purchaser in the original  
 10-30 production of, or to increase the production of, oil or gas and  
 10-31 furnishes the supplier with a letter of exception issued by the  
 10-32 comptroller [production]; or

10-33 (C) 25,000 gallons of dyed or undyed diesel fuel  
 10-34 [~~from all sources~~] if purchased for agricultural purposes by a  
 10-35 person who furnishes to the permitted supplier, in conjunction with  
 10-36 the signed statement, an agricultural exemption number issued by  
 10-37 the comptroller.

10-38 (e) Any gallons purchased or sold in excess of the  
 10-39 limitations prescribed by Subsection (d) constitute a taxable  
 10-40 purchase or sale. The purchaser paying the tax on dyed or undyed  
 10-41 diesel fuel in excess of the limitations prescribed by Subsection  
 10-42 (d) may claim a refund of the tax paid on any dyed or undyed diesel  
 10-43 fuel used for nonhighway purposes under Section 153.222.

10-44 (f) [~~A supplier may not make a tax-free sale of any diesel~~  
 10-45 ~~fuel under this section to a purchaser using a signed statement:~~

10-46 [~~(1) for the sale of more than 7,400 gallons of dyed or~~  
 10-47 ~~undyed diesel fuel in a single transaction or delivery; or~~

10-48 [~~(2) in a calendar month in which the supplier has~~  
 10-49 ~~previously sold more than:~~

10-50 [~~(A) 10,000 gallons of dyed diesel fuel to the~~  
 10-51 ~~purchaser;~~

10-52 [~~(B) 25,000 gallons of dyed diesel fuel to the~~  
 10-53 ~~purchaser if the purchaser stipulates in the signed statement that~~  
 10-54 ~~all of the fuel will be consumed by the purchaser in oil or gas~~  
 10-55 ~~production; or~~

10-56 [~~(C) 25,000 gallons of dyed or undyed diesel fuel~~  
 10-57 ~~to the purchaser if the purchaser furnishes to the permitted~~  
 10-58 ~~supplier, in conjunction with the signed statement, an agricultural~~  
 10-59 ~~exemption number issued by the comptroller.~~

10-60 [~~(g) Any gallons sold in excess of the limitations~~  
 10-61 ~~prescribed by Subsection (f) constitute a taxable sale. The~~  
 10-62 ~~purchaser paying the tax on dyed or undyed diesel fuel in excess of~~  
 10-63 ~~the limitations prescribed by Subsection (f) may claim a refund of~~  
 10-64 ~~the tax paid on any dyed or undyed diesel fuel used for nonhighway~~  
 10-65 ~~purposes under Section 153.222.~~

10-66 [(h)] The signed statement and end user number or  
 10-67 agricultural exemption number from the purchaser as provided by  
 10-68 this section relieves the permitted supplier from the burden of  
 10-69 proof that the sale of dyed diesel fuel or of undyed diesel fuel for

11-1 an agricultural nonhighway purpose was not taxable to the purchaser  
11-2 and remains in effect unless:

11-3 (1) the statement is revoked in writing by the  
11-4 purchaser or supplier; ~~or~~

11-5 (2) the comptroller notifies the supplier in writing  
11-6 that the purchaser may no longer make tax-free purchases; or

11-7 (3) the supplier is put on notice by making taxable  
11-8 sales of dyed diesel fuel to a purchaser who has previously  
11-9 furnished a signed statement to the supplier.

11-10 (g) For purposes of Subsection (f)(3), the supplier is not  
11-11 put on notice when taxable sales of dyed diesel fuel are made in  
11-12 accordance with Subsection (e).

11-13 (h) The statement must be signed by the purchaser or the  
11-14 purchaser's representative.

11-15 (i) The comptroller by rule may allow separate operating  
11-16 divisions of a corporation to give separate signed statements as if  
11-17 the divisions were different legal entities.

11-18 (j) The comptroller may adopt necessary forms and rules to  
11-19 administer and enforce this section.

11-20 (k) ~~(i)~~ A taxable use of any part of the dyed or undyed  
11-21 diesel fuel purchased under a signed statement shall, in addition  
11-22 to any criminal penalty, forfeit the right of the person to purchase  
11-23 dyed or undyed diesel fuel tax free for a period of one year from the  
11-24 date of the offense, and any tax, interest, and penalty found to be  
11-25 due through false or erroneous execution or continuance of a  
11-26 promissory statement by the purchaser, if assessed to the supplier,  
11-27 is a debt of the purchaser to the supplier until paid, and is  
11-28 recoverable at law in the same manner as the purchase price of the  
11-29 fuel. The person may, however, claim a refund of the tax paid on any  
11-30 dyed or undyed diesel fuel used for nonhighway purposes under  
11-31 Section 153.222.

11-32 SECTION 31. Section 153.208(d), Tax Code, is amended to  
11-33 read as follows:

11-34 (d) A supplier may not make a tax-free sale or delivery of  
11-35 diesel fuel into the fuel supply tanks of a motor vehicle other than  
11-36 a motor vehicle:

11-37 (1) owned by the United States;

11-38 (2) exclusively operated by a public school district  
11-39 in this state; or

11-40 (3) operated by a commercial transportation company  
11-41 that provides public school transportation services to a school  
11-42 district in this state under Section 34.008, Education Code, and  
11-43 that is used by the company exclusively to provide those services.

11-44 SECTION 32. Section 153.219(c), Tax Code, is amended to  
11-45 read as follows:

11-46 (c) A dyed diesel fuel bonded user, an agricultural bonded  
11-47 user, or other user ~~[with nonhighway equipment uses]~~ who files a  
11-48 claim for a refund shall keep:

11-49 (1) a record showing the number of gallons of:

11-50 (A) ~~(1)~~ inventories of all diesel fuel on hand  
11-51 at the first of each month;

11-52 (B) ~~(2)~~ all diesel fuel purchased or  
11-53 received, showing the name of the seller and the date of each  
11-54 purchase;

11-55 (C) ~~(3)~~ all diesel fuel deliveries into the  
11-56 fuel supply tanks of motor vehicles;

11-57 (D) ~~(4)~~ diesel fuel used for other purposes,  
11-58 showing the purpose for which used; and

11-59 (E) ~~(5)~~ all diesel fuel lost by fire, theft,  
11-60 or accident; and

11-61 (2) a distribution log if used by a bulk user for  
11-62 documentation to support a refund claim.

11-63 SECTION 33. Section 153.222(a), Tax Code, is amended to  
11-64 read as follows:

11-65 (a) A dealer or diesel fuel jobber who has paid tax on diesel  
11-66 fuel that has been used or sold for use by the dealer or diesel fuel  
11-67 jobber for any purpose except in a motor vehicle operated or  
11-68 intended to be operated ~~[other than propelling a motor vehicle]~~  
11-69 on the public highways ~~[of this state]~~ or that has been sold to the

12-1 United States or a public school district in this state for the  
 12-2 exclusive use of the purchaser, or to a commercial transportation  
 12-3 company for exclusive use in providing public school transportation  
 12-4 services to a school district under Section 34.008, Education Code,  
 12-5 without adding the amount of the tax to his selling price, and a  
 12-6 user who has paid tax on any diesel fuel that has been used by him  
 12-7 for any [a] purpose except in a motor vehicle operated or intended  
 12-8 to be operated [other than propelling a motor vehicle] on the public  
 12-9 highways, is a public school district and has paid the tax on diesel  
 12-10 fuel purchased for its exclusive use, is a commercial  
 12-11 transportation company and has paid the tax on diesel fuel used by  
 12-12 the company exclusively to provide public school transportation  
 12-13 services to a school district under Section 34.008, Education Code,  
 12-14 or is a person who has paid tax on diesel fuel used in a commercial  
 12-15 motor vehicle as provided by Section 153.203(a)(10) [~~153.203(10)~~]  
 12-16 may file a claim for a refund of taxes paid, less the deduction  
 12-17 allowed vendors.

12-18 SECTION 34. Section 153.223, Tax Code, is amended by adding  
 12-19 Subsection (d) to read as follows:

12-20 (d) A distribution log filed with the comptroller to support  
 12-21 the number of gallons of diesel fuel removed from a bulk user's own  
 12-22 bulk storage must contain the name and address of the bulk user  
 12-23 making the delivery stamped or preprinted on it and for each  
 12-24 individual delivery from the bulk storage:

12-25 (1) the date of delivery;  
 12-26 (2) the number of gallons of diesel fuel delivered;  
 12-27 (3) the signature of the bulk user; and  
 12-28 (4) the type or description of off-highway equipment  
 12-29 into which the diesel fuel was delivered, or the type of licensed  
 12-30 motor vehicle into which the diesel fuel was delivered, including  
 12-31 the state highway license plate number or vehicle identification  
 12-32 number, and the odometer or hubmeter reading.

12-33 SECTION 35. Section 153.403, Tax Code, is amended to read as  
 12-34 follows:

12-35 Sec. 153.403. CRIMINAL OFFENSES. Except as provided by  
 12-36 Section 153.404, a person commits an offense if the person:

12-37 (1) refuses to stop and permit the inspection and  
 12-38 examination of a motor vehicle transporting or using motor fuel on  
 12-39 the demand of a peace officer or the comptroller;

12-40 (2) is required to hold a valid trip permit or  
 12-41 interstate trucker's permit, but operates a motor vehicle in this  
 12-42 state without a valid trip permit or interstate trucker's permit;

12-43 (3) operates a liquefied gas-propelled motor vehicle  
 12-44 that is required to be licensed in Texas, including a motor vehicle  
 12-45 equipped with dual carburetion, and does not display a current  
 12-46 liquefied gas tax decal or multistate fuels tax agreement decal;

12-47 (4) transports gasoline or diesel fuel in any cargo  
 12-48 tank that has a connection by pipe, tube, valve, or otherwise with  
 12-49 the fuel injector or carburetor or with the fuel supply tank feeding  
 12-50 the fuel injector or carburetor of the motor vehicle transporting  
 12-51 the product;

12-52 (5) sells or delivers gasoline or diesel fuel from a  
 12-53 fuel supply tank that is connected with the fuel injector or  
 12-54 carburetor of a motor vehicle;

12-55 (6) owns or operates a motor vehicle for which reports  
 12-56 or mileage records are required by this chapter without an  
 12-57 operating odometer or other device in good working condition to  
 12-58 record accurately the miles traveled;

12-59 (7) as a diesel tax prepaid user fails to prepay the  
 12-60 tax on every diesel-powered motor vehicle owned or operated by him;

12-61 (8) uses dyed diesel fuel [~~on which a tax is required~~  
 12-62 ~~to be paid,~~] for the operation of a motor vehicle on a public  
 12-63 highway, unless that use is permitted by another provision of this  
 12-64 chapter;

12-65 (9) makes a tax-free sale or delivery of liquefied gas  
 12-66 into the fuel supply tank of a motor vehicle that does not display a  
 12-67 current Texas liquefied gas tax decal;

12-68 (10) makes a sale or delivery of liquefied gas on which  
 12-69 the person knows the tax is required to be collected, if at the time

13-1 the sale is made the person does not hold a valid dealer's permit;  
 13-2 (11) makes a tax-free sale or delivery of liquefied  
 13-3 gas into the fuel supply tank of a motor vehicle bearing  
 13-4 out-of-state license plates;

13-5 (12) makes a delivery of liquefied gas into the fuel  
 13-6 supply tank of a motor vehicle bearing Texas license plates and no  
 13-7 Texas liquefied gas tax decal, unless licensed under a multistate  
 13-8 fuels tax agreement;

13-9 (13) refuses to permit the comptroller or the attorney  
 13-10 general to inspect, examine, or audit a book or record required to  
 13-11 be kept by a distributor, supplier, dyed diesel fuel bonded user,  
 13-12 agricultural bonded user, dealer, interstate trucker, aviation  
 13-13 fuel dealer, jobber, common or contract carrier, or any person  
 13-14 required to hold a permit under this chapter;

13-15 (14) refuses to permit the comptroller or the attorney  
 13-16 general to inspect or examine any plant, equipment, materials, or  
 13-17 premises where motor fuel is produced, processed, stored, sold,  
 13-18 delivered, or used;

13-19 (15) refuses to permit the comptroller, the attorney  
 13-20 general, an employee of either of those officials, a peace officer,  
 13-21 an employee of the Texas Commission on Environmental Quality  
 13-22 [~~Natural Resource Conservation Commission~~], or an employee of the  
 13-23 Department of Agriculture to measure or gauge the contents of or  
 13-24 take samples from a storage tank or container on premises where  
 13-25 motor fuel is produced, processed, stored, sold, delivered, or  
 13-26 used;

13-27 (16) is a distributor, dyed diesel fuel bonded user,  
 13-28 agricultural bonded user, interstate trucker, or supplier and fails  
 13-29 or refuses to make or deliver to the comptroller a report required  
 13-30 by this chapter to be made and delivered to the comptroller;

13-31 (17) is an importer who does not obtain an import  
 13-32 verification number when required by this chapter;

13-33 (18) purchases motor fuel for export, on which the tax  
 13-34 imposed by this chapter has not been paid, and subsequently diverts  
 13-35 or causes the motor fuel to be diverted to a destination in this  
 13-36 state or any other state or country other than the originally  
 13-37 designated state or country without first obtaining a diversion  
 13-38 number;

13-39 (19) conceals motor fuel with the intent of engaging  
 13-40 in any conduct proscribed by this chapter or refuses to make sales  
 13-41 of motor fuel on the volume-corrected basis prescribed by this  
 13-42 chapter;

13-43 (20) refuses, while transporting motor fuel, to stop  
 13-44 the motor vehicle he is operating when called on to do so by a person  
 13-45 authorized to stop the motor vehicle;

13-46 (21) refuses to surrender a motor vehicle and cargo  
 13-47 for impoundment after being ordered to do so by a person authorized  
 13-48 to impound the motor vehicle and cargo;

13-49 (22) mutilates, destroys, or secretes a book or record  
 13-50 required by this chapter to be kept by a distributor, supplier, dyed  
 13-51 diesel fuel bonded user, agricultural bonded user, dealer,  
 13-52 interstate trucker, aviation fuel dealer, jobber, or person  
 13-53 required to hold a permit under this chapter;

13-54 (23) is a distributor, supplier, dyed diesel fuel  
 13-55 bonded user, agricultural bonded user, dealer, interstate trucker,  
 13-56 aviation fuel dealer, jobber, or other person required to hold a  
 13-57 permit under this chapter, or the agent or employee of one of those  
 13-58 persons and makes a false entry or fails to make an entry in the  
 13-59 books and records required under this chapter to be made by the  
 13-60 person or fails to retain a document as required by this chapter;

13-61 (24) transports in any manner motor fuel under a false  
 13-62 cargo manifest or shipping document, or transports in any manner  
 13-63 motor fuel to a location without delivering at the same time a  
 13-64 shipping document relating to that shipment;

13-65 (25) engages in a motor fuel transaction that requires  
 13-66 that the person have a permit under this chapter without then and  
 13-67 there holding the required permit;

13-68 (26) makes and delivers to the comptroller a report  
 13-69 required under this chapter to be made and delivered to the

14-1 comptroller, if the report contains false information;

14-2 (27) forges, falsifies, or alters an invoice  
14-3 prescribed by law;

14-4 (28) makes any statement, knowing said statement to be  
14-5 false, in a claim for a tax refund filed with the comptroller;

14-6 (29) furnishes to a supplier a signed statement for  
14-7 purchasing diesel fuel tax free and then uses the tax-free diesel  
14-8 fuel to operate a diesel-powered motor vehicle on a public highway;

14-9 (30) holds an aviation fuel dealer's permit and makes a  
14-10 taxable sale or use of any gasoline or diesel fuel;

14-11 (31) fails to remit any tax funds collected by a  
14-12 distributor, supplier, dyed diesel fuel bonded user, agricultural  
14-13 bonded user, dealer, interstate trucker, jobber, or any other  
14-14 person required to hold a permit under this chapter;

14-15 (32) makes a sale of diesel fuel tax free into a  
14-16 storage facility of a person who:

14-17 (A) is not permitted as a supplier, as an  
14-18 aviation fuel dealer, as a dyed diesel fuel bonded user, as an  
14-19 agricultural bonded user, or as a diesel tax prepaid user of diesel  
14-20 fuel; or

14-21 (B) does not furnish to the permitted supplier a  
14-22 signed statement prescribed in Section 153.205;

14-23 (33) makes a sale of gasoline tax free to any person  
14-24 who is not permitted as either a distributor or an aviation fuel  
14-25 dealer;

14-26 (34) is a dealer who purchases any motor fuel tax free  
14-27 when not authorized to make a tax-free purchase under this chapter;

14-28 (35) is a dealer who purchases motor fuel with the  
14-29 intent to evade any tax imposed by this chapter, or who accepts a  
14-30 delivery of motor fuel by any means and does not at the same time  
14-31 accept or receive a shipping document relating to the delivery;

14-32 (36) transports motor fuel for which a cargo manifest  
14-33 or shipping document is required to be carried without possessing  
14-34 or exhibiting on demand by an officer authorized to make the demand  
14-35 a cargo manifest or shipping document containing the information  
14-36 required to be shown on the manifest or shipping document;

14-37 (37) imports, sells, uses, distributes, or stores  
14-38 motor fuel within this state on which the taxes imposed by this  
14-39 chapter are owed but have not been first paid to or reported by the  
14-40 holder of a distributor, supplier, liquefied gas dealer, interstate  
14-41 trucker, diesel tax prepaid user, dyed diesel fuel bonded user, or  
14-42 agricultural bonded user permit;

14-43 (38) blends products together to produce a blended  
14-44 fuel that is offered for sale, sold, or used that expands the volume  
14-45 of the original product to evade paying applicable motor fuel  
14-46 taxes; or

14-47 (39) evades or attempts to evade in any manner a tax  
14-48 imposed on motor fuel by this chapter.

14-49 SECTION 35A. Section 155.002, Tax Code, is amended to read  
14-50 as follows:

14-51 Sec. 155.002. STORAGE. (a) The commercial business  
14-52 location where tobacco products are stored or kept cannot be a  
14-53 residence or a unit in a public storage facility.

14-54 (b) This section does not apply to a manufacturer's  
14-55 representative.

14-56 SECTION 36. Section 156.051(a), Tax Code, is amended to  
14-57 read as follows:

14-58 (a) A tax is imposed on a person who, under a lease,  
14-59 concession, permit, right of access, license, contract, or  
14-60 agreement, pays for the use or possession or for the right to the  
14-61 use or possession of a room or space in a hotel costing \$15 [~~\$2~~] or  
14-62 more each day.

14-63 SECTION 37. Section 156.102(b), Tax Code, is amended to  
14-64 read as follows:

14-65 (b) For purposes of this section:

14-66 (1) a corporation or association that is organized and  
14-67 operated exclusively for the cleaning of beaches and that has no  
14-68 part of its net earnings inure to the benefit of a private  
14-69 shareholder or individual is organized and operated exclusively for

15-1 a charitable purpose; and  
 15-2 (2) a public or private institution of higher  
 15-3 education is organized and operated exclusively for an educational  
 15-4 purpose only if the institution is defined as a Texas ~~[an]~~  
 15-5 institution of higher education or as a Texas private or  
 15-6 independent institution of higher education under any subdivision  
 15-7 of Section 61.003, Education Code.

15-8 SECTION 38. Subchapter C, Chapter 156, Tax Code, is amended  
 15-9 by adding Section 156.104 to read as follows:

15-10 Sec. 156.104. EXEMPTION CERTIFICATE. (a) The right to use  
 15-11 or possess a room or space in a hotel is exempt from taxation under  
 15-12 this chapter if the person required to collect the tax receives, in  
 15-13 good faith from a guest, a properly completed exemption certificate  
 15-14 stating that the guest is qualified for an exemption under Section  
 15-15 156.102 or 156.103. An exemption certificate must be supported by  
 15-16 the documentation required under rules adopted by the comptroller.

15-17 (b) The comptroller shall produce and maintain a list of  
 15-18 entities that have been provided a letter of exemption from the  
 15-19 state hotel occupancy tax under Section 156.102. The comptroller  
 15-20 shall make the list available on the comptroller's Internet  
 15-21 website.

15-22 SECTION 39. Section 171.001(a), Tax Code, is amended to  
 15-23 read as follows:

15-24 (a) A franchise tax is imposed on:

15-25 (1) each corporation that does business in this state  
 15-26 or that is chartered ~~[or authorized to do business]~~ in this state;  
 15-27 ~~[r]~~ and

15-28 (2) each limited liability company that does business  
 15-29 in this state or that is organized under the laws of this state ~~[or~~  
 15-30 ~~is authorized to do business in this state].~~

15-31 SECTION 40. Section 171.001(b)(2), Tax Code, is amended to  
 15-32 read as follows:

15-33 (2) "Beginning date" means:

15-34 (A) for a corporation chartered in this state,  
 15-35 the date on which the corporation's charter takes effect; and

15-36 (B) for a foreign corporation, ~~[the earlier of]~~  
 15-37 the date on which ~~[+~~

15-38 ~~[(i) the corporation's certificate of~~  
 15-39 ~~authority takes effect; or~~

15-40 ~~[(ii)] the corporation begins doing business~~  
 15-41 in this state.

15-42 SECTION 41. Section 171.052, Tax Code, is amended to read as  
 15-43 follows:

15-44 Sec. 171.052. CERTAIN CORPORATIONS. An insurance  
 15-45 organization, title insurance company, or title insurance agent  
 15-46 authorized to engage in insurance business in this state now  
 15-47 required to pay an annual tax under Chapter 4 or 9, Insurance Code,  
 15-48 measured by its gross premium receipts is exempted from the  
 15-49 franchise tax. A ~~[An insurance organization performing management~~  
 15-50 ~~or accounting activities in this state on behalf of a]~~ nonadmitted  
 15-51 ~~[captive] insurance organization [company under Chapter 101,~~  
 15-52 ~~Insurance Code,]~~ that is required to pay a gross premium receipts  
 15-53 tax during a tax year is exempted from the franchise tax for that  
 15-54 same tax year. Farm mutuals, local mutual aid associations, and  
 15-55 burial associations are not subject to the franchise tax.

15-56 SECTION 42. Section 171.084(c), Tax Code, is amended to  
 15-57 read as follows:

15-58 (c) In this section, "wholesale center" means a permanent  
 15-59 wholesale facility that has permanent tenants and that promotes at  
 15-60 least four national or regional trade shows in a calendar year. A  
 15-61 tenant leasing space at a wholesale center for a period longer than  
 15-62 the period prescribed by Subsection (b) may qualify for the  
 15-63 exemption provided by this section only if the tenant solicits  
 15-64 orders on an occasional basis at the trade show as prescribed by  
 15-65 Subsection (b).

15-66 SECTION 43. Section 171.1032(b), Tax Code, is amended to  
 15-67 read as follows:

15-68 (b) A corporation shall deduct from its gross receipts  
 15-69 computed under Subsection (a) any amount to the extent included

16-1 under Subsection (a) because of the application of Section 78 or  
 16-2 Sections 951-964, Internal Revenue Code, any amount excludable  
 16-3 under Section 171.110(k), and dividends received from a subsidiary,  
 16-4 associate, or affiliated corporation that does not transact a  
 16-5 substantial portion of its business or regularly maintain a  
 16-6 substantial portion of its assets in the United States.

16-7 SECTION 44. Section 171.1051(c), Tax Code, is amended to  
 16-8 read as follows:

16-9 (c) A corporation shall deduct from its gross receipts  
 16-10 computed under Subsection (a) any amount to the extent included in  
 16-11 Subsection (a) because of the application of Section 78 or Sections  
 16-12 951-964, Internal Revenue Code, any amount excludable under Section  
 16-13 171.110(k), and dividends received from a subsidiary, associate, or  
 16-14 affiliated corporation that does not transact a substantial portion  
 16-15 of its business or regularly maintain a substantial portion of its  
 16-16 assets in the United States.

16-17 SECTION 45. Section 171.106, Tax Code, is amended by adding  
 16-18 Subsection (i) to read as follows:

16-19 (i) Receipts from services that a defense readjustment  
 16-20 project performs in a defense economic readjustment zone are not  
 16-21 receipts from business done in this state.

16-22 SECTION 46. Section 171.109, Tax Code, is amended by adding  
 16-23 Subsection (a-1) to read as follows:

16-24 (a-1) A legally enforceable obligation that requires the  
 16-25 return of a like-kind property that was borrowed will be considered  
 16-26 debt if it is a liability according to generally accepted  
 16-27 accounting principles and if the return must be made within an  
 16-28 ascertainable period of time or on demand. The amount that will be  
 16-29 considered debt is the fair market value measured on the last day on  
 16-30 which the report is based as required by Section 171.153. For  
 16-31 purposes of this subsection, "like-kind property" means the same  
 16-32 quantity, quality, and nature or character as the property  
 16-33 borrowed.

16-34 SECTION 47. Section 171.110, Tax Code, is amended by  
 16-35 amending Subsection (a) and adding Subsections (k) and (l) to read  
 16-36 as follows:

16-37 (a) The net taxable earned surplus of a corporation is  
 16-38 computed by:

16-39 (1) determining the corporation's reportable federal  
 16-40 taxable income, subtracting from that amount any amount excludable  
 16-41 under Subsection (k), any amount included in reportable federal  
 16-42 taxable income under Section 78 or Sections 951-964, Internal  
 16-43 Revenue Code, and dividends received from a subsidiary, associate,  
 16-44 or affiliated corporation that does not transact a substantial  
 16-45 portion of its business or regularly maintain a substantial portion  
 16-46 of its assets in the United States, and adding to that amount any  
 16-47 compensation of officers or directors, or if a bank, any  
 16-48 compensation of directors and executive officers, to the extent  
 16-49 excluded in determining federal taxable income to determine the  
 16-50 corporation's taxable earned surplus;

16-51 (2) apportioning the corporation's taxable earned  
 16-52 surplus to this state as provided by Section 171.106(b) or (c), as  
 16-53 applicable, to determine the corporation's apportioned taxable  
 16-54 earned surplus;

16-55 (3) adding the corporation's taxable earned surplus  
 16-56 allocated to this state as provided by Section 171.1061; and

16-57 (4) subtracting from that amount any allowable  
 16-58 deductions and any business loss that is carried forward to the tax  
 16-59 reporting period and deductible under Subsection (e).

16-60 (k) Dividends and interest received from federal  
 16-61 obligations are not included in earned surplus or gross receipts  
 16-62 for earned surplus purposes.

16-63 (l) In this section:

16-64 (1) "Federal obligations" means:

16-65 (A) stocks and other direct obligations of, and  
 16-66 obligations unconditionally guaranteed by, the United States  
 16-67 government and United States government agencies; and

16-68 (B) direct obligations of a United States  
 16-69 government-sponsored agency.



17-1           (2) "Obligation" means any bond, debenture, security,  
 17-2 mortgage-backed security, pass-through certificate, or other  
 17-3 evidence of indebtedness of the issuing entity. The term does not  
 17-4 include a deposit, a repurchase agreement, a loan, a lease, a  
 17-5 participation in a loan or pool of loans, a loan collateralized by  
 17-6 an obligation of a United States government agency, or a loan  
 17-7 guaranteed by a United States government agency.

17-8           (3) "United States government" means any department or  
 17-9 ministry of the federal government, including a federal reserve  
 17-10 bank. The term does not include a state or local government, a  
 17-11 commercial enterprise owned wholly or partly by the United States  
 17-12 government, or a local governmental entity or commercial enterprise  
 17-13 whose obligations are guaranteed by the United States government.

17-14           (4) "United States government agency" means an  
 17-15 instrumentality of the United States government whose obligations  
 17-16 are fully and explicitly guaranteed as to the timely payment of  
 17-17 principal and interest by the full faith and credit of the United  
 17-18 States government. The term includes the Government National  
 17-19 Mortgage Association, the Department of Veterans Affairs, the  
 17-20 Federal Housing Administration, the Farmers Home Administration,  
 17-21 the Export-Import Bank, the Overseas Private Investment  
 17-22 Corporation, the Commodity Credit Corporation, the Small Business  
 17-23 Administration, and any successor agency.

17-24           (5) "United States government-sponsored agency" means  
 17-25 an agency originally established or chartered by the United States  
 17-26 government to serve public purposes specified by the United States  
 17-27 Congress but whose obligations are not explicitly guaranteed by the  
 17-28 full faith and credit of the United States government. The term  
 17-29 includes the Federal Home Loan Mortgage Corporation, the Federal  
 17-30 National Mortgage Association, the Farm Credit System, the Federal  
 17-31 Home Loan Bank System, the Student Loan Marketing Association, and  
 17-32 any successor agency.

17-33           SECTION 48. Sections 171.110(b) and (c), Tax Code, are  
 17-34 amended to read as follows:

17-35           (b) Except as provided by Subsection (c), a [A] corporation  
 17-36 is not required to add the compensation of officers or directors as  
 17-37 required by Subsection (a)(1) if the corporation is:

17-38           (1) a corporation that has not more than 35  
 17-39 shareholders; or

17-40           (2) an S corporation, as that term is defined by  
 17-41 Section 1361, Internal Revenue Code.

17-42           (c) A subsidiary corporation may not claim the exclusion  
 17-43 under Subsection (b) if it has a parent corporation that does not  
 17-44 qualify for the exclusion. For purposes of this subsection, a  
 17-45 corporation qualifies as a parent if it ultimately controls the  
 17-46 subsidiary, even if the control arises through a series or group of  
 17-47 other subsidiaries or entities. Control is presumed if a parent  
 17-48 corporation directly or indirectly owns, controls, or holds a  
 17-49 majority of the outstanding voting stock of a corporation or  
 17-50 ownership interests in another entity [Subsection (b) does not  
 17-51 apply to a subsidiary corporation unless it applies to the  
 17-52 subsidiary's parent corporation].

17-53           SECTION 49. Section 171.203, Tax Code, is amended by adding  
 17-54 Subsection (f) to read as follows:

17-55           (f) A public information report that is filed  
 17-56 electronically complies with the signature and certification  
 17-57 requirements prescribed by Subsection (d).

17-58           SECTION 50. Subchapter O, Chapter 171, Tax Code, is amended  
 17-59 by adding Section 171.731 to read as follows:

17-60           Sec. 171.731. ASSIGNMENT PROHIBITED. A corporation may not  
 17-61 convey, assign, or transfer the credit allowed under this  
 17-62 subchapter to another entity unless all of the assets of the  
 17-63 corporation are conveyed, assigned, or transferred in the same  
 17-64 transaction.

17-65           SECTION 51. Section 171.751(1), Tax Code, is amended to  
 17-66 read as follows:

17-67           (1) "Agricultural processing" means an establishment  
 17-68 primarily engaged in activities described in categories 0724,  
 17-69 2011-2099, 2211, 2231, 2824, 2833, 2834, 2835, 2836, 2841,

18-1 3111-3199, 3262, or 3952, in product classes 28692 or 28698 of  
 18-2 category 2869, or in product classes 28992 or 28994 of category 2899  
 18-3 of the 1987 Standard Industrial Classification Manual published by  
 18-4 the federal Office of Management and Budget.

18-5 SECTION 52. Subchapter P, Chapter 171, Tax Code, is amended  
 18-6 by adding Section 171.7515 to read as follows:

18-7 Sec. 171.7515. "QUALIFIED BUSINESS." (a) In addition to the  
 18-8 meaning assigned by Section 171.751(8), "qualified business" also  
 18-9 means a corporation that has been designated as an enterprise  
 18-10 project or as a defense readjustment project and is certified by the  
 18-11 Texas Department of Economic Development as a qualified business  
 18-12 under Section 2303.402 or 2310.302, Government Code.

18-13 (b) This section expires January 1, 2005.

18-14 SECTION 53. Section 171.753, Tax Code, is amended to read as  
 18-15 follows:

18-16 Sec. 171.753. CALCULATION OF CREDIT. A corporation may  
 18-17 establish a credit equal to five percent of the total wages and  
 18-18 salaries paid by the corporation for qualifying jobs during the  
 18-19 period upon which the tax is based, on each of five consecutive  
 18-20 reports beginning with the report based on the period during which  
 18-21 the qualifying jobs were created.

18-22 SECTION 54. Subchapter P, Chapter 171, Tax Code, is amended  
 18-23 by adding Section 171.7541 to read as follows:

18-24 Sec. 171.7541. LENGTH OF CREDIT. Notwithstanding Section  
 18-25 171.753, a corporation that has been designated as an enterprise  
 18-26 project or as a defense readjustment project on or after September  
 18-27 1, 2001, may, beginning on the date the project is designated,  
 18-28 establish a credit equal to 25 percent of the total wages and  
 18-29 salaries paid by the corporation for qualifying jobs. Subject to  
 18-30 Section 171.755, the corporation may claim the entire credit earned  
 18-31 on a report originally due on or after September 1, 2003, and before  
 18-32 January 1, 2005. This section expires January 1, 2005.

18-33 SECTION 55. Section 171.802, Tax Code, is amended by adding  
 18-34 Subsection (d) to read as follows:

18-35 (d) A corporation that has been designated as an enterprise  
 18-36 project or as a defense readjustment project and is certified by the  
 18-37 Texas Department of Economic Development as a qualified business  
 18-38 under Section 2303.402 or 2310.302, Government Code, may qualify  
 18-39 for the credit provided by this subchapter, regardless of whether  
 18-40 the corporation meets the qualifications prescribed by Subsection  
 18-41 (b). This subsection expires January 1, 2005.

18-42 SECTION 56. Section 171.803, Tax Code, is amended to read as  
 18-43 follows:

18-44 Sec. 171.803. CALCULATION OF CREDIT. (a) Except as provided  
 18-45 by Subsection (b), a [A] corporation may establish a credit equal to  
 18-46 7.5 percent of the qualified capital investment during the period  
 18-47 upon which the tax is based.

18-48 (b) A corporation that has been designated as an enterprise  
 18-49 project or as a defense readjustment project on or after September  
 18-50 1, 2001, may, beginning on the date the project is designated,  
 18-51 establish a credit equal to 7.5 percent of the qualified capital  
 18-52 investment. This subsection expires January 1, 2005.

18-53 SECTION 57. Section 171.804(b), Tax Code, as effective  
 18-54 September 1, 2003, is amended to read as follows:

18-55 (b) Subject to Section 171.805, a corporation that has been  
 18-56 designated as an enterprise project or as a defense readjustment  
 18-57 project may claim the entire credit earned on a report originally  
 18-58 due on or after September 1, 2003, and before January 1, 2006  
 18-59 [during an accounting period against the taxes imposed for the  
 18-60 corresponding reporting period].

18-61 SECTION 58. Section 171.853(c), Tax Code, is amended to  
 18-62 read as follows:

18-63 (c) The credit claimed for each privilege period may not  
 18-64 exceed 50 percent of the amount of [~~net~~] franchise tax due, before  
 18-65 [~~after~~] any other applicable tax credits, for the privilege period.

18-66 SECTION 59. Chapter 171, Tax Code, is amended by adding  
 18-67 Subchapter U to read as follows:

18-68 SUBCHAPTER U. TAX CREDIT FOR TITLE INSURANCE HOLDING  
 18-69 COMPANIES

19-1 Sec. 171.891. APPLICABILITY OF DEFINITIONS. In this  
 19-2 subchapter:

19-3 (1) "Control" has the meaning described by Sections  
 19-4 823.005 and 823.151, Insurance Code.

19-5 (2) "Controlled insurer," "domestic insurer," and  
 19-6 "holding company" have the meanings assigned by Section 823.002,  
 19-7 Insurance Code.

19-8 (3) "Title insurance," "title insurance agent," and  
 19-9 "title insurance company" have the meanings assigned by Article  
 19-10 9.02, Insurance Code.

19-11 Sec. 171.892. ELIGIBILITY. A corporation is entitled to a  
 19-12 credit as provided by this subchapter against the tax imposed under  
 19-13 this chapter if the corporation:

19-14 (1) is a title insurance holding company subject to  
 19-15 Chapter 823, Insurance Code; and

19-16 (2) controls one or more domestic title insurance  
 19-17 companies that are subject to the tax on premiums imposed under  
 19-18 Article 9.59, Insurance Code.

19-19 Sec. 171.893. AMOUNT; LIMITATIONS. (a) The amount of the  
 19-20 credit for each controlled domestic title insurance company is  
 19-21 computed by multiplying the amount of tax on premiums paid by that  
 19-22 company in the most recent calendar year ending before the  
 19-23 franchise tax report is due by the percentage of ownership of the  
 19-24 title insurance holding company in the controlled domestic title  
 19-25 insurance company. The percentage of ownership of a controlled  
 19-26 domestic title insurance company is determined as of the accounting  
 19-27 year-end on which the report is based.

19-28 (b) A claim for a credit is subject to the following  
 19-29 limitations:

19-30 (1) if the total amount of the credit for all  
 19-31 controlled title insurance companies exceeds the franchise tax due,  
 19-32 the credit is an amount equal to the franchise tax due;

19-33 (2) no portion of a credit may be applied to another  
 19-34 year's franchise tax report; and

19-35 (3) a corporation may not take credit for the same tax  
 19-36 on premiums more than once.

19-37 Sec. 171.894. EFFECT ON OTHER TAXES. This subchapter does  
 19-38 not exempt a title insurance holding company, a title insurance  
 19-39 company, or a title insurance agent from paying a tax imposed by  
 19-40 this code, except that a title insurance company or a title  
 19-41 insurance agent whose principal activity is the business of title  
 19-42 insurance is exempt from a tax imposed by this chapter.

19-43 SECTION 60. Section 201.057(c), Tax Code, is amended to  
 19-44 read as follows:

19-45 (c) High-cost gas as defined in Subsection (a)(2)(A)  
 19-46 produced from a well that is spudded or completed after August 31,  
 19-47 1996, [~~and before September 1, 2010,~~] is entitled to a reduction of  
 19-48 the tax imposed by this chapter for the first 120 consecutive  
 19-49 calendar months beginning on the first day of production, or until  
 19-50 the cumulative value of the tax reduction equals 50 percent of the  
 19-51 drilling and completion costs incurred for the well, whichever  
 19-52 occurs first. The amount of tax reduction shall be computed by  
 19-53 subtracting from the tax rate imposed by Section 201.052 the  
 19-54 product of that tax rate times the ratio of drilling and completion  
 19-55 costs incurred for the well to twice the median drilling and  
 19-56 completion costs for high-cost wells as defined in Subsection  
 19-57 (a)(2)(A) spudded or completed during the previous state fiscal  
 19-58 year, except that the effective rate of tax may not be reduced below  
 19-59 zero.

19-60 SECTION 61. Section 202.054(c), Tax Code, is amended to  
 19-61 read as follows:

19-62 (c) This section applies to an enhanced recovery project  
 19-63 that begins active operation on or after September 1, 1989, and to  
 19-64 an expansion that the commission approves on or after September 1,  
 19-65 1991. An application for approval under this section must be filed  
 19-66 on or after September 1, 1989, [~~and before January 1, 2008,~~] for a  
 19-67 new enhanced recovery project. An application for approval under  
 19-68 this section must be filed on or after September 1, 1991, [~~and~~  
 19-69 ~~before January 1, 2008,~~] for an expansion of an existing enhanced

20-1 recovery project. A project may not qualify as an expansion if the  
 20-2 project has qualified as a new enhanced recovery project under this  
 20-3 section. An application may be filed on or after September 1, 1989,  
 20-4 even if a separate application for approval of the project or  
 20-5 expansion has already been filed under Subchapter B, Chapter 101,  
 20-6 Natural Resources Code, or for approval as a tertiary recovery  
 20-7 project for purposes of Section 4993, Internal Revenue Code of  
 20-8 1986, if the operation of a new project or the expansion of an  
 20-9 existing project, other than a co-production project, does not  
 20-10 begin before the application for approval under this section is  
 20-11 approved by the commission; provided, however, nothing herein  
 20-12 shall require commission approval of a co-production project prior  
 20-13 to commencing active operations on such project in order for such  
 20-14 project to be eligible for the recovered oil tax rate.

20-15 SECTION 62. Subchapter B, Chapter 321, Tax Code, is amended  
 20-16 by adding Section 321.107 to read as follows:

20-17 Sec. 321.107. ADMINISTRATION OF LOCAL SALES AND USE TAXES  
 20-18 IMPOSED BY OTHER GOVERNMENTAL ENTITIES. The imposition,  
 20-19 computation, administration, enforcement, and collection of any  
 20-20 local sales and use tax imposed by any other local governmental  
 20-21 entity is governed by this chapter, except as otherwise provided by  
 20-22 law. In this section, "other local governmental entity" includes  
 20-23 any governmental entity created by the legislature that has a  
 20-24 limited purpose or function, that has a defined or restricted  
 20-25 geographic territory, and that is authorized by law to impose a  
 20-26 local sales and use tax. The term does not include a county, county  
 20-27 health services district, county landfill and criminal detention  
 20-28 center district, metropolitan transportation authority, economic  
 20-29 development district, crime control district, hospital district,  
 20-30 emergency services district, or library district.

20-31 SECTION 63. Section 321.203(j), Tax Code, is amended to  
 20-32 read as follows:

20-33 (j) The sale of [~~cable television~~] services delivered  
 20-34 through a cable system is consummated at the point of delivery to  
 20-35 the consumer.

20-36 SECTION 64. Section 322.001(a), Tax Code, is amended to  
 20-37 read as follows:

20-38 (a) This chapter applies to the imposition, assessment,  
 20-39 collection, administration, and enforcement of a sales and use tax  
 20-40 imposed under Chapter 451, 452, [~~or~~] 453, or 460, Transportation  
 20-41 Code.

20-42 SECTION 65. Section 322.002(1), Tax Code, is amended to  
 20-43 read as follows:

20-44 (1) "Taxing entity" means a rapid transit authority, a  
 20-45 regional transit authority, including a subregional transportation  
 20-46 authority, or a municipal mass transit department created under  
 20-47 Chapter 451, 452, or 453, Transportation Code, or a coordinated  
 20-48 county transportation authority created under Chapter 460,  
 20-49 Transportation Code, that has adopted a sales and use tax under the  
 20-50 law authorizing the creation of the entity.

20-51 SECTION 66. Section 323.203(j), Tax Code, is amended to  
 20-52 read as follows:

20-53 (j) The sale of [~~cable television~~] services delivered  
 20-54 through a cable system is consummated at the point of delivery to  
 20-55 the consumer.

20-56 SECTION 67. The following are repealed:

- 20-57 (1) Section 171.754, Tax Code;
- 20-58 (2) Section 2.08, Chapter 1134, Acts of the 77th  
 20-59 Legislature, Regular Session, 2001; and
- 20-60 (3) Section 16, Article 9.59, Insurance Code.

20-61 SECTION 68. Each change in law made to the following  
 20-62 provisions by this Act is a clarification of existing law and does  
 20-63 not imply that existing law may be construed as inconsistent with  
 20-64 the law as amended by this Act:

- 20-65 (1) Section 1, Article 4.10, Insurance Code;
- 20-66 (2) Article 4.17(a), Insurance Code;
- 20-67 (3) Article 20A.33(d), Insurance Code;
- 20-68 (4) Section 101.053(b), Insurance Code;
- 20-69 (5) Section 912.002(b), Insurance Code;

- 21-1 (6) Section 376.470(d), Local Government Code, as
- 21-2 added by Chapter 1433, Acts of the 77th Legislature, Regular
- 21-3 Session, 2001;
- 21-4 (7) Section 2153.153(a), Occupations Code;
- 21-5 (8) Section 151.0035, Tax Code;
- 21-6 (9) Section 151.005, Tax Code;
- 21-7 (10) Section 151.056(f), Tax Code;
- 21-8 (11) Section 151.313(a), Tax Code;
- 21-9 (12) Section 151.3501, Tax Code;
- 21-10 (13) Section 151.355, Tax Code;
- 21-11 (14) Section 153.013(a), Tax Code;
- 21-12 (15) Section 153.120(d), Tax Code;
- 21-13 (16) Section 153.205, Tax Code;
- 21-14 (17) Section 153.222(a), Tax Code;
- 21-15 (18) Section 153.403, Tax Code;
- 21-16 (19) Section 171.052, Tax Code;
- 21-17 (20) Section 171.084(c), Tax Code;
- 21-18 (21) Section 171.1032(b), Tax Code;
- 21-19 (22) Section 171.1051(c), Tax Code;
- 21-20 (23) Section 171.106(i), Tax Code;
- 21-21 (24) Sections 171.110(a), (b), (c), (k), and (l), Tax
- 21-22 Code;
- 21-23 (25) Section 171.731, Tax Code;
- 21-24 (26) Section 171.751(1), Tax Code;
- 21-25 (27) Subchapter U, Chapter 171, Tax Code;
- 21-26 (28) Section 321.107, Tax Code;
- 21-27 (29) Section 322.001(a), Tax Code; and
- 21-28 (30) Section 322.002(1), Tax Code.

21-29 SECTION 69. To the extent of any conflict, this Act prevails  
 21-30 over another Act of the 78th Legislature, Regular Session, 2003,  
 21-31 relating to nonsubstantive codifications of law or nonsubstantive  
 21-32 additions to and corrections in enacted codes.

21-33 SECTION 70. (a) Except as otherwise provided by this  
 21-34 section, this Act takes effect September 1, 2003.

21-35 (b) Sections 14, 28, 36, and 37 of this Act take effect  
 21-36 October 1, 2003.

21-37 (c) Section 15 of this Act applies only to a tax lien filed  
 21-38 on or after the effective date of this Act. A tax lien filed before  
 21-39 the effective date of this Act is governed by the law in effect on  
 21-40 the date the tax lien is filed, and that law is continued in effect  
 21-41 for that purpose.

21-42 (d) Sections 2, 4, 5, 7, 8, and 9A of this Act take effect  
 21-43 January 1, 2004.

21-44 (e) Sections 46, 49, and 58 of this Act take effect January  
 21-45 1, 2004, and apply to reports originally due on or after that date.  
 21-46 A report originally due before January 1, 2004, is governed by the  
 21-47 law in effect on the date the report is originally due, and that law  
 21-48 is continued in effect for that purpose.

21-49 (f) Sections 51, 52, 53, 54, 55, 56, and 57 of this Act apply  
 21-50 only to a report originally due on or after the effective date of  
 21-51 this Act.

21-52 (g) Section 156.104(b), Tax Code, as added by Section 38 of  
 21-53 this Act, takes effect January 1, 2004.

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