

By: Keffer of Eastland

H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

relating to property tax relief and protection of taxpayers,  
certain taxes, fees, and property, and other matters relating to  
the financing of public schools; providing civil and criminal  
penalties; making an appropriation.

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

ARTICLE 1. SCHOOL PROPERTY TAX RELIEF

PART A. SCHOOL PROPERTY TAX RELIEF

SECTION 1A.01. Section 45.003, Education Code, is amended  
by amending Subsection (d) and adding Subsections (d-1), (d-2), and  
(e) to read as follows:

(d) A proposition submitted to authorize the levy of  
maintenance taxes must include the question of whether the  
governing board or commissioners court may levy, assess, and  
collect annual ad valorem taxes for the further maintenance of  
public schools, at a rate not to exceed the rate stated in the  
proposition, which may be not more than the sum of:

(1) \$1.12 [~~\$1.50~~] on the \$100 valuation of taxable  
property in the district; and

(2) \$0.15 on the \$100 valuation of taxable property in  
the district for enrichment, as authorized by an election as  
provided by Chapter 42[~~, stated in the proposition~~].

(d-1) Notwithstanding Subsection (d), for the 2005 tax  
year, a proposition submitted to authorize the levy of maintenance

1 taxes must include the question of whether the governing board or  
2 commissioners court may levy, assess, and collect annual ad valorem  
3 taxes for the further maintenance of public schools, at a rate not  
4 to exceed the rate stated in the proposition, which may be not more  
5 than the sum of:

6 (1) \$1.23 on the \$100 valuation of taxable property in  
7 the district; and

8 (2) \$0.15 on the \$100 valuation of taxable property in  
9 the district for enrichment, as authorized by an election as  
10 provided by Chapter 42.

11 (d-2) Subsection (d-1) and this subsection expire January  
12 1, 2006.

13 (e) An election held before January 1, 2005, authorizing a  
14 maintenance tax at a rate of at least \$1.23 on the \$100 valuation of  
15 taxable property in the district is sufficient to authorize a rate  
16 of \$1.23 or less for the 2005 tax year. An election held before  
17 January 1, 2006, authorizing a maintenance tax at a rate of at least  
18 \$1.12 on the \$100 valuation of taxable property in the district is  
19 sufficient to authorize a rate of \$1.12 or less for the 2006 tax  
20 year.

21 SECTION 1A.02. (a) The changes in law made by this part  
22 apply to the maintenance and operations tax rate of a school  
23 district beginning with the 2005 tax year.

24 (b) If before the effective date of this part, the governing  
25 body of a school district adopted an ad valorem tax rate for the  
26 district for the 2005 tax year under the law in effect immediately  
27 before the effective date of this part, and the adopted ad valorem

1 tax rate included a rate for maintenance and operations expenses  
2 that is greater than the maximum maintenance and operations tax  
3 rate for the 2005 tax year permitted under this part:

4 (1) on the effective date of this part, the ad valorem  
5 tax rate adopted for the district is invalidated; and

6 (2) the governing body shall adopt an ad valorem tax  
7 rate for the 2005 tax year in accordance with the changes in law  
8 made by this part.

9 (c) If tax bills for the 2005 tax year were sent by the tax  
10 assessor for a school district pursuant to a tax rate invalidated  
11 under Subsection (b)(1) of this section, the tax assessor for the  
12 school district shall prepare and mail a new tax bill for the 2005  
13 tax year to each taxpayer of the district in the manner required by  
14 Chapter 31, Tax Code. If a taxpayer pays the taxes for the 2005 tax  
15 year pursuant to a tax rate invalidated under Subsection (b)(1) of  
16 this section, the school district shall refund any difference  
17 between the tax paid and the tax due at the rate adopted under  
18 Subsection (b)(2) of this section.

19 (d) If this Act is passed by the legislature without  
20 receiving a vote of two-thirds of all the members elected to each  
21 house, any action taken before the effective date of this part in  
22 preparation for the implementation of the changes in law made by  
23 this part, including adoption of a maintenance and operations tax  
24 rate, by an officer or employee or the governing body of a school  
25 district that the officer, employee, or governing body determines  
26 is necessary or appropriate and that the officer, employee, or  
27 governing body would have been authorized to take had this part been

1 in effect at the time of the action is validated as of the effective  
2 date of this part. Any public notice required by Chapter 26, Tax  
3 Code, or Chapter 44, Education Code, given before the effective  
4 date of this part that includes an additional statement that the tax  
5 rate for the school district will be adopted in accordance with the  
6 changes in law made by this part is validated as of the effective  
7 date of this part.

8 PART B. BUY-DOWN OF SCHOOL DISTRICT TAXES

9 SECTION 1B.01. Chapter 403, Government Code, is amended by  
10 adding Subchapters O and P to read as follows:

11 SUBCHAPTER O. DISTRIBUTION OF INCREASES

12 IN AVAILABLE STATE REVENUE FOR SCHOOL DISTRICT

13 TAX RATE REDUCTION

14 Sec. 403.351. DEFINITIONS. In this subchapter:

15 (1) "Available state revenue" means state revenue from  
16 any source other than federal funds or revenue that, under a  
17 provision of the Texas Constitution, may be used only for a  
18 particular purpose.

19 (2) "Increase in available state revenue" means the  
20 amount by which the estimate made by the comptroller in advance of a  
21 regular session of the legislature under Section 49a(a), Article  
22 III, Texas Constitution, of available state revenue for the  
23 succeeding state fiscal biennium exceeds the estimate made by the  
24 comptroller at that time under that section of available state  
25 revenue for the current state fiscal biennium.

26 Sec. 403.352. CERTIFICATION OF INCREASE IN AVAILABLE STATE  
27 REVENUE. In the statement required by Section 49a, Article III,

1 Texas Constitution, in advance of a regular session of the  
2 legislature, the comptroller shall certify:

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

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

9 Sec. 403.353. DISTRIBUTION OF AVAILABLE STATE REVENUE FOR  
10 TAX RATE REDUCTION. (a) For the state fiscal biennium following a  
11 certification under Section 403.352, the comptroller shall  
12 distribute to the school districts in this state for tax rate  
13 reduction an amount of available state revenue that is equal to the  
14 sum of:

15 (1) an amount equal to not less than 15 percent of the  
16 increase in available state revenue for the current state fiscal  
17 biennium certified under Section 403.352, as determined by the  
18 Legislative Budget Board and the governor; and

19 (2) the amount of available state revenue distributed  
20 in the preceding state fiscal biennium under this section for  
21 school district tax rate reduction.

22 (b) The comptroller shall distribute the amount required by  
23 Subsection (a) in equal amounts in each state fiscal year of the  
24 state fiscal biennium. The amount distributed in each state fiscal  
25 year shall be apportioned among the school districts in amounts  
26 that, applied to the total taxable value of property in each  
27 district determined under Subchapter M, for the most recent ad

1 valorem tax year for which the information is available, would  
2 reduce the rate of each school district's maintenance and  
3 operations tax by the same percentage, except that a school  
4 district maintenance and operations tax rate may not be reduced to  
5 less than 75 cents for each \$100 of taxable value.

6 (c) The money received by each school district under this  
7 section must be applied to reducing the district's maintenance and  
8 operations tax rate for purposes of Chapter 42, Education Code.

9 SUBCHAPTER P. SCHOOL PROPERTY TAX RELIEF FUND

10 Sec. 403.401. SCHOOL PROPERTY TAX RELIEF FUND. The school  
11 property tax relief fund is an account in the general revenue fund.  
12 Money in the fund may be used only to reduce school district  
13 maintenance and operations tax rates below the rates specified in  
14 H.B. No. 3, Acts of the 79th Legislature, 1st Called Session, 2005.

15 Sec. 403.402. CERTIFICATION OF CERTAIN STATE TAX REVENUE.

16 (a) Not later than the effective date of H.B. No. 3, Acts of the  
17 79th Legislature, 1st Called Session, 2005, the comptroller shall  
18 estimate:

19 (1) for the state fiscal year ending August 31, 2005,  
20 and for each of the five succeeding state fiscal years, the amount  
21 of the increase in state revenue that is attributable to changes in  
22 law made by that Act; and

23 (2) for the 2005 ad valorem tax year and each of the  
24 five succeeding ad valorem tax years, the amount of the reduction in  
25 school district maintenance and operations taxes that is  
26 attributable to changes in law made by that Act.

27 (b) The comptroller shall report in writing each estimate

1 made under Subsection (a) to the governor, the lieutenant governor,  
2 the Legislative Budget Board, and each member of the legislature.

3 (c) Not later than September 30 of each calendar year, the  
4 comptroller shall:

5 (1) compute, for the preceding state fiscal year:

6 (A) the actual amount of the increase in state  
7 revenue that is attributable to changes in law made by H.B. No. 3,  
8 Acts of the 79th Legislature, 1st Called Session, 2005; and

9 (B) the difference between:

10 (i) the amount determined under Paragraph  
11 (A); and

12 (ii) the corresponding amount estimated for  
13 that state fiscal year under Subsection (a);

14 (2) if the amount described by Subdivision (1)(B)(i)  
15 is greater than the amount described by Subdivision (1)(B)(ii),  
16 transfer an amount equal to the amount determined under Subdivision  
17 (1)(B) to the school property tax relief fund, except as provided by  
18 Subsection (d); and

19 (3) report in writing the amount of any transfer under  
20 Subdivision (2) to the governor, the lieutenant governor, the  
21 Legislative Budget Board, and each member of the legislature.

22 (d) The comptroller may not make a transfer under Subsection  
23 (c)(2) if making the transfer would reduce the amount of general  
24 revenue available for purposes of certification of the General  
25 Appropriations Act to an amount less than the amount estimated to be  
26 available at the time the comptroller certified the General  
27 Appropriations Act under Section 49a(b), Article III, Texas

1 Constitution.

2 (e) In making the statement required by Section 49a, Article  
3 III, Texas Constitution, in advance of a regular session of the  
4 legislature, the comptroller shall consider the amount, if any, of  
5 any estimated transfers required under Subsection (c)(2) for the  
6 succeeding state fiscal biennium. The comptroller shall deduct the  
7 amount of any estimated transfers required under Subsection (c)(2)  
8 for the succeeding state fiscal biennium from the amount available  
9 for appropriation as if those transfers were made on August 31 of  
10 the state fiscal year for which the transfers are made.

11 Sec. 403.403. DISTRIBUTION OF AVAILABLE STATE REVENUE FOR  
12 TAX RATE REDUCTION. (a) Beginning with the state fiscal year  
13 ending August 1, 2007, each state fiscal year, the comptroller  
14 shall distribute to the school districts in this state for  
15 maintenance tax rate reduction the amount transferred to the school  
16 district property tax relief fund under Section 403.402(c)(2) for  
17 that state fiscal year.

18 (b) The comptroller shall distribute the amount required by  
19 Subsection (a) in equal amounts in each state fiscal year. The  
20 amount distributed in each state fiscal year shall be apportioned  
21 among the school districts in amounts that, as applied to the total  
22 taxable value of property in each district determined under  
23 Subchapter M, for the most recent year for which the information is  
24 available, would reduce the rate of each school district's  
25 maintenance and operations tax by the same percentage.

26 (c) The money received by each school district under this  
27 section must be applied to reducing the district's maintenance and



1 operations tax rate for purposes of Chapter 42, Education Code.

2 Sec. 403.404. EXPIRATION. This subchapter expires  
3 September 1, 2010.

4 SECTION 1B.02. Subchapter E, Chapter 42, Education Code, is  
5 amended by adding Section 42.2518 to read as follows:

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

7 (a) For any school year, a school district is entitled to  
8 additional state aid to the extent that an increase in the  
9 guaranteed level of state and local funds per student per cent of  
10 tax effort under Section 42.252 applicable to that school year does  
11 not compensate the district for a reduction in district ad valorem  
12 tax revenue caused by ad valorem tax rate reduction made pursuant to  
13 Subchapter O or P, Chapter 403, Government Code.

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

16 SECTION 1B.03. Section 26.08(i), Tax Code, is amended to  
17 read as follows:

18 (i) For purposes of this section, the rollback tax rate of a  
19 school district is the sum of:

20 (1) the tax rate that, applied to the current total  
21 value for the district, would impose taxes in an amount that, when  
22 added to state funds that would be distributed to the district under  
23 Chapter 42, Education Code, and state funds for property tax rate  
24 relief that will be distributed to the district under Subchapters O  
25 and P, Chapter 403, Government Code, for the school year beginning  
26 in the current tax year using that tax rate, would provide the same  
27 amount of state funds distributed under Chapter 42, Education Code,

1 and Subchapters O and P, Chapter 403, Government Code, and  
2 maintenance and operations taxes of the district per student in  
3 ~~[weighted]~~ average daily attendance for that school year that would  
4 have been available to the district in the preceding year if the  
5 funding elements for Chapters 41 and 42, Education Code, for the  
6 current year had been in effect for the preceding year;

7 (2) the rate of \$0.04 ~~[\$0.06]~~ per \$100 of taxable  
8 value; and

9 (3) the district's current debt rate.

10 SECTION 1B.04. Section 26.08(k), Tax Code, is repealed.

11 SECTION 1B.05. For the state fiscal biennium beginning  
12 September 1, 2005, the money in the school property tax relief fund  
13 under Subchapter P, Chapter 403, Government Code, as added by this  
14 part, is appropriated to the comptroller to be used only to reduce  
15 school district maintenance tax rates below the rates specified in  
16 H.B. No. 3, Acts of the 79th Legislature, 1st Called Session, 2005.  
17 The Legislative Budget Board and the governor shall approve  
18 procedures for the distribution of money from the school property  
19 tax relief fund.

20 SECTION 1B.06. (a) Subchapters O and P, Chapter 403,  
21 Government Code, as added by this Act, expire on January 1 of the  
22 first tax year after the tax year in which all school district  
23 maintenance tax rates are less than \$1.00 per \$100 of taxable  
24 property. After that date, the legislature may appropriate for  
25 school district property tax rate reduction any amount of state  
26 revenue that would have been required to be used for school district  
27 tax rate reduction under those subchapters, as determined by the

legislature.

(b) It is the intent of the legislature that Subchapters O and P, Chapter 403, Government Code, as added by this Act, be construed to provide that all additional state revenue resulting from the changes in law made by H.B. No. 3, Acts of the 79th Legislature, 1st Called Session, 2005, be used to provide school district tax rate reduction.

PART C. PROPERTY TAX ADMINISTRATION

SECTION 1C.01. Section 21.02, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) This subsection does not apply to a drilling rig designed for offshore drilling or exploration operations. A mobile portable drilling rig, and equipment associated with the drilling rig, is taxable by the taxing unit in which the rig is located on January 1 if the rig was located in the unit for the preceding 365 consecutive days. If the rig and associated equipment was not located at its January 1 location for the preceding 365 days, it is taxable by the taxing unit in which the owner's principal place of business in this state is located on January 1.

SECTION 1C.02. Section 22.27, Tax Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) An administrative or judicial proceeding in which confidential information is disclosed pursuant to Subsection (b) shall be closed to the public unless all parties to the proceeding and the persons described in Subsection (b)(2) consent to public access. Notwithstanding the provisions of this subsection, an administrative proceeding conducted by a panel of an appraisal

1 review board is not considered to be a deliberation of public  
2 business by the appraisal review board.

3 SECTION 1C.03. Section 41A.08, Tax Code, as added by H.B.  
4 182, 79th Legislature, Regular Session, 2005, effective September  
5 1, 2005, and by S.B. 1351, 79th Legislature, Regular Session, 2005,  
6 effective September 1, 2005, is amended by adding Subsection (c) to  
7 read as follows:

8 (c) The arbitrator may require the appraisal district to  
9 provide meeting space for the arbitration at no cost to the  
10 arbitrator or the property owner.

11 PART D. PROPERTY TAX RELIEF FOR CULTURALLY

12 SIGNIFICANT SITES

13 SECTION 1D.01. Section 11.24, Tax Code, is amended to read  
14 as follows:

15 Sec. 11.24. HISTORIC AND CULTURALLY SIGNIFICANT SITES. The  
16 governing body of a taxing unit by official action of the body  
17 adopted in the manner required by law for official actions may  
18 exempt from taxation part or all of the assessed value of a  
19 structure or archeological site and the land necessary for access  
20 to and use of the structure or archeological site, if the structure  
21 or archeological site is:

22 (1) designated as a Recorded Texas Historic Landmark  
23 under Chapter 442, Government Code, or a state archeological  
24 landmark under Chapter 191, Natural Resources Code, by the Texas  
25 Historical Commission; or

26 (2) designated as a historically, culturally, or  
27 archeologically significant site in need of tax relief to encourage

1 its preservation pursuant to an ordinance or other law adopted by  
2 the governing body of the unit.

3 SECTION 1D.02. The change in law made by Section 1D.01 of  
4 this part applies only to a tax year that begins on or after the  
5 effective date of this Act.

6 PART E. AD VALOREM TAXATION OF CERTAIN RAIL FACILITY PROPERTY  
7 OWNED BY CERTAIN RURAL RAIL TRANSPORTATION DISTRICTS

8 SECTION 1E.01. Section 25.07(b), Tax Code, is amended to  
9 read as follows:

10 (b) Except as provided by Sections 11.11(b) [~~Subsections~~  
11 ~~(b)~~] and (c) [~~of Section 11.11 of this code~~], a leasehold or other  
12 possessory interest in exempt property may not be listed if:

13 (1) the property is permanent university fund land;  
14 (2) the property is county public school fund  
15 agricultural land;

16 (3) the property is a part of a public transportation  
17 facility owned by an incorporated city or town and:

18 (A) is an airport passenger terminal building or  
19 a building used primarily for maintenance of aircraft or other  
20 aircraft services, for aircraft equipment storage, or for air  
21 cargo;

22 (B) is an airport fueling system facility;

23 (C) is in a foreign-trade zone:

24 (i) that has been granted to a joint airport  
25 board under Chapter 129, Acts of the 65th Legislature, Regular  
26 Session, 1977 (Article 1446.8, Vernon's Texas Civil Statutes);

27 (ii) the area of which in the portion of the

1 zone located in the airport operated by the joint airport board does  
2 not exceed 2,500 acres; and

3 (iii) that is established and operating  
4 pursuant to federal law; or

5 (D)(i) is in a foreign trade zone established  
6 pursuant to federal law after June 1, 1991, which operates pursuant  
7 to federal law;

8 (ii) is contiguous to or has access via a  
9 taxiway to an airport located in two counties, one of which has a  
10 population of 500,000 or more according to the federal decennial  
11 census most recently preceding the establishment of the foreign  
12 trade zone; and

13 (iii) is owned, directly or through a  
14 corporation organized under the Development Corporation Act of 1979  
15 (Article 5190.6, Vernon's Texas Civil Statutes), by the same  
16 incorporated city or town which owns the airport;

17 (4) the interest is in a part of:

18 (A) a park, market, fairground, or similar public  
19 facility that is owned by an incorporated city or town; or

20 (B) a convention center, visitor center, sports  
21 facility with permanent seating, concert hall, arena, or stadium  
22 that is owned by an incorporated city or town as such leasehold or  
23 possessory interest serves a governmental, municipal, or public  
24 purpose or function when the facility is open to the public,  
25 regardless of whether a fee is charged for admission;

26 (5) the interest involves only the right to use the  
27 property for grazing or other agricultural purposes;

1           (6) the property is owned by the Texas National  
2 Research Laboratory Commission or by a corporation formed by the  
3 Texas National Research Laboratory Commission under Section  
4 465.008(g), Government Code, and is used or is useful in connection  
5 with an eligible undertaking as defined by Section 465.021,  
6 Government Code; ~~[or]~~

7           (7) the property is:

8                 (A) owned by a municipality, a public port, or a  
9 navigation district created or operating under Section 59, Article  
10 XVI, Texas Constitution, or under a statute enacted under Section  
11 59, Article XVI, Texas Constitution; and

12                (B) used as an aid or facility incidental to or  
13 useful in the operation or development of a port or waterway or in  
14 aid of navigation-related commerce; or

15               (8) the property is part of a rail facility owned by a  
16 rural rail transportation district created or operating under  
17 Chapter 623, Acts of the 67th Legislature, Regular Session, 1981  
18 (Article 6550c, Vernon's Texas Civil Statutes).

19           SECTION 1E.02. This part applies only to the appraisal  
20 records for a tax year that begins on or after January 1, 2006.

21           SECTION 1E.03. This part takes effect January 1, 2006.

22                         ARTICLE 2. FRANCHISE TAX

23                         PART A. CORPORATE OWNERSHIP IN PARTNERSHIPS

24           SECTION 2A.01. Section 113.001, Tax Code, is amended by  
25 adding Subsection (c) to read as follows:

26               (c) Any tax, interest, or penalties due to the state under  
27 Chapter 171 by a person who is subject to that tax by application of

1 Section 171.001(d) are additionally secured by a lien on the  
2 person's interest in the partnership doing business in this state  
3 whose activities cause the person to be subject to that tax,  
4 including a general or limited partnership interest that the person  
5 is considered to own under Sections 171.001(e) and (f).

6 SECTION 2A.02. Section 171.001(b), Tax Code, is amended by  
7 adding Subdivisions (6-a) and (6-b) to read as follows:

8 (6-a) "Partner" includes a beneficiary in a trust.

9 (6-b) "Partnership" includes a partnership, a joint  
10 venture, and a trust.

11 SECTION 2A.03. Section 171.001, Tax Code, is amended by  
12 adding Subsections (d), (e), (f), (g), (h), and (i) to read as  
13 follows:

14 (d) For purposes of Subsection (a), a corporation does  
15 business in this state if the corporation is a foreign corporation  
16 and:

17 (1) holds a partnership interest, including an  
18 interest as an assignee, as a general partner in a general  
19 partnership that is doing business in this state;

20 (2) holds a partnership interest, including an  
21 interest as an assignee, as a general partner in a limited  
22 partnership that is doing business in this state; or

23 (3) holds a controlling interest in a partnership,  
24 including an interest as an assignee, as a limited partner in a  
25 limited partnership that is doing business in this state.

26 (e) For purposes of Subsection (d), a partner who owns an  
27 interest in an upper tier partnership is considered to be both a



partner in the upper tier partnership and a partner in each lower tier partnership.

(f) For purposes of Subsection (d)(3), a limited partner is considered to hold a controlling interest if any related party owns a controlling interest, directly or indirectly, in the partnership. In this subsection, "controlling interest" and "related party" have the meanings assigned those terms by Section 171.1001.

(g) If a corporate partner asserts that the tax imposed under this chapter violates the United States Constitution or federal law because of the application of Subsection (d), the franchise tax is imposed on the partnership doing business in this state and the franchise tax liability of the partnership shall be calculated as provided by Subsection (h).

(h) For purposes of Subsection (g), reportable federal taxable income for a partnership is the partnership's income as an entity, to the extent that the partnership is owned directly or indirectly by a corporation, as determined under rules adopted by the comptroller using principles similar to the standards applied to a corporation.

(i) For purposes of Subsection (d):

(1) a corporation that is a foreign corporation is not doing business in this state solely because the corporation holds an interest in a real estate investment trust as defined by Section 856, Internal Revenue Code, or its "qualified REIT subsidiary" entities as defined by Section 856(i)(2), Internal Revenue Code; and

(2) a real estate investment trust or a "qualified

REIT subsidiary" entity as defined in Subdivision (1) is not doing business in this state solely because the real estate investment trust or "qualified REIT subsidiary" entity holds a partnership interest, including an interest as an assignee, as a limited partner in a limited partnership that is doing business in this state, provided that the limited partnership satisfies the gross income requirements of Sections 856(c)(2) and 856(c)(3), Internal Revenue Code, and the asset valuation requirements of Section 856(c)(4), Internal Revenue Code.

SECTION 2A.04. Section 171.1032(c), Tax Code, is amended to read as follows:

(c) A corporation shall include in its gross receipts computed under Subsection (a) the corporation's share of the gross receipts of each partnership and joint venture in which the corporation directly or indirectly owns an interest ~~[of which the corporation is a part]~~ apportioned to this state as though the corporation directly earned the receipts~~[, including receipts from business done with the corporation]~~. A corporation that owns an interest in an upper tier partnership is considered to be a partner in both the upper tier partnership and each lower tier partnership, and the corporation's share of the gross receipts of each partnership of which it is a partner is computed and apportioned to this state as though the corporation directly earned the receipts at the partnership tier at which the receipts were originally earned.

SECTION 2A.05. Section 171.1051(d), Tax Code, is amended to read as follows:

1           (d) A corporation shall include in its gross receipts  
2     computed under Subsection (a) the corporation's share of the gross  
3     receipts of each partnership and joint venture in which the  
4     corporation directly or indirectly owns an interest [~~of which the~~  
5     ~~corporation is a part~~]. A corporation that owns an interest in an  
6     upper tier partnership is considered to be a partner in both the  
7     upper tier partnership and each lower tier partnership, and the  
8     corporation's share of the gross receipts of each partnership of  
9     which it is a partner is computed as though the corporation directly  
10    earned the receipts at the partnership tier at which the receipts  
11    were originally earned.

12           SECTION 2A.06. Section 171.110, Tax Code, is amended by  
13     adding Subsection (d-1) to read as follows:

14           (d-1) In computing net taxable earned surplus, a  
15     corporation shall include the corporation's share of a  
16     partnership's items of income or loss, without regard to whether  
17     the partnership is taxed as a corporation for federal income tax  
18     purposes.

19           SECTION 2A.07. Section 171.1121, Tax Code, is amended by  
20     adding Subsection (f) to read as follows:

21           (f) A corporation that owns an interest in an upper tier  
22     partnership is considered to be a partner in both the upper tier  
23     partnership and each lower tier partnership, and the corporation's  
24     share of the gross receipts of each partnership of which it is a  
25     partner is computed and apportioned to this state as though the  
26     corporation directly earned the receipts at the partnership tier at  
27     which the receipts were originally earned.

SECTION 2A.08. This part takes effect November 1, 2005, and applies to reports originally due on or after that date.

PART B. APPLICATION TO PARTNERSHIPS

SECTION 2B.01. (a) This part takes effect only if a court enters a final judgment that the tax imposed under Chapter 171, Tax Code, violates the United States Constitution because of the application of Section 171.001(d), Tax Code.

(b) This part takes effect on the earlier of the date that the final judgment under Subsection (a) of this section is upheld on appeal without any possibility of further appeal or is not appealed and is no longer subject to appeal, and applies to a report originally due on or after that date.

SECTION 2B.02. Section 113.001, Tax Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Any tax, interest, or penalties due to the state under Chapter 171 by a person who is subject to that tax by application of Section 171.001(a)(3) are additionally secured by a lien on the person's interest in the partnership doing business in this state whose activities cause the person to be subject to that tax.

SECTION 2B.03. Section 171.001(a), Tax Code, is amended to read as follows:

(a) A franchise tax is imposed on:

(1) each corporation that does business in this state or that is chartered in this state; ~~and~~

(2) each limited liability company that does business in this state or that is organized under the laws of this state;

(3) each general partnership that is doing business in

1 this state to the extent the general partnership, including an  
2 interest as an assignee, is owned directly or indirectly by a  
3 corporation;

4 (4) each limited partnership that is doing business in  
5 this state to the extent the general partner's interest, including  
6 an interest as an assignee, in the limited partnership is owned  
7 directly or indirectly by a corporation; and

8 (5) each limited partnership controlled by a corporate  
9 limited partner, including an interest as an assignee, that is  
10 doing business in this state to the extent the limited partnership  
11 is owned directly or indirectly by the controlling limited partner.

12 SECTION 2B.04. Section 171.001(b)(3), Tax Code, is amended  
13 to read as follows:

14 (3) "Corporation" includes:

15 (A) a limited liability company, as defined under  
16 the Texas Limited Liability Company Act;

17 (B) a savings and loan association; ~~and~~

18 (C) a banking corporation; and

19 (D) a partnership, to the extent appropriate for  
20 purposes of the administration, collection, and enforcement of the  
21 tax under this chapter as it is imposed on partnerships.

22 SECTION 2B.05. Section 171.1032(c), Tax Code, is amended to  
23 read as follows:

24 (c) A corporation shall include in its gross receipts  
25 computed under Subsection (a) the corporation's share of the gross  
26 receipts of each partnership and joint venture of which the  
27 corporation is a part apportioned to this state as though the

1 corporation directly earned the receipts, including receipts from  
2 business done with the corporation.

3 SECTION 2B.06. Section 171.1051(d), Tax Code, is amended to  
4 read as follows:

5 (d) A corporation shall include in its gross receipts  
6 computed under Subsection (a) the corporation's share of the gross  
7 receipts of each partnership and joint venture of which the  
8 corporation is a part.

9 SECTION 2B.07. Section 171.110, Tax Code, is amended by  
10 adding Subsection (d-2) to read as follows:

11 (d-2) Reportable federal taxable income for a partnership  
12 subject to the franchise tax under Section 171.001(a) is the  
13 partnership's income as an entity, to the extent that the  
14 partnership is owned by a corporation, as determined under rules  
15 adopted by the comptroller using principles similar to the  
16 standards applied to a corporation.

17 SECTION 2B.08. Subchapter F, Chapter 171, Tax Code, is  
18 amended by adding Section 171.2515 to read as follows:

19 Sec. 171.2515. FORFEITURE OF RIGHT OF PARTNERSHIP TO  
20 TRANSACT BUSINESS IN THIS STATE. (a) The comptroller may, for the  
21 same reasons and using the same procedures the comptroller uses in  
22 relation to the forfeiture of the corporate privileges of a  
23 corporation, forfeit the right of a partnership subject to a tax  
24 imposed by this chapter to transact business in this state.

25 (b) The provisions of this subchapter, including Section  
26 171.255, that apply to the forfeiture of corporate privileges apply  
27 to the forfeiture of a partnership's right to transact business in

1 this state.

2 SECTION 2B.09. The following provisions of the Tax Code are  
3 repealed:

- 4 (1) Section 113.001(c);  
5 (2) Sections 171.001(d), (e), (f), (g), and (h);  
6 (3) Section 171.110(d-1); and  
7 (4) Section 171.1121(f).

8 SECTION 2B.10. (a) For a partnership becoming subject to  
9 the franchise tax under this part, income or losses and related  
10 gross receipts occurring before one year before the effective date  
11 of this part may not be considered for purposes of the earned  
12 surplus component or for apportionment purposes for the taxable  
13 capital component.

14 (b) The comptroller shall adopt rules relating to  
15 establishing the applicable reporting periods for partnerships  
16 becoming subject to the franchise tax under this part.

17 PART C. ADD-BACK OF CERTAIN PAYMENTS

18 SECTION 2C.01. Subchapter C, Chapter 171, Tax Code, is  
19 amended by adding Section 171.1001 to read as follows:

20 Sec. 171.1001. DEFINITIONS. In this subchapter:

21 (1) "Arm's length" means the standard of conduct under  
22 which unrelated parties having substantially equal bargaining  
23 power, each acting in its own interest, would negotiate or carry out  
24 a particular transaction.

25 (2) "Controlling interest" means:

26 (A) for a corporation, either 50 percent or more,  
27 owned directly or indirectly, of the total combined voting power of

1 all classes of stock of the corporation, or 50 percent or more,  
2 owned directly or indirectly, of the beneficial ownership interest  
3 in the voting stock of the corporation; and

4 (B) for a partnership, association, trust, or  
5 other entity, 50 percent or more, owned directly or indirectly, of  
6 the capital, profits, or beneficial interest in the partnership,  
7 association, trust, or other entity.

8 (3) "Interest payment" means an amount allowable as an  
9 interest deduction under Section 163, Internal Revenue Code.

10 (4) "Management fee" means a fee for services of a  
11 managerial or administrative nature, including services pertaining  
12 to management, accounts receivable and payable, employee benefit  
13 plans, insurance, legal matters, payroll, data processing,  
14 purchasing, taxes, financial matters, securities, accounting,  
15 reporting, and compliance.

16 (5) "Related party" means a person, corporation, or  
17 other entity, including an entity that is treated as a pass-through  
18 or disregarded entity for purposes of federal taxation, whether the  
19 person, corporation, or entity is subject to the tax under this  
20 chapter or not, in which one person, corporation, or entity, or set  
21 of related persons, corporations, or entities, directly or  
22 indirectly owns or controls a controlling interest in another  
23 entity. To the extent necessary to carry out this section, the  
24 comptroller shall adopt rules defining "related party" using  
25 principles substantially similar to Section 318, Internal Revenue  
26 Code.

27 (6) "Royalty payment" means a payment directly



1 connected to the acquisition, use, maintenance or management,  
2 ownership, sale, exchange, or any other disposition of licenses,  
3 trademarks, copyrights, trade names, trade dress, service marks,  
4 mask works, trade secrets, patents, or any other similar types of  
5 intangible assets as determined by the comptroller.

6 (7) "Valid business purpose" means one or more  
7 business purposes, other than the avoidance or reduction of taxes,  
8 that alone or in combination constitute the primary motivation for  
9 a business activity or transaction that changes in a meaningful  
10 way, apart from tax effects, the economic position of the entity. A  
11 valid business purpose includes compliance with a regulatory  
12 requirement of:

13 (A) the federal government;  
14 (B) a state or local government;  
15 (C) a foreign nation; or  
16 (D) an agency or political subdivision of any  
17 entity listed in Paragraphs (A)-(C).

18 SECTION 2C.02. Subchapter C, Chapter 171, Tax Code, is  
19 amended by adding Sections 171.1101-171.1103 to read as follows:

20 Sec. 171.1101. ADD-BACK OF PAYMENTS TO RELATED PARTY.  
21 Except as provided by Section 171.1102, a corporation shall add  
22 back to reportable federal taxable income any royalty payments,  
23 interest payments, and management fees made to a related party  
24 during the period on which earned surplus is based to the extent  
25 deducted in computing reportable federal taxable income.

26 Sec. 171.1102. SAFE HARBORS FOR CERTAIN PAYMENTS AND FEES.  
27 (a) A corporation is not required to add back royalty payments to a

1 related party to the extent:

2 (1) the related party during the period on which  
3 earned surplus is based directly or indirectly paid or incurred the  
4 amount to a person or entity that is not a related party or the  
5 transaction was done for a valid business purpose, and the payments  
6 were made at arm's length;

7 (2) the royalty payments are paid or incurred to a  
8 related party organized under the laws of a foreign nation, are  
9 subject to a comprehensive income tax treaty between the foreign  
10 nation and the United States, and are taxed in the foreign nation at  
11 a tax rate equal to or greater than the rate under Section  
12 171.002(a)(2); or

13 (3) during the period on which earned surplus is  
14 based, the corporation received the amount from a person or entity  
15 that is not a related party, and on behalf of that unrelated person  
16 or entity, paid that amount to the related party in an arm's length  
17 transaction.

18 (b) A corporation is not required to add back interest  
19 payments to a related party to the extent:

20 (1) the interest is at or below the applicable federal  
21 rate compounded annually for debt instruments under Section  
22 1274(d), Internal Revenue Code, that was in effect at the time of  
23 the agreement; or

24 (2) the related party during the period on which  
25 earned surplus is based directly or indirectly paid or incurred the  
26 amount to a person or entity that is not a related party, the  
27 transaction was done for a valid business purpose, and the payments

1 were made at arm's length.

2 (c) A corporation is not required to add back a royalty  
3 payment or an interest payment made to a related party, or a  
4 management fee paid to a related party, if the combined tax paid to  
5 this state, or to this state and one or more other states each of  
6 which has a tax rate equal to or greater than the rate under Section  
7 171.002(a)(2), by the corporation and the related party exceeds the  
8 tax that would have been paid by the corporation if the royalty  
9 payment or interest payment had not been made.

10 (d) A corporation is not required to add back a management  
11 fee paid to a related party to the extent that the transaction was  
12 done for a valid business purpose and the fee was paid at arm's  
13 length.

14 Sec. 171.1103. ADJUSTMENT TO INCOME AND EXPENSES BY  
15 COMPTROLLER. (a) The comptroller may distribute, apportion, or  
16 allocate gross income, deductions, credits, or allowances between  
17 or among two or more organizations, trades, or businesses, whether  
18 or not incorporated, whether or not organized in the United States,  
19 and whether or not affiliated, if:

20 (1) the organizations, trades, or businesses are owned  
21 or controlled directly or indirectly by the same interests; and

22 (2) the comptroller determines that the distribution,  
23 apportionment, or allocation is necessary to reflect an arm's  
24 length standard, within the meaning of 26 C.F.R. Section 1.482-1,  
25 and to clearly reflect the income of those organizations, trades,  
26 or businesses.

27 (b) The comptroller shall apply the administrative and

1 judicial interpretations of Section 482, Internal Revenue Code, in  
2 administering this section.

3 PART D. FRANCHISE TAX CREDIT FOR HEALTH BENEFIT PLAN

4 FOR EMPLOYEES AND DEPENDENTS

5 SECTION 2D.01. Chapter 171, Tax Code, is amended by adding  
6 Subchapter X to read as follows:

7 SUBCHAPTER X. TAX CREDIT FOR HEALTH BENEFIT PLAN

8 FOR EMPLOYEES AND THEIR DEPENDENTS

9 Sec. 171.941. ENTITLEMENT TO CREDIT. A corporation is  
10 entitled to a credit in the amount and under the conditions and  
11 limitations provided by this subchapter against the tax imposed  
12 under this chapter.

13 Sec. 171.942. QUALIFICATION. A corporation qualifies for a  
14 credit under this subchapter if the corporation:

15 (1) has gross receipts from its entire business, as  
16 determined by Section 171.105, for the reporting period in an  
17 amount equal to or less than \$1 million; and

18 (2) obtains coverage for its employees and their  
19 dependents under a health benefit plan that constitutes creditable  
20 coverage for the purposes of Section 1205.004, Insurance Code.

21 Sec. 171.943. AMOUNT; LIMITATIONS. (a) The amount of the  
22 credit is 15 percent of the cost to the corporation of obtaining  
23 coverage for its employees and their dependents under a health  
24 benefit plan.

25 (b) The credit claimed for each privilege period may not  
26 exceed the amount of franchise tax due, before any other applicable  
27 tax credits, for the privilege period.

1        (c) A corporation may claim a credit under this subchapter  
2 for an expenditure made during an accounting period only against  
3 the tax owed for the corresponding privilege period.

4        (d) A corporation may not carry over an expenditure made  
5 during a privilege period to a subsequent privilege period.

6        (e) A corporation may not convey, assign, or transfer a  
7 credit under this subchapter to another entity unless all of the  
8 assets of the corporation are conveyed, assigned, or transferred in  
9 the same transaction.

10       Sec. 171.944. APPLICATION FOR CREDIT. A corporation must  
11 apply for a credit under this subchapter on or with the tax report  
12 for the period for which the credit is claimed.

13       Sec. 171.945. RULES. The comptroller shall adopt rules  
14 necessary to implement this subchapter.

15       SECTION 2D.02. Section 151.325, Tax Code, is repealed.

16       SECTION 2D.03. This part takes effect January 1, 2006, and  
17 applies only to a tax report originally due on or after that date.

18                    PART E. TRANSITIONAL PROVISIONS

19       SECTION 2E.01. (a) Except as otherwise provided by this  
20 article, this article takes effect November 1, 2005, and applies to  
21 reports originally due on or after that date.

22       (b) For a corporation becoming subject to the franchise tax  
23 under this article:

24           (1) income or losses, and related gross receipts,  
25 occurring before January 1, 2005, may not be considered for  
26 purposes of the earned surplus component, or for apportionment  
27 purposes for the taxable capital component;

1           (2) a corporation subject to the franchise tax on  
2 January 1, 2006, for which January 1, 2006, is not the beginning  
3 date, shall file an annual report due May 15, 2006, based on the  
4 period:

5                   (A) beginning on the later of:

6                           (i) January 1, 2005; or

7                           (ii) the date the corporation was organized  
8 in this state or, if a foreign corporation, the date it began doing  
9 business in this state; and

10                   (B) ending on the date the corporation's last  
11 accounting period ends in 2005 or, if none, on December 31, 2005;  
12 and

13           (3) a corporation subject to the earned surplus  
14 component of the franchise tax at any time after October 31, 2005,  
15 and before January 1, 2006, but not subject to the earned surplus  
16 component on January 1, 2006, shall file a final report computed on  
17 net taxable earned surplus, for the privilege of doing business at  
18 any time after October 31, 2005, and before January 1, 2006, based  
19 on the period:

20                   (A) beginning on the later of:

21                           (i) January 1, 2005; or

22                           (ii) the date the corporation was organized  
23 in this state or, if a foreign corporation, the date it began doing  
24 business in this state; and

25                   (B) ending on the date the corporation became no  
26 longer subject to the earned surplus component of the tax.

ARTICLE 3. SALES AND USE TAXES

PART A. STATE SALES AND USE TAXES

SECTION 3A.01. Section 151.0031, Tax Code, is amended to read as follows:

Sec. 151.0031. "COMPUTER PROGRAM." "Computer program" means a series of instructions that are coded for acceptance or use by a computer system and that are designed to permit the computer system to process data and provide results and information. The series of instructions may be contained in or on magnetic tapes, punched cards, printed instructions, or other tangible or electronic media. For purposes of this chapter, the term includes a computer program created or developed exclusively for a client who retains all rights to the program.

SECTION 3A.02. Subchapter A, Chapter 151, Tax Code, is amended by adding Section 151.0043 to read as follows:

Sec. 151.0043. "MOTOR VEHICLE REPAIR SERVICES." (a) "Motor vehicle repair services" means the repair, remodeling, maintenance, or restoration of a motor vehicle, including testing or diagnostic services, body repair and painting, engine repair, transmission repair, exhaust system repair, brake repair, and air conditioning repair.

(b) "Motor vehicle repair services" does not include any vehicle emissions tests required by law, safety inspection tests required by law, and other similar tests required by law.

SECTION 3A.03. Section 151.0101(a), Tax Code, is amended to read as follows:

(a) "Taxable services" means:

- 1 (1) amusement services;
- 2 (2) cable television services;
- 3 (3) personal services;
- 4 (4) motor vehicle parking and storage services;
- 5 (5) the repair, remodeling, maintenance, and  
6 restoration of tangible personal property, including motor vehicle  
7 repair services, except:
  - 8 (A) aircraft; and
  - 9 (B) a ship, boat, or other vessel, other than:
    - 10 (i) a taxable boat or motor as defined by  
11 Section 160.001;
    - 12 (ii) a sports fishing boat; or
    - 13 (iii) any other vessel used for pleasure;
  - 14 [~~(C) the repair, maintenance, and restoration of~~  
15 ~~a motor vehicle, and~~
  - 16 [~~(D) the repair, maintenance, creation, and~~  
17 ~~restoration of a computer program, including its development and~~  
18 ~~modification, not sold by the person performing the repair,~~  
19 ~~maintenance, creation, or restoration service,]~~
- 20 (6) telecommunications services;
- 21 (7) credit reporting services;
- 22 (8) debt collection services;
- 23 (9) insurance services;
- 24 (10) information services;
- 25 (11) real property services;
- 26 (12) data processing services;
- 27 (13) real property repair and remodeling;



(14) security services;

(15) telephone answering services;

(16) Internet access service; and

(17) a sale by a transmission and distribution utility, as defined in Section 31.002, Utilities Code, of transmission or delivery of service directly to an electricity end-use customer whose consumption of electricity is subject to taxation under this chapter.

SECTION 3A.04. Section 151.051(b), Tax Code, is amended to read as follows:

(b) The sales tax rate is 7.25 ~~[6-1/4]~~ percent of the sales price of the taxable item sold.

SECTION 3A.05. Section 151.315, Tax Code, is amended to read as follows:

Sec. 151.315. WATER. Water, other than water sold in a sealed container, is exempted from the taxes imposed by this chapter.

SECTION 3A.06. Section 151.419(b), Tax Code, is amended to read as follows:

(b) The application must be accompanied with:

(1) an agreement that is signed by the applicant or a responsible officer of an applicant corporation, that is in a form prescribed by the comptroller, and that provides that the applicant agrees to:

(A) accrue and pay all taxes imposed by Subchapter D ~~[of this chapter]~~ on the storage and use of all taxable items sold to or leased or rented by the permit holder unless the

1 items are exempted from the taxes imposed by this chapter; and

2 (B) pay the imposed taxes monthly on or before  
3 the 20th day of the month following the end of each calendar month;  
4 [~~and~~

5 [~~(C) waive the discount permitted by Section~~  
6 ~~151.423 of this code on the payment of all taxes under the direct~~  
7 ~~payment permit only;~~]

8 (2) a description, in the amount of detail that the  
9 comptroller requires, of the accounting method by which the  
10 applicant proposes to differentiate between taxable and exempt  
11 transactions; and

12 (3) records establishing that the applicant is a  
13 responsible person who annually purchases taxable items that have a  
14 value when purchased of \$800,000 or more excluding the value of  
15 taxable items for which resale certificates were or could have been  
16 given.

17 SECTION 3A.07. Sections 151.424(a) and (c), Tax Code, are  
18 amended to read as follows:

19 (a) A taxpayer who prepays the taxpayer's tax liability on  
20 the basis of a reasonable estimate of the tax liability for a  
21 quarter in which a prepayment is made or for a month in which a  
22 prepayment is made may deduct and withhold 1.25 percent of the  
23 amount of the prepayment [~~in addition to the amount permitted to be~~  
24 ~~deducted and withheld under Section 151.423 of this code~~]. A  
25 reasonable estimate of the tax liability must be at least 90 percent  
26 of the tax ultimately due or the amount of tax paid in the same  
27 quarter, or month, if a monthly prepayer, in the last preceding

year. Failure to prepay a reasonable estimate of the tax will result in the loss of the entire prepayment discount.

(c) A taxpayer who prepays the tax liability as permitted by this section must file a report when due as provided by this chapter. The amount of a prepayment made by a taxpayer under this section shall be credited against the amount of actual tax liability of the taxpayer as shown on the tax report of the taxpayer. If there is a tax liability owed by the taxpayer in excess of the prepayment credit, the taxpayer shall send to the comptroller the remaining tax liability at the time of filing the quarterly or monthly report. ~~[The taxpayer is entitled to the deduction permitted under Section 151.423 of this code on the amount of the remaining tax liability.]~~

SECTION 3A.08. Section 151.425, Tax Code, is amended to read as follows:

Sec. 151.425. FORFEITURE OF DISCOUNT OR REIMBURSEMENT. If a taxpayer fails to file a report required by this chapter when due or to pay the tax when due, the taxpayer forfeits any claim to a ~~[deduction or]~~ discount allowed under ~~[Section 151.423 or]~~ Section 151.424 ~~[of this code]~~.

SECTION 3A.09. Section 151.428(c), Tax Code, is amended to read as follows:

(c) The reporting, collection, refund, and penalty provisions of this chapter and Subtitle B ~~[of this title]~~ apply to the payments required by this section, except that Section ~~[Sections 151.423 and]~~ 151.424 does ~~[of this code do]~~ not apply to this section.

SECTION 3A.10. Section 152.047(a), Tax Code, is amended to read as follows:

(a) Except as inconsistent with this chapter and rules adopted under this chapter, the seller of a motor vehicle shall report and pay the tax imposed on a seller-financed sale to the comptroller on the seller's receipts from seller-financed sales in the same manner as the sales tax is reported and paid by a retailer under Sections 151.401, 151.402, 151.405, 151.406, 151.409, ~~[151.423,]~~ 151.424, and 151.425.

SECTION 3A.11. Section 151.423, Tax Code, is repealed.

SECTION 3A.12. (a) There are exempted from the increase in the rate of the tax imposed by Chapter 151, Tax Code, that is made by this part the receipts from the sale, use, or rental and the storage, use, or consumption in this state of taxable items if:

(1) the items are used:

(A) for the performance of a contract for the improvement of real property entered into on or before July 8, 2005, if the contract is not subject to change or modification because of the tax rate increase made by this part; or

(B) pursuant to an obligation of a bid submitted for the improvement of real property submitted on or before July 8, 2005, if the bid may not be withdrawn, modified, or changed because of the tax rate increase made by this part; and

(2) an electronic or paper copy of the contract or bid on which the exemption is claimed is given by the taxpayer to the comptroller not later than October 1, 2005.

(b) The exemption provided by this section expires

September 1, 2007.

SECTION 3A.13. There are exempted from the taxes imposed by Chapter 151, Tax Code, the receipts from the sale, use, storage, rental, or other consumption in this state of services that became subject to the taxes because of the terms of this part and that are the subject of a written contract or bid entered into on or before August 1, 2005. The exemption provided by this section applies only if the taxpayer, not later than October 1, 2005, gives to the comptroller an electronic or paper copy of the contract or bid on which the exemption is claimed. The exemption provided by this section expires September 1, 2007.

SECTION 3A.14. (a) Except as otherwise provided by this section, this part takes effect September 1, 2005, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this part takes effect November 1, 2005.

(b) Section 151.051(b), Tax Code, as amended by this part, takes effect October 1, 2005, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, Section 151.051(b), Tax Code, takes effect January 1, 2006.

#### PART B. MOTOR VEHICLE SALES AND USE TAX

SECTION 3B.01. Section 152.002, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding Subsection (a), the total consideration

1 of a used motor vehicle is the amount on which the tax is computed as  
2 provided by Section 152.0412.

3 SECTION 3B.02. Section 152.021(b), Tax Code, is amended to  
4 read as follows:

5 (b) The tax rate is 7.35 [~~6-1/4~~] percent of the total  
6 consideration.

7 SECTION 3B.03. Section 152.022(b), Tax Code, is amended to  
8 read as follows:

9 (b) The tax rate is 7.35 [~~6-1/4~~] percent of the total  
10 consideration.

11 SECTION 3B.04. Section 152.026(b), Tax Code, is amended to  
12 read as follows:

13 (b) The tax rate is 10 percent of the gross rental receipts  
14 from the rental of a rented motor vehicle for 30 days or less and  
15 7.35 [~~6-1/4~~] percent of the gross rental receipts from the rental of  
16 a rented motor vehicle for longer than 30 days.

17 SECTION 3B.05. Section 152.028(b), Tax Code, is amended to  
18 read as follows:

19 (b) The tax rate is 7.35 [~~6-1/4~~] percent of the total  
20 consideration.

21 SECTION 3B.06. Section 152.041(a), Tax Code, is amended to  
22 read as follows:

23 (a) The tax assessor-collector of the county in which an  
24 application for registration or for a Texas certificate of title is  
25 made shall collect taxes imposed by this chapter, subject to  
26 Section 152.0412, unless another person is required by this chapter  
27 to collect the taxes.

SECTION 3B.07. Subchapter C, Chapter 152, Tax Code, is amended by adding Section 152.0412 to read as follows:

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive value" means the average retail value of a motor vehicle as determined by the Texas Department of Transportation, based on a nationally recognized motor vehicle industry reporting service.

(b) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is equal to or greater than the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the amount paid.

(c) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is less than the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the standard presumptive value unless the purchaser establishes the retail value of the vehicle as provided by Subsection (d).

(d) A county tax assessor-collector shall compute the tax imposed by this chapter on the retail value of a motor vehicle if:

(1) the retail value is shown on an appraisal certified by an adjuster licensed under Chapter 4101, Insurance Code, or by a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code;

(2) the appraisal is on a form prescribed by the comptroller for that purpose; and

(3) the purchaser of the vehicle obtains the appraisal not later than the 20th day after the date of purchase.

1       (e) On request, a motor vehicle dealer operating under  
2 Subchapter B, Chapter 503, Transportation Code, shall provide a  
3 certified appraisal of the retail value of a motor vehicle. The  
4 comptroller by rule shall establish a fee that a dealer may charge  
5 for providing the certified appraisal. The county tax  
6 assessor-collector shall retain a copy of a certified appraisal  
7 received under this section for a period prescribed by the  
8 comptroller.

9       (f) The Texas Department of Transportation shall maintain  
10 information on the standard presumptive values of motor vehicles as  
11 part of the department's registration and title system. The  
12 department shall update the information at least quarterly each  
13 calendar year.

14       (g) This section does not apply to a transaction described  
15 by Section 152.024 or 152.025.

16       SECTION 3B.08. Not later than November 1, 2005, the Texas  
17 Department of Transportation shall:

18               (1) establish standard presumptive values for motor  
19 vehicles as provided by Section 152.0412, Tax Code, as added by this  
20 part;

21               (2) modify the department's registration and title  
22 system as needed to include that information and administer that  
23 section; and

24               (3) make that information available through the system  
25 to all county tax assessor-collectors.

26       SECTION 3B.09. (a) Except as provided by Subsection (b) of  
27 this section, this part takes effect September 1, 2005, if this Act



1 receives a vote of two-thirds of all the members elected to each  
2 house, as provided by Section 39, Article III, Texas Constitution.  
3 If this Act does not receive the vote necessary for effect on that  
4 date, this part takes effect on the first day of the first month  
5 that begins on or after the 91st day after the last day of the  
6 legislative session.

7 (b) Section 152.0412, Tax Code, as added by this part, takes  
8 effect November 1, 2005.

9 PART C. BOAT AND BOAT MOTOR SALES AND USE TAX

10 SECTION 3C.01. Section 160.021(b), Tax Code, is amended to  
11 read as follows:

12 (b) The tax rate is 7.35 [~~6-1/4~~] percent of the total  
13 consideration.

14 SECTION 3C.02. Section 160.022(b), Tax Code, is amended to  
15 read as follows:

16 (b) The tax rate is 7.35 [~~6-1/4~~] percent of the total  
17 consideration.

18 SECTION 3C.03. This part takes effect September 1, 2005, if  
19 this Act receives a vote of two-thirds of all the members elected to  
20 each house, as provided by Section 39, Article III, Texas  
21 Constitution. If this Act does not receive the vote necessary for  
22 effect on that date, this part takes effect November 1, 2005.

23 ARTICLE 4. CIGARETTE AND TOBACCO PRODUCTS TAXES

24 SECTION 4.01. Section 154.021(b), Tax Code, is amended to  
25 read as follows:

26 (b) The tax rates are:

27 (1) \$70.50 [~~\$20.50~~] per thousand on cigarettes

weighing three pounds or less per thousand; and

(2) the rate provided by Subdivision (1) plus \$2.10 per thousand on cigarettes weighing more than three pounds per thousand.

SECTION 4.02. Section 155.021(b), Tax Code, is amended to read as follows:

(b) The tax rates are:

(1) 1.25 cents [~~one cent~~] per 10 or fraction of 10 on cigars weighing three pounds or less per thousand;

(2) \$9.375 [~~\$7.50~~] per thousand on cigars that:

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

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

(3) \$13.75 [~~\$11~~] per thousand on cigars that:

(A) weigh more than three pounds per thousand;

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

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

(4) \$18.75 [~~\$15~~] per thousand on cigars that:

(A) weigh more than three pounds per thousand;

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

(C) contain a substantial amount of nontobacco ingredients.

SECTION 4.03. Section 155.0211(b), Tax Code, is amended to read as follows:

(b) The tax rate for tobacco products other than cigars is 40 ~~[35.213]~~ percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal.

SECTION 4.04. This article takes effect September 1, 2005, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this article takes effect November 1, 2005.

ARTICLE 5. COLLECTION OF DELINQUENT OBLIGATIONS TO STATE

SECTION 5.01. Section 403.019(c), Government Code, is amended to read as follows:

(c) A contract under this section is not valid unless approved by the attorney general. The attorney general shall approve a contract if the attorney general determines that the contract complies with the requirements of this section, that the contract does not conflict with any contract formed under Section 2107.003(b), and that the contract ~~[and]~~ is in the best interest of the state. No judicial action by any person on behalf of the state under a contract authorized and approved by this section may be brought unless approved by the attorney general.

SECTION 5.02. Section 2107.003, Government Code, is amended to read as follows:

Sec. 2107.003. COLLECTION BY ATTORNEY GENERAL,

1 COMPTROLLER, OR OUTSIDE AGENT. (a) Except as provided by Section  
 2 2107.004 [~~Subsection (c)~~], a state agency shall report an  
 3 uncollected and delinquent obligation to [~~request~~] the attorney  
 4 general for collection. The state agency must report the  
 5 obligation on or before the 120th day after the date the obligation  
 6 becomes past due or delinquent [~~to collect an obligation before the~~  
 7 ~~agency may employ, retain, or contract with a person other than a~~  
 8 ~~full-time employee of the state agency to collect the obligation~~].

9 (b) The attorney general:

10 (1) shall provide legal services for collection of the  
 11 obligation;

12 (2) may authorize the requesting state agency to  
 13 employ, retain, or contract, subject to approval by the attorney  
 14 general, with one or more persons to collect the obligation; or

15 (3) if the attorney general determines it to be  
 16 economical and in the best interest of the state, may contract with  
 17 one or more persons [~~a person other than a full-time employee of the~~  
 18 ~~agency~~] to collect the [~~an~~] obligation [~~that the attorney general~~  
 19 ~~cannot collect~~].

20 (c) The comptroller may employ, retain, or contract with a  
 21 person other than a full-time state employee to collect delinquent  
 22 obligations that are owed the comptroller in the comptroller's  
 23 official capacity, are not collected through normal collection  
 24 procedures, and do not meet the guidelines adopted for collection  
 25 by the attorney general. A proposed contract under this subsection  
 26 shall be reviewed by the attorney general and may include a  
 27 collection fee computed on the amounts collected under the

1 contract.

2 (d) The agency contracting under Subsection (b) is entitled  
3 to recover from the obligor, in addition to the amount of the  
4 obligation, the costs incurred in undertaking the collection,  
5 including the costs of a contract under this section. The obligor  
6 is liable for costs of recovery under this section in an amount  
7 equal to 30 percent of the sum of the amount of the obligation and  
8 any penalty and interest due on the obligation.

9 (e) A contract formed under Subsection (b) must provide for  
10 the compensation due to the contractor. The amount of the  
11 compensation shall be equal to 30 percent of the sum of the  
12 collected amount of:

- 13 (1) the obligation;  
14 (2) any penalty; and  
15 (3) any interest.

16 (f) A contract formed under Subsection (b) or (c) may permit  
17 or require the contractor to pursue a judicial action to collect the  
18 amount of the obligation in a proper court in or outside of this  
19 state.

20 (g) In a suit in a Texas state court brought by a contractor  
21 to collect an obligation under this section, the state is not:

- 22 (1) required to post security for costs;  
23 (2) liable for costs; and  
24 (3) liable for fees for:  
25 (A) service of process;  
26 (B) attorneys ad litem;  
27 (C) arbitration; or

1                   (D) mediation.

2           (h) Notwithstanding any other law, an amount collected  
3 under a contract formed under Subsection (b), including the costs  
4 of recovery and court costs or other costs, shall be deposited to  
5 the credit of the general revenue fund. The contracting agency  
6 shall pay the compensation due under the contract to the contractor  
7 and shall pay to the applicable court any court costs collected.

8           (i) The contracting agency shall require a person  
9 contracting under Subsection (b) to post a bond or other security in  
10 an amount the contracting agency determines is sufficient to cover  
11 all revenue or other property of the state that is expected to come  
12 into the possession or control of the contractor in the course of  
13 providing contract services.

14           (j) A person who contracts under Subsection (b) is an agent  
15 of this state for purposes of determining priority of a claim to be  
16 collected under the contract with respect to claims of other  
17 creditors. The contractor does not exercise any sovereign power of  
18 the state.

19           (k) The contracting state agency may provide a person  
20 contracting under Subsection (b) any information, including  
21 confidential information, that the agency is not prohibited from  
22 sharing under an agreement with another state or with the United  
23 States and that is:

24                   (1) in the custody of the agency holding the claim; and

25                   (2) necessary to the collection of the obligation.

26           (l) A person acting under a contract formed under Subsection  
27 (b) or (c) and each employee or agent of that person is subject to

1 all prohibitions against the disclosure of confidential  
2 information obtained from the contracting agency, the reporting  
3 state agency, or their employees. A contractor or the contractor's  
4 employee or agent who discloses confidential information in  
5 violation of the prohibition is subject to the same penalties for  
6 that disclosure as would apply to the contracting agency or its  
7 employees.

8 (m) The contracting agency shall require a person who  
9 contracts under Subsection (b) to obtain and maintain insurance  
10 adequate to provide reasonable coverage for damages negligently,  
11 recklessly, or intentionally caused by the contractor or the  
12 contractor's employee or agent in the course of collecting an  
13 obligation under the contract and to protect this state from  
14 liability for those damages. The state is not liable for and may  
15 not indemnify a person acting under a contract under Subsection (b)  
16 for damages negligently, recklessly, or intentionally caused by the  
17 contractor or the contractor's employee or agent in the course of  
18 collecting an obligation under the contract.

19 (n) In addition to grounds for termination provided by the  
20 contract terms, the attorney general or the contracting agency, as  
21 applicable, may terminate a contract formed under Subsection (b) if  
22 the contractor or the contractor's employee or agent:

23 (1) violates the federal Fair Debt Collection  
24 Practices Act (15 U.S.C. Section 1692 et seq.);

25 (2) discloses confidential information to a person not  
26 authorized to receive the information; or

27 (3) performs any act that results in a final judgment

1 for damages against this state.

2 SECTION 5.03. Section 2254.102(c), Government Code, is  
3 amended to read as follows:

4 (c) This subchapter does not apply to a contract:

5 (1) with an agency to collect an obligation under  
6 Section 2107.003(b); or

7 (2) for legal services entered into by an institution  
8 of higher education under Section 153.006, Education Code.

9 SECTION 5.04. Except as otherwise provided by this Act,  
10 this article takes effect immediately if this Act receives a vote of  
11 two-thirds of all the members elected to each house, as provided by  
12 Section 39, Article III, Texas Constitution. If this Act does not  
13 receive the vote necessary for immediate effect, this article takes  
14 effect on the 91st day after the last day of the legislative  
15 session.

16 ARTICLE 6. MIXED BEVERAGE TAX

17 SECTION 6.01. Subchapter B, Chapter 183, Tax Code, is  
18 amended by adding Section 183.0212 to read as follows:

19 Sec. 183.0212. SEPARATE STATEMENT OF TAX REQUIRED. A  
20 permittee shall ensure that each invoice, billing, sales slip, or  
21 ticket for the purchase of an item subject to taxation under this  
22 chapter includes a separate statement of the amount of tax imposed  
23 under this chapter in relation to that item.

24 SECTION 6.02. This article takes effect September 1, 2005,  
25 if this Act receives a vote of two-thirds of all the members elected  
26 to each house, as provided by Section 39, Article III, Texas  
27 Constitution. If this Act does not receive the vote necessary for



effect on that date, this article takes effect November 1, 2005.

ARTICLE 7. DEPOSIT OF CERTAIN TRAFFIC PENALTIES IN GENERAL  
REVENUE FUND

SECTION 7.01. Subchapter D, Chapter 542, Transportation Code, is amended by adding Section 542.405 to read as follows:

Sec. 542.405. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC PENALTIES TO GENERAL REVENUE FUND. (a) In this section, "photographic traffic signal enforcement system" means a system that:

(1) consists of a camera system and vehicle sensor installed to exclusively work in conjunction with an electrically operated traffic-control signal;

(2) is capable of producing one or more recorded photographic or digital images that depict the license plate attached to the front or the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal; and

(3) is designed to enforce compliance with the instructions of the traffic-control signal by imposition of a civil or administrative penalty against the owner of the motor vehicle.

(b) This section applies only to a civil or administrative penalty imposed on the owner of a motor vehicle by a local authority that operates or contracts for the operation of a photographic traffic signal enforcement system with respect to a highway under its jurisdiction or that operates or contracts for the operation of any other type of electronic traffic law enforcement system consisting of a camera system that automatically produces one or

1 more recorded photographs or digital images of the license plate on  
2 a motor vehicle or the operator of a motor vehicle.

3 (c) Of the gross amount received by a local authority from  
4 the imposition of a civil or administrative penalty against the  
5 owner of a motor vehicle, the local authority may retain \$1 and  
6 shall remit the remainder to the comptroller for deposit to the  
7 credit of the general revenue fund.

8 (d) The comptroller shall adopt rules and forms to implement  
9 and enforce this section.

10 SECTION 7.02. Section 542.405, Transportation Code, as  
11 added by this article, applies to revenue received by a local  
12 authority unit of this state from the imposition of a civil or  
13 administrative penalty on or after the effective date of this Act,  
14 regardless of whether the penalty was imposed before, on, or after  
15 the effective date of this Act.

16 ARTICLE 8. UNCLAIMED PROPERTY

17 SECTION 8.01. Subchapter H, Chapter 74, Property Code, is  
18 amended by adding Section 74.7085 to read as follows:

19 Sec. 74.7085. HEARING. (a) If, after an examination of  
20 records under Section 74.702, the comptroller determines that a  
21 person holds unclaimed property that should have been delivered to  
22 the comptroller as provided by this chapter, the person may  
23 petition the comptroller for a hearing on that determination and on  
24 the imposition of any interest or penalty resulting from that  
25 determination.

26 (b) A person must file a petition for a hearing with the  
27 comptroller under this section not later than the 30th day after the

1 date the determination is made. If a petition for a hearing is not  
2 filed before the expiration of the period provided by this  
3 subsection, the determination is final on the expiration of that  
4 period.

5 (c) At the time a person files a petition for a hearing under  
6 Subsection (b), the person must pay to the comptroller a hearing fee  
7 in the amount of \$50, which the comptroller shall use for the  
8 purpose of administering hearings under this section.

9 SECTION 8.02. Subchapter A, Chapter 74, Property Code, is  
10 amended by adding Section 74.002 to read as follows:

11 Sec. 74.002. SINGLE BUSINESS ENTERPRISE DOCTRINE  
12 INAPPLICABLE. The single business enterprise doctrine does not  
13 apply to this chapter.

14 SECTION 8.03. The change in law made by Section 74.7085,  
15 Property Code, as added by this article, applies only to a  
16 determination by the comptroller made on or after the effective  
17 date of this Act. A determination by the comptroller made before  
18 the effective date of this Act is governed by the law in effect on  
19 the date the determination was made, and the former law is continued  
20 in effect for that purpose.

21 SECTION 8.04. Section 74.002, Property Code, as added by  
22 this article, is intended only to clarify existing law with respect  
23 to Chapter 74, Property Code.

24 ARTICLE 9. TEXAS ECONOMIC DEVELOPMENT ACT

25 SECTION 9.01. Section 313.007, Tax Code, is amended to read  
26 as follows:

27 Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire

December 31, 2011 [~~2007~~].

SECTION 9.02. Section 313.024(a), Tax Code, is amended to read as follows:

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

SECTION 9.03. Section 313.024(b), Tax Code, as amended by House Bill No. 2201, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

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

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

SECTION 9.04. Section 313.051, Tax Code, is amended to read as follows:

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

(1) a strategic investment area, as defined by Section 171.721; [~~7 Tax Code~~] or

(2) [~~in~~] a county:

(A) [~~(1)~~] that has a population of less than

50,000;

(B) [~~(2)~~] that is not partially or wholly located in a metropolitan statistical area; and

(C) [~~(3)~~] in which, from 1990 to 2000, according to the federal decennial census, the population:

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

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

(iii) [~~(C)~~] increased, but at a rate of not more than three percent per annum.

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

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

1 manufacturing jobs in the region designated for the regional  
2 planning commission, council of governments, or similar regional  
3 planning agency created under Chapter 391, Local Government Code,  
4 in which the district is located.

5 SECTION 9.05. Section 313.051(b), Tax Code, as amended by  
6 this Act, applies only to a limitation on the appraised value for  
7 school district maintenance and operations ad valorem tax purposes  
8 for which the owner files an application on or after the effective  
9 date of this Act. A limitation on the appraised value for school  
10 district maintenance and operations ad valorem tax purposes for  
11 which the owner files an application before the effective date of  
12 this Act is governed by the law as it existed immediately before the  
13 effective date of this Act, and that law is continued in effect for  
14 that purpose.

15 ARTICLE 10. SEXUALLY ORIENTED BUSINESS ADMISSIONS FEE

16 SECTION 10.01. Sections 47.001-47.004, Business & Commerce  
17 Code, as renumbered by House Bill No. 2018, Acts of the 79th  
18 Legislature, Regular Session, 2005, are designated as Subchapter A,  
19 Chapter 47, Business & Commerce Code, and a subchapter heading is  
20 added to read as follows:

21 SUBCHAPTER A. RESTRICTION ON OWNERS, OPERATORS, MANAGERS, OR  
22 EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES

23 SECTION 10.02. Section 47.001, Business & Commerce Code, as  
24 renumbered by House Bill No. 2018, Acts of the 79th Legislature,  
25 Regular Session, 2005, is amended to read as follows:

26 Sec. 47.001. DEFINITIONS. In this subchapter [~~chapter~~]:

27 (1) "Sex offender" means a person who has been

1 convicted of or placed on deferred adjudication for an offense for  
2 which a person is subject to registration under Chapter 62, Code of  
3 Criminal Procedure.

4 (2) "Sexually oriented business" has the meaning  
5 assigned by Section 243.002, Local Government Code.

6 SECTION 10.03. Chapter 47, Business & Commerce Code, as  
7 renumbered by House Bill No. 2018, Acts of the 79th Legislature,  
8 Regular Session, 2005, is amended by adding Subchapter B to read as  
9 follows:

10 SUBCHAPTER B. FEE ON ADMISSIONS TO CERTAIN SEXUALLY  
11 ORIENTED BUSINESSES

12 Sec. 47.051. DEFINITIONS. In this subchapter:

13 (1) "Nude" means:

14 (A) entirely unclothed; or

15 (B) clothed in a manner that leaves uncovered or  
16 visible through less than fully opaque clothing any portion of the  
17 breasts below the top of the areola of the breasts, if the person is  
18 female, or any portion of the genitals or buttocks.

19 (2) "Sexually oriented business" has the meaning  
20 assigned by Section 243.002, Local Government Code.

21 Sec. 47.052. ADMISSION FEE. (a) A fee is imposed on a  
22 sexually oriented business that provides live nude entertainment or  
23 performances in an amount equal to \$4 for each entry by each  
24 customer admitted to the business.

25 (b) For purposes of this section, the amount that a business  
26 charges a customer for admission includes a membership fee or a  
27 multiple-entry admission charge.

1       Sec. 47.053. REMISSION OF FEE TO COMPTROLLER; DEPOSIT IN  
2 GENERAL REVENUE. A sexually oriented business shall remit the fee  
3 imposed by Section 47.052 to the comptroller each quarter in the  
4 manner prescribed by the comptroller for deposit to the credit of  
5 the general revenue fund.

6       Sec. 47.054. ADMINISTRATION, COLLECTION, AND ENFORCEMENT.  
7 The comptroller shall adopt any necessary rules for the  
8 administration, payment, collection, and enforcement of the fee  
9 imposed by this chapter.

10       SECTION 10.04. Subchapter B, Chapter 47, Business &  
11 Commerce Code, as added by this article, expires August 31, 2007.

12       SECTION 10.05. The fee imposed by Section 47.052, Business  
13 & Commerce Code, as added by this article, applies only to a  
14 customer admitted to a sexually oriented business on or after the  
15 effective date of this article.

16       SECTION 10.06. This article takes effect January 1, 2006.

17                   ARTICLE 11. EFFECTIVE DATE

18       SECTION 11.01. (a) Except as provided by Subsection (b) of  
19 this section, this Act takes effect September 1, 2005, if this Act  
20 receives a vote of two-thirds of all the members elected to each  
21 house, as provided by Section 39, Article III, Texas Constitution.  
22 If this Act does not receive the vote necessary for effect on that  
23 date, this Act takes effect on the 91st day after the last day of the  
24 legislative session.

25       (b) If a section, part, or article of this Act provides a  
26 different effective date than provided by Subsection (a) of this  
27 section, that section, part, or article takes effect according to



H.B. No. 3

1 its terms.