

By: Keffer of Eastland

H.B. No. 23

A BILL TO BE ENTITLED

AN ACT

1
2 relating to state and certain local fiscal matters; providing civil
3 and criminal penalties.

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

5 SECTION 1. Section 103.051, Civil Practice and Remedies
6 Code, is amended by amending Subsection (a) and adding Subsection
7 (b-1) to read as follows:

8 (a) To apply for compensation under this subchapter, the
9 claimant must file with the comptroller's judiciary section:

10 (1) an application for compensation provided for that
11 purpose by the comptroller;

12 (2) a verified copy of the pardon or court order
13 justifying the application for compensation; and

14 (3) a statement provided by the Texas Department of
15 Criminal Justice verifying the length of incarceration[~~, and~~

16 [~~(4) a certification of the claimant's actual
17 innocence of the crime for which the claimant was sentenced that is
18 signed by the attorney representing the state in the prosecution of
19 felonies in the county in which the sentence was rendered].~~

20 (b-1) The comptroller's duty on receipt of an application is
21 limited to the ministerial function of determining the completeness
22 of the application. If the comptroller determines that the
23 claimant's application does not provide all of the documentation
24 required by Subsection (a), the comptroller shall deny the claim

1 without prejudice.

2 SECTION 2. Article 103.002, Code of Criminal Procedure, is
3 amended to read as follows:

4 Art. 103.002. CERTAIN COSTS BARRED. (a) An officer may not
5 impose a cost or fee for a service not performed or for a service or
6 purpose for which a cost or fee is not expressly provided by law.

7 (b) All moneys collected as costs or fees that are not
8 expressly provided by law shall be remitted to the comptroller for
9 deposit into the general revenue fund to be administered under
10 Chapters 101 and 111, Tax Code.

11 SECTION 3. Article 103.0031(e), Code of Criminal Procedure,
12 is amended to read as follows:

13 (e) If a county or municipality has entered into a contract
14 under Subsection (a) and a person pays an amount that is less than
15 the aggregate total to be collected under Subsections (a) and (b),
16 [~~the allocation to the comptroller, the county or municipality,~~
17 ~~and~~] the private attorney or vendor shall receive 30 percent of the
18 total amount collected, not to exceed the amount added as the
19 collection fee, and the remainder of the amount collected shall be
20 allocated in accordance with this chapter and Chapter 133, Local
21 Government Code [~~be reduced proportionately~~].

22 SECTION 4. Section 43.002(a), Education Code, is amended to
23 read as follows:

24 (a) On the first working day of each month in a state fiscal
25 year, the agency [~~comptroller~~] shall transfer from the permanent
26 school fund to the available school fund an amount equal to
27 one-twelfth of the annual distribution from the permanent school

1 fund to the available school fund as provided by Section 5(a),
2 Article VII, Texas Constitution, for the fiscal year.

3 SECTION 5. Section 51.009(c), Education Code, is amended to
4 read as follows:

5 (c) Each of the following shall be accounted for as
6 educational and general funds:

7 (1) net tuition, special course fees charged under
8 Sections 54.051(e) and (1), lab fees, student teaching fees,
9 organized activity fees, and proceeds from the sale of educational
10 and general equipment [~~, and indirect cost recovery fees~~]; and

11 (2) hospital and clinic fees received by a state-owned
12 clinical care facility that is operated using general revenue fund
13 appropriations for patient care.

14 SECTION 6. Section 63.202, Education Code, is amended by
15 amending Subsection (b) and adding Subsection (h) to read as
16 follows:

17 (b) Except as provided by Subsections (c), ~~[and]~~ (d), and
18 (h), money in the fund established under this subchapter may not be
19 used for any purpose.

20 (h) Expenses of managing and administering the assets of the
21 fund shall be paid from the fund.

22 SECTION 7. Section 63.302, Education Code, is amended by
23 amending Subsection (b) and adding Subsection (h) to read as
24 follows:

25 (b) Except as provided by Subsections (c), ~~[and]~~ (e), and
26 (h), money in the fund established under this subchapter may not be
27 used for any purpose.

1 (h) Expenses of managing and administering the assets of the
2 fund shall be paid from the fund.

3 SECTION 8. Sections 25.0015(b) and (c), Government Code,
4 are amended to read as follows:

5 (b) For a county that participates under Section 51.702(f)
6 under a resolution adopted and filed with the comptroller before
7 September 1, 2003, the amount shall be paid to the county's salary
8 fund in equal quarterly [~~monthly~~] installments, and of each \$35,000
9 paid a county, \$30,000 shall be paid from funds appropriated from
10 the judicial fund, and \$5,000 shall be paid from funds appropriated
11 from the general revenue fund.

12 (c) For a county that participates under Section 51.702(f)
13 under a resolution adopted or filed with the comptroller on or after
14 September 1, 2003, the amount shall be paid to the county's salary
15 fund in equal quarterly [~~monthly~~] installments from funds
16 appropriated from the judicial fund.

17 SECTION 9. Section 25.00211(b), Government Code, is amended
18 to read as follows:

19 (b) The amount shall be paid to the county treasury for
20 deposit in the contributions fund created under Section 25.00213 in
21 equal quarterly [~~monthly~~] installments from funds appropriated
22 from the judicial fund.

23 SECTION 10. Section 26.007(b), Government Code, is amended
24 to read as follows:

25 (b) The amount shall be paid to the county's salary fund in
26 equal quarterly [~~monthly~~] installments from funds appropriated
27 from the judicial fund.

1 SECTION 11. Sections 74.061(c) and (h), Government Code,
2 are amended to read as follows:

3 (c) [~~The salary of a retired judge or justice while assigned~~
4 ~~under this chapter shall be paid out of money appropriated from the~~
5 ~~general revenue fund for that purpose in an amount equal to the~~
6 ~~compensation received from state and county sources of the judge of~~
7 ~~the court to which he is assigned.~~] The salary of a retired judge or
8 justice while assigned shall be determined pro rata for the period
9 of time that the judge or justice actually sits as the assigned
10 judge. The salary of a retired statutory county court judge
11 assigned under this chapter to serve in a district court shall be
12 paid by the state in the same manner as the salary of a retired
13 district judge assigned under this chapter to serve in a district
14 court is paid by the state.

15 (h) Notwithstanding Subsection (d) [~~(e)~~], the salary from
16 the state of a retired judge or justice assigned to a district court
17 is determined pro rata on [~~the sum of the regular judge's salary~~
18 ~~from the county plus~~] the greater of:

19 (1) the regular judge's salary from the state on August
20 31, 1997; or

21 (2) 85 percent of the regular judge's salary from the
22 state, or a greater percentage of that salary, not to exceed 100
23 percent, as established by the General Appropriations Act for any
24 fiscal year.

25 SECTION 12. Section 2107.003, Government Code, is amended
26 to read as follows:

27 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) An amount collected under a contract formed under
3 Subsection (b), including the costs of recovery and court costs or
4 other costs, shall be deposited in the fund or account to which the
5 obligation was required to be deposited. 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 13. 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 14. Sections 403.071(g) and (h), Government Code,
10 are amended to read as follows:

11 (g) Notwithstanding Subsection (a), the comptroller ~~[and a~~
12 ~~state agency]~~ may ~~[contract in writing for the comptroller to]~~
13 audit claims presented by a a ~~[the]~~ state agency after the
14 comptroller prepares warrants or uses the electronic funds transfer
15 system to pay the claims. The ~~[If the comptroller and a state~~
16 ~~agency execute a contract, the]~~ comptroller may determine ~~[decide]~~
17 the types of claims that will be audited after payment.

18 (h) ~~[This subsection applies if the comptroller and a state~~
19 ~~agency have contracted in accordance with Subsection (g).]~~ The
20 comptroller shall audit claims after payment under Subsection (g)
21 in the same manner ~~[way]~~ that the comptroller audits claims before
22 payment under Subsection (a). The comptroller may establish
23 requirements and adopt rules concerning the time that a state
24 agency must retain documentation in its files to enable a
25 postpayment audit. If a postpayment audit by the comptroller shows
26 that a claim presented by a state agency was invalid, the
27 comptroller may:

1 (1) implement procedures to ensure that similar
2 invalid claims from the state agency are not paid in the future;

3 (2) report to the governor, the lieutenant governor,
4 the speaker of the house of representatives, the state auditor, and
5 the Legislative Budget Board the results of the audit;

6 (3) require the state agency to obtain a refund of the
7 monies from the payee; and

8 (4) [~~cancel the contract with the state agency; and~~

9 [~~(5)~~] reduce the state agency's remaining
10 appropriations by the amount of the claim.

11 SECTION 15. Section 403.074(d), Government Code, is amended
12 to read as follows:

13 (d) Except as provided by Subsection (g), or Article 26.051,
14 Code of Criminal Procedure, the comptroller may not pay under this
15 section a single claim in excess of \$25,000, or an aggregate of
16 claims by a single claimant during a biennium in excess of \$25,000.
17 For the purposes of this subsection, all claims that were
18 originally held by one person are considered held by a single
19 claimant regardless of whether those claims were later transferred.

20 SECTION 16. Section 404.024, Government Code, is amended by
21 adding Subsection (m) to read as follows:

22 (m) In entering into a direct security repurchase agreement
23 or a reverse security repurchase agreement, the comptroller may
24 agree to accept cash on an overnight basis in lieu of the
25 securities, obligations, or participation certificates identified
26 in Section 404.001(3). Cash held by the state under this subsection
27 is not a deposit of state or public funds for the purposes of any

1 law, including this subchapter or Subchapter D, that requires a
2 deposit of state or public funds to be collateralized by eligible
3 securities.

4 SECTION 17. Section 404.124(c), Government Code, is amended
5 to read as follows:

6 (c) The committee may determine whether the notes will be
7 sold on a negotiated or competitive bid basis. If the committee
8 determines that competitive bids are appropriate, the underwriter
9 of any notes issued under this section shall be selected by the
10 method of sale that is most advantageous to the state under the
11 circumstances, including a sale using an Internet auction site. An
12 [solicitation of sealed bids and an] appropriate bid notice shall
13 be published at least one time in one or more recognized financial
14 publications of general circulation published within the state and
15 one or more recognized financial publications of general
16 circulation published outside the state. Unless all bids are
17 rejected, the underwriter shall be selected from the bids received.
18 The comptroller may not sell the notes in a manner not approved.

19 SECTION 18. Subchapter A, Chapter 659, Government Code, is
20 amended by adding Section 659.007 to read as follows:

21 Sec. 659.007. EARNINGS STATEMENTS. (a) In this section,
22 "state agency" has the meaning assigned by Section 403.013.

23 (b) A state agency may provide a written or electronic
24 earnings statement to an officer or employee of the agency.

25 (c) The comptroller may adopt rules and establish
26 procedures concerning the earnings statements provided by state
27 agencies that under Subchapter C, Chapter 2101, are required to use

1 the uniform statewide payroll system.

2 SECTION 19. Section 659.255(a)(3), Government Code, is
3 amended to read as follows:

4 (3) "Merit salary increase" means an increase in
5 compensation to:

6 (A) a higher step rate in the same classified
7 salary group, if the classified employee is compensated under a
8 salary group that is divided into steps [~~Salary Schedule A of the~~
9 ~~General Appropriations Act~~]; or

10 (B) a higher rate within the range of the same
11 classified salary group, if the classified employee is compensated
12 under a salary group that is not divided into steps [~~Salary Schedule~~
13 ~~B of the General Appropriations Act~~].

14 SECTION 20. Sections 659.256(c) and (f), Government Code,
15 are amended to read as follows:

16 (c) When an employee is promoted within [~~to a position in a~~
17 ~~higher salary group in~~] Salary Schedule A of the General
18 Appropriations Act or from Salary Schedule B or C of the General
19 Appropriations Act to Salary Schedule A of the General
20 Appropriations Act, the employee shall receive a salary rate that
21 is at least 3.4 percent [~~one step~~] higher than the employee's salary
22 rate before promotion or the minimum rate of the new salary range,
23 whichever is higher, and may, at the discretion of the state agency
24 administrator, receive an annual salary rate up to and including
25 the maximum rate of the new salary range. [~~When an employee is~~
26 ~~promoted from a position in Salary Schedule B or C of the General~~
27 ~~Appropriations Act to a position in Salary Schedule A of the General~~

1 ~~Appropriations Act, the employee shall receive a step rate that is~~
 2 ~~at least one step above the rate the employee received before~~
 3 ~~promotion or the minimum rate of the new salary range, whichever is~~
 4 ~~higher, and may, at the discretion of the state agency~~
 5 ~~administrator, receive an annual rate up to and including the~~
 6 ~~maximum rate of the new salary range.]~~

7 (f) Notwithstanding the other provisions of this section,
 8 an employee whose salary prior to promotion exceeds the maximum
 9 rate of the employee's assigned salary group may not receive more
 10 than the maximum rate of the new salary group, even if the increase
 11 is less than one step in a salary group that is divided into steps
 12 ~~[Salary Schedule A of the General Appropriations Act]~~ or 3.4
 13 percent in a salary group that is not divided into steps ~~[Salary~~
 14 ~~Schedule B of the General Appropriations Act].~~

15 SECTION 21. Section 659.257(c), Government Code, is amended
 16 to read as follows:

17 (c) When an employee is demoted within ~~[to a position in a~~
 18 ~~lower salary group in]~~ Salary Schedule A of the General
 19 Appropriations Act or from Salary Schedule B or C of the General
 20 Appropriations Act to Salary Schedule A of the General
 21 Appropriations Act, the employee will receive a salary rate of at
 22 least 3.4 percent ~~[one step]~~ below the rate the employee received
 23 before demotion. ~~[When an employee is demoted from a position in~~
 24 ~~Salary Schedule B or C of the General Appropriations Act to a~~
 25 ~~position in Salary Schedule A of the General Appropriations Act,~~
 26 ~~the employee shall receive a step rate that is at least 3.4 percent~~
 27 ~~below the rate the employee received before demotion.]~~

1 SECTION 22. Section 660.024(a), Government Code, is amended
2 to read as follows:

3 (a) The chief administrator of a state agency must give
4 advance written approval for any travel related to official state
5 business for which a reimbursement for travel expenses is claimed
6 or for which an advance for travel expenses to be incurred is
7 sought. The advance written approval may be communicated
8 electronically. [~~A copy of the written approval shall be submitted~~
9 ~~with the travel voucher to the comptroller in accordance with~~
10 ~~Section 660.027.~~]

11 SECTION 23. Sections 660.027(b), (d), and (e), Government
12 Code, are amended to read as follows:

13 (b) A voucher submitted under Subsection (a) is valid only
14 if:

15 (1) the state agency submitting the voucher approves
16 it in accordance with Chapter 2103 and, if required by law,
17 certifies the voucher; and

18 (2) the state employee who incurred the travel expense
19 or, if the employee is unavailable, another individual acceptable
20 to the comptroller approves the description, information, and
21 documentation required by Subsection (d) [voucher] in writing or
22 electronically, except that the employee's approval is not required
23 if another person is required by law to provide the approval.

24 (d) A voucher must be supported by:

25 (1) a description of [describe] the official state
26 business performed; and

27 (2) [be accompanied by] the information and

1 documentation that the comptroller considers necessary for the
2 comptroller to determine compliance with this chapter, the travel
3 provisions of the General Appropriations Act, and the rules adopted
4 by the comptroller under this chapter.

5 (e) The comptroller may require a state agency to provide to
6 the comptroller the description, information, and documentation
7 required under ~~by~~ Subsection (d):

8 (1) on the form adopted by the comptroller under
9 Subsection (c);

10 (2) electronically;

11 (3) by submitting receipts or other documents; or

12 (4) ~~(3)~~ by any ~~a~~ combination of Subdivisions (1),
13 ~~and~~ (2), and (3).

14 SECTION 24. Section 1431.001(2), Government Code, is
15 amended to read as follows:

16 (2) "Eligible countywide district" means:

17 (A) a flood control district or a hospital
18 district the boundaries of which are substantially coterminous with
19 the boundaries of a county with a population of three million or
20 more; or

21 (B) a hospital district created in a county with
22 a population of more than 800,000 in which no hospital district was
23 located before September 1, 2003.

24 SECTION 25. Section 2256.011, Government Code, is amended
25 by amending Subsection (a) and adding Subsection (e) to read as
26 follows:

27 (a) A fully collateralized repurchase agreement is an

1 authorized investment under this subchapter if the repurchase
2 agreement:

3 (1) has a defined termination date;

4 (2) except as provided by Subsection (e), is secured
5 by obligations described by Section 2256.009(a)(1); ~~and~~

6 (3) requires the securities being purchased by the
7 entity to be pledged to the entity, held in the entity's name, and
8 deposited at the time the investment is made with the entity or with
9 a third party selected and approved by the entity; and

10 (4) is placed through a primary government securities
11 dealer, as defined by the Federal Reserve, or a financial
12 institution doing business in this state.

13 (e) For purposes of this section, an entity may agree to
14 secure the agreement by accepting cash on an overnight basis in lieu
15 of the obligations identified in Section 2256.009(a)(1). Cash held
16 by an entity under this subsection is not a deposit of public funds
17 for purposes of any statute, including Chapter 2257, that requires
18 a deposit of public funds to be collateralized by eligible
19 securities.

20 SECTION 26. Section 302.001, Local Government Code, is
21 amended by amending Subdivision (1) and adding Subdivision (3) to
22 read as follows:

23 (1) "Energy savings performance contract" means a
24 contract for energy or water conservation or usage measures to
25 reduce energy or water consumption or net operating costs or to
26 increase energy-related or water-related revenues of local
27 government facilities in which the estimated savings in utility

1 costs or the estimated increase in revenues resulting from the
2 measures is guaranteed to offset the cost of the measures over a
3 specified period. The term includes a contract for the
4 installation or implementation of:

5 (A) insulation of a building structure and
6 systems within the building;

7 (B) storm windows or doors, caulking or weather
8 stripping, multiglazed windows or doors, heat-absorbing or
9 heat-reflective glazed and coated window or door systems, or other
10 window or door system modifications that reduce energy consumption;

11 (C) automatic energy control systems, including
12 computer software and technical data licenses;

13 (D) heating, ventilating, or air-conditioning
14 system modifications or replacements that reduce energy or water
15 consumption;

16 (E) lighting fixtures that increase energy
17 efficiency;

18 (F) energy recovery systems;

19 (G) electric systems improvements;

20 (H) water-conserving fixtures, appliances, and
21 equipment or the substitution of non-water-using fixtures,
22 appliances, and equipment;

23 (I) water-conserving landscape irrigation
24 equipment;

25 (J) landscaping measures that reduce watering
26 demands and capture and hold applied water and rainfall, including:

27 (i) landscape contouring, including the use

1 of berms, swales, and terraces; and

2 (ii) the use of soil amendments that
3 increase the water-holding capacity of the soil, including compost;

4 (K) rainwater harvesting equipment and equipment
5 to make use of water collected as part of a storm-water system
6 installed for water quality control;

7 (L) equipment for recycling or reuse of water
8 originating on the premises or from other sources, including
9 treated municipal effluent;

10 (M) equipment needed to capture water from
11 nonconventional, alternate sources, including air-conditioning
12 condensate or graywater, for nonpotable uses;

13 (N) metering equipment [~~needed to segregate~~
14 ~~water use in order to identify water conservation opportunities or~~
15 ~~verify water savings~~]; or

16 (O) other energy or water conservation-related
17 improvements or equipment, including improvements or equipment
18 relating to renewable energy or nonconventional water sources or
19 water reuse.

20 (3) "Usage measure" means a technology or practice
21 related to the use of energy or water.

22 SECTION 27. Section 302.002(b), Local Government Code, is
23 amended to read as follows:

24 (b) Each energy or water conservation or usage measure must
25 comply with current local, state, and federal construction,
26 plumbing, and environmental codes and regulations.
27 Notwithstanding Section 302.001(1), an energy savings performance

1 contract may not include improvements or equipment that allow or
2 cause water from any condensing, cooling, or industrial process or
3 any system of nonpotable usage over which public water supply
4 system officials do not have sanitary control to be returned to the
5 potable water supply.

6 SECTION 28. Section 302.003, Local Government Code, is
7 amended to read as follows:

8 Sec. 302.003. PAYMENT AND PERFORMANCE BOND.

9 Notwithstanding any other law, before entering into an energy
10 savings performance contract, the governing body of the local
11 government shall require the provider of the energy or water
12 conservation or usage measures to file with the governing body a
13 payment and performance bond relating to the installation of the
14 measures in accordance with Chapter 2253, Government Code. The
15 governing body may also require a separate bond to cover the value
16 of the guaranteed savings on the contract.

17 SECTION 29. Section 302.004, Local Government Code, is
18 amended to read as follows:

19 Sec. 302.004. METHOD OF FINANCING; TERMS OF CONTRACT. (a)

20 An energy savings performance contract may be financed:

21 (1) under a lease-purchase contract that has a term
22 not to exceed 15 years from the final date of installation and that
23 meets federal tax requirements for tax-free municipal leasing or
24 long-term financing;

25 (2) with the proceeds of bonds; or

26 (3) under a contract with the provider of the energy or
27 water conservation or usage measures that has a term not to exceed

1 15 years from the final date of installation.

2 (b) An energy savings performance contract shall contain
3 provisions requiring the provider of the energy or water
4 conservation or usage measures to guarantee the amount of the
5 savings or the increased revenues, or both, to be realized by the
6 local government under the contract. If the term of the contract
7 exceeds one year, the local government's contractual obligations in
8 any one year during the term of the contract beginning after the
9 final date of installation may not exceed the total energy, water,
10 wastewater, and operating cost savings or increased revenues, or
11 both, including electrical, gas, water, wastewater, or other
12 utility cost savings and operating cost savings or increased
13 revenues, or both, resulting from the measures as determined by the
14 local government in this subsection, divided by the number of years
15 in the contract term.

16 SECTION 30. Section 302.005(b), Local Government Code, is
17 amended to read as follows:

18 (b) Before entering into an energy savings performance
19 contract, the governing body must require that the cost savings or
20 increased revenues, or both, projected by an offeror be reviewed by
21 a licensed engineer who is not an officer or employee of an offeror
22 for the contract under review or otherwise associated with the
23 contract or the offeror. An engineer who reviews a contract shall
24 maintain the confidentiality of any proprietary information the
25 engineer acquires while reviewing the contract. Sections 1001.053
26 and 1001.407, Occupations Code, apply to work performed under the
27 contract.

1 SECTION 31. Section 430.003, Local Government Code, is
2 amended to read as follows:

3 Sec. 430.003. EXEMPTIONS OF CERTAIN [~~STATE~~] PROPERTY FROM
4 INFRASTRUCTURE FEES. (a) No county, municipality, or utility
5 district may collect from a state agency or public or private
6 institution of higher education, including a public junior college
7 as defined by Section 61.003, Education Code, any fee charged for
8 the development or maintenance of programs of facilities for the
9 control of excess water or storm water.

10 (b) This section as it relates to institutes of higher
11 education does not apply to a municipality with a population of less
12 than 25,000.

13 SECTION 32. Section 433(a), Probate Code, is amended to
14 read as follows:

15 (a) Mode of Recovery. When funds of an estate have been paid
16 to the comptroller, any heir, devisee, or legatee of the estate, or
17 their assigns, or any of them, may recover the portion of such funds
18 to which he, she, or they are entitled. The person claiming such
19 funds shall institute suit on or before the fourth anniversary of
20 the date of the order requiring payment to the comptroller, by
21 petition filed in the district court of Travis County, against the
22 comptroller, setting forth the plaintiff's right to such funds, and
23 the amount claimed by him. Any heir, devisee, legatee, or their
24 assigns of an estate whose funds were paid to the state treasurer
25 under this chapter before September 1, 1991, must initiate suit
26 under this section not later than September 1, 2009.

27 SECTION 33. Section 74.101(a), Property Code, is amended to

1 read as follows:

2 (a) Each holder who on June 30 holds property that is
3 presumed abandoned under Chapter 72, 73, or 75 of this code or under
4 Chapter 154, Finance Code, shall file a report of that property on
5 or before the following November 1. The comptroller may require the
6 report to be in a particular format, including an electronic [a]
7 format that can be read by a computer if the holder is reporting 10
8 or more items of property.

9 SECTION 34. Section 74.401, Property Code, is amended by
10 adding Subsection (f) to read as follows:

11 (f) The comptroller may sell as a gift, novelty, or
12 collectible item, but not as an investment, a stock, bond,
13 certificate, or similar instrument that is nonredeemable and
14 nontransferable because it has been canceled or issued by a company
15 that has been dissolved or terminated and the existence of which has
16 not been revived or reinstated. The comptroller may sell an
17 instrument under this subsection at a public sale or in another
18 manner determined to be appropriate by the comptroller, including
19 an online sale. Before selling an instrument under this
20 subsection, the comptroller must stamp the face of the instrument
21 with a prominent mark indicating that the instrument has been
22 canceled. At the time of the sale and of the delivery of the
23 instrument to the purchaser, the comptroller must provide written
24 notice to the purchaser as required by this subsection. The notice
25 must be printed in a font size that is at least as large as the
26 largest font size on the page of the notice and include statements
27 substantially similar to the following:

1 "(1) the comptroller is not a registered
2 broker-dealer;

3 (2) this instrument is not being sold for investment
4 purposes; and

5 (3) this instrument is nonredeemable and
6 nontransferable because it has been canceled or issued by a company
7 that has been dissolved or terminated and the existence of which has
8 not been revived or reinstated."

9 SECTION 35. Section 74.507(b), Property Code, is amended to
10 read as follows:

11 (b) The person who informs a potential claimant and by
12 contract or other written agreement is to receive a percentage of
13 the value of the property may not file or receive a [~~form to~~] claim
14 form on behalf of a claimant.

15 SECTION 36. Section 74.601, Property Code, is amended by
16 adding Subsection (g) to read as follows:

17 (g) If an owner does not assert a claim for unclaimed funds
18 reported to the comptroller and the owner is reported to be the
19 state or a state agency, the comptroller may deposit the unclaimed
20 funds to the credit of the general revenue fund. The comptroller
21 may establish procedures and adopt rules as necessary to implement
22 this section.

23 SECTION 37. (a) Section 6.03, Tax Code, is amended by adding
24 Subsection (a-1) to read as follows:

25 (a-1) Notwithstanding Subsection (a) or any change in the
26 method or procedure for appointing directors adopted under Section
27 6.031 before the date this subsection becomes effective, in an

1 appraisal district established for a county with a population of
2 less than 5,000, one director is appointed by the governing body of
3 the most populous municipality that participates in the district,
4 excluding the population of any portion of a municipality for which
5 another appraisal district appraises property. The governing body
6 of the municipality shall make the appointment by resolution and
7 submit the resolution to the chief appraiser before December 15. If
8 a vacancy occurs on the board of directors in the position held by
9 the member appointed by the governing body, the governing body
10 shall appoint a person to fill the vacancy. The governing body may
11 recall a member appointed by the governing body by submitting a
12 resolution to the chief appraiser stating that the municipality is
13 recalling the member. A change under Section 6.031 made after this
14 subsection becomes effective is not valid if the governing body
15 adopts a resolution opposing the change and files it with the chief
16 appraiser. The municipality is considered to be a taxing unit
17 entitled to vote on the appointment of board members for purposes of
18 Section 6.034. The other directors are appointed in the manner
19 otherwise applicable to the district under this section or Section
20 6.031 by the other taxing units that participate in the appraisal
21 district. If those directors are appointed as provided by this
22 section, the total dollar amount of taxes imposed in the district by
23 the municipality is excluded from the calculation of the voting
24 entitlements of the other taxing units. The governing body of the
25 municipality may not participate in a vote to fill a vacancy in a
26 position on the board held by a member appointed by the other taxing
27 units or to recall a member of the board appointed by the other

1 taxing units.

2 (b) The change in law made by this section applies only to
3 the selection of appraisal district directors for terms beginning
4 on or after January 1, 2006. The change in law made by this section
5 does not affect the selection of appraisal district directors for
6 terms beginning before that date.

7 (c) If the directors of an appraisal district described by
8 Section 6.03(a-1), Tax Code, as added by this Act, serve staggered
9 terms, one of the directors must be appointed by the governing body
10 of the most populous municipality that participates in the district
11 at:

12 (1) the first election of directors after the
13 effective date of this section, if the board of directors consists
14 of an even number of directors; or

15 (2) the first election of directors after the
16 effective date of this section at which the greater number of
17 directors is elected, if the board of directors consists of an odd
18 number of directors.

19 (d) If this section takes effect October 21, 2005, in an
20 appraisal district in which one member of the board of directors
21 will be appointed under Section 6.03(a-1), Tax Code, as added by
22 this Act, for a term beginning January 1, 2006, the chief appraiser
23 shall indicate on the ballot prepared under Section 6.03(j), Tax
24 Code, for the October 30, 2006, deadline provided by that section
25 that one member of the board of directors will be so appointed, that
26 the number of directors to be appointed using that ballot is reduced
27 accordingly, and that the municipality entitled to make the

1 appointment under Section 6.03(a-1) is not entitled to vote to fill
2 the other board positions. The chief appraiser shall omit from the
3 ballot the nominations made by the municipality entitled to make
4 the appointment under Section 6.03(a-1).

5 (e) This section takes effect immediately if this Act
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this section takes effect October 21, 2005.

10 SECTION 38. Subchapter C, Chapter 41, Tax Code, is amended
11 by adding Section 41.445 to read as follows:

12 Sec. 41.445. NOTICE OF FILING OF NOTICE OF PROTEST. (a) On
13 request of a taxing unit that participates in the appraisal
14 district, the secretary of the appraisal review board shall send by
15 regular mail to the presiding officer of the governing body of the
16 taxing unit a copy of each notice of protest pertaining to:

17 (1) a property that is or may be taxable by the taxing
18 unit; or

19 (2) a property that is or may be taxable by the taxing
20 unit and that is appraised by the chief appraiser at more than a
21 certain amount, as specified by the taxing unit.

22 (b) The secretary shall mail a copy of a notice of protest as
23 required by this section not later than the 10th day after the date
24 the notice is filed.

25 SECTION 39. Sections 41.47(a) and (d), Tax Code, are
26 amended to read as follows:

27 (a) Not later than the 30th day after the date the notice of

1 a protest is filed or as soon thereafter as practicable, the [The]
2 appraisal review board hearing the [a] protest shall determine the
3 protest and make its decision by written order.

4 (d) The board shall deliver by certified mail a notice of
5 issuance of the order and a copy of the order to the property owner
6 and the chief appraiser. In addition, the board shall send by
7 regular mail a notice of issuance of the order and a copy of the
8 order to the presiding officer of the governing body of each taxing
9 unit to which a copy of the notice of protest was mailed under
10 Section 41.445.

11 SECTION 40. Section 43.04, Tax Code, is amended to read as
12 follows:

13 Sec. 43.04. SUIT TO COMPEL COMPLIANCE WITH DEADLINES. The
14 governing body of a taxing unit may sue the chief appraiser or
15 members of the appraisal review board, as applicable, for failure
16 to comply with the deadlines imposed by Section 25.22(a), 26.01(a),
17 [~~or~~] 41.12, or 41.47(a). If the court finds that the chief
18 appraiser or appraisal review board failed to comply for good cause
19 shown, the court shall enter an order fixing a reasonable deadline
20 for compliance. If the court finds that the chief appraiser or
21 appraisal review board failed to comply without good cause, the
22 court shall enter an order requiring the chief appraiser or
23 appraisal review board to comply with the deadline not later than
24 the 10th day after the date the judgment is signed. In a suit
25 brought under this section, the court may enter any other order the
26 court considers necessary to ensure compliance with the court's
27 deadline or the applicable statutory requirements. Failure to obey

1 an order of the court is punishable as contempt.

2 SECTION 41. Section 41.445, Tax Code, as added by this Act,
3 and Sections 41.47 and 43.04, Tax Code, as amended by this Act,
4 apply only to a protest the notice of which is filed on or after
5 January 1, 2006.

6 SECTION 42. (a) Section 151.304(b), Tax Code, is amended to
7 read as follows:

8 (b) In this section, "occasional sale" means:

9 (1) one or two sales of taxable items, other than an
10 amusement service, at retail during a 12-month period by a person
11 who does not habitually engage, or hold himself out as engaging, in
12 the business of selling taxable items at retail;

13 (2) the sale of the entire operating assets of a
14 business or of a separate division, branch, or identifiable segment
15 of a business;

16 (3) a transfer of all or substantially all the
17 property used by a person in the course of an activity if after the
18 transfer the real or ultimate ownership of the property is
19 substantially similar to that which existed before the transfer;
20 [~~or~~]

21 (4) the sale of not more than 10 admissions for
22 amusement services during a 12-month period by a person who does not
23 hold himself out as engaging, or does not habitually engage, in
24 providing amusement services; or

25 (5) the sale of tangible personal property by an
26 individual if:

27 (A) the property was originally bought by the

1 individual or a member of the individual's family for the personal
2 use of the individual or the individual's family;

3 (B) the individual does not hold a permit issued
4 under this chapter and is not required to obtain a permit as a
5 "seller" or "retailer" as those terms are defined by Section
6 151.008;

7 (C) the individual does not employ an auctioneer,
8 broker, or factor, other than an online auction, to sell the
9 property; and

10 (D) the total receipts from sales of the
11 individual's tangible personal property in a calendar year does not
12 exceed \$3,000.

13 (b) The change in law made by this section does not affect
14 tax liability accruing before the effective date of this section.
15 That liability continues in effect as if this section had not been
16 enacted, and the former law is continued in effect for the
17 collection of taxes due and for civil and criminal enforcement of
18 the liability for those taxes.

19 (c) This section takes effect August 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 section takes effect November 1, 2005.

24 SECTION 43. (a) Subchapter L, Chapter 151, Tax Code, is
25 amended by adding Section 151.715 to read as follows:

26 Sec. 151.715. COLLECTION OF AMOUNTS IN EXCESS OF TAX
27 IMPOSED; CIVIL PENALTY. (a) A person may not collect as a tax

1 imposed by this chapter:

2 (1) any amount that exceeds the tax actually imposed
3 by this chapter on the sale of a taxable item; or

4 (2) any amount on the sale of an item that is exempt
5 from the tax imposed by this chapter.

6 (b) The comptroller shall send a written notice to a person
7 who violates Subsection (a) that directs the person to cease
8 collecting amounts described by that subsection. If, after the
9 person receives two written notices from the comptroller, the
10 person continues collecting an amount described by that subsection,
11 the person shall pay a penalty of \$1,000 for each sale on which the
12 person collects an amount described by that subsection.

13 (c) The penalty provided by this section is assessed without
14 regard to whether the person against whom the penalty is assessed
15 remits to the comptroller the excess amounts collected.

16 (d) Provided, that for the purpose of the notices required
17 under this section, any person required to collect and remit sales
18 tax may designate a contact address to which the notice must be sent
19 before the penalty provided for in this section may be assessed.

20 (e) The comptroller of public accounts shall adopt rules
21 relating to the administration of this section which shall include
22 a safe harbor from the penalties imposed by this section where the
23 person acted in good faith and the over-collection of the tax was
24 not the result of a wilful disregard of the comptroller's rules.

25 (f) Over-collections subject to the penalties provided in
26 this section shall not constitute grounds for any cause of action by
27 any person or group of similarly situated persons where the person

1 making the over-collection remitted the tax to the comptroller and
2 assigns the right to refund to the consumer who paid the tax.

3 (g) Businesses which may be regarded as retailers under
4 Section 151.024 who pre-collect sales tax prior to the final retail
5 sale are not responsible for civil penalties under this section.

6 (b) Section 151.715, Tax Code, as added by this section,
7 applies only to the sale of an item that occurs on or after the
8 effective date of this section. The sale of an item that occurs
9 before the effective date of this section is governed by the law in
10 effect on the date the sale occurred, and the former law is
11 continued in effect for that purpose.

12 SECTION 44. Section 162.001, Tax Code, is amended by
13 amending Subdivisions (9), (19), (20), (42), (43), and (55) and
14 adding Subdivision (22-a) to read as follows:

15 (9) "Blending" means the mixing together of one or
16 more [~~petroleum~~] products with other products [~~another product~~],
17 regardless of the original character of the product blended, to
18 produce a product that is offered for sale, sold, or used as a motor
19 fuel or [~~if the product obtained by the blending~~] is capable of use
20 in the generation of power for the propulsion of a motor vehicle.
21 The term does not include mixing that occurs in the process of
22 refining by the original refiner of crude petroleum or the
23 commingling of products during transportation in a pipeline.

24 (19) "Diesel fuel" means kerosene or another liquid,
25 or a combination of liquids blended together, offered for sale,
26 sold, [~~that is suitable for~~] or used as a fuel for a [~~for the~~
27 ~~propulsion of~~] diesel-powered engine [~~motor vehicles~~]. The term

1 includes products commonly referred to as kerosene, light cycle
2 oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel,
3 aviation jet fuel, biodiesel, distillate fuel, cutter stock, or
4 heating oil, but does not include gasoline, aviation gasoline, or
5 liquefied gas.

6 (20) "Distributor" means a person who acquires motor
7 fuel, ~~[from a licensed supplier, permissive supplier, or another~~
8 ~~licensed distributor and]~~ who makes sales at wholesale, and whose
9 activities may also include sales at retail. The term includes a
10 person engaged in the tax-free sale of dyed diesel fuel that is
11 delivered into the fuel supply tanks of marine vessels.

12 (22-a) "Dyed diesel fuel dealer" means a dealer who
13 acquires dyed diesel fuel from a licensed supplier, permissive
14 supplier, or distributor for resale and delivery by the dealer into
15 the fuel supply tanks of motorboats, refrigeration units, or other
16 off-highway equipment at a retail location.

17 (42) "Motor fuel" means gasoline, diesel fuel,
18 liquefied gas, and other products that are offered for sale, sold,
19 or [can be] used as propellants for [to propel] a motor vehicle.

20 (43) "Motor fuel transporter" means a person who
21 transports gasoline, diesel fuel, ~~[or]~~ gasoline blended fuel, or
22 other motor fuel to which the person does not own title outside the
23 bulk transfer/terminal system by means of a transport vehicle, a
24 railroad tank car, or a marine vessel.

25 (55) "Shipping document" means a delivery document
26 issued ~~[by a terminal or bulk plant operator]~~ in conjunction with
27 the sale, transfer, or transport [removal] of motor fuel ~~[from the~~

1 ~~terminal or bulk plant~~]. A shipping document issued by a terminal
2 operator shall be machine printed. All other shipping documents [~~A~~
3 ~~shipping document issued by a bulk plant~~] shall be typed or
4 handwritten on a preprinted form or machine printed.

5 SECTION 45. Section 162.004, Tax Code, is amended by
6 amending Subsections (a) and (b) and adding Subsections (a-1) and
7 (h) to read as follows:

8 (a) A person may not transport in this state any motor fuel
9 by barge, vessel, railroad tank car, or transport vehicle unless
10 the person has a shipping document for the motor fuel that complies
11 with this section.

12 (a-1) A terminal operator or operator of a bulk plant shall
13 give a shipping document to the person who operates the barge,
14 vessel, railroad tank car, or transport vehicle into which motor
15 fuel is loaded at the terminal rack or bulk plant rack.

16 (b) A [~~The~~] shipping document [~~issued by the terminal~~
17 ~~operator or operator of a bulk plant~~] shall contain the following
18 information and any other information required by the comptroller:

19 (1) the terminal control number of the terminal or
20 physical address of the bulk plant from which the motor fuel was
21 received;

22 (2) the name [~~and license number~~] of the purchaser;

23 (3) the date the motor fuel was loaded;

24 (4) the net gallons loaded, or the gross gallons
25 loaded if the fuel was purchased from a bulk plant;

26 (5) the destination state of the motor fuel, as
27 represented by the purchaser of the motor fuel or the purchaser's

1 agent; and

2 (6) a description of the product being transported.

3 (h) This section does not apply to motor fuel that is
4 delivered into the fuel supply tank of a motor vehicle.

5 SECTION 46. Sections 162.016(a), (b), (d), and (e), Tax
6 Code, are amended to read as follows:

7 (a) A person may not import motor fuel to a destination in
8 this state or export motor fuel to a destination outside this state
9 by any means unless the person possesses a shipping document for
10 that fuel [~~created by the terminal or bulk plant at which the fuel~~
11 ~~was received~~]. The shipping document must include:

12 (1) the name and physical address of the terminal or
13 bulk plant from which the motor fuel was received for import or
14 export;

15 (2) the name [~~and federal employer identification~~
16 ~~number, or the social security number if the employer~~
17 ~~identification number is not available,~~] of the carrier
18 transporting the motor fuel;

19 (3) the date the motor fuel was loaded;

20 (4) the type of motor fuel;

21 (5) the number of gallons:

22 (A) in temperature-adjusted gallons if purchased
23 from a terminal for export or import; or

24 (B) in temperature-adjusted gallons or in gross
25 gallons if purchased from a bulk plant;

26 (6) the destination of the motor fuel as represented
27 by the purchaser of the motor fuel and the number of gallons of the

1 fuel to be delivered, if delivery is to only one state;

2 (7) the name [~~, federal employer identification~~
3 ~~number, license number, and physical address~~] of the purchaser of
4 the motor fuel;

5 (8) the name of the person responsible for paying the
6 tax imposed by this chapter, as given to the terminal by the
7 purchaser if different from the licensed supplier or distributor;
8 [~~and~~]

9 (9) the destination state of each portion of a split
10 load of motor fuel if the motor fuel is to be delivered to more than
11 one state; and

12 (10) any other information that, in the opinion of the
13 comptroller, is necessary for the proper administration of this
14 chapter.

15 (b) The [~~terminal or bulk plant shall provide the~~] shipping
16 documents shall be provided to the importer or exporter.

17 (d) A seller, transporter, or receiver of [~~terminal, a bulk~~
18 ~~plant, the carrier, the licensed distributor or supplier, and the~~
19 ~~person that received the~~] motor fuel shall:

20 (1) retain a copy of the shipping document until at
21 least the fourth anniversary of the date the fuel is received; and

22 (2) provide a copy of the document to the comptroller
23 or any law enforcement officer not later than the 10th working day
24 after the date a request for the copy is received.

25 (e) An importer or exporter shall keep in the person's
26 possession the shipping document [~~issued by the terminal or bulk~~
27 ~~plant~~] when transporting motor fuel imported into this state or for

1 export from this state. The importer or exporter shall show the
2 document to the comptroller or a peace officer on request. The
3 comptroller may delegate authority to inspect the document to other
4 governmental agencies. The importer or exporter shall provide a
5 copy of the shipping document to the person that receives the fuel
6 when it is delivered.

7 SECTION 47. Sections 162.101(b) and (c), Tax Code, are
8 amended to read as follows:

9 (b) A tax is imposed at the time gasoline is imported into
10 this state, other than by a bulk transfer, for delivery to a
11 destination in this state. The supplier or permissive supplier
12 shall collect the tax imposed by this subchapter from the person who
13 imports the gasoline into this state. If the seller is not a
14 supplier or permissive supplier, then the person who imports the
15 gasoline into this state shall pay the tax.

16 (c) A tax is imposed on the removal [~~sale or transfer~~] of
17 gasoline from [~~in~~] the bulk transfer/terminal system in this state
18 [~~by a supplier to a person who does not hold a supplier's license~~].
19 The supplier shall collect the tax imposed by this subchapter from
20 the person who orders the removal from [~~sale or transfer in~~] the
21 bulk transfer terminal system.

22 SECTION 48. Section 162.103(d), Tax Code, is amended to
23 read as follows:

24 (d) A person who sells gasoline in this state, other than by
25 a bulk transfer, on which tax has not been paid for any purpose
26 other than a purpose exempt under Section 162.104 shall at the time
27 of sale collect the tax from the purchaser or recipient of gasoline

1 in addition to the selling price and is liable to this state for the
2 taxes imposed [~~collected at the time and~~] in the manner provided by
3 this chapter.

4 SECTION 49. Section 162.113(d), Tax Code, is amended to
5 read as follows:

6 (d) The supplier or permissive supplier shall [~~has the~~
7 ~~right~~], after notifying the comptroller of the licensed
8 distributor's or licensed importer's failure to remit taxes under
9 this section, [~~to~~] terminate the ability of the licensed
10 distributor or licensed importer to defer the payment of gasoline
11 tax. The supplier or permissive supplier shall reinstate without
12 delay the right of the licensed distributor or licensed importer to
13 defer the payment of gasoline tax after the comptroller provides to
14 the supplier or permissive supplier notice that the licensed
15 distributor or licensed importer is in good standing with the
16 comptroller for the purposes of the gasoline tax imposed under this
17 subchapter.

18 SECTION 50. Section 162.115, Tax Code, is amended by adding
19 Subsection (m-1) to read as follows:

20 (m-1) In addition to the records specifically required by
21 this section, a license holder shall keep any other record required
22 by the comptroller.

23 SECTION 51. Sections 162.116(a) and (d), Tax Code, are
24 amended to read as follows:

25 (a) The monthly return and supplements of each supplier and
26 permissive supplier shall contain for the period covered by the
27 return:

1 (1) ~~[the number of net gallons of gasoline received by~~
2 ~~the supplier or permissive supplier during the month, sorted by~~
3 ~~product code, seller, point of origin, destination state, carrier,~~
4 ~~and receipt date,~~

5 ~~[(2)]~~ the number of net gallons of gasoline removed at
6 a terminal rack during the month from the account of the supplier,
7 sorted by product code, person receiving the gasoline, terminal
8 code, and carrier;

9 (2) ~~[(3)]~~ the number of net gallons of gasoline
10 removed during the month for export, sorted by product code, person
11 receiving the gasoline, terminal code, destination state, and
12 carrier;

13 (3) ~~[(4)]~~ the number of net gallons of gasoline
14 removed during the month from a terminal located in another state
15 for conveyance to this state, as indicated on the shipping document
16 for the gasoline, sorted by product code, person receiving the
17 gasoline, terminal code, and carrier;

18 (4) ~~[(5)]~~ the number of net gallons of gasoline the
19 supplier or permissive supplier sold during the month in
20 transactions exempt under Section 162.104, sorted by ~~[product code,~~
21 ~~carrier,~~] purchaser~~[, and terminal code,~~

22 ~~[(6) the number of net gallons of gasoline sold in the~~
23 ~~bulk transfer/terminal system in this state to any person not~~
24 ~~holding a supplier's or permissive supplier's license]; and~~

25 (5) ~~[(7)]~~ any other information required by the
26 comptroller.

27 (d) For purposes of Subsection (c), all payments or credits

1 in reduction of a customer's account must be applied ratably
2 between motor fuels and other goods sold to the customer, and the
3 credit allowed will be the tax on the number of gallons represented
4 by the motor fuel portion of the credit. The comptroller may not
5 require a supplier or permissive supplier to remit from a payment or
6 credit in reduction of a customer's account any tax for which the
7 supplier or permissive supplier was allowed to take a credit.

8 SECTION 52. Section 162.118, Tax Code, is amended to read as
9 follows:

10 Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S
11 RETURN. The monthly return and supplements of each distributor
12 shall contain for the period covered by the return:

13 (1) the number of net gallons of gasoline received by
14 the distributor during the month, sorted by product code and~~[7]~~
15 ~~seller[, point of origin, destination state, carrier, and receipt~~
16 ~~date];~~

17 (2) the number of net gallons of gasoline removed at a
18 terminal rack by the distributor during the month, sorted by
19 product code, seller, and terminal code~~[, and carrier];~~

20 (3) the number of net gallons of gasoline removed by
21 the distributor during the month for export, sorted by product
22 code, terminal code, bulk plant address, destination state, and
23 carrier;

24 (4) the number of net gallons of gasoline removed by
25 the distributor during the month from a terminal located in another
26 state for conveyance to this state, as indicated on the shipping
27 document for the gasoline, sorted by product code, seller, terminal

1 code, bulk plant address, and carrier;

2 (5) the number of net gallons of gasoline the
3 distributor sold during the month in transactions exempt under
4 Section 162.104, sorted by product code and purchaser; and

5 (6) any other information required by the comptroller.

6 SECTION 53. Section 162.127, Tax Code, is amended by adding
7 Subsection (g) to read as follows:

8 (g) The comptroller shall issue a refund warrant to a
9 distributor not later than the 60th day after the date a valid
10 refund claim is filed with the comptroller. If the comptroller does
11 not issue the refund warrant by that date, the amount of the refund
12 draws interest at the rate provided by Section 111.064 beginning on
13 the 61st day after the date the valid refund claim is filed and
14 ending on a date not more than 10 days before the date of the refund
15 warrant.

16 SECTION 54. Section 162.128(d), Tax Code, is amended to
17 read as follows:

18 (d) A supplier, ~~or~~ permissive supplier, distributor,
19 importer, exporter, or blender that determines taxes were
20 erroneously reported and remitted or that paid more taxes than were
21 due this state because of a mistake of fact or law may take a credit
22 on the monthly tax report on which the error has occurred and tax
23 payment made to the comptroller. The credit must be taken before
24 the expiration of the applicable period of limitation as provided
25 by Chapter 111.

26 SECTION 55. Sections 162.201(b) and (c), Tax Code, are
27 amended to read as follows:

1 (b) A tax is imposed at the time diesel fuel is imported into
2 this state, other than by a bulk transfer, for delivery to a
3 destination in this state. The supplier or permissive supplier
4 shall collect the tax imposed by this subchapter from the person who
5 imports the diesel fuel into this state. If the seller is not a
6 supplier or permissive supplier, the person who imports the diesel
7 fuel into this state shall pay the tax.

8 (c) A tax is imposed on the removal [~~sale or transfer~~] of
9 diesel fuel from [~~in~~] the bulk transfer/terminal system [~~in this~~
10 ~~state by a supplier to a person who does not hold a supplier's~~
11 ~~license~~]. The supplier shall collect the tax imposed by this
12 subchapter from the person who orders the removal from [~~sale or~~
13 ~~transfer in~~] the bulk transfer/terminal system.

14 SECTION 56. Section 162.203(d), Tax Code, is amended to
15 read as follows:

16 (d) A person who sells diesel fuel in this state, other than
17 by a bulk transfer, on which tax has not been paid for any purpose
18 other than a purpose exempt under Section 162.204 shall at the time
19 of sale collect the tax from the purchaser or recipient of diesel
20 fuel in addition to the selling price and is liable to this state
21 for the taxes imposed [~~collected at the time and~~] in the manner
22 provided by this chapter.

23 SECTION 57. Section 162.204(a), Tax Code, is amended to
24 read as follows:

25 (a) The tax imposed by this subchapter does not apply to:
26 (1) diesel fuel sold to the United States for its
27 exclusive use, provided that the exemption does not apply to diesel

1 fuel sold or delivered to a person operating under a contract with
2 the United States;

3 (2) diesel fuel sold to a public school district in
4 this state for the district's exclusive use;

5 (3) diesel fuel sold to a commercial transportation
6 company that provides public school transportation services to a
7 school district under Section 34.008, Education Code, and that uses
8 the diesel fuel only to provide those services;

9 (4) diesel fuel exported by either a licensed supplier
10 or a licensed exporter from this state to any other state, provided
11 that:

12 (A) for diesel fuel in a situation described by
13 Subsection (d), the bill of lading indicates the destination state
14 and the supplier collects the destination state tax; or

15 (B) for diesel fuel in a situation described by
16 Subsection (e), the bill of lading indicates the destination state,
17 the diesel fuel is subsequently exported, and the exporter is
18 licensed in the destination state to pay that state's tax and has an
19 exporter's license issued under this subchapter;

20 (5) diesel fuel moved by truck or railcar between
21 licensed suppliers or licensed permissive suppliers and in which
22 the diesel fuel removed from the first terminal comes to rest in the
23 second terminal, provided that the removal from the second terminal
24 rack is subject to the tax imposed by this subchapter;

25 (6) diesel fuel delivered or sold into a storage
26 facility of a licensed aviation fuel dealer from which the diesel
27 fuel will be delivered solely into the fuel supply tanks of aircraft

1 or aircraft servicing equipment, or sold from one licensed aviation
2 fuel dealer to another licensed aviation fuel dealer who will
3 deliver the diesel fuel exclusively into the fuel supply tanks of
4 aircraft or aircraft servicing equipment;

5 (7) diesel fuel exported to a foreign country if the
6 bill of lading indicates the foreign destination and the fuel is
7 actually exported to the foreign country;

8 (8) dyed diesel fuel sold or delivered by a supplier to
9 another supplier and dyed diesel fuel sold or delivered by a
10 supplier or distributor into the bulk storage facility of a dyed
11 diesel fuel dealer or dyed diesel fuel bonded user or to a purchaser
12 who provides a signed statement as provided by Section 162.206;

13 (9) the volume of water, fuel ethanol, biodiesel, or
14 mixtures thereof that are blended together with taxable diesel fuel
15 when the finished product sold or used is clearly identified on the
16 retail pump, storage tank, and sales invoice as a combination of
17 diesel fuel and water, fuel ethanol, biodiesel, or mixtures
18 thereof;

19 (10) dyed diesel fuel sold by a supplier or permissive
20 supplier to a distributor, or by a distributor to another
21 distributor;

22 (11) dyed diesel fuel delivered by a license holder
23 into the fuel supply tanks of railway engines, motorboats, or
24 refrigeration units or other stationary equipment powered by a
25 separate motor from a separate fuel supply tank;

26 (12) dyed kerosene when delivered by a supplier,
27 distributor, or importer into a storage facility at a retail

1 business from which all deliveries are exclusively for heating,
2 cooking, lighting, or similar nonhighway use; or

3 (13) diesel fuel used by a person, other than a
4 political subdivision, who owns, controls, operates, or manages a
5 commercial motor vehicle as defined by Section 548.001,
6 Transportation Code, if the fuel:

7 (A) is delivered exclusively into the fuel supply
8 tank of the commercial motor vehicle; and

9 (B) is used exclusively to transport passengers
10 for compensation or hire between points in this state on a fixed
11 route or schedule.

12 SECTION 58. Section 162.205(a), Tax Code, is amended to
13 read as follows:

14 (a) A person shall obtain the appropriate license or
15 licenses issued by the comptroller before conducting the activities
16 of:

17 (1) a supplier, who may also act as a distributor,
18 importer, exporter, blender, dyed diesel fuel dealer, motor fuel
19 transporter, or aviation fuel dealer without securing a separate
20 license, but who is subject to all other conditions, requirements,
21 and liabilities imposed on those license holders;

22 (2) a permissive supplier, who may also act as a
23 distributor, importer, exporter, blender, dyed diesel fuel dealer,
24 motor fuel transporter, or aviation fuel dealer without securing a
25 separate license but who is subject to all other conditions,
26 requirements, and liabilities imposed on those license holders;

27 (3) a distributor, who may also act as an importer,

1 exporter, blender, dyed diesel fuel dealer, or motor fuel
2 transporter without securing a separate license, but who is subject
3 to all other conditions, requirements, and liabilities imposed on
4 those license holders;

5 (4) an importer, who may also act as an exporter,
6 blender, or motor fuel transporter without securing a separate
7 license, but who is subject to all other conditions, requirements,
8 and liabilities imposed on those license holders;

9 (5) a terminal operator;

10 (6) an exporter;

11 (7) a blender;

12 (8) a motor fuel transporter;

13 (9) an aviation fuel dealer;

14 (10) an interstate trucker; ~~[or]~~

15 (11) a dyed diesel fuel bonded user; or

16 (12) a dyed diesel fuel dealer.

17 SECTION 59. Section 162.206, Tax Code, is amended by
18 amending Subsection (c) and adding Subsections (c-1), (g-1), and
19 (k) to read as follows:

20 (c) A person may not make a tax-free purchase and a licensed
21 supplier or distributor may not make a tax-free sale to a purchaser
22 of any dyed diesel fuel under this section using a signed statement
23 for the first sale or purchase and for any subsequent sale or
24 purchase ~~[+~~

25 ~~[(1) for the purchase or the sale of more than 7,400~~
26 ~~gallons of dyed diesel fuel in a single delivery; or~~

27 ~~[(2)] in a calendar month for ~~[in which the person has~~~~

1 ~~previously purchased from all sources or in which the licensed~~
2 ~~supplier has previously sold to that purchaser]~~ more than:

3 (1) [~~(A)~~] 10,000 gallons of dyed diesel fuel;

4 (2) [~~(B)~~] 25,000 gallons of dyed diesel fuel if the
5 purchaser stipulates in the signed statement that all of the fuel
6 will be consumed by the purchaser in the original production of, or
7 to increase the production of, oil or gas and furnishes the supplier
8 with a letter of exception issued by the comptroller; or

9 (3) [~~(C)~~] 25,000 gallons of dyed diesel fuel if the
10 purchaser stipulates in the signed statement that all of the fuel
11 will be consumed by the purchaser in agricultural off-highway
12 equipment.

13 (c-1) The monthly limitations prescribed by Subsection (c)
14 apply regardless of whether the dyed diesel fuel is purchased in a
15 single transaction during that month or in multiple transactions
16 during that month.

17 (g-1) For purposes of this section, the purchaser is
18 considered to have furnished the signed statement to the licensed
19 supplier or distributor if the supplier or distributor verifies
20 that the purchaser has an end user number issued by the comptroller.
21 The licensed supplier or distributor shall use the comptroller's
22 Internet website or other materials provided or produced by the
23 comptroller to verify this information.

24 (k) Properly completed signed statements should be in the
25 possession of the licensed supplier or distributor at the time the
26 sale of dyed diesel fuel occurs. If the licensed supplier or
27 distributor is not in possession of the signed statements within 60

1 days after the date written notice requiring possession of them is
2 given to the licensed supplier or distributor by the comptroller,
3 exempt sales claimed by the licensed supplier or distributor that
4 require delivery of the signed statements shall be disallowed. If
5 the licensed supplier or distributor delivers the signed statements
6 to the comptroller within the 60-day period, the comptroller may
7 verify the reason or basis for the signed statements before
8 allowing the exempt sales. An exempt sale may not be granted on the
9 basis of signed statements delivered to the comptroller after the
10 60-day period.

11 SECTION 60. Section 162.211(b), Tax Code, is amended to
12 read as follows:

13 (b) The license issued to an aviation fuel dealer or dyed
14 diesel fuel dealer is permanent and is valid until the license is
15 surrendered by the holder or canceled by the comptroller.

16 SECTION 61. Section 162.213, Tax Code, is amended to read as
17 follows:

18 Sec. 162.213. LICENSE HOLDER STATUS LIST. (a) The
19 comptroller, on or before December 20 of each year, shall make
20 available to all license holders an alphabetical list of licensed
21 suppliers, permissive suppliers, distributors, aviation fuel
22 dealers, importers, exporters, blenders, terminal operators, dyed
23 diesel fuel dealers, and dyed diesel fuel bonded users. A
24 supplemental list of additions and deletions shall be made
25 available to the license holders each month. A current and
26 effective license or the list furnished by the comptroller is
27 evidence of the validity of the license until the comptroller

1 notifies license holders of a change in the status of a license
2 holder.

3 (b) A licensed supplier or permissive supplier who sells
4 diesel fuel tax-free to a supplier, ~~or~~ permissive supplier, or
5 aviation fuel dealer whose license has been canceled or revoked
6 under this chapter, or who sells dyed diesel fuel to a distributor,
7 dyed diesel fuel dealer, or dyed diesel fuel bonded user whose
8 license has been canceled or revoked under this chapter, is liable
9 for any tax due on diesel fuel sold after receiving notice of the
10 cancellation or revocation.

11 (c) The comptroller shall notify all license holders under
12 this chapter when a canceled or revoked license is subsequently
13 reinstated and include in the notice the effective date of the
14 reinstatement. Sales to a supplier, permissive supplier,
15 distributor, aviation fuel dealer, dyed diesel fuel dealer, or dyed
16 diesel fuel bonded user after the effective date of the
17 reinstatement may be made tax-free.

18 SECTION 62. Section 162.214(d), Tax Code, is amended to
19 read as follows:

20 (d) The supplier or permissive supplier shall ~~[has the~~
21 ~~right]~~, after notifying the comptroller of the licensed
22 distributor's or licensed importer's failure to remit taxes under
23 this section, ~~[to]~~ terminate the ability of the licensed
24 distributor or licensed importer to defer the payment of diesel
25 fuel tax. The supplier or permissive supplier shall reinstate
26 without delay the right of the licensed distributor or licensed
27 importer to defer the payment of diesel fuel tax after the

1 comptroller provides to the supplier or permissive supplier notice
2 that the licensed distributor or licensed importer is in good
3 standing with the comptroller for the purposes of diesel fuel tax
4 imposed under this subchapter.

5 SECTION 63. Section 162.215(d), Tax Code, is amended to
6 read as follows:

7 (d) An aviation fuel dealer and a dyed diesel fuel dealer
8 are [~~is~~] not required to file a return.

9 SECTION 64. Section 162.216, Tax Code, is amended by adding
10 Subsections (l-1) and (m-1) to read as follows:

11 (l-1) A dyed diesel fuel dealer shall keep:

12 (1) a record showing the number of gallons of:

13 (A) dyed and undyed diesel fuel inventories on
14 hand at the first of each month;

15 (B) dyed and undyed diesel fuel purchased or
16 received, showing the name of the seller and the date of each
17 purchase or receipt;

18 (C) dyed and undyed diesel fuel sold or used,
19 showing the date of the sale or use; and

20 (D) dyed and undyed diesel fuel lost by fire,
21 theft, or accident; and

22 (2) for dyed diesel fuel an invoice containing:

23 (A) the stamped or preprinted name and address of
24 the seller;

25 (B) the name of the purchaser;

26 (C) the date of delivery of the dyed diesel fuel;

27 (D) the number of gallons of dyed diesel fuel

1 delivered;

2 (E) the type or description of the off-highway
3 equipment into which the dyed diesel fuel is delivered; and

4 (F) a notice stating "DYED DIESEL FUEL,
5 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE."

6 (m-1) In addition to the records specifically required by
7 this section, a license holder shall keep any other record required
8 by the comptroller.

9 SECTION 65. Sections 162.217(a) and (d), Tax Code, are
10 amended to read as follows:

11 (a) The monthly return and supplements of each supplier and
12 permissive supplier shall contain for the period covered by the
13 return:

14 (1) ~~[the number of net gallons of diesel fuel received~~
15 ~~by the supplier or permissive supplier during the month, sorted by~~
16 ~~product code, seller, point of origin, destination state, carrier,~~
17 ~~and receipt date,~~

18 ~~[(2)]~~ the number of net gallons of diesel fuel removed
19 at a terminal rack during the month from the account of the
20 supplier, sorted by product code, person receiving the diesel fuel,
21 terminal code, and carrier;

22 (2) ~~[(3)]~~ the number of net gallons of diesel fuel
23 removed during the month for export, sorted by product code, person
24 receiving the diesel fuel, terminal code, destination state, and
25 carrier;

26 (3) ~~[(4)]~~ the number of net gallons of diesel fuel
27 removed during the month from a terminal located in another state

1 for conveyance to this state, as indicated on the shipping document
2 for the diesel fuel, sorted by product code, person receiving the
3 diesel fuel, terminal code, and carrier;

4 (4) [~~(5)~~] the number of net gallons of diesel fuel the
5 supplier or permissive supplier sold during the month in
6 transactions exempt under Section 162.204, sorted by [~~product code,~~
7 ~~carrier,~~] purchaser [~~, and terminal code,~~

8 [~~(6)~~ ~~the number of net gallons of diesel fuel sold in~~
9 ~~the bulk transfer/terminal system in this state to any person not~~
10 ~~holding a supplier's or permissive supplier's license]; and~~

11 (5) [~~(7)~~] any other information required by the
12 comptroller.

13 (d) For the purpose of Subsection (c), all payments or
14 credits in reduction of a customer's account must be applied
15 ratably between motor fuels and other goods sold to the customer,
16 and the credit allowed will be the tax on the number of gallons
17 represented by the motor fuel portion of the credit. The
18 comptroller may not require a supplier or permissive supplier to
19 remit from a payment or credit in reduction of a customer's account
20 any tax for which the supplier or permissive supplier was allowed to
21 take a credit.

22 SECTION 66. Section 162.219, Tax Code, is amended to read as
23 follows:

24 Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S
25 RETURN. The monthly return and supplements of each distributor
26 shall contain for the period covered by the return:

27 (1) the number of net gallons of diesel fuel received

1 by the distributor during the month, sorted by product code and[7]
2 seller [~~, point of origin, destination state, carrier, and receipt~~
3 ~~date~~];

4 (2) the number of net gallons of diesel fuel removed at
5 a terminal rack by the distributor during the month, sorted by
6 product code, seller, and terminal code [~~, and carrier~~];

7 (3) the number of net gallons of diesel fuel removed by
8 the distributor during the month for export, sorted by product
9 code, terminal code, bulk plant address, destination state, and
10 carrier;

11 (4) the number of net gallons of diesel fuel removed by
12 the distributor during the month from a terminal located in another
13 state for conveyance to this state, as indicated on the shipping
14 document for the diesel fuel, sorted by product code, seller,
15 terminal code, bulk plant address, and carrier;

16 (5) the number of net gallons of diesel fuel the
17 distributor sold during the month in transactions exempt under
18 Section 162.204, sorted by product code and by the entity receiving
19 the diesel fuel;

20 (6) the number of net gallons of[7] dyed diesel fuel
21 sold to a purchaser under a signed statement[7] or dyed diesel fuel
22 sold to a dyed diesel fuel bonded user, sorted by product code and
23 by the entity receiving the diesel fuel; and

24 (7) [~~(6)~~] any other information required by the
25 comptroller.

26 SECTION 67. Section 162.229, Tax Code, is amended by adding
27 Subsection (g) to read as follows:

1 (g) The comptroller shall issue a refund warrant to a
2 distributor not later than the 60th day after the date a valid
3 refund claim is filed with the comptroller. If the comptroller does
4 not issue the refund warrant by that date, the amount of the refund
5 draws interest at the rate provided by Section 111.064 beginning on
6 the 61st day after the date the valid refund claim is filed and
7 ending on a date not more than 10 days before the date of the refund
8 warrant.

9 SECTION 68. Section 162.230(d), Tax Code, is amended to
10 read as follows:

11 (d) A supplier, ~~[or]~~ permissive supplier, distributor,
12 importer, exporter, or blender that determines taxes were
13 erroneously reported and remitted or that paid more taxes than were
14 due to this state because of a mistake of fact or law may take a
15 credit on the monthly tax report on which the error has occurred and
16 tax payment made to the comptroller. The credit must be taken
17 before the expiration of the applicable period of limitation as
18 provided by Chapter 111.

19 SECTION 69. Section 162.402(d), Tax Code, is amended to
20 read as follows:

21 (d) A person ~~[operating a bulk plant or terminal]~~ who issues
22 a shipping document that does not conform with the requirements of
23 Section 162.016(a) is liable to this state for a civil penalty of
24 \$2,000 or five times the amount of the unpaid tax, whichever is
25 greater, for each occurrence.

26 SECTION 70. Sections 162.404(c) and (d), Tax Code, are
27 amended to read as follows:

1 (c) The prohibition under Section 162.403(32) does not
2 apply to the tax-free sale or distribution of diesel fuel
3 authorized by Section 162.204(a)(1) [~~162.204(1)~~], (2), or (3).

4 (d) The prohibition under Section 162.403(33) does not
5 apply to the tax-free sale or distribution of gasoline under
6 Section 162.104(a)(1) [~~162.104(1)~~], (2), or (3).

7 SECTION 71. The heading to Section 162.409, Tax Code, is
8 amended to read as follows:

9 Sec. 162.409. ISSUANCE OF BAD CHECK TO LICENSED
10 DISTRIBUTOR, ~~[OR]~~ LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

11 SECTION 72. Sections 162.409(a) and (d), Tax Code, are
12 amended to read as follows:

13 (a) A person commits an offense if:

14 (1) the person issues or passes a check or similar
15 sight order for the payment of money knowing that the issuer does
16 not have sufficient funds in or on deposit with the bank or other
17 drawee for the payment in full of the check or order as well as all
18 other checks or orders outstanding at the time of issuance;

19 (2) the payee on the check or order is a licensed
20 distributor, ~~[or]~~ licensed supplier, or permissive supplier; and

21 (3) the payment is for an obligation or debt that
22 includes a tax under this chapter to be collected by the licensed
23 distributor, ~~[or]~~ licensed supplier, or permissive supplier.

24 (d) A person who makes payment on an obligation or debt that
25 includes a tax under this chapter and pays with an insufficient
26 funds check issued to a licensed distributor, ~~[or]~~ licensed
27 supplier, or permissive supplier may be held liable for a penalty

1 equal to the total amount of tax not paid to the licensed
2 distributor, ~~[or]~~ licensed supplier, or permissive supplier.

3 SECTION 73. Subchapter E, Chapter 162, Tax Code, is amended
4 by adding Section 162.410 to read as follows:

5 Sec. 162.410. ELECTION OF OFFENSES. If a violation of a
6 provision of this chapter by a person constitutes a criminal
7 offense under another law of this state, the state may elect the
8 offense for which it will prosecute the person.

9 SECTION 74. Sections 162.016(c) and (h), Tax Code, are
10 repealed.

11 SECTION 75. Sections 44-74 of this Act apply only to taxes
12 imposed on or after the effective date of those sections. Taxes
13 imposed before the effective date of those sections are governed by
14 the law in effect on the date the taxes were imposed, and that law is
15 continued in effect for that purpose.

16 SECTION 76. This section and Sections 44-75 of this Act take
17 effect November 1, 2005.

18 SECTION 77. Section 311.0125, Tax Code, is amended by
19 adding Subsection (f) to read as follows:

20 (f) If under this section a municipality has entered into a
21 tax abatement agreement with an owner of real or personal property
22 in a reinvestment zone designated under this chapter, the
23 municipality may not enter into a tax abatement agreement
24 authorized by any other law of this state in connection with the
25 same property of that owner.

26 SECTION 78. Subchapter D, Chapter 373A, Local Government
27 Code, as added by H.B. No. 525, Acts of the 79th Legislature,

1 Regular Session, 2005, is amended by adding Section 373A.159 to
2 read as follows:

3 Sec. 373A.159. TAX ABATEMENT AGREEMENTS. (a) A taxing unit
4 may enter into a tax abatement agreement with an owner of real or
5 personal property in a homestead preservation reinvestment zone,
6 regardless of whether the taxing unit deposits or agrees to deposit
7 any portion of its tax increment into the tax increment fund for the
8 zone.

9 (b) To be effective, an agreement to abate ad valorem taxes
10 on real property in a homestead preservation reinvestment zone
11 under this section must be approved by:

12 (1) the governing body of the municipality that
13 administers the zone; and

14 (2) the governing body of each taxing unit that
15 imposes ad valorem taxes on real property in the zone and deposits
16 or agrees to deposit any of its tax increment into the tax increment
17 fund for the zone.

18 (c) In any contract entered into by the governing body of
19 the municipality that administers a homestead preservation
20 reinvestment zone in connection with bonds or other obligations,
21 the governing body may covenant that it will not approve an ad
22 valorem tax abatement agreement that applies to real property in
23 that zone.

24 (d) If a taxing unit enters into an ad valorem tax abatement
25 agreement authorized by this section, ad valorem taxes that are
26 abated under that agreement are not considered taxes to be imposed
27 or produced by that taxing unit in calculating the amount of:

- 1 (1) the tax increment of that taxing unit; or
2 (2) that taxing unit's deposit to the tax increment
3 fund for the homestead preservation reinvestment zone.

4 SECTION 79. Sections 373A.157(c) and (e), Local Government
5 Code, as added by H.B. No. 525, Acts of the 79th Legislature,
6 Regular Session, 2005, are amended to read as follows:

7 (c) At least 45 [~~50~~] percent of the revenue from the tax
8 increment fund expended annually must benefit families that have a
9 yearly income at or below 50 percent of the area median family
10 income, adjusted for family size.

11 (e) The municipality must spend at least 70 [~~80~~] percent of
12 the revenue expended annually from the tax increment fund for the
13 purchase of real property and the construction or rehabilitation of
14 affordable housing in the zone. The municipality may spend not more
15 than 10 percent of the revenue expended annually from the tax
16 increment fund for administration of the zone. Not more than 10
17 percent of the revenue expended annually from the tax increment
18 fund may be spent for infrastructure improvements necessary to
19 support the construction or rehabilitation of affordable housing in
20 the zone.

21 SECTION 80. Section 623.052(b), Transportation Code, is
22 amended to read as follows:

23 (b) Before a person may operate a vehicle under this
24 section, the person must:

25 (1) contract with the department to indemnify the
26 department for the cost of the maintenance and repair for damage
27 caused by a vehicle crossing that part of the highway; and

1 (2) execute an adequate surety bond to compensate for
2 the cost of maintenance and repair, approved by [~~the comptroller~~
3 ~~and~~] the attorney general, with a corporate surety authorized to do
4 business in this state, conditioned on the person fulfilling each
5 obligation of the agreement.

6 SECTION 81. Section 404.024, Government Code, is amended by
7 amending Subsections (b) and (l) and adding Subsections (n) and (o)
8 to read as follows:

9 (b) State funds not deposited in state depositories shall be
10 invested by the comptroller in:

11 (1) direct security repurchase agreements;

12 (2) reverse security repurchase agreements;

13 (3) direct obligations of or obligations the principal
14 and interest of which are guaranteed by the United States;

15 (4) direct obligations of or obligations guaranteed by
16 agencies or instrumentalities of the United States government;

17 (5) bankers' acceptances that:

18 (A) are eligible for purchase by the Federal
19 Reserve System;

20 (B) do not exceed 270 days to maturity; and

21 (C) are issued by a bank whose other comparable
22 short-term obligations are rated in [~~that has received~~] the highest
23 short-term [~~credit~~] rating category, within which there may be
24 subcategories or gradations, including such subcategories or
25 gradations as "rating category" or "rated," indicating relative
26 standing by a nationally recognized statistical rating
27 organization, as defined by Rule 2a-7 (17 C.F.R. Part 270.2a-7),

1 promulgated under the Investment Company Act of 1940 by the
2 Securities and Exchange Commission [~~investment rating firm~~];

3 (6) commercial paper that:

4 (A) does not exceed 270 days to maturity; and

5 (B) except as provided by Subsection (i), is
6 issued by an entity whose other comparable short-term obligations
7 are rated in [~~has received~~] the highest short-term [~~credit~~] rating
8 category by a nationally recognized statistical rating
9 organization [~~investment rating firm~~];

10 (7) contracts written by the treasury in which the
11 treasury grants the purchaser the right to purchase securities in
12 the treasury's marketable securities portfolio at a specified price
13 over a specified period and for which the treasury is paid a fee and
14 specifically prohibits naked-option or uncovered option trading;

15 (8) direct obligations of or obligations guaranteed by
16 the Inter-American Development Bank, the International Bank for
17 Reconstruction and Development (the World Bank), the African
18 Development Bank, the Asian Development Bank, and the International
19 Finance Corporation that have received the highest long-term
20 [~~credit~~] rating categories for debt obligations by a nationally
21 recognized statistical rating organization [~~investment rating~~
22 ~~firm~~];

23 (9) bonds issued, assumed, or guaranteed by the State
24 of Israel;

25 (10) obligations of a state or an agency, county,
26 city, or other political subdivision of a state;

27 (11) mutual funds secured by obligations that are

1 described by Subdivisions (1) through (6), including pooled funds:

2 (A) established by the Texas Treasury
3 Safekeeping Trust Company;

4 (B) operated like a mutual fund; and

5 (C) with portfolios consisting only of
6 dollar-denominated securities; ~~and~~

7 (12) foreign currency for the sole purpose of
8 facilitating investment by state agencies that have the authority
9 to invest in foreign securities;

10 (13) asset-backed securities, as defined by the
11 Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Part
12 270.2a-7), that are rated at least A or its equivalent by a
13 nationally recognized statistical rating organization and that
14 have a weighted-average maturity of five years or less; and

15 (14) corporate debt obligations that are rated at
16 least A or its equivalent by a nationally recognized statistical
17 rating organization and mature in five years or less from the date
18 on which the obligations were "acquired," as defined by the
19 Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Part
20 270.2a-7).

21 (1) The comptroller may lend securities under procedures
22 established by the comptroller. The procedures must be consistent
23 with industry practice and must include a requirement to fully
24 secure the loan with cash, obligations described by Subsections
25 (b)(1)-(6), or a combination of cash and the described obligations.
26 Notwithstanding any provision to the contrary, cash may be
27 reinvested in the items permitted under Subsection (b) or mutual

1 funds secured by the items permitted under Subsection (b) [~~In this~~
2 ~~subsection, "obligation" means an item described by Subsections~~
3 ~~(b)(1)-(6)~~].

4 (n) In entering into a direct security repurchase agreement
5 or a reverse security repurchase agreement, the comptroller may
6 agree to accept cash on an overnight basis in lieu of the
7 securities, obligations, or participation certificates identified
8 in Section 404.001(3). Cash held by the state under this subsection
9 is not a deposit of state or public funds for purposes of any
10 statute, including this subchapter or Subchapter D, that requires a
11 deposit of state or public funds to be collateralized by eligible
12 securities.

13 (o) Notwithstanding any other law to the contrary, any
14 government investment pool created to function as a money market
15 mutual fund and managed by the comptroller or the Texas Treasury
16 Safekeeping Trust Company may invest the funds it receives in
17 investments that are "eligible securities," as defined by the
18 Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Part
19 270.2a-7), if it maintains a dollar-weighted average portfolio
20 maturity of 90 days or less, with the maturity of each portfolio
21 security calculated in accordance with Rule 2a-7 (17 C.F.R. Part
22 270.2a-7), and meets the diversification requirements of Rule 2a-7.

23 SECTION 82. Section 2256.016, Government Code, is amended
24 by amending Subsections (a) and (f) and adding Subsection (i) to
25 read as follows:

26 (a) An entity may invest its funds and funds under its
27 control through an eligible investment pool if the governing body

1 of the entity by rule, order, ordinance, or resolution, as
2 appropriate, authorizes investment in the particular pool. An
3 investment pool created to function as a money market mutual fund
4 may invest the funds it receives from entities in investments that
5 are "eligible securities," as defined by the Securities and
6 Exchange Commission in Rule 2a-7 (17 C.F.R. Part 270.2a-7),
7 promulgated under the Investment Company Act of 1940. Any other
8 [An] investment pool shall invest the funds it receives from
9 entities in authorized investments permitted by this subchapter.

10 (f) To be eligible to receive funds from and invest funds on
11 behalf of an entity under this chapter, a public funds investment
12 pool created to function as a money market mutual fund must:

13 (1) mark its portfolio to market daily, and, to the
14 extent reasonably possible, stabilize at a \$1 net asset value. If
15 the ratio of the market value of the portfolio divided by the book
16 value of the portfolio is less than 0.995 or greater than 1.005,
17 portfolio holdings shall be sold as necessary to maintain the ratio
18 between 0.995 and 1.005;

19 (2) maintain a dollar-weighted average portfolio
20 maturity of 90 days or less, with the maturity of each portfolio
21 security calculated in accordance with Rule 2a-7 (17 C.F.R. Part
22 270.2a-7); and

23 (3) meet the diversification requirements of Rule 2a-7
24 (17 C.F.R. Part 270.2a-7) promulgated by the Securities and
25 Exchange Commission.

26 (i) In this section, "stated maturity date" means the
27 average life of a security with periodic principal payments, the

1 number of days until the next interest rate reset date for variable
2 rate securities, or the final maturity date for all other
3 securities.

4 SECTION 83. (a) Section 442.015, Government Code, is
5 amended by adding Subsection (h) to read as follows:

6 (h) The comptroller may manage the assets of the Texas
7 preservation trust fund account in the same manner as the
8 comptroller may manage the assets of certain permanent funds under
9 Section 403.1068.

10 (b) Section 285.063, Health and Safety Code, is amended by
11 adding Subsection (b-1) to read as follows:

12 (b-1) The district shall submit to the comptroller a
13 description of the boundaries of the district and a map of the
14 district clearly showing the district's boundaries at the same time
15 the district submits the results of the election held under this
16 subchapter.

17 (c) Section 775.0753, Health and Safety Code, is amended by
18 adding Subsection (d) to read as follows:

19 (d) The district shall submit to the comptroller a
20 description of the boundaries of the district and a map of the
21 district clearly showing the district's boundaries at the same time
22 the district submits the results of the election held under this
23 subchapter.

24 (d) Section 776.0753, Health and Safety Code, is amended by
25 adding Subsection (d) to read as follows:

26 (d) The district shall submit to the comptroller a
27 description of the boundaries of the district and a map of the

1 district clearly showing the district's boundaries at the same time
2 the district submits the results of the election held as provided by
3 this subchapter.

4 (e) Article 1.16(b), Insurance Code, is amended to read as
5 follows:

6 (b) Assessments for the expenses of such domestic
7 examination which shall be sufficient to meet all the expenses and
8 disbursements necessary to comply with the provisions of the laws
9 of Texas relating to the examination of insurance companies and to
10 comply with the provisions of this Article and Articles 1.17 and
11 1.18 of this Code, shall be made by the State Board of Insurance
12 upon the corporations or associations to be examined taking into
13 consideration annual premium receipts, and/or admitted assets that
14 are not attributable to 90 percent of pension plan contracts as
15 defined in Section 818(a) of the Internal Revenue Code of 1986 (26
16 U.S.C. Section 818(a)), and/or insurance in force; provided such
17 assessments shall be made and collected as follows: (1) expenses
18 attributable directly to a specific examination including
19 employees' salaries and expenses and expenses provided by Section
20 803.007 [~~Article 1.28~~] of this Code shall be collected at the time
21 of examination; (2) assessments calculated annually for each
22 corporation or association which take into consideration annual
23 premium receipts, and/or admitted assets that are not attributable
24 to 90 percent of pension plan contracts as defined in Section 818(a)
25 of the Internal Revenue Code of 1986 (26 U.S.C. Section 818(a)),
26 and/or insurance in force shall be assessed annually for each such
27 corporation or association. In computing the assessments, the

1 board may not consider insurance premiums for insurance contracted
2 for by a state or federal governmental entity to provide welfare
3 benefits to designated welfare recipients or contracted for in
4 accordance with or in furtherance of Title 2, Human Resources Code,
5 or the federal Social Security Act (42 U.S.C. Section 301 et seq.).
6 The amount of all examination and evaluation fees paid in each
7 taxable year to the State of Texas by an insurance carrier shall be
8 allowed as a credit on the amount of premium taxes due [~~under this~~
9 ~~article~~]. The limitations provided by Sections 803.007(1) and
10 (2)(B) of this code for domestic insurance companies apply to
11 foreign insurance companies.

12 (f) Section 222.002(b), Insurance Code, is amended to read
13 as follows:

14 (b) Except as otherwise provided by this section, in
15 determining an insurer's taxable gross premiums or a health
16 maintenance organization's taxable gross revenues, the insurer or
17 health maintenance organization shall include the total gross
18 amounts of premiums, membership fees, assessments, dues, revenues,
19 and other considerations received by the insurer or health
20 maintenance organization in a calendar year from any kind of health
21 maintenance organization certificate or contract or insurance
22 policy or contract covering risks on individuals or groups [~~a~~
23 ~~person~~] located in this state and arising from the business of a
24 health maintenance organization or the business of life insurance,
25 accident insurance, health insurance, life and accident insurance,
26 life and health insurance, health and accident insurance, life,
27 health, and accident insurance, including variable life insurance,

1 credit life insurance, and credit accident and health insurance for
2 profit or otherwise or for mutual benefit or protection.

3 (g) Section 223.003(a), Insurance Code, is amended to read
4 as follows:

5 (a) An annual tax is imposed on all [~~each title insurance~~
6 ~~company that receives~~] premiums from the business of title
7 insurance. The rate of the tax is 1.35 percent of [~~the~~] title
8 insurance [~~company's~~] taxable premiums for a calendar year,
9 including any premiums retained by a title insurance agent as
10 provided by Section 223.005. For purposes of this chapter, a person
11 engages in the business of title insurance if the person engages in
12 an activity described by Section 2501.005.

13 (h) Section 252.003, Insurance Code, is amended to read as
14 follows:

15 Sec. 252.003. PREMIUMS SUBJECT TO TAXATION. An insurer
16 shall pay maintenance taxes under this chapter on the correctly
17 reported gross premiums [~~collected~~] from writing insurance in this
18 state against loss or damage by:

- 19 (1) bombardment;
- 20 (2) civil war or commotion;
- 21 (3) cyclone;
- 22 (4) earthquake;
- 23 (5) excess or deficiency of moisture;
- 24 (6) explosion as defined by Article 5.52;
- 25 (7) fire;
- 26 (8) flood;
- 27 (9) frost and freeze;

- 1 (10) hail;
- 2 (11) insurrection;
- 3 (12) invasion;
- 4 (13) lightning;
- 5 (14) military or usurped power;
- 6 (15) an order of a civil authority made to prevent the
- 7 spread of a conflagration, epidemic, or catastrophe;
- 8 (16) rain;
- 9 (17) riot;
- 10 (18) the rising of the waters of the ocean or its
- 11 tributaries;
- 12 (19) smoke or smudge;
- 13 (20) strike or lockout;
- 14 (21) tornado;
- 15 (22) vandalism or malicious mischief;
- 16 (23) volcanic eruption;
- 17 (24) water or other fluid or substance resulting from
- 18 the breakage or leakage of sprinklers, pumps, or other apparatus
- 19 erected for extinguishing fires, water pipes, or other conduits or
- 20 containers;
- 21 (25) weather or climatic conditions; [~~or~~]
- 22 (26) windstorm;
- 23 (27) an event covered under a home warranty insurance
- 24 policy; or
- 25 (28) an event covered under an inland marine insurance
- 26 policy.

27 (i) Section 271.002(a), Insurance Code, is amended to read

1 as follows:

2 (a) A maintenance fee is imposed on all [~~each insurer with~~
3 ~~gross~~] premiums subject to assessment under Section 271.006.

4 (j) Section 1502.053, Insurance Code, is amended to read as
5 follows:

6 Sec. 1502.053. EXEMPTION FROM CERTAIN TAXES. (a) The
7 issuer of a children's health benefit plan approved under Section
8 1502.051 is not subject to the premium tax or the tax on revenues
9 imposed under Chapter 222 with respect to money received for
10 coverage provided under that plan.

11 (b) The issuer of a children's health benefit plan is not
12 subject to the retaliatory tax imposed under Chapter 281 with
13 respect to money received for coverage provided under that plan.

14 (k) Section 383.101, Local Government Code, is amended by
15 adding Subsection (d) to read as follows:

16 (d) The district shall submit to the comptroller a
17 description of the boundaries of the district and a map of the
18 district clearly showing the district's boundaries at the same time
19 the district submits the results of the election held under this
20 subchapter.

21 (l) Section 387.012, Local Government Code, is amended to
22 read as follows:

23 Sec. 387.012. EFFECTIVE DATE OF TAX. (a) The adoption of
24 the tax, the change of the tax rate, or the repeal of the tax takes
25 effect on the first day of the first calendar quarter occurring
26 after the expiration of the first complete quarter occurring after
27 the date the comptroller receives a notice of the results of the

1 election adopting, changing, or repealing the tax.

2 (b) The district shall submit to the comptroller a
3 description of the boundaries of the district and a map of the
4 district clearly showing the district's boundaries at the same time
5 the district submits the results of the election held under this
6 chapter.

7 (m) Section 21.05(e), Tax Code, is amended to read as
8 follows:

9 (e) For purposes of this subchapter, a commercial aircraft
10 shall mean an instrumentality of air commerce that is:

11 (1) primarily engaged in the transportation of cargo,
12 passengers, or equipment for others for consideration at least 50
13 percent of the time;

14 (2) economically employed when it is moving from point
15 to point as a means of transportation for a fee, flat rate, or
16 expense charge; and

17 (3) operated or managed by a certificated air carrier.
18 A certificated air carrier is one engaged in interstate or
19 intrastate commerce under authority of the Federal Aviation
20 Administration of the U.S. Department of Transportation under 14
21 C.F.R. Part 121 or 135.

22 (n) Subchapter B, Chapter 111, Tax Code, is amended by
23 adding Section 111.0515 to read as follows:

24 Sec. 111.0515. RESTRICTED OR CONDITIONAL PAYMENTS OF TAXES,
25 PENALTIES, AND INTEREST PROHIBITED. Unless the restriction or
26 condition is authorized by this title, a restriction or condition
27 placed on a check in payment of taxes by the maker of the check that

1 purports to limit the amount of taxes owed to an amount less than
2 that stated in the comptroller's records, or a restriction or
3 condition placed on a check in payment of penalties and interest on
4 delinquent taxes by the maker that purports to limit the amount of
5 the penalties and interest to an amount less than the amount of
6 penalties and interest accrued on the delinquent taxes, is void.

7 (o) Subchapter B, Chapter 111, Tax Code, is amended by
8 adding Section 111.065 to read as follows:

9 Sec. 111.065. EXPEDITIOUS ASSISTANCE FOR TAXPAYERS. (a)
10 As expeditiously as possible, the comptroller shall:

11 (1) refund or credit any amount of tax overpaid by a
12 person; and

13 (2) correct any erroneous assessment.

14 (b) The comptroller shall amend any audit or the records of
15 any audit period as expeditiously as possible if necessary to
16 comply with Subsection (a).

17 (p) Section 111.107, Tax Code, is amended to read as
18 follows:

19 Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. (a)
20 Except as otherwise expressly provided, a person may request a
21 refund or a credit or the comptroller may make a refund or issue a
22 credit for the overpayment of a tax imposed by this title at any
23 time before the expiration of the period during which the
24 comptroller may assess a deficiency for the tax and not thereafter
25 unless the refund or credit is requested:

26 (1) under Subchapter B of Chapter 112 and the refund is
27 made or the credit is issued under a court order;

1 (2) under the provision of Section 111.104(c)(3)
2 applicable to a refund claim filed after a jeopardy or deficiency
3 determination becomes final; or

4 (3) under Chapter 162 [~~153~~], except Section
5 162.126(f), 162.128(d), 162.228(f), or 162.230(d) [~~153.1195(e),~~
6 ~~153.121(d), 153.2225(e), or 153.224(d)~~].

7 (b) A person may not refile a refund claim for the same
8 transaction or item, tax type, period, and ground or reason that was
9 previously denied by the comptroller in a refund hearing.

10 (q) Sections 151.011(a) and (c), Tax Code, are amended to
11 read as follows:

12 (a) Except as provided by Subsection (c) [~~of this section~~],
13 "use" means the exercise of a right or power incidental to the
14 ownership of tangible personal property over tangible personal
15 property, including tangible personal property other than printing
16 [~~printed~~] material that has been processed, fabricated, or
17 manufactured into other property or attached to or incorporated
18 into other property transported into this state, and, except as
19 provided by Section 151.056(b) [~~of this code~~], includes the
20 incorporation of tangible personal property into real estate or
21 into improvements of real estate whether or not the real estate is
22 subsequently sold.

23 (c) "Use" does not include the sale of tangible personal
24 property or a taxable service in the regular course of business, the
25 transfer of a taxable service as an integral part of the transfer of
26 tangible personal property in the regular course of business, or
27 the transfer of tangible personal property as an integral part of

1 the transfer of a taxable service in the regular course of business.
2 "Use" also does not include the sale outside this state of raw
3 materials that are processed, fabricated, or manufactured into
4 printed materials outside this state if the printed materials are
5 subsequently brought or delivered into this state.

6 (r) Section 151.3111(b), Tax Code, is amended to read as
7 follows:

8 (b) Subsection (a) does not apply to the performance of a
9 service on:

10 (1) tangible personal property that would be exempted
11 solely because of the exempt status of the seller of the property;

12 (2) tangible personal property that is exempted solely
13 because of the application of Section 151.303, 151.304, or 151.306;

14 (3) motor vehicles, trailers, or semitrailers as
15 defined, taxed, or exempted by Chapter 152; [~~or~~]

16 (4) a taxable boat or motor as defined by Section
17 160.001; [~~-~~]

18 (5) tangible [~~(6) Tangible~~] personal property exempt
19 under Section 151.326; or

20 (6) through December 31, 2007, tangible personal
21 property that is exempted solely because of the application of
22 Section 151.3162.

23 (s) Sections 151.3162(d) and (e), Tax Code, are amended to
24 read as follows:

25 (d) The exemption provided by Subsection (b) takes effect
26 January 1, 2008. Until that date, a person is entitled to an
27 exemption [~~a credit or refund~~] of a portion of the taxes paid under

1 this chapter on an item that after January 1, 2008, will be exempted
2 from the taxes imposed by this chapter under Subsection (b). The
3 amount of the exemption [~~credit or refund~~] is determined as
4 follows:

5 (1) for an item for which the taxable event occurs on
6 or after October 1, 2001, and before January 1, 2004, the taxpayer
7 is entitled to an exemption [~~a refund or credit~~] in an amount equal
8 to 33 percent of the tax paid on the item;

9 (2) for an item for which the taxable event occurs on
10 or after January 1, 2004, and before January 1, 2006, the taxpayer
11 is entitled to an exemption [~~a refund or credit~~] in an amount equal
12 to 50 percent of the tax paid on the item; and

13 (3) for an item for which the taxable event occurs on
14 or after January 1, 2006, and before January 1, 2008, the taxpayer
15 is entitled to an exemption [~~a refund or credit~~] in an amount equal
16 to 75 percent of the tax paid on the item.

17 (e) A taxpayer entitled to a credit or refund under
18 Subsection (d), as that subsection existed on September 30, 2005,
19 may elect to receive either a credit or a refund. A taxpayer who
20 elects to receive a credit must claim the credit on the return for a
21 period that ends not later than the first anniversary of the date on
22 which the taxable event occurred. A taxpayer who elects to receive
23 a refund must apply to the comptroller for the refund before or
24 during the calendar year following the year in which the tax on the
25 item was paid.

26 (t) Section 171.110, Tax Code, is amended by adding
27 Subsection (m) to read as follows:

1 (m) Except as otherwise provided by this section, in
2 computing taxable earned surplus, a corporation is considered to
3 have made an election to use the same methods used in filing its
4 federal income tax return.

5 (u) Section 171.1121(b), Tax Code, is amended to read as
6 follows:

7 (b) Except as otherwise provided by this section, a
8 corporation shall use the same accounting methods to apportion
9 taxable earned surplus as the corporation used to compute taxable
10 earned surplus [~~in computing reportable federal taxable income~~].

11 (v) Section 171.801(2), Tax Code, is amended to read as
12 follows:

13 (2) "Qualified capital investment" means tangible
14 personal property, as defined by 26 C.F.R. Section 1.1245-3(b)(1),
15 that is first placed in service in a strategic investment area, or
16 first placed in service in a county with a population of less than
17 50,000 by a corporation primarily engaged in agricultural
18 processing, and that is described as Section 1245 property by [~~in~~]
19 Section 1245(a), Internal Revenue Code, such as engines, machinery,
20 tools, and implements used in a trade or business or held for
21 investment and subject to an allowance for depreciation, cost
22 recovery under the accelerated cost recovery system, or
23 amortization. The term does not include land [~~real property~~] or
24 buildings and their structural components. Property that is leased
25 under a capitalized lease is considered a "qualified capital
26 investment," but property that is leased under an operating lease
27 is not considered a "qualified capital investment." Property

1 expensed under Section 179, Internal Revenue Code, is not
2 considered a "qualified capital investment."

3 (w) Section 183.053(b), Tax Code, is amended to read as
4 follows:

5 (b) The total of bonds, certificates of deposit, letters of
6 credit, or other security determined to be sufficient by the
7 comptroller of a permittee subject to the tax imposed by this
8 chapter shall be in an amount that the comptroller determines to be
9 sufficient to protect the fiscal interests of the state. The
10 comptroller may not set the amount of security at less than \$1,000
11 or more than the greater of \$100,000 or four times the amount of the
12 permittee's average monthly tax liability [~~\$50,000~~].

13 (x) Sections 313.021(1) and (2), Tax Code, are amended to
14 read as follows:

15 (1) "Qualified investment" means:

16 (A) tangible personal property, as defined by 26
17 C.F.R. Section 1.1245-3(b)(1), that is first placed in service in
18 this state during the applicable qualifying time period that begins
19 on or after January 1, 2002, and is described as Section 1245
20 property by Section 1245(a), Internal Revenue Code of 1986;

21 (B) tangible personal property that is first
22 placed in service in this state during the applicable qualifying
23 time period that begins on or after January 1, 2002, without regard
24 to whether the property is affixed to or incorporated into real
25 property, and that is used in connection with the manufacturing,
26 processing, or fabrication in a cleanroom environment of a
27 semiconductor product, without regard to whether the property is

1 actually located in the cleanroom environment, including:

2 (i) integrated systems, fixtures, and
3 piping;

4 (ii) all property necessary or adapted to
5 reduce contamination or to control airflow, temperature, humidity,
6 chemical purity, or other environmental conditions or
7 manufacturing tolerances; and

8 (iii) production equipment and machinery,
9 moveable cleanroom partitions, and cleanroom lighting; or

10 (C) a building or a permanent, nonremovable
11 component of a building that is built or constructed during the
12 applicable qualifying time period that begins on or after January
13 1, 2002, and that houses tangible personal property described by
14 Paragraph (A) or (B).

15 (2) "Qualified property" means:

16 (A) land:

17 (i) that is located in an area designated as
18 a reinvestment zone under Chapter 311 or 312 or as an enterprise
19 zone under Chapter 2303, Government Code;

20 (ii) on which a person proposes to
21 construct a new building or erect or affix a new improvement that
22 does not exist before the date the owner applies for a limitation on
23 appraised value under this subchapter;

24 (iii) that is not subject to a tax abatement
25 agreement entered into by a school district under Chapter 312; and

26 (iv) on which, in connection with the new
27 building or new improvement described by Subparagraph (ii), the

1 owner of the land, or the owner of a leasehold interest in the land,
2 proposes to:

3 (a) make a qualified investment in an
4 amount equal to at least the minimum amount required by Section
5 313.023; and

6 (b) create at least 25 new jobs;

7 (B) the new building or other new improvement
8 described by Paragraph (A)(ii); and

9 (C) tangible personal property that:

10 (i) is not subject to a tax abatement
11 agreement entered into by a school district under Chapter 312; and

12 (ii) except for new equipment described in
13 Section 151.318(q) or (q-1), is first placed in service in the new
14 building or in or on the new improvement described by Paragraph
15 (A)(ii), or on the land on which that new building or new
16 improvement is located, if the personal property is ancillary and
17 necessary to the business conducted in that new building or in or on
18 that new improvement.

19 (y) Section 321.203, Tax Code, is amended by amending
20 Subsections (b)-(e) and adding Subsection (n) to read as follows:

21 (b) If a retailer has only one place of business in this
22 state, all of the retailer's retail sales of taxable items
23 [~~tangible personal property~~] are consummated at that place of
24 business except as provided by Subsection (e).

25 (c) If a retailer has more than one place of business in this
26 state, a sale of a taxable item [~~tangible personal property~~] by the
27 retailer is consummated at the retailer's place of business:

1 (1) from which the retailer ships or delivers the item
2 ~~[property]~~, if the retailer ships or delivers the item ~~[property]~~
3 to a point designated by the purchaser or lessee; or

4 (2) where the purchaser or lessee takes possession of
5 and removes the item ~~[property]~~, if the purchaser or lessee takes
6 possession of and removes the item ~~[property]~~ from a place of
7 business of the retailer.

8 (d) If neither the possession of a taxable item ~~[tangible~~
9 ~~personal property]~~ is taken at nor shipment or delivery of the item
10 ~~[property]~~ is made from the retailer's place of business in this
11 state, the sale is consummated at:

12 (1) the retailer's place of business in this state
13 where the order is received; or

14 (2) if the order is not received at a place of business
15 of the retailer, the place of business from which the retailer's
16 salesman who took the order operates.

17 (e) A sale of a taxable item ~~[tangible personal property]~~ is
18 consummated at the location in this state to which the item
19 ~~[property]~~ is shipped or delivered or at which possession is taken
20 by the customer if transfer of possession of the item ~~[property]~~
21 occurs at, or shipment or delivery of the item ~~[property]~~
22 originates from, a location in this state other than a place of
23 business of the retailer and if:

24 (1) the retailer is an itinerant vendor who has no
25 place of business;

26 (2) the retailer's place of business where the
27 purchase order is initially received or from which the retailer's

1 salesman who took the order operates is outside this state; or

2 (3) the purchaser places the order directly with the
3 retailer's supplier and the item [~~property~~] is shipped or delivered
4 directly to the purchaser by the supplier.

5 (n) A sale of a service described by Section 151.0047 to
6 remodel, repair, or restore nonresidential real property is
7 consummated at the location of the job site. However, if the job
8 site includes areas in multiple municipalities, the sale is
9 consummated at:

10 (1) the retailer's place of business in this state
11 where the order is received; or

12 (2) if the order is not received at a place of business
13 of the retailer, the place of business from which the retailer's
14 agent who took the order operates.

15 (z) Section 321.302, Tax Code, is amended by adding
16 Subsection (c-1) to read as follows:

17 (c-1) For purposes of Subsection (c)(3), "full amount of the
18 tax due" means the amount of municipal tax to be allocated that can
19 be determined without a comptroller's audit of the person's
20 records.

21 (aa) Section 321.503, Tax Code, is amended to read as
22 follows:

23 Sec. 321.503. STATE'S SHARE. Before sending any money to a
24 municipality under this subchapter the comptroller shall deduct two
25 percent of the amount of the taxes collected within the
26 municipality during the period for which a distribution is made as
27 the state's charge for its services under this chapter and shall[7

1 ~~subject to premiums payments under Section 321.501(c),]~~ credit the
2 money deducted to the general revenue fund.

3 (bb) Section 323.102(c), Tax Code, is amended to read as
4 follows:

5 (c) A tax imposed under Section 323.105 of this code or
6 Chapter 326 or 383, Local Government Code, takes effect on the first
7 day of the first calendar quarter after the expiration of the first
8 complete calendar quarter occurring after the date on which the
9 comptroller receives a notice of the action as required by Section
10 323.405(b).

11 (cc) Section 323.203, Tax Code, is amended by amending
12 Subsections (b)-(e) and adding Subsection (m) to read as follows:

13 (b) If a retailer has only one place of business in this
14 state, all of the retailer's retail sales of taxable items
15 [~~tangible personal property~~] are consummated at that place of
16 business except as provided by Subsection (e).

17 (c) If a retailer has more than one place of business in this
18 state, a sale of a taxable item [~~tangible personal property~~] by the
19 retailer is consummated at the retailer's place of business:

20 (1) from which the retailer ships or delivers the item
21 [~~property~~], if the retailer ships or delivers the item [~~property~~]
22 to a point designated by the purchaser or lessee; or

23 (2) where the purchaser or lessee takes possession of
24 and removes the item [~~property~~], if the purchaser or lessee takes
25 possession of and removes the item [~~property~~] from a place of
26 business of the retailer.

27 (d) If neither the possession of a taxable item [~~tangible~~

1 ~~personal property~~] is taken at nor shipment or delivery of the item
2 [~~property~~] is made from the retailer's place of business in this
3 state, the sale is consummated at:

4 (1) the retailer's place of business in this state
5 where the order is received; or

6 (2) if the order is not received at a place of business
7 of the retailer, the place of business from which the retailer's
8 salesman who took the order operates.

9 (e) A sale of a taxable item [~~tangible personal property~~] is
10 consummated at the location in this state to which the item
11 [~~property~~] is shipped or delivered or at which possession is taken
12 by the customer if transfer of possession of the item [~~property~~]
13 occurs at, or shipment or delivery of the item [~~property~~]
14 originates from, a location in this state other than a place of
15 business of the retailer and if:

16 (1) the retailer is an itinerant vendor who has no
17 place of business;

18 (2) the retailer's place of business where the
19 purchase order is initially received or from which the retailer's
20 salesman who took the order operates is outside this state; or

21 (3) the purchaser places the order directly with the
22 retailer's supplier and the item [~~property~~] is shipped or delivered
23 directly to the purchaser by the supplier.

24 (m) A sale of a service described by Section 151.0047 to
25 remodel, repair, or restore nonresidential real property is
26 consummated at the location of the job site. However, if the job
27 site includes areas in multiple municipalities, the sale is

1 consummated at:

2 (1) the retailer's place of business in this state
3 where the order is received; or

4 (2) if the order is not received at a place of business
5 of the retailer, the place of business from which the retailer's
6 agent who took the order operates.

7 (dd) Section 323.503, Tax Code, is amended to read as
8 follows:

9 Sec. 323.503. STATE'S SHARE. Before sending any money to a
10 county under this subchapter the comptroller shall deduct two
11 percent of the amount of the taxes collected within the county
12 during the period for which a distribution is made as the state's
13 charge for its services under this chapter and shall~~[, subject to~~
14 ~~premiums payments under Section 323.501(c),]~~ credit the money
15 deducted to the general revenue fund.

16 (ee) The heading to Subchapter A, Chapter 16, Utilities
17 Code, is amended to read as follows:

18 SUBCHAPTER A. ASSESSMENT ON UTILITY GROSS RECEIPTS [~~PUBLIC~~
19 ~~UTILITIES~~]

20 (ff) The heading to Section 16.001, Utilities Code, is
21 amended to read as follows:

22 Sec. 16.001. ASSESSMENT ON UTILITY GROSS RECEIPTS [~~PUBLIC~~
23 ~~UTILITIES~~].

24 (gg) Sections 16.001(a) and (b), Utilities Code, are
25 amended to read as follows:

26 (a) To defray the expenses incurred in the administration of
27 this title, an assessment is imposed on each telecommunications

1 utility, electric [~~public~~] utility, retail electric provider, and
2 electric cooperative within the jurisdiction of the commission that
3 serves the ultimate consumer, including each interexchange
4 telecommunications carrier.

5 (b) An assessment under this section is equal to one-sixth
6 of one percent of the telecommunications utility's, electric
7 [~~public~~] utility's, retail electric provider's, or electric
8 cooperative's gross receipts from rates charged to the ultimate
9 consumer in this state.

10 (hh) Section 16.002(b), Utilities Code, is amended to read
11 as follows:

12 (b) A telecommunications utility, electric [~~public~~]
13 utility, retail electric provider, or electric cooperative may
14 instead make quarterly payments due August 15, November 15,
15 February 15, and May 15.

16 (ii) The following sections of the Tax Code are repealed:

17 (1) Section 151.103(d);

18 (2) Section 151.202(c);

19 (3) Section 321.203(1), Tax Code, as added by Chapter
20 1310, Acts of the 78th Legislature, Regular Session, 2003; and

21 (4) Section 323.203(1).

22 (jj) The changes in law made by this Act to Section 201.102,
23 Tax Code, apply to a refund claim or determination under Chapter
24 111, Tax Code, without regard to whether the taxes that are the
25 subject of the refund claim or determination are due before, on, or
26 after the effective date of this Act.

27 (kk) This section takes effect January 1, 2006.

1 SECTION 84. Section 161.081, Health and Safety Code, is
2 amended by adding Subdivision (7) to read as follows:

3 (7) "Attempt" means committing an act amounting to
4 more than mere preparation that tends but fails to effect the
5 commission of the offense intended.

6 SECTION 85. Subchapter H, Chapter 161, Health and Safety
7 Code, is amended by adding Section 161.0821 to read as follows:

8 Sec. 161.0821. PURCHASE OF CIGARETTES OR TOBACCO PRODUCTS
9 BY PERSONS YOUNGER THAN 18 YEARS OF AGE PROHIBITED. (a) A person
10 who is younger than 18 years of age commits an offense if the person
11 purchases or attempts to purchase cigarettes or tobacco products.

12 (b) It is an exception to the application of this section
13 that the person younger than 18 years of age is participating in an
14 investigation or compliance inspection in accordance with Section
15 161.088 on behalf of the comptroller or a local law enforcement
16 agency.

17 (c) If conduct constituting an offense under this section
18 also constitutes an offense under another section of this code or
19 another provision of law, the actor may be prosecuted under either
20 this section or the other section or provision.

21 (d) An offense under this section is a Class C misdemeanor.

22 SECTION 86. (a) Section 161.084, Health and Safety Code, is
23 amended by amending Subsection (b) and adding Subsection (f) to
24 read as follows:

25 (b) The sign must include the statement:

26 PURCHASING OR ATTEMPTING TO PURCHASE TOBACCO PRODUCTS BY A
27 MINOR UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW. SALE OR PROVISION

1 OF TOBACCO PRODUCTS TO A MINOR UNDER 18 YEARS OF AGE IS PROHIBITED
2 BY LAW. UPON CONVICTION, A CLASS C MISDEMEANOR, INCLUDING A FINE OF
3 UP TO \$500, MAY BE IMPOSED. VIOLATIONS MAY BE REPORTED TO THE TEXAS
4 COMPTROLLER'S OFFICE BY CALLING (insert toll-free telephone
5 number). PREGNANT WOMEN SHOULD NOT SMOKE. SMOKERS ARE MORE LIKELY
6 TO HAVE BABIES WHO ARE BORN PREMATURE OR WITH LOW BIRTHWEIGHT.

7 (f) The comptroller may accept gifts and grants from any
8 public or private source to perform the comptroller's duties under
9 this section.

10 (b) The comptroller shall adopt rules as necessary to
11 implement Section 161.084, Health and Safety Code, as amended by
12 this Act, not later than the 90th day after the effective date of
13 this Act.

14 SECTION 87. Section 2303.401, Government Code, is amended
15 to read as follows:

16 Sec. 2303.401. DEFINITIONS. In this subchapter:

- 17 (1) "Certified job" means a new or retained job that:
18 (A) has provided at least 1,820 hours of
19 employment a year to a qualified employee of a qualified business as
20 described by Section 2303.402;
21 (B) is intended to exist for at least three years
22 after the date on which the comptroller makes the initial
23 certification of hiring commitments for the qualified business
24 under Section 2303.516(d); and
25 (C) has been certified by the comptroller as
26 eligible for receipt of a state benefit under this chapter.

27 (2) "New permanent job" means a new employment

1 position created by a qualified business as described by Section
2 2303.402 that:

3 (A) has provided at least 1,820 hours of
4 employment a year to a qualified employee; and

5 (B) is intended to exist at the qualified
6 business site for at least three years after the date on which a
7 state benefit is received as authorized by this chapter.

8 (3) [~~(2)~~] "Retained job" means a job that existed with
9 a qualified business before designation of the business's project
10 or activity as an enterprise project that:

11 (A) has provided employment to a qualified
12 employee of at least 1,820 hours annually; and

13 (B) is intended to be an employment position for
14 at least three years after the date on which a state benefit is
15 received as authorized by this chapter.

16 SECTION 88. Section 2303.4072, Government Code, is amended
17 to read as follows:

18 Sec. 2303.4072. ENTERPRISE PROJECT CLAIM FOR STATE BENEFIT.
19 A person must make a claim to the comptroller for a state benefit as
20 prescribed under this chapter and Chapters 151 and 171, Tax Code,
21 not later than six [~~18~~] months after the date on which the term of
22 the enterprise project designation expires as provided by Section
23 2303.404.

24 SECTION 89. Section 2303.504, Government Code, as amended
25 by Section 2.02, Chapter 1134, Acts of the 77th Legislature,
26 Regular Session, 2001, is amended to read as follows:

27 Sec. 2303.504. STATE TAX REFUNDS AND CREDITS; REPORT. (a)

1 In this section, "triple jumbo enterprise project" has the meaning
2 assigned by Section 2303.407.

3 (a-1) Subject to Section 2303.516, an enterprise project is
4 entitled to:

5 (1) a refund of state taxes under Section 151.429, Tax
6 Code; and

7 (2) a franchise tax credit under Subchapter P or Q,
8 Chapter 171, Tax Code, but only if the enterprise project was
9 designated as an enterprise project on or after September 1, 2003,
10 and approved as a triple jumbo enterprise project on or before
11 September 1, 2004.

12 (b) At the time of receipt of any tax benefit available as a
13 result of participating in the enterprise zone program, including a
14 state sales and use tax refund or franchise tax credit, three
15 percent of the amount of the tax benefit shall be transferred to the
16 Texas economic development bank fund under Subchapter B, Chapter
17 489, to defray the cost of administering this chapter.

18 (c) Not later than the 60th day after the last day of each
19 fiscal year, the comptroller shall report to the bank the statewide
20 total of actual jobs created, actual jobs retained, and the tax
21 refunds and credits made under this section during that fiscal
22 year.

23 SECTION 90. Sections 2303.516(b) and (d), Government Code,
24 are amended to read as follows:

25 (b) The comptroller [~~bank~~] may determine that the business
26 or project is not entitled to a refund or credit of state taxes
27 under Section 2303.504(a-1) if the comptroller [~~bank~~] finds that:

1 (1) the business or project is not willing to
2 cooperate with the comptroller [~~bank~~] in providing the comptroller
3 [~~bank~~] with the information the comptroller [~~bank~~] needs to
4 determine state benefits [~~make the determination under Subsection~~
5 ~~(a)~~]; or

6 (2) the business or project has substantially failed
7 to follow through on any commitments made by it or on its behalf
8 under this chapter.

9 (d) A qualified business may obtain a state benefit, earned
10 through a specific enterprise project designation, on completion
11 of:

12 (1) a certification of the project or activity for
13 completeness that is conducted [~~an audit performed~~] by the
14 comptroller to verify [~~that will certify~~] hiring commitments of a
15 qualified business under this chapter;

16 (2) a certification conducted by the comptroller to
17 verify [~~and eligible~~] purchases of taxable items made by or on
18 behalf of the [~~a~~] qualified business under this chapter; and

19 (3) a verification of the capital investment for the
20 project or activity, conducted by the comptroller, to determine the
21 level of benefit achieved by the qualified business.

22 SECTION 91. Section 2303.517, Government Code, is amended
23 to read as follows:

24 Sec. 2303.517. REPORT. Before obtaining a state benefit,
25 the qualified business must submit to the comptroller [~~bank~~] a
26 certified report of the actual number of jobs created or retained
27 and the capital investment made at or committed to the qualified

1 business site.

2 SECTION 92. (a) Sections 151.429(a), (b), (c), (e), and
3 (g), Tax Code, are amended to read as follows:

4 (a) An enterprise project is eligible for a refund in the
5 amount provided by this section of the taxes imposed by this chapter
6 on purchases of taxable items [+

7 [~~(1) equipment or machinery sold to an enterprise
8 project for use at the qualified business site;~~

9 [~~(2) building materials sold to an enterprise project
10 for use in remodeling, rehabilitating, or constructing a structure
11 at the qualified business site;~~

12 [~~(3) labor for remodeling, rehabilitating, or
13 constructing a structure by an enterprise project at the qualified
14 business site; and~~

15 [~~(4) electricity and natural gas purchased and
16 consumed in the normal course of business at the qualified business
17 site].~~

18 (b) Subject to the limitations provided by Subsection (c) of
19 this section, an enterprise project qualifies for a refund of taxes
20 under this section based on the amount of capital investment made at
21 the qualified business site and refund per job with a maximum refund
22 to be included in a computation of a tax refund for the project. A
23 capital investment at the qualified business site of:

24 (1) \$40,000 to \$399,999 will result in a refund of up
25 to \$2,500 per job with a maximum refund of \$25,000 for the creation
26 or retention of 10 certified jobs;

27 (2) \$400,000 to \$999,999 will result in a refund of up

1 to \$2,500 per job with a maximum refund of \$62,500 for the creation
2 or retention of 25 certified jobs;

3 (3) \$1,000,000 to \$4,999,999 will result in a refund
4 of up to \$2,500 per job with a maximum refund of \$312,500 for the
5 creation or retention of 125 certified jobs;

6 (4) \$5,000,000 to \$149,999,999 will result in a refund
7 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
8 creation or retention of 500 certified jobs;

9 (5) \$150,000,000 to \$249,999,999 will result in a
10 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
11 for the creation or retention of 500 certified jobs; or

12 (6) \$250,000,000 or more will result in a refund of up
13 to \$7,500 per job with a maximum refund of \$3,750,000 for the
14 creation or retention of 500 certified jobs.

15 (c) The total amount of tax refund that an enterprise
16 project may apply for in a state fiscal year may not exceed
17 \$250,000. If an enterprise project qualifies in a state fiscal year
18 for a refund of taxes in an amount in excess of the limitation
19 provided by this subsection, it may apply for a refund of those
20 taxes in a subsequent year, subject to the \$250,000 limitation for
21 each year. The total amount that may be refunded to an enterprise
22 project under this section may not exceed the amount determined by
23 multiplying \$250,000 by the number of state fiscal years during
24 which the enterprise project created one or more certified jobs for
25 qualified employees.

26 (e) In this section:

27 (1) "Enterprise project" means a person designated by

1 the Texas Economic Development Bank as an enterprise project under
2 Chapter 2303, Government Code.

3 (2) "Enterprise zone," "qualified employee," and
4 "qualified hotel project" have the meanings assigned to those terms
5 by Section 2303.003, Government Code.

6 (3) "New permanent job" means a new employment
7 position created by a qualified business as described by Section
8 2303.402, Government Code, that:

9 (A) has provided at least 1,820 hours of
10 employment a year to a qualified employee; and

11 (B) is intended to exist for at least three years
12 after a state benefit is received under Chapter 2303, Government
13 Code.

14 (4) "Retained job" has the meaning assigned by Section
15 2303.401, Government Code.

16 (4-a) "Certified job" has the meaning assigned by
17 Section 2303.401, Government Code.

18 (5) "Double jumbo enterprise project" and "triple
19 jumbo enterprise project" have the meanings assigned by Section
20 2303.407, Government Code.

21 (g) The refund provided by this section is conditioned on
22 the enterprise project maintaining for a three-year period at least
23 the same number [~~level~~] of certified jobs [~~employment of qualified~~
24 ~~employees~~] as existed on the date the comptroller initially
25 certified the hiring commitments for the project under Section
26 2303.516(d), Government Code [~~at the time it qualified for a refund~~
27 ~~for a period of three years from that date~~]. The comptroller shall

1 annually certify whether that number [~~level~~] of certified jobs
 2 [~~employment of qualified employees~~] has been maintained. On
 3 certifying that such a number [~~level~~] has not been maintained, the
 4 comptroller shall assess that portion of the refund attributable to
 5 any such decrease in certified jobs [~~employment~~], including penalty
 6 and interest from the date of the refund.

7 (b) The change in law made by this section to Section
 8 151.429, Tax Code, applies only to an application for a tax refund
 9 made on or after the effective date of this Act. An application for
 10 a tax refund made before the effective date of this Act is governed
 11 by the law in effect on the date the application was made, and the
 12 former law is continued in effect for that purpose.

13 SECTION 93. (a) Section 151.4291(a), Tax Code, is amended
 14 to read as follows:

15 (a) A defense readjustment project is eligible for a refund
 16 in the amount provided by this section of the taxes imposed by this
 17 chapter on purchases of taxable items [+

18 [~~(1) equipment or machinery sold to a defense~~
 19 ~~readjustment project for use in a readjustment zone,~~

20 [~~(2) building materials sold to a defense readjustment~~
 21 ~~project for use in remodeling, rehabilitating, or constructing a~~
 22 ~~structure in a readjustment zone,~~

23 [~~(3) labor for remodeling, rehabilitating, or~~
 24 ~~constructing a structure by a defense readjustment project in a~~
 25 ~~readjustment zone, and~~

26 [~~(4) electricity and natural gas purchased and~~
 27 ~~consumed in the normal course of business in the readjustment~~

1 zone].

2 (b) The change in law made by this section to Section
3 151.4291, Tax Code, applies only to an application for a tax refund
4 made on or after the effective date of this Act. An application for
5 a tax refund made before the effective date of this Act is governed
6 by the law in effect on the date the application was made, and the
7 former law is continued in effect for that purpose.

8 SECTION 94. Section 171.721(2), Tax Code, is amended to
9 read as follows:

10 (2) "Strategic investment area" means an area that is
11 determined by the comptroller under Section 171.726 that is:

12 (A) a county within this state with above state
13 average unemployment and below state average per capita income;

14 (B) an area within this state that is:

15 (i) an area consisting of a federally
16 designated empowerment zone and associated developable areas; or

17 (ii) a federally designated renewal
18 community [urban enterprise community or an urban enhanced
19 enterprise community]; or

20 (C) a defense economic readjustment zone
21 designated under Chapter 2310, Government Code.

22 SECTION 95. Section 171.751, Tax Code, is amended by adding
23 Subdivision (5-a) and amending Subdivisions (8) and (9) to read as
24 follows:

25 (5-a) "Enterprise project" means a person designated
26 as an enterprise project under Chapter 2303, Government Code, on or
27 after September 1, 2003, and approved as a triple jumbo enterprise

1 project, as defined by Section 2303.407, Government Code, on or
2 before September 1, 2004.

3 (8) "Qualified business" means an establishment:

4 (A) primarily engaged in agricultural
5 processing, central administrative offices, distribution, data
6 processing, manufacturing, research and development, or
7 warehousing;

8 (B) that was designated as an enterprise project
9 under Chapter 2303, Government Code, on or after September 1, 2003,
10 and approved as a triple jumbo enterprise project, as defined by
11 Section 2303.407, Government Code, on or before September 1, 2004;
12 or

13 (C) that was designated as a defense readjustment
14 project under Chapter 2310, Government Code, on or after September
15 1, 2001.

16 (9) "Qualifying job" means:

17 (A) a new permanent full-time job that:

18 (i) ~~[(A)]~~ is located in:

19 (a) ~~[(i)]~~ a strategic investment
20 area; or

21 (b) ~~[(ii)]~~ a county within this state
22 with a population of less than 50,000, if the job is created by a
23 business primarily engaged in agricultural processing;

24 (ii) ~~[(B)]~~ requires at least 1,600 hours of
25 work a year;

26 (iii) ~~[(C)]~~ pays at least 110 percent of
27 the county average weekly wage for the county where the job is

1 located;

2 (iv) [~~(D)~~] is covered by a group health
3 benefit plan for which the business pays at least 80 percent of the
4 premiums or other charges assessed under the plan for the employee;

5 (v) [~~(E)~~] is not transferred from one area
6 in this state to another area in this state; and

7 (vi) [~~(F)~~] is not created to replace a
8 previous employee;

9 (B) a new permanent full-time job created by an
10 enterprise project at a qualified business site, as defined by
11 Section 2303.003, Government Code, regardless of whether the job
12 meets the qualifications prescribed by Paragraph (A)(i)(a); or

13 (C) a new permanent full-time job created by a
14 qualified business described by Subdivision (8)(C).

15 SECTION 96. Subchapter P, Chapter 171, Tax Code, is amended
16 by adding Section 171.7542 to read as follows:

17 Sec. 171.7542. LENGTH OF CREDIT. (a) This section applies
18 only to a corporation that was:

19 (1) designated as an enterprise project on or after
20 September 1, 2003, and approved as a triple jumbo enterprise
21 project, as defined by Section 2303.407, Government Code, on or
22 before September 1, 2004; or

23 (2) designated as a defense readjustment project under
24 Chapter 2310, Government Code, on or after September 1, 2001.

25 (b) Notwithstanding Section 171.753, a corporation to which
26 this section applies may establish a one-time credit equal to 25
27 percent of the total wages and salaries paid or to be paid by the

1 corporation for qualifying jobs created during the period beginning
2 on the date the project is designated as an enterprise project or as
3 a defense readjustment project, as applicable, through December 31,
4 2008. Wages and salaries for each qualifying job may only be
5 counted once in calculating the credit.

6 (c) Subject to Sections 171.755 and 171.756, the
7 corporation may claim:

8 (1) the entire amount of the credit established under
9 Subsection (b) on the first report originally due on or after
10 January 1, 2006; or

11 (2) an equal portion of the total credit established
12 under Subsection (b) on each report originally due on or after
13 January 1, 2006, and before January 1, 2009.

14 (d) A corporation that establishes the credit authorized by
15 Subsection (b) shall provide to the comptroller an estimate of the
16 total wages and salaries on which the corporation establishes the
17 credit. The corporation shall provide the estimate on the first
18 report originally due on or after January 1, 2006.

19 (e) The credit provided by this section is conditioned on
20 the corporation attaining the total level of wages and salaries for
21 qualifying jobs estimated in Subsection (b). After December 31,
22 2008, the comptroller shall certify whether that level was
23 attained. On certifying that such level has not been attained, the
24 comptroller shall assess that portion of the credit attributable to
25 any such deficiency, including penalty and interest from the date
26 the credit was taken.

27 (f) This section expires January 1, 2009.

1 SECTION 97. Section 171.801, Tax Code, is amended by
2 amending Subdivision (2) and adding Subdivision (4) to read as
3 follows:

4 (2) "Qualified capital investment" means tangible
5 personal property first placed in service in a strategic investment
6 area, ~~or~~ first placed in service in a county with a population of
7 less than 50,000 by a corporation primarily engaged in agricultural
8 processing, first placed in service by an enterprise project,
9 regardless of whether the project is located in an enterprise zone,
10 as defined by Section 2303.003, Government Code, or first placed in
11 service by a defense readjustment project, and that is described in
12 Section 1245(a), Internal Revenue Code, such as engines, machinery,
13 tools, and implements used in a trade or business or held for
14 investment and subject to an allowance for depreciation, cost
15 recovery under the accelerated cost recovery system, or
16 amortization. The term does not include real property or buildings
17 and their structural components. Property that is leased under a
18 capitalized lease is considered a "qualified capital investment,"
19 but property that is leased under an operating lease is not
20 considered a "qualified capital investment." Property expensed
21 under Section 179, Internal Revenue Code, is not considered a
22 "qualified capital investment."

23 (4) "Defense readjustment project" and "enterprise
24 project" have the meanings assigned by Section 171.751.

25 SECTION 98. Section 171.8015, Tax Code, is amended to read
26 as follows:

27 Sec. 171.8015. TANGIBLE PERSONAL PROPERTY FIRST PLACED IN

1 SERVICE BY [~~IN~~] AN ENTERPRISE PROJECT [~~ZONE~~]. For purposes of
2 determining whether an investment is a "qualified capital
3 investment" under Section 171.801, "tangible personal property
4 first placed in service by [~~in~~] an enterprise project [~~zone~~]"
5 includes tangible personal property:

6 (1) purchased by an enterprise project [~~by a qualified~~
7 ~~business~~] for placement in an incomplete improvement that is under
8 active construction or other physical preparation;

9 (2) identified by a purchase order, invoice, billing,
10 sales slip, or contract; and

11 (3) physically present at the enterprise project's
12 qualified business site, as defined by Section 2303.003, Government
13 Code, [~~zone~~] and in use by the enterprise project on the original
14 due date of the report on which the credit is established [~~qualified~~
15 ~~business not later than September 30, 2005~~].

16 SECTION 99. Section 171.802, Tax Code, is amended by
17 amending Subsection (c) and adding Subsection (d-1) to read as
18 follows:

19 (c) A corporation may claim a credit or take a carryforward
20 credit without regard to whether the strategic investment area or
21 enterprise zone in which it made the qualified capital investment
22 subsequently loses its designation as a strategic investment area
23 or enterprise zone, if applicable.

24 (d-1) A corporation may qualify for the credit provided by
25 this subchapter, regardless of whether the corporation meets the
26 qualifications prescribed by Subsection (b), if that corporation
27 was:

1 (1) designated as an enterprise project on or after
2 September 1, 2003, and approved as a triple jumbo enterprise
3 project, as defined by Section 2303.407, Government Code, on or
4 before September 1, 2004, without regard to whether the enterprise
5 project is located in an enterprise zone; or

6 (2) designated as a defense readjustment project under
7 Chapter 2310, Government Code, on or after September 1, 2001.

8 SECTION 100. Section 171.804, Tax Code, is amended to read
9 as follows:

10 Sec. 171.804. LENGTH OF CREDIT. (a) Except as provided by
11 Subsection (b), the [The] credit established shall be claimed in
12 five equal installments of one-fifth the credit amount over the
13 five consecutive reports beginning with the report based upon the
14 period during which the qualified capital investment was made.

15 (b) Subject to Section 171.805 and notwithstanding Section
16 171.803, an enterprise project or a defense readjustment project
17 may:

18 (1) establish a credit equal to 7.5 percent of the
19 qualified capital investment made beginning on the date the project
20 is designated through the ending date on which earned surplus is
21 based for the report. The corporation may claim the entire credit
22 earned on the first report originally due on or after September 1,
23 2003; and

24 (2) on each subsequent report originally due before
25 January 1, 2009, establish and claim a credit equal to 7.5 percent
26 of the qualified capital investment made during the period on which
27 earned surplus is based for the report.

1 (c) This section expires January 1, 2009.

2 SECTION 101. Section 351.102, Tax Code, is amended by
3 adding Subsection (d) to read as follows:

4 (d) As soon as practicable after each state fiscal year, the
5 comptroller shall report to the legislature for that fiscal year
6 the amount of state funds paid under Subsection (c).

7 SECTION 102. (a) Section 21.02, Tax Code, is amended by
8 amending Subsection (a) and adding Subsection (e) to read as
9 follows:

10 (a) Except as provided by Subsections [~~Subsection~~] (b) and
11 (e) and by Sections 21.021, 21.04, and 21.05, tangible personal
12 property is taxable by a taxing unit if:

13 (1) it is located in the unit on January 1 for more
14 than a temporary period;

15 (2) it normally is located in the unit, even though it
16 is outside the unit on January 1, if it is outside the unit only
17 temporarily;

18 (3) it normally is returned to the unit between uses
19 elsewhere and is not located in any one place for more than a
20 temporary period; or

21 (4) the owner resides (for property not used for
22 business purposes) or maintains the owner's [~~his~~] principal place
23 of business in this state (for property used for business purposes)
24 in the unit and the property is taxable in this state but does not
25 have a taxable situs pursuant to Subdivisions (1) through (3) of
26 this section.

27 (e) This subsection does not apply to a drilling rig

1 designed for offshore drilling or exploration operations. A mobile
2 portable drilling rig, and equipment associated with the drilling
3 rig, is taxable by the taxing unit in which the rig is located on
4 January 1 if the rig was located in the unit for the preceding 365
5 consecutive days. If the rig and associated equipment was not
6 located at its January 1 location for the preceding 365 days, it is
7 taxable by the taxing unit in which the owner's principal place of
8 business in this state is located on January 1.

9 (b) Section 21.02, Tax Code, as amended by Subsection (a) of
10 this section, applies only to an ad valorem tax year that begins on
11 or after January 1, 2006.

12 (c) This section takes effect January 1, 2006.

13 SECTION 103. (a) Section 52.006, Property Code, is amended
14 to read as follows:

15 Sec. 52.006. DURATION OF LIEN. (a) Except as provided by
16 Subsection (b), a [A] judgment lien continues for 10 years
17 following the date of recording and indexing the abstract, except
18 that if the judgment becomes dormant during that period the lien
19 ceases to exist.

20 (b) Notwithstanding Section 34.001, Civil Practice and
21 Remedies Code, a judgment in favor of the state or a state agency,
22 as that term is defined by Section 403.055, Government Code, does
23 not become dormant. A properly filed abstract of the judgment
24 continues to constitute a lien under Section 52.001 until the
25 earlier of the 20th anniversary of the date the abstract is recorded
26 and indexed or the date the judgment is satisfied or the lien is
27 released. The judgment lien may be renewed for one additional

1 20-year period by filing, before the expiration of the initial
2 20-year period, a renewed abstract of judgment in the same manner as
3 the original abstract of judgment is filed. The renewed judgment
4 lien relates back to the date the original abstract of judgment was
5 filed.

6 (b) The change in law made by this Act by amending Section
7 52.006, Property Code, applies to:

8 (1) a judgment, if the judgment is not then dormant,
9 that exists on the effective date of this Act;

10 (2) a judgment lien on record before the effective
11 date of this Act; or

12 (3) a judgment entered or abstract of judgment
13 recorded and indexed on or after the effective date of this Act.

14 SECTION 104. Chapter 403, Government Code, is amended by
15 adding Subchapter O to read as follows:

16 SUBCHAPTER O. INDIVIDUAL DEVELOPMENT ACCOUNTS FOR CERTAIN

17 LOW-INCOME INDIVIDUALS AND HOUSEHOLDS

18 Sec. 403.351. DEFINITIONS. In this subchapter:

19 (1) "Financial institution" has the meaning assigned
20 by Section 201.101, Finance Code.

21 (2) "Individual development account" means a deposit
22 account established by a participant at a financial institution
23 selected by a sponsoring organization.

24 (3) "Participant" means an individual or household
25 that has entered into an agreement with a sponsoring organization
26 to participate in the program.

27 (4) "Program" means the individual development

1 account program established under this subchapter.

2 (5) "Service provider" means a person to whom a
3 qualified expenditure from a participant's individual development
4 account is made. The term includes:

5 (A) a public or private institution of higher
6 education;

7 (B) a provider of occupational or vocational
8 education, including a proprietary school;

9 (C) a mortgage lender;

10 (D) a title insurance company;

11 (E) the lessor or vendor of office supplies or
12 equipment or retail space, office space, or other business space;
13 and

14 (F) any other provider of goods or services used
15 for the commencement of a business.

16 (6) "Sponsoring organization":

17 (A) means a nonprofit organization that is:

18 (i) exempt from taxation under Section
19 501(a), Internal Revenue Code of 1986, as an organization described
20 by Section 501(c)(3) of that code; and

21 (ii) selected by the comptroller to
22 establish and administer individual development accounts under the
23 program; and

24 (B) includes an Indian tribe, as defined by
25 Section 4(12) of the Native American Housing Assistance and
26 Self-Determination Act of 1996 (25 U.S.C. Section 4103(12)),
27 including any tribal subsidiary, division, or other wholly owned

1 tribal entity of an Indian tribe.

2 Sec. 403.352. ESTABLISHMENT OF PROGRAM; RULES. (a) The
3 comptroller by rule shall develop and implement a program under
4 which:

5 (1) individual development accounts are facilitated
6 and administered by sponsoring organizations for eligible
7 low-income individuals and households to provide those individuals
8 and households with an opportunity to accumulate assets and to
9 facilitate and mobilize savings; and

10 (2) sponsoring organizations are provided grant funds
11 for use in administering the program and matching qualified
12 expenditures made by program participants. At least 85 percent of
13 the grant funds must be used by the sponsoring organization for
14 matching qualified expenditures.

15 (b) The comptroller shall contract with sponsoring
16 organizations to facilitate the establishment of and to administer
17 the individual development accounts in accordance with the rules
18 adopted by the comptroller. The comptroller's rules promulgated to
19 implement this subchapter shall include guidelines for contract
20 monitoring, reporting, and termination of grant recipients.

21 (c) In adopting rules under the program, the comptroller
22 shall state the selection criteria for sponsoring organizations.
23 The comptroller shall give priority to organizations that have
24 demonstrated:

25 (1) a capacity to administer individual account
26 programs; and

27 (2) a commitment to serve areas of the state that

1 currently do not have individual development account programs
2 available.

3 Sec. 403.353. PARTICIPANT ELIGIBILITY. (a) The
4 comptroller by rule shall establish eligibility criteria for
5 participants in the program.

6 (b) The eligibility criteria established by the comptroller
7 must:

8 (1) require an eligible individual or member of an
9 eligible household, other than an eligible individual or member of
10 an eligible household receiving supplemental security income or
11 other public disability payments, to agree to make regular
12 contributions to the individual's or household's individual
13 development account from the individual's or household's earned
14 income;

15 (2) provide that the annual income of an eligible
16 individual or household may not exceed 200 percent of the poverty
17 level according to the federal Office of Management and Budget
18 poverty index;

19 (3) establish the rate at which a participant's
20 contributions to the individual development account may be matched,
21 not to exceed the match rate established by the federal Assets for
22 Independence Act (Pub. L. No. 105-285); and

23 (4) establish limits on the amount of matching funds a
24 participant is eligible to receive, not to exceed the limit on
25 federal matching funds established by the federal Assets for
26 Independence Act.

27 Sec. 403.354. CONTRIBUTIONS AND EXPENDITURES BY

1 PARTICIPANT. (a) A participant may contribute to the
2 participant's individual development account.

3 (b) A participant's contributions to the participant's
4 individual development account shall accrue interest.

5 (c) A participant may withdraw money from the participant's
6 account only to pay for the following qualified expenditures:

7 (1) postsecondary educational or training expenses
8 for the adult account holder and dependent children;

9 (2) the expenses of purchasing or financing a home for
10 the adult account holder for the first time;

11 (3) the expenses of a self-employment enterprise; and

12 (4) start-up business expenses for the adult account
13 holder.

14 Sec. 403.355. DUTIES OF SPONSORING ORGANIZATIONS. (a) The
15 comptroller shall promulgate rules that establish the duties of
16 sponsoring organizations that shall include recruiting
17 requirements, standards for determination of eligibility of
18 participants, education of participants, operations and account
19 management, solicitation of matching funds, and such other subjects
20 as may be deemed necessary by the comptroller to carry out the
21 purposes and objectives of this subchapter.

22 (b) Each sponsoring organization shall provide to the
23 comptroller any information necessary to evaluate the sponsoring
24 organization's performance in fulfilling the duties outlined in
25 Subsection (a).

26 Sec. 403.356. MATCHING FUNDS; LIMITATIONS ON AMOUNT AND
27 AVAILABILITY. (a) At the time a participant in the program makes a

1 withdrawal for a qualified expenditure described by Section
2 403.504(c) from the participant's individual development account,
3 the participant shall receive matching funds from the sponsoring
4 organization, payable directly to the service provider.

5 (b) If federal Assets for Independence Act money is used as
6 matching funds, the amount of federal matching funds spent for each
7 individual development account may not exceed the limits
8 established by the federal Assets for Independence Act. If money
9 other than federal Assets for Independence Act money is used as
10 matching funds, the comptroller by rule may set a different limit on
11 the amount of matching funds that may be spent for each account.

12 (c) This subchapter may not be construed to create an
13 entitlement of a participant to receive matching funds. The number
14 of participants who receive matching funds under the program in any
15 year is limited by the amount of funds available for that purpose in
16 that year.

17 Sec. 403.357. TERMINATION OF ACCOUNT FOR UNQUALIFIED
18 WITHDRAWALS. (a) The comptroller by rule shall establish
19 guidelines to ensure that a participant does not withdraw funds in
20 the individual development account, except for a qualified
21 expenditure described by Section 403.504(c). These guidelines
22 shall:

23 (1) include a requirement that a sponsoring
24 organization approve a participant's request to make a withdrawal
25 from an individual development account in writing;

26 (2) provide that no participant may withdraw funds
27 from an individual development account earlier than six months

1 after the date on which the participant first deposits funds in the
2 account; and

3 (3) require a participant to reimburse the individual
4 development account for any funds withdrawn for a purpose other
5 than for a qualified expenditure described by Section 403.504(c).

6 (b) The sponsoring organization shall instruct the
7 financial institution to terminate the participant's account if the
8 participant does not comply with the guidelines established under
9 Subsection (a).

10 (c) A participant whose individual development account is
11 terminated under this section is entitled to withdraw from the
12 participant's account the amount of money the participant
13 contributed to the account and any interest that has accrued on that
14 amount.

15 Sec. 403.358. FUNDING. (a) The legislature may
16 appropriate money for the purposes of this subchapter.

17 (b) The comptroller may accept gifts, grants, and donations
18 from any public or private source for the purposes of this
19 subchapter.

20 Sec. 403.359. INTERAGENCY CONTRACTS. The comptroller may
21 enter into interagency contracts with other state agencies to
22 facilitate the effective administration of this subchapter.

23 SECTION 105. Subchapter G, Chapter 2303, Government Code,
24 is amended by adding Section 2303.5056 to read as follows:

25 Sec. 2303.5056. REFUND, REBATE, OR PAYMENT OF TAX PROCEEDS
26 TO CONVENTION CENTER HOTEL PROJECT. (a) In this section, "eligible
27 taxable proceeds" means taxable proceeds generated, paid, or

1 collected by a hotel described by Subsection (b) or a business at
2 that hotel, including hotel occupancy taxes, ad valorem taxes,
3 sales and use taxes, and mixed beverage taxes.

4 (b) This section applies only to a hotel proposed to be
5 constructed, remodeled, or rehabilitated by a municipality or a
6 nonprofit municipally sponsored local government corporation
7 created under Chapter 431, Transportation Code, that is within
8 3,000 feet of the property line of a convention center owned by a
9 municipality having a population of more than 500,000 that borders
10 the United Mexican States.

11 (c) For a period that may not exceed 10 years, a
12 governmental body, including a municipality, county, or political
13 subdivision, may agree to rebate, refund, or pay eligible taxable
14 proceeds of the governmental body to the owner of a hotel described
15 by Subsection (b) at which the eligible taxable proceeds were
16 generated.

17 (d) A municipality in which a hotel described by Subsection
18 (b) is located may agree to guarantee from hotel occupancy taxes the
19 bonds or other obligations of a municipally sponsored local
20 government corporation created under Chapter 431, Transportation
21 Code, that were issued or incurred to pay the cost of construction,
22 remodeling, or rehabilitation of a convention center hotel project.

23 (e) An agreement under this section must be in writing,
24 contain an expiration date, and require the beneficiary to provide
25 documentation necessary to support a claim.

26 (f) A governmental body that makes an agreement under this
27 section shall make the rebate, refund, or payment directly to the

1 beneficiary.

2 SECTION 106. Section 351.001(2), Tax Code, is amended to
3 read as follows:

4 (2) "Convention center facilities" or "convention
5 center complex" means facilities that are primarily used to host
6 conventions and meetings. The term means civic centers, civic
7 center buildings, auditoriums, exhibition halls, and coliseums
8 that are owned by the municipality or other governmental entity or
9 that are managed in whole or part by the municipality. In a
10 municipality with a population of 1.5 million or more, "convention
11 center facilities" or "convention center complex" means civic
12 centers, civic center buildings, auditoriums, exhibition halls,
13 and coliseums that are owned by the municipality or other
14 governmental entity or that are managed in part by the
15 municipality, hotels owned by the municipality or a nonprofit
16 municipally sponsored local government corporation created under
17 Chapter 431, Transportation Code, within 1,000 feet of a convention
18 center owned by the municipality, or a historic hotel owned by the
19 municipality or a nonprofit municipally sponsored local government
20 corporation created under Chapter 431, Transportation Code, within
21 one mile of a convention center owned by the municipality. The term
22 includes parking areas or facilities that are for the parking or
23 storage of conveyances and that are located at or in the vicinity of
24 other convention center facilities. The term also includes a hotel
25 owned by or located on land that is owned by an eligible central
26 municipality or by a nonprofit corporation acting on behalf of an
27 eligible central municipality and that is located within 1,000 feet

1 of a convention center facility owned by the municipality. The term
2 also includes a hotel proposed to be constructed, remodeled, or
3 rehabilitated by a municipality or a nonprofit municipally
4 sponsored local government corporation created under Chapter 431,
5 Transportation Code, that is within 3,000 feet of the property line
6 of a convention center owned by a municipality having a population
7 of more than 500,000 that borders the United Mexican States.

8 SECTION 107. Section 351.102(a), Tax Code, is amended to
9 read as follows:

10 (a) Subject to the limitations provided by this subchapter,
11 a municipality may pledge the revenue derived from the tax imposed
12 under this chapter for the payment of bonds that are issued under
13 Section 1504.002(a), Government Code, for one or more of the
14 purposes provided by Section 351.101 or, in the case of a
15 municipality of 1,500,000 or more or a municipality that has a
16 population of more than 500,000 and that borders the United Mexican
17 States, for the payment of principal of or interest on bonds or
18 other obligations of a municipally sponsored local government
19 corporation created under Chapter 431, Transportation Code, that
20 were issued to pay the cost of the acquisition and construction of a
21 convention center hotel or the cost of acquisition, remodeling, or
22 rehabilitation of a historic hotel structure; provided, however,
23 such pledge may only be that portion of the tax collected at such
24 hotel.

25 SECTION 108. Section 403.016, Government Code, is amended
26 by adding Subsection (k) to read as follows:

27 (k) Notwithstanding other provisions of the law, the

1 comptroller is authorized to enter into an interagency agreement
2 with the Health and Human Services Commission to implement a method
3 of salary payment using electronic paycards for employees of health
4 and human services agencies.

5 (1) The comptroller may solicit proposals to implement
6 the electronic paycards with a private vendor.

7 (2) If cost-effective, the comptroller may replace
8 warrants with the electronic paycard.

9 (3) Employees may not be charged for the electronic
10 paycard or the receipt of salary payment on the electronic paycard.

11 (4) The comptroller may adopt rules as necessary to
12 implement this subsection.

13 SECTION 109. (a) Section 11.18(d), Tax Code, is amended to
14 read as follows:

15 (d) A charitable organization must be organized exclusively
16 to perform religious, charitable, scientific, literary, or
17 educational purposes and, except as permitted by Subsections (h)
18 and (l), engage exclusively in performing one or more of the
19 following charitable functions:

20 (1) providing medical care without regard to the
21 beneficiaries' ability to pay, which in the case of a nonprofit
22 hospital or hospital system means providing charity care and
23 community benefits in accordance with Section 11.1801;

24 (2) providing support or relief to orphans,
25 delinquent, dependent, or handicapped children in need of
26 residential care, abused or battered spouses or children in need of
27 temporary shelter, the impoverished, or victims of natural disaster

1 without regard to the beneficiaries' ability to pay;

2 (3) providing support to elderly persons, including
3 the provision of recreational or social activities and facilities
4 designed to address the special needs of elderly persons, or to the
5 handicapped, without regard to the beneficiaries' ability to pay;

6 (4) preserving a historical landmark or site;

7 (5) promoting or operating a museum, zoo, library,
8 theater of the dramatic or performing arts, or symphony orchestra
9 or choir;

10 (6) promoting or providing humane treatment of
11 animals;

12 (7) acquiring, storing, transporting, selling, or
13 distributing water for public use;

14 (8) answering fire alarms and extinguishing fires with
15 no compensation or only nominal compensation to the members of the
16 organization;

17 (9) promoting the athletic development of boys or
18 girls under the age of 18 years;

19 (10) preserving or conserving wildlife;

20 (11) promoting educational development through loans
21 or scholarships to students;

22 (12) providing halfway house services pursuant to a
23 certification as a halfway house by the pardons and paroles
24 division of the Texas Department of Criminal Justice;

25 (13) providing permanent housing and related social,
26 health care, and educational facilities for persons who are 62
27 years of age or older without regard to the residents' ability to

1 pay;

2 (14) promoting or operating an art gallery, museum, or
3 collection, in a permanent location or on tour, that is open to the
4 public;

5 (15) providing for the organized solicitation and
6 collection for distributions through gifts, grants, and agreements
7 to nonprofit charitable, education, religious, and youth
8 organizations that provide direct human, health, and welfare
9 services;

10 (16) performing biomedical or scientific research or
11 biomedical or scientific education for the benefit of the public;

12 (17) operating a television station that produces or
13 broadcasts educational, cultural, or other public interest
14 programming and that receives grants from the Corporation for
15 Public Broadcasting under 47 U.S.C. Section 396, as amended;

16 (18) providing housing for low-income and
17 moderate-income families, for unmarried individuals 62 years of age
18 or older, for handicapped individuals, and for families displaced
19 by urban renewal, through the use of trust assets that are
20 irrevocably and, pursuant to a contract entered into before
21 December 31, 1972, contractually dedicated on the sale or
22 disposition of the housing to a charitable organization that
23 performs charitable functions described by Subdivision (9);

24 (19) providing housing and related services to persons
25 who are 62 years of age or older in a retirement community, if the
26 retirement community provides independent living services,
27 assisted living services, and nursing services to its residents on

1 a single campus:

2 (A) without regard to the residents' ability to
3 pay; or

4 (B) in which at least four percent of the
5 retirement community's combined net resident revenue is provided in
6 charitable care to its residents; ~~or~~

7 (20) providing housing on a cooperative basis to
8 students of an institution of higher education if:

9 (A) the organization is exempt from federal
10 income taxation under Section 501(a), Internal Revenue Code of
11 1986, as amended, by being listed as an exempt entity under Section
12 501(c)(3) of that code;

13 (B) membership in the organization is open to all
14 students enrolled in the institution and is not limited to those
15 chosen by current members of the organization;

16 (C) the organization is governed by its members;
17 and

18 (D) the members of the organization share the
19 responsibility for managing the housing; or

20 (21) operating a radio station that broadcasts
21 educational, cultural, or other public interest programming,
22 including classical music, and that is funded entirely through
23 donations made by listeners or other donors.

24 (b) Section 11.18(d), Tax Code, as amended by this section,
25 applies only to an ad valorem tax year that begins on or after
26 January 1, 2006.

27 SECTION 110. (a) Subchapters A and C, Chapter 2108,

1 Government Code, are repealed.

2 (b) The heading to Subchapter B, Chapter 2108, Government
3 Code, is repealed.

4 (c) Sections 2108.0235, 2108.025 through 2108.036, and
5 2108.039, Government Code, are repealed.

6 (d) The Texas Incentive and Productivity Commission
7 established under Subchapter A, Chapter 2108, Government Code, as
8 that subchapter existed prior to repeal by this Act, is abolished on
9 the effective date of this Act.

10 SECTION 111. Section 162.227, Tax Code, is amended by
11 adding Subsection (c-1) to read as follows:

12 (c-1) A license holder may take a credit on a return for the
13 period in which the purchase occurred, and a person who does not
14 hold a license may file a refund claim with the comptroller, if the
15 license holder or person paid tax on diesel fuel and the diesel fuel
16 is used in this state:

17 (1) as a feedstock or other component in the further
18 manufacturing of tangible personal property for resale not as a
19 motor fuel; or

20 (2) in the original production of oil or gas or to
21 increase the production of oil or gas.

22 SECTION 112. (a) Chapter 161, Health and Safety Code, is
23 amended by adding Subchapter V to read as follows:

24 SUBCHAPTER V. INTERNET OR MAIL-ORDER SALES OF
25 CIGARETTES AND TOBACCO PRODUCTS

26 Sec. 161.651. DEFINITIONS. (a) In this subchapter:

27 (1) "Cigarette" has the meaning assigned by Section

1 154.001, Tax Code.

2 (2) "Tobacco product" has the meaning assigned by
3 Sections 155.001(15)(C)-(E), Tax Code.

4 (b) In this subchapter, "common carrier," "consumer,"
5 "distributor," "importer," "manufacturer," "permit holder,"
6 "retailer," and "wholesaler" have the meanings assigned by Section
7 154.001 or 155.001, Tax Code, as applicable.

8 Sec. 161.652. APPLICABILITY OF SUBCHAPTER TO INDIAN TRIBES.
9 This subchapter does not apply to cigarette or tobacco product
10 sales by an Indian tribe, as defined by 25 U.S.C. Section 450b(e),
11 or by members of the Indian tribe, to a consumer in this state if the
12 consumer is a verified adult member of that Indian tribe and the
13 buyer and seller are each located on land over which the tribe
14 exercises governmental power and that is owned or occupied by that
15 tribe.

16 Sec. 161.653. CERTAIN DELIVERIES OF CIGARETTES AND TOBACCO
17 PRODUCTS PROHIBITED. (a) A distributor, importer, manufacturer,
18 retailer, wholesaler, or other person engaged in the business of
19 manufacturing, distributing, or selling cigarettes or tobacco
20 products, including selling cigarettes or tobacco products over the
21 Internet or through mail-order sales, may not sell, offer for sale,
22 deliver, or cause to be delivered any cigarettes or tobacco
23 products to a person in this state except in a face-to-face
24 transaction at the time of purchase unless the cigarettes or
25 tobacco products are in a container or wrapping plainly and visibly
26 marked on the exterior in a manner that indicates that there are
27 cigarettes or tobacco products inside and the sale or delivery is

1 made to one of the following persons for purposes other than
2 personal consumption by the recipient:

3 (1) a permit holder, including the holder's employees
4 or agents;

5 (2) a manufacturer or importer of tobacco products or
6 an export warehouse proprietor with a federal permit under 26
7 U.S.C. Section 5712 or an operator of a federally designated
8 customs bonded warehouse under 19 U.S.C. Section 1311 or 1555; or

9 (3) a person who is an officer, employee, or agent of
10 the United States government, this state, or a department, agency,
11 instrumentality, or political subdivision of the United States or
12 this state acting within the scope of the person's official duties.

13 (b) A person within the jurisdiction of this state's laws
14 may not knowingly transport cigarettes or tobacco products on
15 behalf of another person for commercial or business purposes for
16 delivery to a person in this state other than a person described by
17 Subsection (a)(1), (2), or (3). This subsection does not apply to a
18 common carrier or commercial delivery service that in the ordinary
19 course of business does not use bills of lading or other shipping
20 documents to identify the contents of packages transported by the
21 carrier or commercial delivery service.

22 (c) Except as specifically provided by Subsection (b), this
23 section does not apply to a common carrier or other delivery service
24 operating within the scope of its business as a common carrier or
25 delivery service.

26 Sec. 161.654. PERMIT HOLDER LIST. The comptroller shall
27 compile and make available on the comptroller's Internet website

1 and by other means a list of all persons who hold a permit under
2 Subchapter D, Chapter 154, or Subchapter C, Chapter 155, Tax Code.
3 The comptroller shall periodically update the list of persons
4 holding a permit under those subchapters.

5 Sec. 161.655. VIOLATOR'S LIST. (a) The comptroller shall
6 maintain a list of persons the comptroller determines have violated
7 Section 161.653(a) or are violating or offering to violate that
8 subsection.

9 (b) The comptroller shall provide to the United States
10 Postal Service, each common carrier and commercial delivery service
11 operating in this state, and any other person who delivers
12 cigarettes or tobacco products into or within this state a copy of
13 this subchapter and the list maintained under Subsection (a). The
14 comptroller shall provide updated copies of the list as the
15 comptroller determines is appropriate.

16 (c) Before adding a person to the list maintained under
17 Subsection (a), the comptroller shall provide 10 days' written
18 notice and an opportunity to be heard to that person. The notice
19 must include the text of this subchapter. The notice may be made by
20 an electronic communication.

21 (d) The list maintained under Subsection (a) is
22 confidential and not subject to disclosure under Chapter 552,
23 Government Code. The comptroller and each person who receives a
24 copy of the list from the comptroller under this section must
25 maintain the list as confidential and may use the list only to
26 comply with this subchapter.

27 Sec. 161.656. CARRIER AND DELIVERY SERVICE

1 RESPONSIBILITIES. (a) A person who is a common carrier or
2 commercial delivery service within the jurisdiction of this state's
3 laws who receives a copy of a list maintained under Section 161.655
4 may not, with the specific purpose of intentionally assisting in
5 the violation of this subchapter, make any deliveries in this state
6 on behalf of a person identified in the list. A person who is a
7 common carrier or commercial delivery service and who receives a
8 list maintained under Section 161.655 may make deliveries in this
9 state on behalf of a person who is identified in the list if:

10 (1) the person making the delivery knows or
11 affirmatively believes in good faith that the package does not
12 contain cigarettes or tobacco products; or

13 (2) the delivery is made to a person described by
14 Section 161.653(a)(1), (2), or (3).

15 (b) A person who delivers cigarettes or tobacco products and
16 receives a copy of a list maintained under Section 161.655:

17 (1) is not required to:

18 (A) inspect a package being delivered to
19 determine whether the package contains cigarettes or tobacco
20 products;

21 (B) determine whether the list is complete,
22 accurate, and up to date; or

23 (C) determine whether any person ordering or
24 requesting a delivery is in compliance with this subchapter;

25 (2) is not subject to any penalty for:

26 (A) failing to make a specific delivery on behalf
27 of a person on the list; or

1 (B) establishing and following a policy of not
2 making deliveries:

3 (i) in this state on behalf of a person on
4 the list;

5 (ii) of cigarettes or tobacco products in
6 this state; or

7 (iii) of cigarettes or tobacco products in
8 this state for any person that is not a distributor, manufacturer,
9 retailer, or wholesaler;

10 (3) is not subject to criminal penalties for a
11 violation of this subchapter unless the person intentionally
12 violates this subchapter for the specific purpose of:

13 (A) assisting a person engaged in the business of
14 manufacturing, distributing, or selling cigarettes or tobacco
15 products to violate this subchapter; or

16 (B) profiting from the violation of this
17 subchapter by another person; and

18 (4) may collect an additional fee from the person's
19 customers who order deliveries of cigarettes or tobacco products to
20 recover any costs incurred by the person related to complying with
21 this subchapter.

22 (c) An employee of a common carrier or commercial delivery
23 service or of any other person making deliveries for a carrier or
24 delivery service is not subject to criminal or civil penalties for
25 violating this subchapter unless the employee knowingly violates
26 this subchapter for the specific purpose of assisting a person
27 engaged in the business of manufacturing, distributing, or selling

1 cigarettes or tobacco products in violation of this subchapter.

2 Sec. 161.657. CIVIL PENALTIES. (a) Except as provided in
3 Section 161.656(c), a person who violates this subchapter is
4 subject to a civil penalty for each violation in an amount:

5 (1) of at least \$500 and not more than the greater of
6 \$5,000 or five times the value of the cigarettes or tobacco products
7 at issue; and

8 (2) equal to any profits, gain, gross receipts, or
9 other benefits received from the violation.

10 (b) A person who violates Section 161.653(a) must reimburse
11 this state and the applicable political subdivisions of this state
12 for all unpaid taxes that would otherwise have been imposed by this
13 state and those political subdivisions on the cigarettes and
14 tobacco products in question, plus interest, and for any other
15 damages incurred by the state or the political subdivision as a
16 result of the violation.

17 Sec. 161.658. CRIMINAL PENALTIES. Except as provided by
18 Sections 161.656(b)(3) and (c), a person who knowingly violates
19 Section 161.653 or 161.656(a) commits an offense. An offense under
20 this subsection is a Class A misdemeanor, except that if it is shown
21 on the trial of the offense that the person has a previous
22 conviction under this subsection, the offense is a state jail
23 felony.

24 Sec. 161.659. COSTS. (a) The comptroller shall deposit an
25 amount equal to 50 percent of the civil penalties recovered by this
26 state under this subchapter to be appropriated only to the
27 comptroller, department, attorney general, and other state

1 agencies to enforce this subchapter or make related investigations
2 or to enforce other state laws relating to contraband cigarettes
3 and tobacco products, the collection of taxes on cigarettes and
4 tobacco products, and the prohibition of cigarette and tobacco
5 product sales to minors.

6 (b) In a civil action brought to enforce this subchapter,
7 the state is entitled to recover the costs of investigation, costs
8 of the action, and reasonable attorney's fees, plus interest.

9 Sec. 161.660. ENFORCEMENT. (a) The attorney general may
10 bring an action in the appropriate court in this state to enforce
11 this subchapter by seeking civil penalties and related damages or
12 equitable relief, including an action to prevent or restrain
13 actions by a person or a person controlling the person that violate
14 this subchapter or assist or encourage a violation of this
15 subchapter.

16 (b) On providing at least 15 days' notice to the attorney
17 general, enforcement officials of a political subdivision of this
18 state may bring an action in the appropriate court in this state, or
19 join an action being brought by the attorney general, to seek
20 damages and equitable relief or to prevent or restrain actions by a
21 person or a person controlling the person that violate this
22 subchapter or assist or encourage a violation of this subchapter.

23 (c) On providing at least 15 days' notice to the attorney
24 general, a person who holds a valid permit under 26 U.S.C. Section
25 5712 may bring an action in the appropriate court in this state, or
26 join an action being brought by the attorney general, to prevent or
27 restrain actions by a person or a person controlling the person that

1 violate this subchapter or assist or encourage a violation of this
2 subchapter.

3 (d) On receiving notice from another person of the person's
4 intent to bring an action under this subchapter in the appropriate
5 court in this state, the attorney general may choose to join in the
6 other person's action or bring an action by this state in its stead
7 and shall inform the person providing notice of how the attorney
8 general will proceed not later than the 15th day after receiving the
9 notice.

10 (e) The attorney general shall make public, by posting on
11 the Internet and other means, a list of all actions taken to enforce
12 this subchapter and a list of all persons found to have violated
13 this subchapter, including the persons' names, addresses, and any
14 other information the attorney general believes may be useful to
15 other jurisdictions enforcing laws prohibiting or restricting
16 cigarette or tobacco product sales for personal consumption in
17 which the seller and buyer do not initiate and complete the entire
18 transaction in each other's physical presence.

19 (b) Effective September 1, 2006, Subchapter R, Chapter 161,
20 Health and Safety Code, as added by Chapter 730, Acts of the 78th
21 Legislature, Regular Session, 2003, is repealed.

22 (c) Not later than January 1, 2006, the comptroller shall
23 post the list of persons who hold permits under Subchapter D,
24 Chapter 154, Tax Code, or Subchapter C, Chapter 155, Tax Code, as
25 required by Section 161.654, Health and Safety Code, as added by
26 this section.

27 (d) Not later than June 1, 2006, the comptroller shall

1 create and distribute the list as required by Section 161.655,
2 Health and Safety Code, as added by this section.

3 (e) Notwithstanding Subchapter V, Chapter 161, Health and
4 Safety Code, as added by this section, a person is not subject to a
5 penalty for a violation of that subchapter before September 1,
6 2006.

7 (f) The change in law made by this section applies only to an
8 offense committed on or after September 1, 2006. An offense
9 committed before September 1, 2006, is covered by the law in effect
10 when the offense was committed, and the former law is continued in
11 effect for that purpose. For purposes of this subsection, an
12 offense was committed before September 1, 2006, if any element of
13 the offense was committed before that date.

14 (g) This section takes effect November 1, 2005, except that
15 Sections 161.657-161.660, Health and Safety Code, as added by this
16 section, take effect September 1, 2006.

17 SECTION 113. (a) Article 59.01(2), Code of Criminal
18 Procedure, as amended by H.B. No. 840, H.B. No. 1048, H.B. No. 2018,
19 and H.B. No. 2275, 79th Legislature, Regular Session, 2005, is
20 reenacted and amended to read as follows:

21 (2) "Contraband" means property of any nature,
22 including real, personal, tangible, or intangible, that is:

23 (A) used in the commission of:

24 (i) any first or second degree felony under
25 the Penal Code;

26 (ii) any felony under Section 15.031(b),
27 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30,

1 31, 32, 33, 33A, or 35, Penal Code;

2 (iii) any felony under The Securities Act
3 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

4 (iv) any offense under Chapter 49, Penal
5 Code, that is punishable as a felony of the third degree or state
6 jail felony, if the defendant has been previously convicted three
7 times of an offense under that chapter;

8 (B) used or intended to be used in the commission
9 of:

10 (i) any felony under Chapter 481, Health
11 and Safety Code (Texas Controlled Substances Act);

12 (ii) any felony under Chapter 483, Health
13 and Safety Code;

14 (iii) a felony under Chapter 153, Finance
15 Code;

16 (iv) any felony under Chapter 34, Penal
17 Code;

18 (v) a Class A misdemeanor under Subchapter
19 B, Chapter 365, Health and Safety Code, if the defendant has been
20 previously convicted twice of an offense under that subchapter;

21 (vi) any felony under Chapter 152, Finance
22 Code;

23 (vii) any felony under Chapter 31, 32, or
24 37, Penal Code, that involves the state Medicaid program, or any
25 felony under Chapter 36, Human Resources Code; [~~or~~]

26 (viii) a Class A misdemeanor or state jail
27 felony under Subchapter V, Chapter 161, Health and Safety Code; or

1 (ix) a Class B misdemeanor under Section
2 35.60, Business & Commerce Code;

3 (C) the proceeds gained from the commission of a
4 felony listed in Paragraph (A) or (B) of this subdivision, a
5 misdemeanor listed in Paragraph (B)(ix) [~~(B)(viii)~~] of this
6 subdivision, or a crime of violence;

7 (D) acquired with proceeds gained from the
8 commission of a felony listed in Paragraph (A) or (B) of this
9 subdivision, a misdemeanor listed in Paragraph (B)(ix) [~~(B)(viii)~~]
10 of this subdivision, or a crime of violence; or

11 (E) used to facilitate or intended to be used to
12 facilitate the commission of a felony under Section 15.031 or
13 43.25, Penal Code.

14 (b) The change in law made by this section applies only to an
15 offense committed on or after September 1, 2006. An offense
16 committed before September 1, 2006, is covered by the law in effect
17 when the offense was committed, and the former law is continued in
18 effect for that purpose. For purposes of this subsection, an
19 offense was committed before September 1, 2006, if any element of
20 the offense was committed before that date.

21 (c) This section takes effect September 1, 2006.

22 SECTION 114. Notwithstanding any other law, the Health and
23 Human Services Commission and other health and human services
24 agencies may utilize digital signatures for administrative
25 functions and may require the use of digital signatures for
26 business transactions, if the commission determines that their use
27 is cost-effective.

1 SECTION 115. The following laws are repealed:

2 (1) Section 2303.516(c), Government Code;

3 (2) Section 981.056, Insurance Code; and

4 (3) Section 162.016(h), Tax Code.

5 SECTION 116. (a) Except as provided by Subsection (b) of
6 this section or as otherwise provided by this Act, this Act takes
7 effect immediately if it receives a vote of two-thirds of all the
8 members elected to each house, as provided by Section 39, Article
9 III, Texas Constitution. If this Act does not receive the vote
10 necessary for immediate effect:

11 (1) the changes, reenactments, and additions in law
12 made by this Act to the statutes that are not specifically listed in
13 this section take effect on the 91st day after the last day of the
14 legislative session, except as otherwise provided by this Act; and

15 (2) the changes in law made by this Act to the
16 following statutes take effect November 1, 2005:

17 (A) Section 103.0031, Code of Criminal
18 Procedure;

19 (B) Sections 25.0015, 25.00211, 26.007, 74.061,
20 403.071, 404.024, 660.024, 660.027, 2256.011, and 2256.016,
21 Government Code;

22 (C) Section 433, Probate Code;

23 (D) Sections 74.101, 74.401, 74.507, and 74.601,
24 Property Code; and

25 (E) Section 623.052, Transportation Code.

26 (b) The changes in law made by this Act by amending the
27 following statutes or adding the following statutes take effect

1 November 1, 2005:

2 (1) Section 43.002, Education Code;

3 (2) Sections 659.255, 659.256, 659.257, 2303.401,
4 2303.4072, 2303.504, 2303.516, and 2303.517, Government Code; and

5 (3) Sections 151.429, 151.4291, 151.715, 171.721,
6 171.751, 171.7542, 171.801, 171.8015, 171.802, and 171.804, Tax
7 Code.