

By: Duncan

S.B. No. 45

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, as amended by
4 S.B. No. 1227, Acts of the 79th Legislature, Regular Session, 2005,
5 as effective September 1, 2005, is amended to read as follows:

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

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

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

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

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

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

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

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

1 used for any purpose.

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

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

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

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

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

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

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

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

1 from the judicial fund.

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

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

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

20 (1) the regular judge's salary from the state on August
21 31, 1997; or

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

26 SECTION 12. Section 403.016, Government Code, is amended by
27 adding Subsection (k) to read as follows:

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

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

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

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

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

14 SECTION 13. Sections 403.071(g) and (h), Government Code,
15 are amended to read as follows:

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

23 (h) [~~This subsection applies if the comptroller and a state~~
24 ~~agency have contracted in accordance with Subsection (g).~~] The
25 comptroller shall audit claims after payment under Subsection (g)
26 in the same manner [~~way~~] that the comptroller audits claims before
27 payment under Subsection (a). The comptroller may establish

1 requirements and adopt rules concerning the time that a state
2 agency must retain documentation in its files to enable a
3 postpayment audit. If a postpayment audit by the comptroller shows
4 that a claim presented by a state agency was invalid, the
5 comptroller may:

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

8 (2) report to the governor, the lieutenant governor,
9 the speaker of the house of representatives, the state auditor, and
10 the Legislative Budget Board the results of the audit;

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

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

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

16 SECTION 14. Section 403.074(d), Government Code, is amended
17 to read as follows:

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

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

1 SUBCHAPTER O. INDIVIDUAL DEVELOPMENT ACCOUNTS FOR CERTAIN

2 LOW-INCOME INDIVIDUALS AND HOUSEHOLDS

3 Sec. 403.351. DEFINITIONS. In this subchapter:

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

6 (2) "Individual development account" means a deposit
7 account established by a participant at a financial institution
8 selected by a sponsoring organization.

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

12 (4) "Program" means the individual development
13 account program established under this subchapter.

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

17 (A) a public or private institution of higher
18 education;

19 (B) a provider of occupational or vocational
20 education, including a proprietary school;

21 (C) a mortgage lender;

22 (D) a title insurance company;

23 (E) the lessor or vendor of office supplies or
24 equipment or retail space, office space, or other business space;
25 and

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

1 (6) "Sponsoring organization":

2 (A) means a nonprofit organization that is:

3 (i) exempt from taxation under Section
4 501(a), Internal Revenue Code of 1986, as an organization described
5 by Section 501(c)(3) of that code; and

6 (ii) selected by the comptroller to
7 establish and administer individual development accounts under the
8 program; and

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

14 Sec. 403.352. ESTABLISHMENT OF PROGRAM; RULES. (a) The
15 comptroller by rule shall develop and implement a program under
16 which:

17 (1) individual development accounts are facilitated
18 and administered by sponsoring organizations for eligible
19 low-income individuals and households to provide those individuals
20 and households with an opportunity to accumulate assets and to
21 facilitate and mobilize savings; and

22 (2) sponsoring organizations are provided grant funds
23 for use in administering the program and matching qualified
24 expenditures made by program participants. At least 85 percent of
25 the grant funds must be used by the sponsoring organization for
26 matching qualified expenditures.

27 (b) The comptroller shall contract with sponsoring

1 organizations to facilitate the establishment of and to administer
2 the individual development accounts in accordance with the rules
3 adopted by the comptroller. The comptroller's rules promulgated to
4 implement this subchapter shall include guidelines for contract
5 monitoring, reporting, and termination of grant recipients.

6 (c) In adopting rules under the program, the comptroller
7 shall state the selection criteria for sponsoring organizations.
8 The comptroller shall give priority to organizations that have
9 demonstrated:

10 (1) a capacity to administer individual account
11 programs; and

12 (2) a commitment to serve areas of the state that
13 currently do not have individual development account programs
14 available.

15 Sec. 403.353. PARTICIPANT ELIGIBILITY. (a) The
16 comptroller by rule shall establish eligibility criteria for
17 participants in the program.

18 (b) The eligibility criteria established by the comptroller
19 must:

20 (1) require an eligible individual or member of an
21 eligible household, other than an eligible individual or member of
22 an eligible household receiving supplemental security income or
23 other public disability payments, to agree to make regular
24 contributions to the individual's or household's individual
25 development account from the individual's or household's earned
26 income;

27 (2) provide that the annual income of an eligible

1 individual or household may not exceed 200 percent of the poverty
2 level according to the federal Office of Management and Budget
3 poverty index;

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

8 (4) establish limits on the amount of matching funds a
9 participant is eligible to receive, not to exceed the limit on
10 federal matching funds established by the federal Assets for
11 Independence Act.

12 Sec. 403.354. CONTRIBUTIONS AND EXPENDITURES BY
13 PARTICIPANT. (a) A participant may contribute to the
14 participant's individual development account.

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

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

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

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

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

24 (4) start-up business expenses for the adult account
25 holder.

26 Sec. 403.355. DUTIES OF SPONSORING ORGANIZATIONS. (a) The
27 comptroller shall promulgate rules that establish the duties of

1 sponsoring organizations that shall include recruiting
2 requirements, standards for determination of eligibility of
3 participants, education of participants, operations and account
4 management, solicitation of matching funds, and such other subjects
5 as may be deemed necessary by the comptroller to carry out the
6 purposes and objectives of this subchapter.

7 (b) Each sponsoring organization shall provide to the
8 comptroller any information necessary to evaluate the sponsoring
9 organization's performance in fulfilling the duties outlined in
10 Subsection (a).

11 Sec. 403.356. MATCHING FUNDS; LIMITATIONS ON AMOUNT AND
12 AVAILABILITY. (a) At the time a participant in the program makes a
13 withdrawal for a qualified expenditure described by Section
14 403.354(c) from the participant's individual development account,
15 the participant shall receive matching funds from the sponsoring
16 organization, payable directly to the service provider.

17 (b) If federal Assets for Independence Act money is used as
18 matching funds, the amount of federal matching funds spent for each
19 individual development account may not exceed the limits
20 established by the federal Assets for Independence Act. If money
21 other than federal Assets for Independence Act money is used as
22 matching funds, the comptroller by rule may set a different limit on
23 the amount of matching funds that may be spent for each account.

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

1 that year.

2 Sec. 403.357. TERMINATION OF ACCOUNT FOR UNQUALIFIED
3 WITHDRAWALS. (a) The comptroller by rule shall establish
4 guidelines to ensure that a participant does not withdraw funds in
5 the individual development account, except for a qualified
6 expenditure described by Section 403.354(c). These guidelines
7 shall:

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

11 (2) provide that no participant may withdraw funds
12 from an individual development account earlier than six months
13 after the date on which the participant first deposits funds in the
14 account; and

15 (3) require a participant to reimburse the individual
16 development account for any funds withdrawn for a purpose other
17 than for a qualified expenditure described by Section 403.354(c).

18 (b) The sponsoring organization shall instruct the
19 financial institution to terminate the participant's account if the
20 participant does not comply with the guidelines established under
21 Subsection (a).

22 (c) A participant whose individual development account is
23 terminated under this section is entitled to withdraw from the
24 participant's account the amount of money the participant
25 contributed to the account and any interest that has accrued on that
26 amount.

27 Sec. 403.358. FUNDING. (a) The legislature may

1 appropriate money for the purposes of this subchapter.

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

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

8 SECTION 16. Section 404.024, Government Code, is amended by
9 amending Subsections (b) and (l) and adding Subsections (n) and (o)
10 to read as follows:

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

13 (1) direct security repurchase agreements;

14 (2) reverse security repurchase agreements;

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

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

19 (5) bankers' acceptances that:

20 (A) are eligible for purchase by the Federal
21 Reserve System;

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

23 (C) are issued by a bank whose other comparable
24 short-term obligations are rated in [that has received] the highest
25 short-term [credit] rating category, within which there may be
26 subcategories or gradations, including such subcategories or
27 gradations as "rating category" or "rated," indicating relative

1 standing by a nationally recognized statistical rating
2 organization, as defined by Rule 2a-7 (17 C.F.R. Part 270.2a-7),
3 promulgated under the Investment Company Act of 1940 by the
4 Securities and Exchange Commission [~~investment rating firm~~];

5 (6) commercial paper that:

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

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

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

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

25 (9) bonds issued, assumed, or guaranteed by the State
26 of Israel;

27 (10) obligations of a state or an agency, county,

1 city, or other political subdivision of a state;

2 (11) mutual funds secured by obligations that are
3 described by Subdivisions (1) through (6), including pooled funds:

4 (A) established by the Texas Treasury
5 Safekeeping Trust Company;

6 (B) operated like a mutual fund; and

7 (C) with portfolios consisting only of
8 dollar-denominated securities; ~~and~~

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

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

17 (14) corporate debt obligations that are rated at
18 least A or its equivalent by a nationally recognized statistical
19 rating organization and mature in five years or less from the date
20 on which the obligations were "acquired," as defined by the
21 Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Part
22 270.2a-7).

23 (1) The comptroller may lend securities under procedures
24 established by the comptroller. The procedures must be consistent
25 with industry practice and must include a requirement to fully
26 secure the loan with cash, obligations described by Subsections
27 (b)(1)-(6), or a combination of cash and the described obligations.

1 Notwithstanding any provision to the contrary, cash may be
2 reinvested in the items permitted under Subsection (b) or mutual
3 funds secured by the items permitted under Subsection (b) [~~In this~~
4 subsection, "obligation" means an item described by Subsections
5 (b)(1)-(6)].

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

15 (o) Notwithstanding any other law to the contrary, any
16 government investment pool created to function as a money market
17 mutual fund and managed by the comptroller or the Texas Treasury
18 Safekeeping Trust Company may invest the funds it receives in
19 investments that are "eligible securities," as defined by the
20 Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Part
21 270.2a-7), if it maintains a dollar-weighted average portfolio
22 maturity of 90 days or less, with the maturity of each portfolio
23 security calculated in accordance with Rule 2a-7 (17 C.F.R. Part
24 270.2a-7), and meets the diversification requirements of Rule 2a-7.

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

27 (c) The committee may determine whether the notes will be

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

13 SECTION 18. (a) Section 442.015, Government Code, is
14 amended by adding Subsection (h) to read as follows:

15 (h) The comptroller may manage the assets of the Texas
16 preservation trust fund account in the same manner as the
17 comptroller may manage the assets of certain permanent funds under
18 Section 403.1068.

19 (b) This section takes effect January 1, 2006.

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

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

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

26 (c) The comptroller may adopt rules and establish
27 procedures concerning the earnings statements provided by state

1 agencies that under Subchapter C, Chapter 2101, are required to use
2 the uniform statewide payroll system.

3 SECTION 20. Section 659.255(a)(3), Government Code, is
4 amended to read as follows:

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

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

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

15 SECTION 21. Sections 659.256(c) and (f), Government Code,
16 are amended to read as follows:

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

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

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

16 SECTION 22. Section 659.257(c), Government Code, is amended
17 to read as follows:

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

1 ~~below the rate the employee received before demotion.]~~

2 SECTION 23. Section 660.024(a), Government Code, is amended
3 to read as follows:

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

12 SECTION 24. Sections 660.027(b), (d), and (e), Government
13 Code, are amended to read as follows:

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

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

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

25 (d) A voucher must be supported by:

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

1 (2) [~~be accompanied by~~] the information and
2 documentation that the comptroller considers necessary for the
3 comptroller to determine compliance with this chapter, the travel
4 provisions of the General Appropriations Act, and the rules adopted
5 by the comptroller under this chapter.

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

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

11 (2) electronically;

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

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

15 SECTION 25. Section 1431.001(2), Government Code, is
16 amended to read as follows:

17 (2) "Eligible countywide district" means:

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

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

25 SECTION 26. 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 27. 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 28. Section 2256.011, Government Code, is amended
10 by amending Subsection (a) and adding Subsection (e) to read as
11 follows:

12 (a) A fully collateralized repurchase agreement is an
13 authorized investment under this subchapter if the repurchase
14 agreement:

15 (1) has a defined termination date;

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

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

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

25 (e) For purposes of this section, an entity may agree to
26 secure the agreement by accepting cash on an overnight basis in lieu
27 of the obligations identified in Section 2256.009(a)(1). Cash held

1 by an entity under this subsection is not a deposit of public funds
2 for purposes of any statute, including Chapter 2257, that requires
3 a deposit of public funds to be collateralized by eligible
4 securities.

5 SECTION 29. Section 2256.016, Government Code, is amended
6 by amending Subsections (a) and (f) and adding Subsection (i) to
7 read as follows:

8 (a) An entity may invest its funds and funds under its
9 control through an eligible investment pool if the governing body
10 of the entity by rule, order, ordinance, or resolution, as
11 appropriate, authorizes investment in the particular pool. An
12 investment pool created to function as a money market mutual fund
13 may invest the funds it receives from entities in investments that
14 are "eligible securities," as defined by the Securities and
15 Exchange Commission in Rule 2a-7 (17 C.F.R. Part 270.2a-7),
16 promulgated under the Investment Company Act of 1940. Any other
17 [An] investment pool shall invest the funds it receives from
18 entities in authorized investments permitted by this subchapter.

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

22 (1) mark its portfolio to market daily, and, to the
23 extent reasonably possible, stabilize at a \$1 net asset value. If
24 the ratio of the market value of the portfolio divided by the book
25 value of the portfolio is less than 0.995 or greater than 1.005,
26 portfolio holdings shall be sold as necessary to maintain the ratio
27 between 0.995 and 1.005;

1 (2) maintain a dollar-weighted average portfolio
2 maturity of 90 days or less, with the maturity of each portfolio
3 security calculated in accordance with Rule 2a-7 (17 C.F.R. Part
4 270.2a-7); and

5 (3) meet the diversification requirements of Rule 2a-7
6 (17 C.F.R. Part 270.2a-7) promulgated by the Securities and
7 Exchange Commission.

8 (i) In this section, "stated maturity date" means the
9 average life of a security with periodic principal payments, the
10 number of days until the next interest rate reset date for variable
11 rate securities, or the final maturity date for all other
12 securities.

13 SECTION 30. Section 2303.401, Government Code, is amended
14 to read as follows:

15 Sec. 2303.401. DEFINITIONS. In this subchapter:

16 (1) "Certified job" means a new or retained job that:

17 (A) has provided at least 1,820 hours of
18 employment a year to a qualified employee of a qualified business as
19 described by Section 2303.402;

20 (B) is intended to exist for at least three years
21 after the date on which the comptroller makes the initial
22 certification of hiring commitments for the qualified business
23 under Section 2303.516(d); and

24 (C) has been certified by the comptroller as
25 eligible for receipt of a state benefit under this chapter.

26 (2) "New permanent job" means a new employment
27 position created by a qualified business as described by Section

1 2303.402 that:

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

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

7 (3) [~~2~~] "Retained job" means a job that existed with
8 a qualified business before designation of the business's project
9 or activity as an enterprise project that:

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

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

15 SECTION 31. Section 2303.4072, Government Code, is amended
16 to read as follows:

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

23 SECTION 32. Section 2303.504, Government Code, as amended
24 by Section 2.02, Chapter 1134, Acts of the 77th Legislature,
25 Regular Session, 2001, is amended to read as follows:

26 Sec. 2303.504. STATE TAX REFUNDS AND CREDITS; REPORT. (a)
27 In this section, "triple jumbo enterprise project" has the meaning

1 assigned by Section 2303.407.

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

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

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

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

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

22 SECTION 33. Subchapter G, Chapter 2303, Government Code, is
23 amended by adding Section 2303.5056 to read as follows:

24 Sec. 2303.5056. REFUND, REBATE, OR PAYMENT OF TAX PROCEEDS
25 TO CONVENTION CENTER HOTEL PROJECT. (a) In this section, "eligible
26 taxable proceeds" means taxable proceeds generated, paid, or
27 collected by a hotel described by Subsection (b) or a business at

1 that hotel, including hotel occupancy taxes, ad valorem taxes,
2 sales and use taxes, and mixed beverage taxes.

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

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

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

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

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

1 SECTION 34. Sections 2303.516(b) and (d), Government Code,
2 are amended to read as follows:

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

6 (1) the business or project is not willing to
7 cooperate with the comptroller [~~bank~~] in providing the comptroller
8 [~~bank~~] with the information the comptroller [~~bank~~] needs to
9 determine state benefits [~~make the determination under Subsection~~
10 ~~(a)]~~; or

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

14 (d) A qualified business may obtain a state benefit, earned
15 through a specific enterprise project designation, on completion
16 of:

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

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

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

27 SECTION 35. Section 2303.517, Government Code, is amended

1 to read as follows:

2 Sec. 2303.517. REPORT. Before obtaining a state benefit,
3 the qualified business must submit to the comptroller [~~bank~~] a
4 certified report of the actual number of jobs created or retained
5 and the capital investment made at or committed to the qualified
6 business site.

7 SECTION 36. Section 161.081, Health and Safety Code, is
8 amended by adding Subdivision (7) to read as follows:

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

12 SECTION 37. Subchapter H, Chapter 161, Health and Safety
13 Code, is amended by adding Section 161.0821 to read as follows:

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

18 (b) It is an exception to the application of this section
19 that the person younger than 18 years of age is participating in an
20 investigation or compliance inspection in accordance with Section
21 161.088 on behalf of the comptroller or a local law enforcement
22 agency.

23 (c) If conduct constituting an offense under this section
24 also constitutes an offense under another section of this code or
25 another provision of law, the actor may be prosecuted under either
26 this section or the other section or provision.

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

1 SECTION 38. (a) Section 161.084, Health and Safety Code, is
2 amended by amending Subsection (b) and adding Subsection (f) to
3 read as follows:

4 (b) The sign must include the statement:

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

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

16 (b) The comptroller shall adopt rules as necessary to
17 implement Section 161.084, Health and Safety Code, as amended by
18 this section, not later than the 90th day after the effective date
19 of this section.

20 SECTION 39. (a) Section 285.063, Health and Safety Code, is
21 amended by adding Subsection (b-1) to read as follows:

22 (b-1) The district shall submit to the comptroller a
23 description of the boundaries of the district and a map of the
24 district clearly showing the district's boundaries at the same time
25 the district submits the results of the election held under this
26 subchapter.

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

1 SECTION 40. (a) Section 775.0753, Health and Safety Code,
2 is amended by adding Subsection (d) to read as follows:

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

8 (b) This section takes effect January 1, 2006.

9 SECTION 41. (a) Section 776.0753, Health and Safety Code,
10 is amended by adding Subsection (d) to read as follows:

11 (d) The district shall submit to the comptroller a
12 description of the boundaries of the district and a map of the
13 district clearly showing the district's boundaries at the same time
14 the district submits the results of the election held as provided by
15 this subchapter.

16 (b) This section takes effect January 1, 2006.

17 SECTION 42. (a) Article 1.16(b), Insurance Code, is
18 amended to read as follows:

19 (b) Assessments for the expenses of such domestic
20 examination which shall be sufficient to meet all the expenses and
21 disbursements necessary to comply with the provisions of the laws
22 of Texas relating to the examination of insurance companies and to
23 comply with the provisions of this Article and Articles 1.17 and
24 1.18 of this Code, shall be made by the State Board of Insurance
25 upon the corporations or associations to be examined taking into
26 consideration annual premium receipts, and/or admitted assets that
27 are not attributable to 90 percent of pension plan contracts as

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

25 (b) This section takes effect January 1, 2006.

26 SECTION 43. (a) Section 222.002(b), Insurance Code, is
27 amended to read as follows:

1 (b) Except as otherwise provided by this section, in
2 determining an insurer's taxable gross premiums or a health
3 maintenance organization's taxable gross revenues, the insurer or
4 health maintenance organization shall include the total gross
5 amounts of premiums, membership fees, assessments, dues, revenues,
6 and other considerations received by the insurer or health
7 maintenance organization in a calendar year from any kind of health
8 maintenance organization certificate or contract or insurance
9 policy or contract covering risks on individuals or groups [~~a~~
10 ~~person~~] located in this state and arising from the business of a
11 health maintenance organization or the business of life insurance,
12 accident insurance, health insurance, life and accident insurance,
13 life and health insurance, health and accident insurance, life,
14 health, and accident insurance, including variable life insurance,
15 credit life insurance, and credit accident and health insurance for
16 profit or otherwise or for mutual benefit or protection.

17 (b) This section takes effect January 1, 2006.

18 SECTION 44. (a) Section 223.003(a), Insurance Code, is
19 amended to read as follows:

20 (a) An annual tax is imposed on all [~~each title insurance~~
21 ~~company that receives~~] premiums from the business of title
22 insurance. The rate of the tax is 1.35 percent of [~~the~~] title
23 insurance [~~company's~~] taxable premiums for a calendar year,
24 including any premiums retained by a title insurance agent as
25 provided by Section 223.005. For purposes of this chapter, a person
26 engages in the business of title insurance if the person engages in
27 an activity described by Section 2501.005.

1 (b) This section takes effect January 1, 2006.

2 SECTION 45. (a) Section 252.003, Insurance Code, is
3 amended to read as follows:

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

- 8 (1) bombardment;
- 9 (2) civil war or commotion;
- 10 (3) cyclone;
- 11 (4) earthquake;
- 12 (5) excess or deficiency of moisture;
- 13 (6) explosion as defined by Article 5.52;
- 14 (7) fire;
- 15 (8) flood;
- 16 (9) frost and freeze;
- 17 (10) hail;
- 18 (11) insurrection;
- 19 (12) invasion;
- 20 (13) lightning;
- 21 (14) military or usurped power;
- 22 (15) an order of a civil authority made to prevent the
23 spread of a conflagration, epidemic, or catastrophe;
- 24 (16) rain;
- 25 (17) riot;
- 26 (18) the rising of the waters of the ocean or its
27 tributaries;

- 1 (19) smoke or smudge;
- 2 (20) strike or lockout;
- 3 (21) tornado;
- 4 (22) vandalism or malicious mischief;
- 5 (23) volcanic eruption;
- 6 (24) water or other fluid or substance resulting from
- 7 the breakage or leakage of sprinklers, pumps, or other apparatus
- 8 erected for extinguishing fires, water pipes, or other conduits or
- 9 containers;
- 10 (25) weather or climatic conditions; [~~or~~]
- 11 (26) windstorm;i
- 12 (27) an event covered under a home warranty insurance
- 13 policy; or
- 14 (28) an event covered under an inland marine insurance
- 15 policy.

16 (b) This section takes effect January 1, 2006.

17 SECTION 46. (a) Section 271.002(a), Insurance Code, is

18 amended to read as follows:

19 (a) A maintenance fee is imposed on all [~~each insurer with~~

20 ~~gross~~] premiums subject to assessment under Section 271.006.

21 (b) This section takes effect January 1, 2006.

22 SECTION 47. (a) Section 1502.053, Insurance Code, as

23 amended by H.B. No. 2018, Acts of the 79th Legislature, Regular

24 Session, 2005, as effective September 1, 2005, is amended to read as

25 follows:

26 Sec. 1502.053. EXEMPTION FROM CERTAIN TAXES. (a) The

27 issuer of a children's health benefit plan approved under Section

1 1502.051 is not subject to the premium tax or the tax on revenues
2 imposed under Chapter 222 with respect to money received for
3 coverage provided under that plan.

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

7 (b) This section takes effect January 1, 2006.

8 SECTION 48. Section 302.001, Local Government Code, is
9 amended by amending Subdivision (1) and adding Subdivision (3) to
10 read as follows:

11 (1) "Energy savings performance contract" means a
12 contract for energy or water conservation measures or usage
13 measures to reduce energy or water consumption or net operating
14 costs or to increase energy-related or water-related revenues of
15 local government facilities in which the estimated savings in
16 utility costs or the estimated increase in revenues resulting from
17 the measures is guaranteed to offset the cost of the measures over a
18 specified period. The term includes a contract for the
19 installation or implementation of:

20 (A) insulation of a building structure and
21 systems within the building;

22 (B) storm windows or doors, caulking or weather
23 stripping, multiglazed windows or doors, heat-absorbing or
24 heat-reflective glazed and coated window or door systems, or other
25 window or door system modifications that reduce energy consumption;

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

1 (D) heating, ventilating, or air-conditioning
2 system modifications or replacements that reduce energy or water
3 consumption;

4 (E) lighting fixtures that increase energy
5 efficiency;

6 (F) energy recovery systems;

7 (G) electric systems improvements;

8 (H) water-conserving fixtures, appliances, and
9 equipment or the substitution of non-water-using fixtures,
10 appliances, and equipment;

11 (I) water-conserving landscape irrigation
12 equipment;

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

15 (i) landscape contouring, including the use
16 of berms, swales, and terraces; and

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

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

22 (L) equipment for recycling or reuse of water
23 originating on the premises or from other sources, including
24 treated municipal effluent;

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

1 (N) metering equipment [~~needed to segregate~~
2 ~~water use in order to identify water conservation opportunities or~~
3 ~~verify water savings~~]; or

4 (O) other energy or water conservation-related
5 improvements or equipment, including improvements or equipment
6 relating to renewable energy or nonconventional water sources or
7 water reuse.

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

10 SECTION 49. Section 302.002(b), Local Government Code, is
11 amended to read as follows:

12 (b) Each energy or water conservation measure or usage
13 measure must comply with current local, state, and federal
14 construction, plumbing, and environmental codes and regulations.
15 Notwithstanding Section 302.001(1), an energy savings performance
16 contract may not include improvements or equipment that allow or
17 cause water from any condensing, cooling, or industrial process or
18 any system of nonpotable usage over which public water supply
19 system officials do not have sanitary control to be returned to the
20 potable water supply.

21 SECTION 50. Section 302.003, Local Government Code, is
22 amended to read as follows:

23 Sec. 302.003. PAYMENT AND PERFORMANCE BOND.
24 Notwithstanding any other law, before entering into an energy
25 savings performance contract, the governing body of the local
26 government shall require the provider of the energy or water
27 conservation measures or usage measures to file with the governing

1 body a payment and performance bond relating to the installation of
2 the measures in accordance with Chapter 2253, Government Code. The
3 governing body may also require a separate bond to cover the value
4 of the guaranteed savings on the contract.

5 SECTION 51. Section 302.004, Local Government Code, is
6 amended to read as follows:

7 Sec. 302.004. METHOD OF FINANCING; TERMS OF CONTRACT. (a)
8 An energy savings performance contract may be financed:

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

13 (2) with the proceeds of bonds; or

14 (3) under a contract with the provider of the energy or
15 water conservation measures or usage measures that has a term not to
16 exceed 15 years from the final date of installation.

17 (b) An energy savings performance contract shall contain
18 provisions requiring the provider of the energy or water
19 conservation measures or usage measures to guarantee the amount of
20 the savings or the increased revenues, or both, to be realized by
21 the local government under the contract. If the term of the
22 contract exceeds one year, the local government's contractual
23 obligations in any one year during the term of the contract
24 beginning after the final date of installation may not exceed the
25 total energy, water, wastewater, and operating cost savings or
26 increased revenues, or both, including electrical, gas, water,
27 wastewater, or other utility cost savings and operating cost

1 savings or increased revenues, or both, resulting from the measures
2 as determined by the local government in this subsection, divided
3 by the number of years in the contract term.

4 SECTION 52. Section 302.005(b), Local Government Code, is
5 amended to read as follows:

6 (b) Before entering into an energy savings performance
7 contract, the governing body must require that the cost savings or
8 increased revenues, or both, projected by an offeror be reviewed by
9 a licensed engineer who is not an officer or employee of an offeror
10 for the contract under review or otherwise associated with the
11 contract or the offeror. An engineer who reviews a contract shall
12 maintain the confidentiality of any proprietary information the
13 engineer acquires while reviewing the contract. Sections 1001.053
14 and 1001.407, Occupations Code, apply to work performed under the
15 contract.

16 SECTION 53. Subchapter D, Chapter 373A, Local Government
17 Code, as added by H.B. No. 525, Acts of the 79th Legislature,
18 Regular Session, 2005, as effective September 1, 2005, is amended
19 by adding Section 373A.159 to read as follows:

20 Sec. 373A.159. TAX ABATEMENT AGREEMENTS. (a) A taxing unit
21 may enter into a tax abatement agreement with an owner of real or
22 personal property in a homestead preservation reinvestment zone,
23 regardless of whether the taxing unit deposits or agrees to deposit
24 any portion of its tax increment into the tax increment fund for the
25 zone.

26 (b) To be effective, an agreement to abate ad valorem taxes
27 on real property in a homestead preservation reinvestment zone

1 under this section must be approved by:

2 (1) the governing body of the municipality that
3 administers the zone; and

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

8 (c) In any contract entered into by the governing body of
9 the municipality that administers a homestead preservation
10 reinvestment zone in connection with bonds or other obligations,
11 the governing body may covenant that it will not approve an ad
12 valorem tax abatement agreement that applies to real property in
13 that zone.

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

18 (1) the tax increment of that taxing unit; or

19 (2) that taxing unit's deposit to the tax increment
20 fund for the homestead preservation reinvestment zone.

21 SECTION 54. Sections 373A.157(c) and (e), Local Government
22 Code, as added by H.B. No. 525, Acts of the 79th Legislature,
23 Regular Session, 2005, are amended to read as follows:

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

1 (e) The municipality must spend at least 70 [~~80~~] percent of
2 the revenue expended annually from the tax increment fund for the
3 purchase of real property and the construction or rehabilitation of
4 affordable housing in the zone. The municipality may spend not more
5 than 10 percent of the revenue expended annually from the tax
6 increment fund for administration of the zone. Not more than 10
7 percent of the revenue expended annually from the tax increment
8 fund may be spent for infrastructure improvements necessary to
9 support the construction or rehabilitation of affordable housing in
10 the zone.

11 SECTION 55. (a) Section 383.101, Local Government Code, is
12 amended by adding Subsection (d) to read as follows:

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

18 (b) This section takes effect January 1, 2006.

19 SECTION 56. (a) Section 387.012, Local Government Code, is
20 amended to read as follows:

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

27 (b) The district shall submit to the comptroller a

1 description of the boundaries of the district and a map of the
2 district clearly showing the district's boundaries at the same time
3 the district submits the results of the election held under this
4 chapter.

5 (b) This section takes effect January 1, 2006.

6 SECTION 57. Section 430.003, Local Government Code, is
7 amended to read as follows:

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

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

18 SECTION 58. Section 433(a), Probate Code, is amended to
19 read as follows:

20 (a) Mode of Recovery. When funds of an estate have been paid
21 to the comptroller, any heir, devisee, or legatee of the estate, or
22 their assigns, or any of them, may recover the portion of such funds
23 to which he, she, or they are entitled. The person claiming such
24 funds shall institute suit on or before the fourth anniversary of
25 the date of the order requiring payment to the comptroller, by
26 petition filed in the district court of Travis County, against the
27 comptroller, setting forth the plaintiff's right to such funds, and

1 the amount claimed by him. Any heir, devisee, legatee, or their
2 assigns of an estate whose funds were paid to the state treasurer
3 under this chapter before September 1, 1991, must initiate suit
4 under this section not later than September 1, 2009.

5 SECTION 59. (a) Section 52.006, Property Code, is amended
6 to read as follows:

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

12 (b) Notwithstanding Section 34.001, Civil Practice and
13 Remedies Code, a judgment in favor of the state or a state agency,
14 as that term is defined by Section 403.055, Government Code, does
15 not become dormant. A properly filed abstract of the judgment
16 continues to constitute a lien under Section 52.001 until the
17 earlier of the 20th anniversary of the date the abstract is recorded
18 and indexed or the date the judgment is satisfied or the lien is
19 released. The judgment lien may be renewed for one additional
20 20-year period by filing, before the expiration of the initial
21 20-year period, a renewed abstract of judgment in the same manner as
22 the original abstract of judgment is filed. The renewed judgment
23 lien relates back to the date the original abstract of judgment was
24 filed.

25 (b) The change in law made by this Act by amending Section
26 52.006, Property Code, applies to:

27 (1) a judgment, if the judgment is not then dormant,

1 that exists on the effective date of this Act;

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

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

6 SECTION 60. Section 74.101(a), Property Code, is amended to
7 read as follows:

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

15 SECTION 61. Section 74.401, Property Code, is amended by
16 adding Subsection (f) to read as follows:

17 (f) The comptroller may sell as a gift, novelty, or
18 collectible item, but not as an investment, a stock, bond,
19 certificate, or similar instrument that is nonredeemable and
20 nontransferable because it has been canceled or issued by a company
21 that has been dissolved or terminated and the existence of which has
22 not been revived or reinstated. The comptroller may sell an
23 instrument under this subsection at a public sale or in another
24 manner determined to be appropriate by the comptroller, including
25 an online sale. Before selling an instrument under this
26 subsection, the comptroller must stamp the face of the instrument
27 with a prominent mark indicating that the instrument has been

1 canceled. At the time of the sale and of the delivery of the
2 instrument to the purchaser, the comptroller must provide written
3 notice to the purchaser as required by this subsection. The notice
4 must be printed in a font size that is at least as large as the
5 largest font size on the page of the notice and include statements
6 substantially similar to the following:

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

9 (2) this instrument is not being sold for investment
10 purposes; and

11 (3) this instrument is nonredeemable and
12 nontransferable because it has been canceled or issued by a company
13 that has been dissolved or terminated and the existence of which has
14 not been revived or reinstated."

15 SECTION 62. Section 74.507(b), Property Code, is amended to
16 read as follows:

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

21 SECTION 63. Section 74.601, Property Code, is amended by
22 adding Subsection (g) to read as follows:

23 (g) If an owner does not assert a claim for unclaimed funds
24 reported to the comptroller and the owner is reported to be the
25 state or a state agency, the comptroller may deposit the unclaimed
26 funds to the credit of the general revenue fund. The comptroller
27 may establish procedures and adopt rules as necessary to implement

1 this section.

2 SECTION 64. (a) Section 6.03, Tax Code, is amended by adding
3 Subsection (a-1) to read as follows:

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

1 section, the total dollar amount of taxes imposed in the district by
2 the municipality is excluded from the calculation of the voting
3 entitlements of the other taxing units. The governing body of the
4 municipality may not participate in a vote to fill a vacancy in a
5 position on the board held by a member appointed by the other taxing
6 units or to recall a member of the board appointed by the other
7 taxing units.

8 (b) The change in law made by this section applies only to
9 the selection of appraisal district directors for terms beginning
10 on or after January 1, 2006. The change in law made by this section
11 does not affect the selection of appraisal district directors for
12 terms beginning before that date.

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

18 (1) the first election of directors after the
19 effective date of this section, if the board of directors consists
20 of an even number of directors; or

21 (2) the first election of directors after the
22 effective date of this section at which the greater number of
23 directors is elected, if the board of directors consists of an odd
24 number of directors.

25 (d) If this section takes effect October 21, 2005, in an
26 appraisal district in which one member of the board of directors
27 will be appointed under Section 6.03(a-1), Tax Code, as added by

1 this Act, for a term beginning January 1, 2006, the chief appraiser
2 shall indicate on the ballot prepared under Section 6.03(j), Tax
3 Code, for the October 30, 2006, deadline provided by that section
4 that one member of the board of directors will be so appointed, that
5 the number of directors to be appointed using that ballot is reduced
6 accordingly, and that the municipality entitled to make the
7 appointment under Section 6.03(a-1) is not entitled to vote to fill
8 the other board positions. The chief appraiser shall omit from the
9 ballot the nominations made by the municipality entitled to make
10 the appointment under Section 6.03(a-1).

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

16 SECTION 65. (a) Section 11.18(d), Tax Code, is amended to
17 read as follows:

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

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

27 (2) providing support or relief to orphans,

1 delinquent, dependent, or handicapped children in need of
2 residential care, abused or battered spouses or children in need of
3 temporary shelter, the impoverished, or victims of natural disaster
4 without regard to the beneficiaries' ability to pay;

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

9 (4) preserving a historical landmark or site;

10 (5) promoting or operating a museum, zoo, library,
11 theater of the dramatic or performing arts, or symphony orchestra
12 or choir;

13 (6) promoting or providing humane treatment of
14 animals;

15 (7) acquiring, storing, transporting, selling, or
16 distributing water for public use;

17 (8) answering fire alarms and extinguishing fires with
18 no compensation or only nominal compensation to the members of the
19 organization;

20 (9) promoting the athletic development of boys or
21 girls under the age of 18 years;

22 (10) preserving or conserving wildlife;

23 (11) promoting educational development through loans
24 or scholarships to students;

25 (12) providing halfway house services pursuant to a
26 certification as a halfway house by the pardons and paroles
27 division of the Texas Department of Criminal Justice;

1 (13) providing permanent housing and related social,
2 health care, and educational facilities for persons who are 62
3 years of age or older without regard to the residents' ability to
4 pay;

5 (14) promoting or operating an art gallery, museum, or
6 collection, in a permanent location or on tour, that is open to the
7 public;

8 (15) providing for the organized solicitation and
9 collection for distributions through gifts, grants, and agreements
10 to nonprofit charitable, education, religious, and youth
11 organizations that provide direct human, health, and welfare
12 services;

13 (16) performing biomedical or scientific research or
14 biomedical or scientific education for the benefit of the public;

15 (17) operating a television station that produces or
16 broadcasts educational, cultural, or other public interest
17 programming and that receives grants from the Corporation for
18 Public Broadcasting under 47 U.S.C. Section 396, as amended;

19 (18) providing housing for low-income and
20 moderate-income families, for unmarried individuals 62 years of age
21 or older, for handicapped individuals, and for families displaced
22 by urban renewal, through the use of trust assets that are
23 irrevocably and, pursuant to a contract entered into before
24 December 31, 1972, contractually dedicated on the sale or
25 disposition of the housing to a charitable organization that
26 performs charitable functions described by Subdivision (9);

27 (19) providing housing and related services to persons

1 who are 62 years of age or older in a retirement community, if the
2 retirement community provides independent living services,
3 assisted living services, and nursing services to its residents on
4 a single campus:

5 (A) without regard to the residents' ability to
6 pay; or

7 (B) in which at least four percent of the
8 retirement community's combined net resident revenue is provided in
9 charitable care to its residents; ~~or~~

10 (20) providing housing on a cooperative basis to
11 students of an institution of higher education if:

12 (A) the organization is exempt from federal
13 income taxation under Section 501(a), Internal Revenue Code of
14 1986, as amended, by being listed as an exempt entity under Section
15 501(c)(3) of that code;

16 (B) membership in the organization is open to all
17 students enrolled in the institution and is not limited to those
18 chosen by current members of the organization;

19 (C) the organization is governed by its members;
20 and

21 (D) the members of the organization share the
22 responsibility for managing the housing; or

23 (21) operating a radio station that broadcasts
24 educational, cultural, or other public interest programming,
25 including classical music, and that is funded entirely through
26 donations made by listeners or other donors.

27 (b) Section 11.18(d), Tax Code, as amended by this section,

1 applies only to an ad valorem tax year that begins on or after
2 January 1, 2006.

3 SECTION 66. (a) Section 21.02, Tax Code, is amended by
4 amending Subsection (a) and adding Subsection (e) to read as
5 follows:

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

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

11 (2) it normally is located in the unit, even though it
12 is outside the unit on January 1, if it is outside the unit only
13 temporarily;

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

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

23 (e) This subsection does not apply to a drilling rig
24 designed for offshore drilling or exploration operations. A mobile
25 portable drilling rig, and equipment associated with the drilling
26 rig, is taxable by the taxing unit in which the rig is located on
27 January 1 if the rig was located in the unit for the preceding 365

1 consecutive days. If the rig and associated equipment was not
2 located at its January 1 location for the preceding 365 days, it is
3 taxable by the taxing unit in which the owner's principal place of
4 business in this state is located on January 1.

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

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

9 SECTION 67. (a) Section 21.05(e), Tax Code, is amended to
10 read as follows:

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

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

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

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

24 (b) This section takes effect January 1, 2006.

25 SECTION 68. Subchapter C, Chapter 41, Tax Code, is amended
26 by adding Section 41.445 to read as follows:

27 Sec. 41.445. NOTICE OF FILING NOTICE OF PROTEST. (a) On

1 request of a taxing unit that participates in the appraisal
2 district, the secretary of the appraisal review board shall
3 identify to the presiding officer of the governing body of the
4 taxing unit each property on which a notice of protest is pending
5 before the board.

6 (b) The notice requirement of Subsection (a) may be
7 satisfied by:

8 (1) delivering a copy of each notice of protest by
9 mail;

10 (2) providing in printed or electronic form a report
11 listing the account number, address, owner name, and market value
12 of each property that is the subject of a protest; or

13 (3) notifying the presiding officer of the Internet
14 address of an Internet website on which the information described
15 by Subdivision (2) is available.

16 (c) The notice must be provided at least 15 days before the
17 date of each meeting of the board.

18 SECTION 69. Section 41.47, Tax Code, is amended by amending
19 Subsection (d) and by adding Subsection (d-1) to read as follows:

20 (d) The board shall deliver by certified mail a notice of
21 issuance of the order and a copy of the order to the property owner
22 and the chief appraiser and shall, on the issuance of the order,
23 report the order's issuance to each presiding officer of the
24 governing body of a taxing unit that has requested notice under
25 Section 41.445. The report to a presiding officer may be made by:

26 (1) delivering a copy of the order by mail;

27 (2) providing in printed or electronic form a report

1 listing the account number, address, owner name, and market value
2 of each property on which an order is issued; or

3 (3) notifying the presiding officer of the Internet
4 address of an Internet website on which the information described
5 by Subdivision (2) is available.

6 (d-1) Not later than the 30th day after the date a protest is
7 received or as soon after that date as practicable, the appraisal
8 review board shall determine the time, date, and place of the
9 hearing on the protest and issue the notice required by Section
10 41.46.

11 SECTION 70. (a) Subchapter B, Chapter 111, Tax Code, is
12 amended by adding Section 111.0515 to read as follows:

13 Sec. 111.0515. RESTRICTED OR CONDITIONAL PAYMENTS OF TAXES,
14 PENALTIES, AND INTEREST PROHIBITED. Unless the restriction or
15 condition is authorized by this title, a restriction or condition
16 placed on a check in payment of taxes by the maker of the check that
17 purports to limit the amount of taxes owed to an amount less than
18 that stated in the comptroller's records, or a restriction or
19 condition placed on a check in payment of penalties and interest on
20 delinquent taxes by the maker that purports to limit the amount of
21 the penalties and interest to an amount less than the amount of
22 penalties and interest accrued on the delinquent taxes, is void.

23 (b) This section takes effect January 1, 2006.

24 SECTION 71. (a) Subchapter B, Chapter 111, Tax Code, is
25 amended by adding Section 111.065 to read as follows:

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

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

3 (2) correct any erroneous assessment.

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

7 (b) This section takes effect January 1, 2006.

8 SECTION 72. (a) Section 111.107, Tax Code, is amended to
9 read as follows:

10 Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. (a)
11 Except as otherwise expressly provided, a person may request a
12 refund or a credit or the comptroller may make a refund or issue a
13 credit for the overpayment of a tax imposed by this title at any
14 time before the expiration of the period during which the
15 comptroller may assess a deficiency for the tax and not thereafter
16 unless the refund or credit is requested:

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

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

22 (3) under Chapter 162 [~~153~~], except Section
23 162.126(f), 162.128(d), 162.228(f), or 162.230(d) [~~153.1195(e),~~
24 ~~153.121(d), 153.2225(e), or 153.224(d)~~].

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

1 (b) This section takes effect January 1, 2006.

2 SECTION 73. (a) Sections 151.011(a) and (c), Tax Code, are
3 amended to read as follows:

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

15 (c) "Use" does not include the sale of tangible personal
16 property or a taxable service in the regular course of business, the
17 transfer of a taxable service as an integral part of the transfer of
18 tangible personal property in the regular course of business, or
19 the transfer of tangible personal property as an integral part of
20 the transfer of a taxable service in the regular course of business.
21 "Use" also does not include the sale outside this state of raw
22 materials that are processed, fabricated, or manufactured into
23 printed materials outside this state if the printed materials are
24 subsequently brought or delivered into this state.

25 (b) This section takes effect January 1, 2006.

26 SECTION 74. (a) Section 151.304(b), Tax Code, is amended to
27 read as follows:

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

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

6 (2) the sale of the entire operating assets of a
7 business or of a separate division, branch, or identifiable segment
8 of a business;

9 (3) a transfer of all or substantially all the
10 property used by a person in the course of an activity if after the
11 transfer the real or ultimate ownership of the property is
12 substantially similar to that which existed before the transfer;
13 [~~or~~]

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

18 (5) the sale of tangible personal property by an
19 individual if:

20 (A) the property was originally bought by the
21 individual or a member of the individual's family for the personal
22 use of the individual or the individual's family;

23 (B) the individual does not hold a permit issued
24 under this chapter and is not required to obtain a permit as a
25 "seller" or "retailer" as those terms are defined by Section
26 151.008;

27 (C) the individual does not employ an auctioneer,

1 broker, or factor, other than an online auction, to sell the
2 property; and

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

6 (b) The change in law made by this section does not affect
7 tax liability accruing before the effective date of this section.
8 That liability continues in effect as if this section had not been
9 enacted, and the former law is continued in effect for the
10 collection of taxes due and for civil and criminal enforcement of
11 the liability for those taxes.

12 (c) This section takes effect August 1, 2005, if this Act
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for effect on that
16 date, this section takes effect November 1, 2005.

17 SECTION 75. (a) Section 151.3111(b), Tax Code, is amended
18 to read as follows:

19 (b) Subsection (a) does not apply to the performance of a
20 service on:

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

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

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

27 (4) a taxable boat or motor as defined by Section

1 160.001; ~~[.]~~

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

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

7 (b) This section takes effect January 1, 2006.

8 SECTION 76. (a) Sections 151.3162(d) and (e), Tax Code, are
9 amended to read as follows:

10 (d) The exemption provided by Subsection (b) takes effect
11 January 1, 2008. Until that date, a person is entitled to an
12 exemption [~~a credit or refund~~] of a portion of the taxes paid under
13 this chapter on an item that after January 1, 2008, will be exempted
14 from the taxes imposed by this chapter under Subsection (b). The
15 amount of the exemption [~~credit or refund~~] is determined as
16 follows:

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

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

25 (3) for an item for which the taxable event occurs on
26 or after January 1, 2006, and before January 1, 2008, the taxpayer
27 is entitled to an exemption [~~a refund or credit~~] in an amount equal

1 to 75 percent of the tax paid on the item.

2 (e) A taxpayer entitled to a credit or refund under
3 Subsection (d), as that subsection existed on September 30, 2005,
4 may elect to receive either a credit or a refund. A taxpayer who
5 elects to receive a credit must claim the credit on the return for a
6 period that ends not later than the first anniversary of the date on
7 which the taxable event occurred. A taxpayer who elects to receive
8 a refund must apply to the comptroller for the refund before or
9 during the calendar year following the year in which the tax on the
10 item was paid.

11 (b) This section takes effect January 1, 2006.

12 SECTION 77. (a) Sections 151.429(a), (b), (c), (e), and
13 (g), Tax Code, are amended to read as follows:

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

17 [~~(1) equipment or machinery sold to an enterprise~~
18 ~~project for use at the qualified business site,~~

19 [~~(2) building materials sold to an enterprise project~~
20 ~~for use in remodeling, rehabilitating, or constructing a structure~~
21 ~~at the qualified business site,~~

22 [~~(3) labor for remodeling, rehabilitating, or~~
23 ~~constructing a structure by an enterprise project at the qualified~~
24 ~~business site, and~~

25 [~~(4) electricity and natural gas purchased and~~
26 ~~consumed in the normal course of business at the qualified business~~
27 ~~site].~~

1 (b) Subject to the limitations provided by Subsection (c) of
2 this section, an enterprise project qualifies for a refund of taxes
3 under this section based on the amount of capital investment made at
4 the qualified business site and refund per job with a maximum refund
5 to be included in a computation of a tax refund for the project. A
6 capital investment at the qualified business site of:

7 (1) \$40,000 to \$399,999 will result in a refund of up
8 to \$2,500 per job with a maximum refund of \$25,000 for the creation
9 or retention of 10 certified jobs;

10 (2) \$400,000 to \$999,999 will result in a refund of up
11 to \$2,500 per job with a maximum refund of \$62,500 for the creation
12 or retention of 25 certified jobs;

13 (3) \$1,000,000 to \$4,999,999 will result in a refund
14 of up to \$2,500 per job with a maximum refund of \$312,500 for the
15 creation or retention of 125 certified jobs;

16 (4) \$5,000,000 to \$149,999,999 will result in a refund
17 of up to \$2,500 per job with a maximum refund of \$1,250,000 for the
18 creation or retention of 500 certified jobs;

19 (5) \$150,000,000 to \$249,999,999 will result in a
20 refund of up to \$5,000 per job with a maximum refund of \$2,500,000
21 for the creation or retention of 500 certified jobs; or

22 (6) \$250,000,000 or more will result in a refund of up
23 to \$7,500 per job with a maximum refund of \$3,750,000 for the
24 creation or retention of 500 certified jobs.

25 (c) The total amount of tax refund that an enterprise
26 project may apply for in a state fiscal year may not exceed
27 \$250,000. If an enterprise project qualifies in a state fiscal year

1 for a refund of taxes in an amount in excess of the limitation
2 provided by this subsection, it may apply for a refund of those
3 taxes in a subsequent year, subject to the \$250,000 limitation for
4 each year. The total amount that may be refunded to an enterprise
5 project under this section may not exceed the amount determined by
6 multiplying \$250,000 by the number of state fiscal years during
7 which the enterprise project created one or more certified jobs for
8 qualified employees.

9 (e) In this section:

10 (1) "Enterprise project" means a person designated by
11 the Texas Economic Development Bank as an enterprise project under
12 Chapter 2303, Government Code.

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

16 (3) "New permanent job" means a new employment
17 position created by a qualified business as described by Section
18 2303.402, Government Code, that:

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

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

24 (4) "Retained job" has the meaning assigned by Section
25 2303.401, Government Code.

26 (4-a) "Certified job" has the meaning assigned by
27 Section 2303.401, Government Code.

1 (5) "Double jumbo enterprise project" and "triple
2 jumbo enterprise project" have the meanings assigned by Section
3 2303.407, Government Code.

4 (g) The refund provided by this section is conditioned on
5 the enterprise project maintaining for a three-year period at least
6 the same number [~~level~~] of certified jobs [~~employment of qualified~~
7 ~~employees~~] as existed on the date the comptroller initially
8 certified the hiring commitments for the project under Section
9 2303.516(d), Government Code [~~at the time it qualified for a refund~~
10 ~~for a period of three years from that date~~]. The comptroller shall
11 annually certify whether that number [~~level~~] of certified jobs
12 [~~employment of qualified employees~~] has been maintained. On
13 certifying that such a number [~~level~~] has not been maintained, the
14 comptroller shall assess that portion of the refund attributable to
15 any such decrease in certified jobs [~~employment~~], including penalty
16 and interest from the date of the refund.

17 (b) The change in law made by this section to Section
18 151.429, Tax Code, applies only to an application for a tax refund
19 made on or after the effective date of this section. An application
20 for a tax refund made before the effective date of this section is
21 governed by the law in effect on the date the application was made,
22 and the former law is continued in effect for that purpose.

23 SECTION 78. (a) Section 151.4291(a), Tax Code, is amended
24 to read as follows:

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

1 ~~[(1) equipment or machinery sold to a defense~~
2 ~~readjustment project for use in a readjustment zone;~~

3 ~~[(2) building materials sold to a defense readjustment~~
4 ~~project for use in remodeling, rehabilitating, or constructing a~~
5 ~~structure in a readjustment zone;~~

6 ~~[(3) labor for remodeling, rehabilitating, or~~
7 ~~constructing a structure by a defense readjustment project in a~~
8 ~~readjustment zone; and~~

9 ~~[(4) electricity and natural gas purchased and~~
10 ~~consumed in the normal course of business in the readjustment~~
11 ~~zone].~~

12 (b) The change in law made by this section to Section
13 151.4291, Tax Code, applies only to an application for a tax refund
14 made on or after the effective date of this section. An application
15 for a tax refund made before the effective date of this section is
16 governed by the law in effect on the date the application was made,
17 and the former law is continued in effect for that purpose.

18 SECTION 79. (a) Subchapter L, Chapter 151, Tax Code, is
19 amended by adding Section 151.715 to read as follows:

20 Sec. 151.715. COLLECTION OF AMOUNTS IN EXCESS OF TAX
21 IMPOSED; CIVIL PENALTY. (a) A person may not collect as a tax
22 imposed by this chapter:

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

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

27 (b) The comptroller shall send a written notice to a person

1 who violates Subsection (a) that directs the person to cease
2 collecting amounts described by that subsection. If, after the
3 person receives two written notices from the comptroller, the
4 person continues collecting an amount described by that subsection,
5 the person shall pay a penalty of \$1,000 for each sale on which the
6 person collects an amount described by that subsection.

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

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

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

19 (f) Over-collections subject to the penalties provided in
20 this section shall not constitute grounds for any cause of action by
21 any person or group of similarly situated persons where the person
22 making the over-collection remitted the tax to the comptroller and
23 assigns the right to refund to the consumer who paid the tax.

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

27 (b) Section 151.715, Tax Code, as added by this section,

1 applies only to the sale of an item that occurs on or after the
2 effective date of this section. The sale of an item that occurs
3 before the effective date of this section is governed by the law in
4 effect on the date the sale occurred, and the former law is
5 continued in effect for that purpose.

6 SECTION 80. Section 162.001, Tax Code, is amended by
7 amending Subdivisions (9), (19), (20), (42), (43), and (55) and
8 adding Subdivision (22-a) to read as follows:

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

18 (19) "Diesel fuel" means kerosene or another liquid,
19 or a combination of liquids blended together, offered for sale,
20 sold, [~~that is suitable for~~] or used as a fuel for a [~~for the~~
21 ~~propulsion of~~] diesel-powered engine [~~motor vehicles~~]. The term
22 includes products commonly referred to as kerosene, light cycle
23 oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel,
24 aviation jet fuel, biodiesel, distillate fuel, cutter stock, or
25 heating oil, but does not include gasoline, aviation gasoline, or
26 liquefied gas.

27 (20) "Distributor" means a person who acquires motor

1 fuel, ~~[from a licensed supplier, permissive supplier, or another~~
2 ~~licensed distributor and]~~ who makes sales at wholesale, and whose
3 activities may also include sales at retail. The term includes a
4 person engaged in the tax-free sale of dyed diesel fuel that is
5 delivered into the fuel supply tanks of marine vessels.

6 (22-a) "Dyed diesel fuel dealer" means a dealer who
7 acquires dyed diesel fuel from a licensed supplier, permissive
8 supplier, or distributor for resale and delivery by the dealer into
9 the fuel supply tanks of motorboats, refrigeration units, or other
10 off-highway equipment at a retail location.

11 (42) "Motor fuel" means gasoline, diesel fuel,
12 liquefied gas, and other products that are offered for sale, sold,
13 or ~~can be~~ used as propellants for ~~to propel~~ a motor vehicle.

14 (43) "Motor fuel transporter" means a person who
15 transports gasoline, diesel fuel, ~~or~~ gasoline blended fuel, or
16 other motor fuel to which the person does not own title outside the
17 bulk transfer/terminal system by means of a transport vehicle, a
18 railroad tank car, or a marine vessel.

19 (55) "Shipping document" means a delivery document
20 issued ~~[by a terminal or bulk plant operator]~~ in conjunction with
21 the sale, transfer, or transport ~~[removal]~~ of motor fuel ~~[from the~~
22 ~~terminal or bulk plant]~~. A shipping document issued by a terminal
23 operator shall be machine printed. All other shipping documents ~~[A~~
24 ~~shipping document issued by a bulk plant]~~ shall be typed or
25 handwritten on a preprinted form or machine printed.

26 SECTION 81. Section 162.004, Tax Code, is amended by
27 amending Subsections (a) and (b) and adding Subsections (a-1) and

1 (h) to read as follows:

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

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

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

13 (1) the terminal control number of the terminal or
14 physical address of the bulk plant from which the motor fuel was
15 received;

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

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

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

20 (5) the destination state of the motor fuel, as
21 represented by the purchaser of the motor fuel or the purchaser's
22 agent; and

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

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

26 SECTION 82. Sections 162.016(a), (b), (d), and (e), Tax
27 Code, are amended to read as follows:

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

6 (1) the name and physical address of the terminal or
7 bulk plant from which the motor fuel was received for import or
8 export;

9 (2) the name [~~and federal employer identification~~
10 ~~number, or the social security number if the employer~~
11 ~~identification number is not available,~~] of the carrier
12 transporting the motor fuel;

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

14 (4) the type of motor fuel;

15 (5) the number of gallons:

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

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

20 (6) the destination of the motor fuel as represented
21 by the purchaser of the motor fuel and the number of gallons of the
22 fuel to be delivered, if delivery is to only one state;

23 (7) the name [~~, federal employer identification~~
24 ~~number, license number, and physical address~~] of the purchaser of
25 the motor fuel;

26 (8) the name of the person responsible for paying the
27 tax imposed by this chapter, as given to the terminal by the

1 purchaser if different from the licensed supplier or distributor;
2 [~~and~~]

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

6 (10) any other information that, in the opinion of the
7 comptroller, is necessary for the proper administration of this
8 chapter.

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

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

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

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

19 (e) An importer or exporter shall keep in the person's
20 possession the shipping document [~~issued by the terminal or bulk~~
21 ~~plant~~] when transporting motor fuel imported into this state or for
22 export from this state. The importer or exporter shall show the
23 document to the comptroller or a peace officer on request. The
24 comptroller may delegate authority to inspect the document to other
25 governmental agencies. The importer or exporter shall provide a
26 copy of the shipping document to the person that receives the fuel
27 when it is delivered.

1 SECTION 83. Sections 162.101(b) and (c), Tax Code, are
2 amended to read as follows:

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

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

16 SECTION 84. Section 162.103(d), Tax Code, is amended to
17 read as follows:

18 (d) A person who sells gasoline in this state, other than by
19 a bulk transfer, on which tax has not been paid for any purpose
20 other than a purpose exempt under Section 162.104 shall at the time
21 of sale collect the tax from the purchaser or recipient of gasoline
22 in addition to the selling price and is liable to this state for the
23 taxes imposed [~~collected at the time and~~] in the manner provided by
24 this chapter.

25 SECTION 85. Section 162.113(d), Tax Code, is amended to
26 read as follows:

27 (d) The supplier or permissive supplier shall [~~has the~~

1 ~~right~~], after notifying the comptroller of the licensed
2 distributor's or licensed importer's failure to remit taxes under
3 this section, [~~to~~] terminate the ability of the licensed
4 distributor or licensed importer to defer the payment of gasoline
5 tax. The supplier or permissive supplier shall reinstate without
6 delay the right of the licensed distributor or licensed importer to
7 defer the payment of gasoline tax after the comptroller provides to
8 the supplier or permissive supplier notice that the licensed
9 distributor or licensed importer is in good standing with the
10 comptroller for the purposes of the gasoline tax imposed under this
11 subchapter.

12 SECTION 86. Section 162.115, Tax Code, is amended by adding
13 Subsection (m-1) to read as follows:

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

17 SECTION 87. Sections 162.116(a) and (d), Tax Code, are
18 amended to read as follows:

19 (a) The monthly return and supplements of each supplier and
20 permissive supplier shall contain for the period covered by the
21 return:

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

26 [~~2~~] the number of net gallons of gasoline removed at
27 a terminal rack during the month from the account of the supplier,

1 sorted by product code, person receiving the gasoline, terminal
2 code, and carrier;

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

7 (3) [~~(4)~~] the number of net gallons of gasoline
8 removed during the month from a terminal located in another state
9 for conveyance to this state, as indicated on the shipping document
10 for the gasoline, sorted by product code, person receiving the
11 gasoline, terminal code, and carrier;

12 (4) [~~(5)~~] the number of net gallons of gasoline the
13 supplier or permissive supplier sold during the month in
14 transactions exempt under Section 162.104, sorted by [~~product code,~~
15 ~~carrier,~~] purchaser[, ~~and terminal code,~~

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

19 (5) [~~(7)~~] any other information required by the
20 comptroller.

21 (d) For purposes of Subsection (c), all payments or credits
22 in reduction of a customer's account must be applied ratably
23 between motor fuels and other goods sold to the customer, and the
24 credit allowed will be the tax on the number of gallons represented
25 by the motor fuel portion of the credit. The comptroller may not
26 require a supplier or permissive supplier to remit from a payment or
27 credit in reduction of a customer's account any tax for which the

1 supplier or permissive supplier was allowed to take a credit.

2 SECTION 88. Section 162.118, Tax Code, is amended to read as
3 follows:

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

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

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

14 (3) the number of net gallons of gasoline removed by
15 the distributor during the month for export, sorted by product
16 code, terminal code, bulk plant address, destination state, and
17 carrier;

18 (4) the number of net gallons of gasoline removed by
19 the distributor during the month from a terminal located in another
20 state for conveyance to this state, as indicated on the shipping
21 document for the gasoline, sorted by product code, seller, terminal
22 code, bulk plant address, and carrier;

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

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

27 SECTION 89. Section 162.127, Tax Code, is amended by adding

1 Subsection (g) to read as follows:

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

10 SECTION 90. Section 162.128(d), Tax Code, is amended to
11 read as follows:

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

20 SECTION 91. Sections 162.201(b) and (c), Tax Code, are
21 amended to read as follows:

22 (b) A tax is imposed at the time diesel fuel is imported into
23 this state, other than by a bulk transfer, for delivery to a
24 destination in this state. The supplier or permissive supplier
25 shall collect the tax imposed by this subchapter from the person who
26 imports the diesel fuel into this state. If the seller is not a
27 supplier or permissive supplier, the person who imports the diesel

1 fuel into this state shall pay the tax.

2 (c) A tax is imposed on the removal [~~sale or transfer~~] of
3 diesel fuel from [~~in~~] the bulk transfer/terminal system [~~in this~~
4 ~~state by a supplier to a person who does not hold a supplier's~~
5 ~~license~~]. The supplier shall collect the tax imposed by this
6 subchapter from the person who orders the removal from [~~sale or~~
7 ~~transfer in~~] the bulk transfer/terminal system.

8 SECTION 92. Section 162.203(d), Tax Code, is amended to
9 read as follows:

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

17 SECTION 93. Section 162.204(a), Tax Code, is amended to
18 read as follows:

19 (a) The tax imposed by this subchapter does not apply to:

20 (1) diesel fuel sold to the United States for its
21 exclusive use, provided that the exemption does not apply to diesel
22 fuel sold or delivered to a person operating under a contract with
23 the United States;

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

26 (3) diesel fuel sold to a commercial transportation
27 company that provides public school transportation services to a

1 school district under Section 34.008, Education Code, and that uses
2 the diesel fuel only to provide those services;

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

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

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

14 (5) diesel fuel moved by truck or railcar between
15 licensed suppliers or licensed permissive suppliers and in which
16 the diesel fuel removed from the first terminal comes to rest in the
17 second terminal, provided that the removal from the second terminal
18 rack is subject to the tax imposed by this subchapter;

19 (6) diesel fuel delivered or sold into a storage
20 facility of a licensed aviation fuel dealer from which the diesel
21 fuel will be delivered solely into the fuel supply tanks of aircraft
22 or aircraft servicing equipment, or sold from one licensed aviation
23 fuel dealer to another licensed aviation fuel dealer who will
24 deliver the diesel fuel exclusively into the fuel supply tanks of
25 aircraft or aircraft servicing equipment;

26 (7) diesel fuel exported to a foreign country if the
27 bill of lading indicates the foreign destination and the fuel is

1 actually exported to the foreign country;

2 (8) dyed diesel fuel sold or delivered by a supplier to
3 another supplier and dyed diesel fuel sold or delivered by a
4 supplier or distributor into the bulk storage facility of a dyed
5 diesel fuel dealer or dyed diesel fuel bonded user or to a purchaser
6 who provides a signed statement as provided by Section 162.206;

7 (9) the volume of water, fuel ethanol, biodiesel, or
8 mixtures thereof that are blended together with taxable diesel fuel
9 when the finished product sold or used is clearly identified on the
10 retail pump, storage tank, and sales invoice as a combination of
11 diesel fuel and water, fuel ethanol, biodiesel, or mixtures
12 thereof;

13 (10) dyed diesel fuel sold by a supplier or permissive
14 supplier to a distributor, or by a distributor to another
15 distributor;

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

20 (12) dyed kerosene when delivered by a supplier,
21 distributor, or importer into a storage facility at a retail
22 business from which all deliveries are exclusively for heating,
23 cooking, lighting, or similar nonhighway use; or

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

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

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

6 SECTION 94. Section 162.205(a), Tax Code, is amended to
7 read as follows:

8 (a) A person shall obtain the appropriate license or
9 licenses issued by the comptroller before conducting the activities
10 of:

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

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

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

26 (4) an importer, who may also act as an exporter,
27 blender, or motor fuel transporter without securing a separate

1 license, but who is subject to all other conditions, requirements,
2 and liabilities imposed on those license holders;

- 3 (5) a terminal operator;
- 4 (6) an exporter;
- 5 (7) a blender;
- 6 (8) a motor fuel transporter;
- 7 (9) an aviation fuel dealer;
- 8 (10) an interstate trucker; ~~[or]~~
- 9 (11) a dyed diesel fuel bonded user; or
- 10 (12) a dyed diesel fuel dealer.

11 SECTION 95. Section 162.206, Tax Code, is amended by
12 amending Subsection (c) and adding Subsections (c-1), (g-1), and
13 (k) to read as follows:

14 (c) A person may not make a tax-free purchase and a licensed
15 supplier or distributor may not make a tax-free sale to a purchaser
16 of any dyed diesel fuel under this section using a signed statement
17 for the first sale or purchase and for any subsequent sale or
18 purchase ~~[+~~

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

21 ~~[(2)] in a calendar month for [in which the person has~~
22 ~~previously purchased from all sources or in which the licensed~~
23 ~~supplier has previously sold to that purchaser] more than:~~

- 24 (1) ~~[(A)]~~ 10,000 gallons of dyed diesel fuel;
- 25 (2) ~~[(B)]~~ 25,000 gallons of dyed diesel fuel if the
26 purchaser stipulates in the signed statement that all of the fuel
27 will be consumed by the purchaser in the original production of, or

1 to increase the production of, oil or gas and furnishes the supplier
2 with a letter of exception issued by the comptroller; or

3 (3) [~~(c)~~] 25,000 gallons of dyed diesel fuel if the
4 purchaser stipulates in the signed statement that all of the fuel
5 will be consumed by the purchaser in agricultural off-highway
6 equipment.

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

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

18 (k) Properly completed signed statements should be in the
19 possession of the licensed supplier or distributor at the time the
20 sale of dyed diesel fuel occurs. If the licensed supplier or
21 distributor is not in possession of the signed statements within 60
22 days after the date written notice requiring possession of them is
23 given to the licensed supplier or distributor by the comptroller,
24 exempt sales claimed by the licensed supplier or distributor that
25 require delivery of the signed statements shall be disallowed. If
26 the licensed supplier or distributor delivers the signed statements
27 to the comptroller within the 60-day period, the comptroller may

1 verify the reason or basis for the signed statements before
2 allowing the exempt sales. An exempt sale may not be granted on the
3 basis of signed statements delivered to the comptroller after the
4 60-day period.

5 SECTION 96. Section 162.211(b), Tax Code, is amended to
6 read as follows:

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

10 SECTION 97. Section 162.213, Tax Code, is amended to read as
11 follows:

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

24 (b) A licensed supplier or permissive supplier who sells
25 diesel fuel tax-free to a supplier, ~~or~~ permissive supplier, or
26 aviation fuel dealer whose license has been canceled or revoked
27 under this chapter, or who sells dyed diesel fuel to a distributor,

1 dyed diesel fuel dealer, or dyed diesel fuel bonded user whose
2 license has been canceled or revoked under this chapter, is liable
3 for any tax due on diesel fuel sold after receiving notice of the
4 cancellation or revocation.

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

12 SECTION 98. Section 162.214(d), Tax Code, is amended to
13 read as follows:

14 (d) The supplier or permissive supplier shall [~~has the~~
15 ~~right~~], after notifying the comptroller of the licensed
16 distributor's or licensed importer's failure to remit taxes under
17 this section, [~~to~~] terminate the ability of the licensed
18 distributor or licensed importer to defer the payment of diesel
19 fuel tax. The supplier or permissive supplier shall reinstate
20 without delay the right of the licensed distributor or licensed
21 importer to defer the payment of diesel fuel tax after the
22 comptroller provides to the supplier or permissive supplier notice
23 that the licensed distributor or licensed importer is in good
24 standing with the comptroller for the purposes of diesel fuel tax
25 imposed under this subchapter.

26 SECTION 99. Section 162.215(d), Tax Code, is amended to
27 read as follows:

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

3 SECTION 100. Section 162.216, Tax Code, is amended by
4 adding Subsections (l-1) and (m-1) to read as follows:

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

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

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

9 (B) dyed and undyed diesel fuel purchased or
10 received, showing the name of the seller and the date of each
11 purchase or receipt;

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

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

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

17 (A) the stamped or preprinted name and address of
18 the seller;

19 (B) the name of the purchaser;

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

21 (D) the number of gallons of dyed diesel fuel
22 delivered;

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

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

27 (m-1) In addition to the records specifically required by

1 this section, a license holder shall keep any other record required
2 by the comptroller.

3 SECTION 101. Sections 162.217(a) and (d), Tax Code, are
4 amended to read as follows:

5 (a) The monthly return and supplements of each supplier and
6 permissive supplier shall contain for the period covered by the
7 return:

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

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

16 (2) [~~(3)~~] the number of net gallons of diesel fuel
17 removed during the month for export, sorted by product code, person
18 receiving the diesel fuel, terminal code, destination state, and
19 carrier;

20 (3) [~~(4)~~] the number of net gallons of diesel fuel
21 removed during the month from a terminal located in another state
22 for conveyance to this state, as indicated on the shipping document
23 for the diesel fuel, sorted by product code, person receiving the
24 diesel fuel, terminal code, and carrier;

25 (4) [~~(5)~~] the number of net gallons of diesel fuel the
26 supplier or permissive supplier sold during the month in
27 transactions exempt under Section 162.204, sorted by [~~product code,~~

1 ~~carrier,~~] purchaser [~~, and terminal code,~~

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

5 (5) [~~(7)] any other information required by the~~

6 comptroller.

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

16 SECTION 102. Section 162.219, Tax Code, is amended to read
17 as follows:

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

21 (1) the number of net gallons of diesel fuel received
22 by the distributor during the month, sorted by product code and[~~]~~
23 ~~seller [, point of origin, destination state, carrier, and receipt~~
24 ~~date];~~

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

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

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

10 (5) the number of net gallons of diesel fuel the
11 distributor sold during the month in transactions exempt under
12 Section 162.204, sorted by product code and by the entity receiving
13 the diesel fuel;

14 (6) the number of net gallons of~~[7]~~ dyed diesel fuel
15 sold to a purchaser under a signed statement~~[7]~~ or dyed diesel fuel
16 sold to a dyed diesel fuel bonded user, sorted by product code and
17 by the entity receiving the diesel fuel; and

18 (7) ~~[(6)]~~ any other information required by the
19 comptroller.

20 SECTION 103. Section 162.227, Tax Code, is amended by
21 adding Subsection (c-1) to read as follows:

22 (c-1) A license holder may take a credit on a return for the
23 period in which the purchase occurred, and a person who does not
24 hold a license may file a refund claim with the comptroller, if the
25 license holder or person paid tax on diesel fuel and the diesel fuel
26 is used in this state:

27 (1) as a feedstock or other component in the further

1 manufacturing of tangible personal property for resale not as a
2 motor fuel; or

3 (2) in the original production of oil or gas or to
4 increase the production of oil or gas.

5 SECTION 104. Section 162.229, Tax Code, is amended by
6 adding Subsection (g) to read as follows:

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

15 SECTION 105. Section 162.230(d), Tax Code, is amended to
16 read as follows:

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

25 SECTION 106. Section 162.402(d), Tax Code, is amended to
26 read as follows:

27 (d) A person ~~[operating a bulk plant or terminal]~~ who issues

1 a shipping document that does not conform with the requirements of
2 Section 162.016(a) is liable to this state for a civil penalty of
3 \$2,000 or five times the amount of the unpaid tax, whichever is
4 greater, for each occurrence.

5 SECTION 107. Sections 162.404(c) and (d), Tax Code, are
6 amended to read as follows:

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

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

13 SECTION 108. The heading to Section 162.409, Tax Code, is
14 amended to read as follows:

15 Sec. 162.409. ISSUANCE OF BAD CHECK TO LICENSED
16 DISTRIBUTOR, [OR] LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

17 SECTION 109. Sections 162.409(a) and (d), Tax Code, are
18 amended to read as follows:

19 (a) A person commits an offense if:

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

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

27 (3) the payment is for an obligation or debt that

1 includes a tax under this chapter to be collected by the licensed
2 distributor, ~~[or]~~ licensed supplier, or permissive supplier.

3 (d) A person who makes payment on an obligation or debt that
4 includes a tax under this chapter and pays with an insufficient
5 funds check issued to a licensed distributor, ~~[or]~~ licensed
6 supplier, or permissive supplier may be held liable for a penalty
7 equal to the total amount of tax not paid to the licensed
8 distributor, ~~[or]~~ licensed supplier, or permissive supplier.

9 SECTION 110. Subchapter E, Chapter 162, Tax Code, is
10 amended by adding Section 162.410 to read as follows:

11 Sec. 162.410. ELECTION OF OFFENSES. If a violation of a
12 provision of this chapter by a person constitutes a criminal
13 offense under another law of this state, the state may elect the
14 offense for which it will prosecute the person.

15 SECTION 111. (a) Section 171.110, Tax Code, is amended by
16 adding Subsection (m) to read as follows:

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

21 (b) This section takes effect January 1, 2006.

22 SECTION 112. (a) Section 171.1121(b), Tax Code, is amended
23 to read as follows:

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

1 (b) This section takes effect January 1, 2006.

2 SECTION 113. Section 171.721(2), Tax Code, is amended to
3 read as follows:

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

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

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

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

11 (ii) a federally designated renewal
12 community [urban enterprise community or an urban enhanced
13 enterprise community]; or

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

16 SECTION 114. Section 171.751, Tax Code, is amended by
17 adding Subdivision (5-a) and amending Subdivisions (8) and (9) to
18 read as follows:

19 (5-a) "Enterprise project" means a person designated
20 as an enterprise project under Chapter 2303, Government Code, on or
21 after September 1, 2003, and approved as a triple jumbo enterprise
22 project, as defined by Section 2303.407, Government Code, on or
23 before September 1, 2004.

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

25 (A) primarily engaged in agricultural
26 processing, central administrative offices, distribution, data
27 processing, manufacturing, research and development, or

1 warehousing;

2 (B) that was designated as an enterprise project
3 under Chapter 2303, Government Code, on or after September 1, 2003,
4 and approved as a triple jumbo enterprise project, as defined by
5 Section 2303.407, Government Code, on or before September 1, 2004;
6 or

7 (C) that was designated as a defense readjustment
8 project under Chapter 2310, Government Code, on or after September
9 1, 2001.

10 (9) "Qualifying job" means:

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

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

13 (a) [~~(i)~~] a strategic investment
14 area; or

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

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

20 (iii) [~~(C)~~] pays at least 110 percent of
21 the county average weekly wage for the county where the job is
22 located;

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

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

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

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

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

9 SECTION 115. Subchapter P, Chapter 171, Tax Code, is
10 amended by adding Section 171.7542 to read as follows:

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

13 (1) designated as an enterprise project on or after
14 September 1, 2003, and approved as a triple jumbo enterprise
15 project, as defined by Section 2303.407, Government Code, on or
16 before September 1, 2004; or

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

19 (b) Notwithstanding Section 171.753, a corporation to which
20 this section applies may establish a one-time credit equal to 25
21 percent of the total wages and salaries paid or to be paid by the
22 corporation for qualifying jobs created during the period beginning
23 on the date the project is designated as an enterprise project or as
24 a defense readjustment project, as applicable, through December 31,
25 2008. Wages and salaries for each qualifying job may only be
26 counted once in calculating the credit.

27 (c) Subject to Sections 171.755 and 171.756, the

1 corporation may claim:

2 (1) the entire amount of the credit established under
3 Subsection (b) on the first report originally due on or after
4 January 1, 2006; or

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

8 (d) A corporation that establishes the credit authorized by
9 Subsection (b) shall provide to the comptroller an estimate of the
10 total wages and salaries on which the corporation establishes the
11 credit. The corporation shall provide the estimate on the first
12 report originally due on or after January 1, 2006.

13 (e) The credit provided by this section is conditioned on
14 the corporation attaining the total level of wages and salaries for
15 qualifying jobs estimated in Subsection (b). After December 31,
16 2008, the comptroller shall certify whether that level was
17 attained. On certifying that such level has not been attained, the
18 comptroller shall assess that portion of the credit attributable to
19 any such deficiency, including penalty and interest from the date
20 the credit was taken.

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

22 SECTION 116. Section 171.801, Tax Code, is amended by
23 amending Subdivision (2) and adding Subdivision (4) to read as
24 follows:

25 (2) "Qualified capital investment" means tangible
26 personal property, as defined by 26 C.F.R. Section 1.1245-3(b)(1),
27 that is first placed in service in a strategic investment area, [~~or~~]

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

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

20 SECTION 117. Section 171.8015, Tax Code, is amended to read
 21 as follows:

22 Sec. 171.8015. TANGIBLE PERSONAL PROPERTY FIRST PLACED IN
 23 SERVICE BY [~~IN~~] AN ENTERPRISE PROJECT [~~ZONE~~]. For purposes of
 24 determining whether an investment is a "qualified capital
 25 investment" under Section 171.801, "tangible personal property
 26 first placed in service by [~~in~~] an enterprise project [~~zone~~]"
 27 includes tangible personal property:

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

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

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

11 SECTION 118. Section 171.802, Tax Code, is amended by
12 amending Subsection (c) and adding Subsection (d-1) to read as
13 follows:

14 (c) A corporation may claim a credit or take a carryforward
15 credit without regard to whether the strategic investment area or
16 enterprise zone in which it made the qualified capital investment
17 subsequently loses its designation as a strategic investment area
18 or enterprise zone, if applicable.

19 (d-1) A corporation may qualify for the credit provided by
20 this subchapter, regardless of whether the corporation meets the
21 qualifications prescribed by Subsection (b), if that corporation
22 was:

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

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

3 SECTION 119. Section 171.804, Tax Code, is amended to read
4 as follows:

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

10 (b) Subject to Section 171.805 and notwithstanding Section
11 171.803, an enterprise project or a defense readjustment project
12 may:

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

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

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

24 SECTION 120. (a) Section 183.053(b), Tax Code, is amended
25 to read as follows:

26 (b) The total of bonds, certificates of deposit, letters of
27 credit, or other security determined to be sufficient by the

1 comptroller of a permittee subject to the tax imposed by this
2 chapter shall be in an amount that the comptroller determines to be
3 sufficient to protect the fiscal interests of the state. The
4 comptroller may not set the amount of security at less than \$1,000
5 or more than the greater of \$100,000 or four times the amount of the
6 permittee's average monthly tax liability [~~\$50,000~~].

7 (b) This section takes effect January 1, 2006.

8 SECTION 121. Section 311.0125, Tax Code, is amended by
9 adding Subsection (f) to read as follows:

10 (f) If under this section a municipality has entered into a
11 tax abatement agreement with an owner of real or personal property
12 in a reinvestment zone designated under this chapter, the
13 municipality may not enter into a tax abatement agreement
14 authorized by any other law of this state in connection with the
15 same property of that owner.

16 SECTION 122. (a) Sections 313.021(1) and (2), Tax Code, are
17 amended to read as follows:

18 (1) "Qualified investment" means:

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

24 (B) tangible personal property that is first
25 placed in service in this state during the applicable qualifying
26 time period that begins on or after January 1, 2002, without regard
27 to whether the property is affixed to or incorporated into real

1 property, and that is used in connection with the manufacturing,
2 processing, or fabrication in a cleanroom environment of a
3 semiconductor product, without regard to whether the property is
4 actually located in the cleanroom environment, including:

5 (i) integrated systems, fixtures, and
6 piping;

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

11 (iii) production equipment and machinery,
12 moveable cleanroom partitions, and cleanroom lighting; or

13 (C) a building or a permanent, nonremovable
14 component of a building that is built or constructed during the
15 applicable qualifying time period that begins on or after January
16 1, 2002, and that houses tangible personal property described by
17 Paragraph (A) or (B).

18 (2) "Qualified property" means:

19 (A) land:

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

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

27 (iii) that is not subject to a tax abatement

1 agreement entered into by a school district under Chapter 312; and

2 (iv) on which, in connection with the new
3 building or new improvement described by Subparagraph (ii), the
4 owner of the land, or the owner of a leasehold interest in the land,
5 proposes to:

6 (a) make a qualified investment in an
7 amount equal to at least the minimum amount required by Section
8 313.023; and

9 (b) create at least 25 new jobs;

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

12 (C) tangible personal property that:

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

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

22 (b) This section takes effect January 1, 2006.

23 SECTION 123. (a) Section 321.203, Tax Code, is amended by
24 amending Subsections (b)-(e) and adding Subsection (n) to read as
25 follows:

26 (b) If a retailer has only one place of business in this
27 state, all of the retailer's retail sales of taxable items

1 ~~[tangible personal property]~~ are consummated at that place of
2 business except as provided by Subsection (e).

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

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

9 (2) where the purchaser or lessee takes possession of
10 and removes the item ~~[property]~~, if the purchaser or lessee takes
11 possession of and removes the item ~~[property]~~ from a place of
12 business of the retailer.

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

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

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

22 (e) A sale of a taxable item ~~[tangible personal property]~~ is
23 consummated at the location in this state to which the item
24 ~~[property]~~ is shipped or delivered or at which possession is taken
25 by the customer if transfer of possession of the item ~~[property]~~
26 occurs at, or shipment or delivery of the item ~~[property]~~
27 originates from, a location in this state other than a place of

1 business of the retailer and if:

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

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

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

10 (n) A sale of a service described by Section 151.0047 to
11 remodel, repair, or restore nonresidential real property is
12 consummated at the location of the job site. However, if the job
13 site includes areas in multiple municipalities, the sale is
14 consummated at:

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

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

20 (b) This section takes effect January 1, 2006.

21 SECTION 124. (a) Section 321.302, Tax Code, is amended by
22 adding Subsection (c-1) to read as follows:

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

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

1 SECTION 125. (a) Section 321.503, Tax Code, is amended to
2 read as follows:

3 Sec. 321.503. STATE'S SHARE. Before sending any money to a
4 municipality under this subchapter the comptroller shall deduct two
5 percent of the amount of the taxes collected within the
6 municipality during the period for which a distribution is made as
7 the state's charge for its services under this chapter and shall~~[~~
8 ~~subject to premiums payments under Section 321.501(c),~~~~]~~ credit the
9 money deducted to the general revenue fund.

10 (b) This section takes effect January 1, 2006.

11 SECTION 126. (a) Section 323.102(c), Tax Code, is amended
12 to read as follows:

13 (c) A tax imposed under Section 323.105 of this code or
14 Chapter 326 or 383, Local Government Code, takes effect on the first
15 day of the first calendar quarter after the expiration of the first
16 complete calendar quarter occurring after the date on which the
17 comptroller receives a notice of the action as required by Section
18 323.405(b).

19 (b) This section takes effect January 1, 2006.

20 SECTION 127. (a) Section 323.203, Tax Code, is amended by
21 amending Subsections (b)-(e) and adding Subsection (m) to read as
22 follows:

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

27 (c) If a retailer has more than one place of business in this

1 state, a sale of a taxable item [~~tangible personal property~~] by the
2 retailer is consummated at the retailer's place of business:

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

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

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

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

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

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

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

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

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

7 (m) A sale of a service described by Section 151.0047 to
8 remodel, repair, or restore nonresidential real property is
9 consummated at the location of the job site. However, if the job
10 site includes areas in multiple municipalities, the sale is
11 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 agent who took the order operates.

17 (b) This section takes effect January 1, 2006.

18 SECTION 128. (a) Section 323.503, Tax Code, is amended to
19 read as follows:

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

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

1 SECTION 129. Section 351.001(2), Tax Code, is amended to
2 read as follows:

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

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

7 SECTION 130. Section 351.102(a), Tax Code, is amended to
8 read as follows:

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

24 SECTION 131. Section 351.102, Tax Code, is amended by
25 adding Subsection (d) to read as follows:

26 (d) As soon as practicable after each state fiscal year, the
27 comptroller shall report to the legislature for that fiscal year

1 the amount of state funds paid under Subsection (c).

2 SECTION 132. Section 41.445, Tax Code, as added by this Act,
3 and Section 41.47, Tax Code, as amended by this Act, apply only to a
4 protest the notice of which is filed on or after January 1, 2006.

5 SECTION 133. Section 623.052(b), Transportation Code, is
6 amended to read as follows:

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

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

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

17 SECTION 134. (a) The heading to Subchapter A, Chapter 16,
18 Utilities Code, is amended to read as follows:

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

21 (b) This section takes effect January 1, 2006.

22 SECTION 135. (a) The heading to Section 16.001, Utilities
23 Code, is amended to read as follows:

24 Sec. 16.001. ASSESSMENT ON UTILITY GROSS RECEIPTS [~~PUBLIC~~
25 ~~UTILITIES~~].

26 (b) This section takes effect January 1, 2006.

27 SECTION 136. (a) Sections 16.001(a) and (b), Utilities

1 Code, are amended to read as follows:

2 (a) To defray the expenses incurred in the administration of
3 this title, an assessment is imposed on each telecommunications
4 utility, electric [public] utility, retail electric provider, and
5 electric cooperative within the jurisdiction of the commission that
6 serves the ultimate consumer, including each interexchange
7 telecommunications carrier.

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

13 (b) This section takes effect January 1, 2006.

14 SECTION 137. (a) Section 16.002(b), Utilities Code, is
15 amended to read as follows:

16 (b) A telecommunications utility, electric [public]
17 utility, retail electric provider, or electric cooperative may
18 instead make quarterly payments due August 15, November 15,
19 February 15, and May 15.

20 (b) This section takes effect January 1, 2006.

21 SECTION 138. Notwithstanding any other law, the Health and
22 Human Services Commission and other health and human services
23 agencies may utilize digital signatures for administrative
24 functions and may require the use of digital signatures for
25 business transactions, if the commission determines that their use
26 is cost-effective.

27 SECTION 139. (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 140. (a) The following laws are repealed:

11 (1) Section 2303.516(c), Government Code; and

12 (2) Section 981.056, Insurance Code.

13 (b) Effective January 1, 2006, the following sections of the
14 Tax Code are repealed:

15 (1) Section 151.103(d);

16 (2) Section 151.202(c);

17 (3) Section 321.203(1), Tax Code, as added by Chapter
18 1310, Acts of the 78th Legislature, Regular Session, 2003; and

19 (4) Section 323.203(1).

20 (c) Effective November 1, 2005, Sections 162.016(c) and
21 (h), Tax Code, are repealed.

22 SECTION 141. (a) Sections 80-110 of this Act apply only to
23 taxes imposed on or after the effective date of those sections.
24 Taxes imposed before the effective date of those sections are
25 governed by the law in effect on the date the taxes were imposed,
26 and that law is continued in effect for that purpose.

27 (b) This section and Sections 80-110 of this Act take effect

1 November 1, 2005.

2 SECTION 142. (a) Except as provided by Subsection (b) of
3 this section or as otherwise provided by this Act, this Act takes
4 effect immediately if it receives a vote of two-thirds of all the
5 members elected to each house, as provided by Section 39, Article
6 III, Texas Constitution. If this Act does not receive the vote
7 necessary for immediate effect:

8 (1) the changes, reenactments, and additions in law
9 made by this Act to the statutes that are not specifically listed in
10 this section take effect on the 91st day after the last day of the
11 legislative session, except as otherwise provided by this Act; and

12 (2) the changes in law made by this Act to the
13 following statutes take effect November 1, 2005:

14 (A) Section 103.0031, Code of Criminal
15 Procedure;

16 (B) Sections 25.0015, 25.00211, 26.007, 74.061,
17 403.071, 404.024, 660.024, 660.027, 2256.011, and 2256.016,
18 Government Code;

19 (C) Section 433, Probate Code;

20 (D) Sections 74.101, 74.401, 74.507, and 74.601,
21 Property Code; and

22 (E) Section 623.052, Transportation Code.

23 (b) The changes in law made by this Act by amending the
24 following statutes or adding the following statutes take effect
25 November 1, 2005:

26 (1) Section 43.002, Education Code;

27 (2) Sections 659.255, 659.256, 659.257, 2303.401,

S.B. No. 45

1 2303.4072, 2303.504, 2303.516, and 2303.517, Government Code; and
2 (3) Sections 151.429, 151.4291, 151.715, 171.721,
3 171.751, 171.7542, 171.801, 171.8015, 171.802, and 171.804, Tax
4 Code.