

By: Keffer of Eastland

H.B. No. 3

A BILL TO BE ENTITLED

1 AN ACT

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

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

7 ARTICLE 1. SCHOOL PROPERTY TAX RELIEF

8 PART A. SCHOOL PROPERTY TAX RELIEF

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

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

18 (1) \$1.21 [~~\$1.50~~] on the \$100 valuation of taxable
19 property in the district; and

20 (2) \$0.15 on the \$100 valuation of taxable property in
21 the district for enrichment, as authorized by an election as
22 provided by Chapter 42 [~~, stated in the proposition~~].

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

1 taxes must include the question of whether the governing board or
2 commissioners court may levy, assess, and collect annual ad valorem
3 taxes for the further maintenance of public schools, at a rate not
4 to exceed the rate stated in the proposition, which may be not more
5 than \$1.25 on the \$100 valuation of taxable property in the
6 district.

7 (d-2) Subsection (d-1) and this subsection expire January
8 1, 2006.

9 (e) An election held before January 1, 2005, authorizing a
10 maintenance tax at a rate of at least \$1.25 on the \$100 valuation of
11 taxable property in the district is sufficient to authorize a rate
12 of \$1.25 or less for the 2005 tax year. An election held before
13 January 1, 2006, authorizing a maintenance tax at a rate of at least
14 \$1.21 on the \$100 valuation of taxable property in the district is
15 sufficient to authorize a rate of \$1.21 or less for the 2006 tax
16 year.

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

20 (b) If before the effective date of this part, the governing
21 body of a school district adopted an ad valorem tax rate for the
22 district for the 2005 tax year under the law in effect immediately
23 before the effective date of this part, and the adopted ad valorem
24 tax rate included a rate for maintenance and operations expenses
25 that is greater than the maximum maintenance and operations tax
26 rate for the 2005 tax year permitted under this part:

27 (1) on the effective date of this part, the ad valorem

1 tax rate adopted for the district is invalidated; and

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

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

15 (d) If this Act is passed by the legislature and becomes
16 law, any action taken before the effective date of this part in
17 preparation for the implementation of the changes in law made by
18 this part by an officer or employee or the governing body of a
19 school district that the officer, employee, or governing body
20 determines is necessary or appropriate and that the officer,
21 employee, or governing body would have been authorized to take had
22 this part been in effect at the time of the action, including
23 adoption of a maintenance and operations tax rate, is validated as
24 of the effective date of this part. Any public notice required by
25 Chapter 26, Tax Code, or Chapter 44, Education Code, given before
26 the effective date of this part that includes an additional
27 statement that the tax rate for the school district will be adopted

1 in accordance with the changes in law made by this part is validated
2 as of the effective date of this part.

3 PART B. BUY-DOWN OF SCHOOL DISTRICT TAXES

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

6 SUBCHAPTER O. DISTRIBUTION OF INCREASES

7 IN AVAILABLE STATE REVENUE FOR SCHOOL DISTRICT

8 TAX RATE REDUCTION

9 Sec. 403.351. DEFINITIONS. In this subchapter:

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

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

21 Sec. 403.352. CERTIFICATION OF INCREASE IN AVAILABLE STATE
22 REVENUE. In the statement required by Section 49a, Article III,
23 Texas Constitution, in advance of a regular session of the
24 legislature, the comptroller shall certify the amount, if any, of
25 the increase in available state revenue for the succeeding state
26 fiscal biennium.

27 Sec. 403.353. DISTRIBUTION OF AVAILABLE STATE REVENUE FOR

1 TAX RATE REDUCTION. (a) For the state fiscal biennium following a
2 certification under Section 403.352, the comptroller shall
3 distribute to the school districts in this state for tax rate
4 reduction an amount of available state revenue that is equal to the
5 sum of:

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

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

13 (b) The comptroller shall distribute the amount required by
14 Subsection (a) in equal amounts in each state fiscal year of the
15 state fiscal biennium. The amount distributed in each state fiscal
16 year shall be apportioned among the school districts in amounts
17 that, applied to the total taxable value of property in each
18 district determined under Subchapter M, for the most recent ad
19 valorem tax year for which the information is available, would
20 reduce the rate of each school district's maintenance and
21 operations tax by the same percentage, except that a school
22 district maintenance and operations tax rate may not be reduced to
23 less than 75 cents for each \$100 of taxable value.

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

1 SUBCHAPTER P. SCHOOL PROPERTY TAX RELIEF FUND

2 Sec. 403.401. SCHOOL PROPERTY TAX RELIEF FUND. The school
3 property tax relief fund is an account in the general revenue fund.

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

5 (a) Not later than September 30 of each calendar year beginning
6 with 2006, the comptroller shall:

7 (1) compute for the preceding state fiscal year the
8 actual amount of the increase in state revenue that is attributable
9 to the changes in law made by H.B. No. 3, Acts of the 79th
10 Legislature, 2nd Called Session, 2005;

11 (2) transfer an amount of state revenue equal to the
12 amount determined under Subdivision (1) to the school property tax
13 relief fund, except as provided by Subsection (b); and

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

17 (b) The comptroller may not make a transfer under Subsection
18 (a)(2) if making the transfer would reduce the amount of general
19 revenue available for purposes of certification of the General
20 Appropriations Act to an amount less than the amount estimated to be
21 available at the time the comptroller certified the General
22 Appropriations Act under Section 49a(b), Article III, Texas
23 Constitution.

24 SECTION 1B.02. Effective September 1, 2006, Subchapter H,
25 Chapter 42, Education Code, as added by H.B. No. 2, Acts of the 79th
26 Legislature, 2nd Called Session, 2005, is amended by adding Section
27 42.3112 to read as follows:

1 Sec. 42.3112. STATE REVENUE RECEIVED FOR SCHOOL DISTRICT
2 TAX RATE REDUCTION. (a) For purposes of this chapter and Chapter
3 41, amounts received in a tax year by a school district under
4 Subchapter O, Chapter 403, Government Code, are considered to be
5 maintenance and operations taxes collected by the district during
6 that tax year.

7 (b) The commissioner may adopt rules necessary to
8 administer this section.

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

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

13 (1) the tax rate that, applied to the current total
14 value for the district, would impose taxes in an amount that, when
15 added to state funds that would be distributed to the district under
16 Chapter 42, Education Code, for the school year beginning in the
17 current tax year using that tax rate, and state funds for property
18 tax rate relief that will be distributed to the district in that
19 school year under Subchapter O, Chapter 403, Government Code, would
20 provide the same amount of state funds distributed under Chapter
21 42, Education Code, and Subchapter O, Chapter 403, Government Code,
22 and maintenance and operations taxes of the district per student in
23 [~~weighted~~] average daily attendance for that school year that would
24 have been available to the district in the preceding year if the
25 funding elements for Chapters 41 and 42, Education Code, for the
26 current year had been in effect for the preceding year;

27 (2) the rate of \$0.04 [~~\$0.06~~] per \$100 of taxable

1 value; and

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

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

4 PART C. PROPERTY TAX ADMINISTRATION

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

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

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

18 (c-1) An administrative or judicial proceeding in which
19 confidential information is disclosed pursuant to Subsection (b)
20 shall be closed to the public unless all parties to the proceeding
21 and the persons described in Subsection (b)(2) consent to public
22 access. Notwithstanding the provisions of this subsection, an
23 administrative proceeding conducted by a panel of an appraisal
24 review board is not considered to be a deliberation of public
25 business by the appraisal review board.

26 SECTION 1C.03. Section 41A.08, Tax Code, as added by H.B.
27 182 and S.B. 1351, Acts of the 79th Legislature, Regular Session,

1 2005, is amended by adding Subsection (c) to read as follows:

2 (c) The arbitrator may require the appraisal district to
3 provide meeting space for the arbitration at no cost to the
4 arbitrator or the property owner.

5 PART D. REDUCTION IN SCHOOL TAX FREEZE FOR
6 ELDERLY AND DISABLED; INCREASE IN SCHOOL
7 DISTRICT RESIDENCE HOMESTEAD EXEMPTION

8 SECTION 1D.01. Section 11.13(b), Tax Code, is amended to
9 read as follows:

10 (b) An adult is entitled to exemption from taxation by a
11 school district of \$22,500 [~~\$15,000~~] of the appraised value of the
12 adult's residence homestead, except that \$17,500 [~~\$10,000~~] of the
13 exemption does not apply to an entity operating under former
14 Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those chapters
15 existed on May 1, 1995, as permitted by Section 11.301, Education
16 Code.

17 SECTION 1D.02. Section 11.26, Tax Code, is amended by
18 amending Subsection (a) and adding Subsection (a-1) to read as
19 follows:

20 (a) The tax officials shall appraise the property to which
21 this section applies and calculate taxes as on other property, but
22 if the tax so calculated exceeds the limitation imposed by this
23 section, the tax imposed is the amount of the tax as limited by this
24 section, except as otherwise provided by this section. A school
25 district may not increase the total annual amount of ad valorem tax
26 it imposes on the residence homestead of an individual 65 years of
27 age or older or on the residence homestead of an individual who is

1 disabled, as defined by Section 11.13, above the amount of the tax
2 it imposed in the first tax year in which the individual qualified
3 that residence homestead for the applicable exemption provided by
4 Section 11.13(c) for an individual who is 65 years of age or older
5 or is disabled. If the individual qualified that residence
6 homestead for the exemption after the beginning of that first year
7 and the residence homestead remains eligible for the same exemption
8 for the next year, and if the school district taxes imposed on the
9 residence homestead in the next year are less than the amount of
10 taxes imposed in that first year, a school district may not
11 subsequently increase the total annual amount of ad valorem taxes
12 it imposes on the residence homestead above the amount it imposed in
13 the year immediately following the first year for which the
14 individual qualified that residence homestead for the same
15 exemption, except as provided by Subsection (b). If the first tax
16 year the individual qualified the residence homestead for the
17 exemption provided by Section 11.13(c) for individuals 65 years of
18 age or older or disabled was a tax year before the 2006 [~~1997~~] tax
19 year, the amount of the limitation provided by this section is the
20 amount of tax the school district imposed for the 2005 [~~1996~~] tax
21 year less an amount equal to the amount determined by multiplying
22 \$7,500 [~~\$10,000~~] times the tax rate of the school district for the
23 2006 [~~1997~~] tax year, plus any 2006 [~~1997~~] tax attributable to
24 improvements made in 2005 [~~1996~~], other than improvements made to
25 comply with governmental regulations or repairs. If an individual
26 receives the limitation provided by this section for the
27 individual's residence homestead and the individual or the

1 individual's spouse received the limitation in the preceding tax
2 year for that homestead and the tax rate of the school district for
3 the current tax year is higher or lower than the tax rate of the
4 district for the preceding tax year, the total amount of taxes that
5 may be imposed by the district on the homestead is equal to the
6 amount of tax the district imposed on the homestead for the
7 preceding tax year multiplied by a fraction the numerator of which
8 is the tax rate of the district for the current tax year and the
9 denominator of which is the tax rate of the district for the
10 preceding tax year, plus any tax for the current tax year
11 attributable to improvements made in the preceding tax year, other
12 than improvements made to comply with governmental regulations or
13 repairs, except that the total amount of taxes that may be imposed
14 may not exceed the amount of taxes imposed by the district for the
15 later of the 2005 tax year or the tax year in which the limitation
16 took effect, as that limitation may have been increased in
17 subsequent tax years or may be increased for the current tax year
18 because of improvements as authorized by this section.

19 (a-1) Notwithstanding Subsection (a), if the first tax year
20 the individual qualified the residence homestead for the exemption
21 provided by Section 11.13(c) for individuals 65 years of age or
22 older or disabled was a tax year before the 2006 tax year and the tax
23 rate of the school district for the 2006 tax year is higher or lower
24 than the tax rate of the district for the 2005 tax year, the amount
25 of the limitation provided by this section for the 2006 tax year is
26 the amount of tax the school district imposed for the 2005 tax year,
27 increased or reduced, as applicable, in proportion to the increase

1 or reduction in the tax rate as provided by Subsection (a), less an
2 amount equal to the amount determined by multiplying \$7,500 times
3 the tax rate of the school district for the 2006 tax year, plus any
4 2006 tax attributable to improvements made in 2005, other than
5 improvements made to comply with governmental regulations or
6 repairs. That limitation continues to apply to the property in
7 subsequent tax years, subject to the other provisions of this
8 section.

9 SECTION 1D.03. Subchapter H, Chapter 42, Education Code, as
10 added by House Bill No. 2, Acts of the 79th Legislature, 2nd Called
11 Session, 2005, is amended by adding Section 42.3053 to read as
12 follows:

13 Sec. 42.3053. ADDITIONAL STATE AID FOR RESIDENCE HOMESTEAD
14 EXEMPTION AND TAX FREEZE. (a) Notwithstanding any other provision
15 of this chapter, a school district is entitled to additional state
16 aid to the extent that state aid under this chapter based on the
17 determination of the school district's taxable value of property as
18 provided under Subchapter M, Chapter 403, Government Code, does not
19 fully compensate the district for ad valorem tax revenue lost due
20 to:

21 (1) the increase in the amount of the residence
22 homestead exemption from ad valorem taxation for general elementary
23 and secondary public school purposes under Section 1-b(c), Article
24 VIII, Texas Constitution, and the corresponding adjustment of the
25 limitation on the amount of ad valorem taxes that may be imposed for
26 those purposes on the homesteads of certain persons under Section
27 1-b(d), Article VIII, Texas Constitution, as proposed by .J.R. No.

1 , Acts of the 79th Legislature, 2nd Called Session, 2005; and

2 (2) the adjustment of the limitation on the total
3 amount of ad valorem taxes imposed for general elementary and
4 secondary public school purposes on certain residence homesteads in
5 proportion to any increase or decrease in the tax rate for those
6 purposes under Section 1-b(d), Article VIII, Texas Constitution, as
7 proposed by .J.R. No. , Acts of the 79th Legislature, 2nd Called
8 Session, 2005.

9 (b) The commissioner, using information provided by the
10 comptroller, shall compute the amount of any additional state aid
11 to which a district is entitled under this section. A determination
12 by the commissioner under this section is final and may not be
13 appealed.

14 (c) This section expires September 1, 2007.

15 SECTION 1D.04. Section 403.302, Government Code, is amended
16 by amending Subsection (j) and adding Subsection (j-1) to read as
17 follows:

18 (j) For purposes of Section 42.3053 [~~42.2511~~], Education
19 Code, the comptroller shall certify to the commissioner of
20 education:

21 (1) a final value for each school district computed on
22 a residence homestead exemption under Section 1-b(c), Article VIII,
23 Texas Constitution, of \$15,000 [~~\$5,000~~]; and

24 (2) a final value for each school district computed
25 on:

26 (A) a residence homestead exemption from ad
27 valorem taxation for general elementary and secondary public school

1 purposes under Section 1-b(c), Article VIII, Texas Constitution, of
2 \$22,500, and the corresponding adjustment of the limitation on the
3 amount of ad valorem taxes that may be imposed for those purposes on
4 the homesteads of certain persons under Section 1-b(d), Article
5 VIII, Texas Constitution, as proposed by .J.R. No. __, Acts of the
6 79th Legislature, 2nd Called Session, 2005 [~~\$15,000~~]; and

7 (B) the effect of the adjustment of the
8 [additional] limitation on the total amount of ad valorem taxes
9 imposed for general elementary and secondary public school purposes
10 on certain residence homesteads in proportion to any increase or
11 decrease in the tax rate for those purposes [~~tax increases~~] under
12 Section 1-b(d), Article VIII, Texas Constitution, as proposed by
13 .J.R. No. __, Acts of the 79th Legislature, 2nd Called Session,
14 2005.

15 (j-1) To the extent of a conflict between Subsection (j) and
16 a provision added by House Bill No. 2, Acts of the 79th Legislature,
17 2nd Called Session, 2005, Subsection (j) prevails, regardless of
18 the relative dates of enactment.

19 SECTION 1D.05. This part takes effect January 1, 2006, and
20 applies only to an ad valorem tax year that begins on or after that
21 date, but only if the constitutional amendment proposed by .J.R.
22 No. __, Acts of the 79th Legislature, 2nd Called Session, 2005, is
23 approved by the voters. If that constitutional amendment is not
24 approved by the voters, this part has no effect.

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

27 SECTION 1E.01. Section 25.07(b), Tax Code, is amended to

1 read as follows:

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

5 (1) the property is permanent university fund land;

6 (2) the property is county public school fund
7 agricultural land;

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

10 (A) is an airport passenger terminal building or
11 a building used primarily for maintenance of aircraft or other
12 aircraft services, for aircraft equipment storage, or for air
13 cargo;

14 (B) is an airport fueling system facility;

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

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

19 (ii) the area of which in the portion of the
20 zone located in the airport operated by the joint airport board does
21 not exceed 2,500 acres; and

22 (iii) that is established and operating
23 pursuant to federal law; or

24 (D)(i) is in a foreign trade zone established
25 pursuant to federal law after June 1, 1991, which operates pursuant
26 to federal law;

27 (ii) is contiguous to or has access via a

1 taxiway to an airport located in two counties, one of which has a
2 population of 500,000 or more according to the federal decennial
3 census most recently preceding the establishment of the foreign
4 trade zone; and

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

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

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

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

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

20 (6) the property is owned by the Texas National
21 Research Laboratory Commission or by a corporation formed by the
22 Texas National Research Laboratory Commission under Section
23 465.008(g), Government Code, and is used or is useful in connection
24 with an eligible undertaking as defined by Section 465.021,
25 Government Code; [~~or~~]

26 (7) the property is:

27 (A) owned by a municipality, a public port, or a

1 navigation district created or operating under Section 59, Article
2 XVI, Texas Constitution, or under a statute enacted under Section
3 59, Article XVI, Texas Constitution; and

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

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

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

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

14 ARTICLE 2. FRANCHISE TAX

15 PART A. CORPORATE OWNERSHIP IN PARTNERSHIPS

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

18 (c) Any tax, interest, or penalty due to the state under
19 Chapter 171 by a person who is subject to that tax by application of
20 Section 171.001(d) is additionally secured by a lien on the
21 person's interest in the partnership doing business in this state
22 whose activities cause the person to be subject to that tax,
23 including a general or limited partnership interest that the person
24 is considered to own under Sections 171.001(e) and (f).

25 SECTION 2A.02. Section 171.001(b), Tax Code, is amended by
26 adding Subdivisions (6-a), (6-b), and (9) to read as follows:

27 (6-a) "Partner" includes a beneficiary in a trust.

1 (6-b) "Partnership" includes a partnership, a joint
2 venture, and a trust.

3 (9) "Trust" does not include a trust or other
4 financial assurance arrangement as required and approved by the
5 United States Nuclear Regulatory Commission for the provision of
6 decommissioning costs.

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

9 (d) For purposes of Subsection (a), a corporation that "does
10 business in this state" includes a corporation:

11 (1) holding a partnership interest, including an
12 interest as an assignee, as a general partner in a general
13 partnership that is doing business in this state;

14 (2) holding a partnership interest, including an
15 interest as an assignee, as a general partner in a limited
16 partnership that is doing business in this state; or

17 (3) holding a controlling interest in a partnership,
18 including an interest as an assignee, as a limited partner in a
19 limited partnership that is doing business in this state.

20 (e) For purposes of Subsection (d), a partner who owns an
21 interest in an upper tier partnership is considered to be both a
22 partner in the upper tier partnership and a partner in each lower
23 tier partnership.

24 (f) For purposes of Subsection (d)(3), a limited partner is
25 considered to hold a controlling interest if any related party owns
26 a controlling interest, directly or indirectly, in the partnership.
27 In this subsection, "controlling interest" and "related party" have

1 the meanings assigned those terms by Section 171.1001.

2 (g) If a corporate partner subject to the tax under
3 Subsection (d) asserts in a refund claim or a redetermination
4 hearing that the tax imposed under this chapter violates the United
5 States Constitution or federal law because of the application of
6 Subsection (d), the franchise tax is imposed on the partnership
7 doing business in this state for the privilege periods for which the
8 assertion is made and the franchise tax liability of the
9 partnership shall be calculated as provided by Sections 171.101(d)
10 and 171.110(d-2).

11 (h) For purposes of Subsection (d):

12 (1) a corporation that is a foreign corporation is not
13 doing business in this state solely because the corporation holds
14 an interest in a real estate investment trust as defined by Section
15 856, Internal Revenue Code, or its "qualified REIT subsidiary"
16 entities as defined by Section 856(i)(2), Internal Revenue Code;
17 and

18 (2) a real estate investment trust or a "qualified
19 REIT subsidiary" entity as defined in Subdivision (1) is not doing
20 business in this state solely because the real estate investment
21 trust or "qualified REIT subsidiary" entity holds a partnership
22 interest, including an interest as an assignee, as a limited
23 partner in a limited partnership that is doing business in this
24 state, provided that the limited partnership satisfies the gross
25 income requirements of Sections 856(c)(2) and 856(c)(3), Internal
26 Revenue Code, and the asset valuation requirements of Section
27 856(c)(4), Internal Revenue Code.

1 SECTION 2A.04. Section 171.101, Tax Code, is amended by
2 adding Subsection (d) to read as follows:

3 (d) For purposes of Section 171.001(g), net taxable capital
4 for a partnership, to the extent the partnership is owned directly
5 or indirectly by a corporation, is computed by:

6 (1) adding the partner's contributions and surplus, as
7 determined under Section 171.109 in the same manner as a
8 corporation, to determine the partnership's taxable capital;

9 (2) apportioning the amount determined under
10 Subdivision (1) to this state in the same manner that the taxable
11 capital of a corporation is apportioned to this state under Section
12 171.106(a) or (c), as applicable, to determine the partnership's
13 apportioned taxable capital; and

14 (3) subtracting from the amount computed under
15 Subdivision (2) any other allowable deductions, to determine the
16 partnership's net taxable capital.

17 SECTION 2A.05. Section 171.1032(c), Tax Code, is amended to
18 read as follows:

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

1 and the corporation's share of the gross receipts of each
2 partnership of which it is a partner is computed and apportioned to
3 this state as though the corporation directly earned the receipts
4 at the partnership tier at which the receipts were originally
5 earned.

6 SECTION 2A.06. Section 171.1051(d), Tax Code, is amended to
7 read as follows:

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

19 SECTION 2A.07. Section 171.110, Tax Code, is amended by
20 adding Subsections (d-1) and (d-2) to read as follows:

21 (d-1) In computing net taxable earned surplus, a
22 corporation shall include the corporation's share of a
23 partnership's items of income or loss, without regard to whether
24 the partnership is taxed as a corporation for federal income tax
25 purposes.

26 (d-2) For purposes of Section 171.001(g), reportable
27 federal taxable income for a partnership is the partnership's

1 income as an entity, to the extent that the partnership is owned
2 directly or indirectly by a corporation, as determined under rules
3 adopted by the comptroller using principles similar to the
4 standards applied to a corporation.

5 SECTION 2A.08. Section 171.1121, Tax Code, is amended by
6 adding Subsection (f) to read as follows:

7 (f) A corporation that owns an interest in an upper tier
8 partnership is considered to be a partner in both the upper tier
9 partnership and each lower tier partnership, and the corporation's
10 share of the gross receipts of each partnership of which it is a
11 partner is computed and apportioned to this state as though the
12 corporation directly earned the receipts at the partnership tier at
13 which the receipts were originally earned.

14 SECTION 2A.09. This part takes effect September 1, 2005,
15 and applies to reports originally due on or after that date, if this
16 Act receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for effect on that
19 date, this part takes effect on the first day of the first month
20 that begins on or after the 91st day after the last day of the
21 legislative session, and applies to reports originally due on or
22 after that date.

23 PART B. APPLICATION TO PARTNERSHIPS

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

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

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

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

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

15 (a) A franchise tax is imposed on:

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

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

20 (3) each general partnership that is doing business in
21 this state to the extent the general partnership, including an
22 interest as an assignee, is owned directly or indirectly by a
23 corporation;

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

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

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

7 (3) "Corporation" includes:

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

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

11 (C) a banking corporation; and

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

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

17 (c) A corporation shall include in its gross receipts
18 computed under Subsection (a) the corporation's share of the gross
19 receipts of each partnership and joint venture of which the
20 corporation is a part apportioned to this state as though the
21 corporation directly earned the receipts, including receipts from
22 business done with the corporation.

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

25 (d) A corporation shall include in its gross receipts
26 computed under Subsection (a) the corporation's share of the gross
27 receipts of each partnership and joint venture of which the

1 corporation is a part.

2 SECTION 2B.07. Section 171.110, Tax Code, is amended by
3 adding Subsection (d-3) to read as follows:

4 (d-3) Reportable federal taxable income for a partnership
5 subject to the franchise tax under Section 171.001(a) is the
6 partnership's income as an entity, to the extent that the
7 partnership is owned by a corporation, as determined under rules
8 adopted by the comptroller using principles similar to the
9 standards applied to a corporation.

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

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

18 (b) The provisions of this subchapter, including Section
19 171.255, that apply to the forfeiture of corporate privileges apply
20 to the forfeiture of a partnership's right to transact business in
21 this state.

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

- 24 (1) Section 113.001(c);
25 (2) Sections 171.001(d), (e), (f), (g), and (h);
26 (3) Section 171.101(d);
27 (4) Sections 171.110(d-1) and (d-2); and

1 (5) Section 171.1121(f).

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

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

11 PART C. ADD-BACK OF CERTAIN PAYMENTS

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

14 Sec. 171.1001. DEFINITIONS. In this subchapter:

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

19 (2) "Controlling interest" means:

20 (A) for a corporation, either 50 percent or more,
21 owned directly or indirectly, of the total combined voting power of
22 all classes of stock of the corporation, or 50 percent or more,
23 owned directly or indirectly, of the beneficial ownership interest
24 in the voting stock of the corporation; and

25 (B) for a partnership, association, trust, or
26 other entity, 50 percent or more, owned directly or indirectly, of
27 the capital, profits, or beneficial interest in the partnership,

1 association, trust, or other entity.

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

4 (4) "Management fee" means a fee for services of a
5 managerial or administrative nature, including services pertaining
6 to management, accounts receivable and payable, employee benefit
7 plans, insurance, legal matters, payroll, data processing,
8 purchasing, taxes, financial matters, securities, accounting,
9 reporting, and compliance.

10 (5) "Related party" means any entity that directly or
11 indirectly controls, is controlled by, or is under common control
12 with, the entity subject to the tax imposed under this chapter. The
13 term includes, but is not limited to, parents, subsidiaries,
14 pass-through entities, and disregarded entities.

15 (6) "Royalty payment" means a payment directly
16 connected to the acquisition, use, maintenance or management,
17 ownership, sale, exchange, or any other disposition of licenses,
18 trademarks, copyrights, trade names, trade dress, service marks,
19 mask works, trade secrets, patents, or any other similar types of
20 intangible assets as determined by the comptroller.

21 (7) "Valid business purpose" means one or more
22 business purposes, other than the avoidance or reduction of taxes,
23 that alone or in combination constitute the primary motivation for
24 a business activity or transaction that changes in a meaningful
25 way, apart from tax effects, the economic position of the entity. A
26 valid business purpose includes compliance with a regulatory
27 requirement of:

- 1 (A) the federal government;
- 2 (B) a state or local government;
- 3 (C) a foreign nation; or
- 4 (D) an agency or political subdivision of any
5 entity listed in Paragraphs (A)-(C).

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

8 Sec. 171.1101. ADD-BACK OF PAYMENTS TO RELATED PARTY.

9 Except as provided by Section 171.1102, an entity subject to the tax
10 under this chapter shall add back to reportable federal taxable
11 income any royalty payments, interest payments, and management fees
12 made to a related party during the period on which earned surplus is
13 based to the extent deducted in computing reportable federal
14 taxable income.

15 Sec. 171.1102. SAFE HARBORS FOR CERTAIN PAYMENTS AND FEES.

16 (a) An entity subject to the tax under this chapter is not required
17 to add back royalty payments to a related party to the extent:

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

23 (2) the royalty payments are paid or incurred to a
24 related party organized under the laws of a foreign nation, are
25 subject to a comprehensive income tax treaty between the foreign
26 nation and the United States, and are taxed in the foreign nation at
27 a tax rate equal to or greater than the rate under Section

1 171.002(a)(2).

2 (b) An entity subject to the tax under this chapter is not
3 required to add back interest payments to a related party to the
4 extent:

5 (1) the interest is at or below the applicable federal
6 rate compounded annually for debt instruments under Section
7 1274(d), Internal Revenue Code, that was in effect at the time of
8 the agreement; or

9 (2) the related party during the period on which
10 earned surplus is based directly or indirectly paid or incurred the
11 amount to a person or entity that is not a related party, the
12 transaction was done for a valid business purpose, and the payments
13 were made at arm's length.

14 (c) If an entity subject to tax under this chapter is
15 required to add back royalty payments, interest payments, or
16 management fees, the related entity receiving the royalty payments,
17 interest payments, and management fees may deduct the payments to
18 the extent included in the related party's federal taxable income.

19 (d) An entity subject to the tax under this chapter is not
20 required to add back a management fee paid to a related party to the
21 extent that the transaction was done for a valid business purpose
22 and the fee was paid at arm's length.

23 Sec. 171.1103. ADJUSTMENT TO INCOME AND EXPENSES BY
24 COMPTROLLER. (a) The comptroller may distribute, apportion, or
25 allocate gross income, deductions, credits, or allowances between
26 or among two or more organizations, trades, or businesses, whether
27 or not incorporated, whether or not organized in the United States,

1 and whether or not affiliated, if:

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

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

9 (b) The comptroller shall apply the administrative and
10 judicial interpretations of Section 482, Internal Revenue Code, in
11 administering this section.

12 SECTION 2C.03. Subchapter E, Chapter 171, Tax Code, is
13 amended by adding Section 171.213 to read as follows:

14 Sec. 171.213. REGISTRATION OF LIMITED PARTNERSHIPS. (a)
15 Each limited partnership doing business in this state shall file
16 with the comptroller a disclosure that identifies each of its
17 limited partners that owns at least a 20 percent interest in the
18 partnership.

19 (b) The comptroller may adopt rules to implement this
20 section.

21 PART D. TRANSITIONAL PROVISIONS

22 SECTION 2D.01. (a) Except as otherwise provided by a part
23 or a section of this article, this article takes effect September 1,
24 2005, and applies to reports originally due on or after that date,
25 if this Act receives a vote of two-thirds of all the members elected
26 to each house, as provided by Section 39, Article III, Texas
27 Constitution. If this Act does not receive the vote necessary for

1 effect on that date, this article, except as otherwise provided by a
2 part or a section of this article, takes effect on the first day of
3 the first month that begins on or after the 91st day after the last
4 day of the legislative session, and applies to reports originally
5 due on or after that date.

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

8 (1) income or losses, and related gross receipts,
9 occurring before January 1, 2005, may not be considered for
10 purposes of the earned surplus component, or for apportionment
11 purposes for the taxable capital component;

12 (2) a corporation subject to the franchise tax on
13 January 1, 2006, for which January 1, 2006, is not the beginning
14 date, shall file, in lieu of an initial report, an annual report due
15 May 15, 2006, based on the period:

16 (A) beginning on the later of:

17 (i) January 1, 2005; or

18 (ii) the date the corporation was organized
19 in this state or, if a foreign corporation, the date it would have
20 been considered to begin doing business in this state if this Act
21 had been in effect on January 1, 2005; and

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

25 (3) a corporation subject to the earned surplus
26 component of the franchise tax at any time after the effective date
27 of this Act and before January 1, 2006, but not subject to the

1 earned surplus component on January 1, 2006, shall file a final
2 report computed on net taxable earned surplus, for the privilege of
3 doing business at any time after the effective date of this Act and
4 before January 1, 2006, based on the period:

5 (A) beginning on the later of:

6 (i) January 1, 2005; or

7 (ii) the date the corporation was organized
8 in this state or, if a foreign corporation, the date it would have
9 been considered to begin doing business in this state if this Act
10 had been in effect on January 1, 2005; and

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

13 PART E. TEMPORARY CREDIT

14 SECTION 2E.01. Subchapter C, Chapter 171, Tax Code, is
15 amended by adding Section 171.114 to read as follows:

16 Sec. 171.114. TEMPORARY CREDIT ON NET TAXABLE EARNED
17 SURPLUS BEGINNING 2006. (a) Not later than March 1, 2006, a
18 corporation may notify the comptroller in writing of its intent to
19 preserve its right to take a credit in an amount allowed by this
20 section on the tax due on net taxable earned surplus. The
21 comptroller may not grant an extension. The corporation may
22 thereafter elect to claim the credit for the current year and future
23 years at or before the original due date of any report due after
24 January 1, 2006, until the corporation revokes the election or this
25 section expires, whichever is earlier. A corporation may claim the
26 credit for not more than 20 consecutive privilege periods beginning
27 with the first report due under this chapter after January 1, 2006.

1 A corporation may make only one election under this section and the
2 election may not be conveyed, assigned, or transferred to another
3 entity.

4 (b) The credit allowed under this section for any privilege
5 period is computed by:

6 (1) determining the amount, as of the end of the
7 corporation's accounting year ending in 2005, that is the
8 difference between the basis used for financial accounting purposes
9 and the basis used for federal income tax purposes as determined by
10 the Internal Revenue Code of an asset or a liability that at some
11 future date will reverse;

12 (2) apportioning the amount determined under
13 Subdivision (1) to this state in the same manner earned surplus
14 is apportioned under Section 171.106, on the first report due on or
15 after January 1, 2006;

16 (3) multiplying the amount determined under
17 Subdivision (2) by five percent; and

18 (4) multiplying the amount determined under
19 Subdivision (3) by the tax rate prescribed by
20 Section 171.002(a)(2).

21 (c) In computing the amount under Subsection (b)(1), the
22 corporation may not consider differences that result from deferred
23 investment tax credits, allowances for funds used during
24 construction, or any other timing difference for which a deferred
25 tax liability is not required under generally accepted accounting
26 principles.

27 (d) After making the election under Subsection (a) the

1 corporation must, for purposes of computing its taxable capital
2 under this chapter, use the same accounting methods under generally
3 accepted accounting principles to account for the assets and
4 liabilities that determine the amount of the credit that the
5 corporation uses to compute the credit. Notwithstanding Section
6 171.109(e), if a corporation changes an accounting method for an
7 asset or liability that determines, in whole or in part, the amount
8 of the credit during the period the election is in effect, the
9 election is automatically revoked.

10 (e) A corporation that notifies the comptroller of its
11 intent to preserve its right to take a credit allowed by this
12 section shall submit with its notice of intent a statement of the
13 amount determined under Subsection (b)(1). The comptroller may
14 request that the corporation submit in the annual report for each
15 succeeding privilege period in which the corporation is eligible to
16 take a credit information relating to the amount determined under
17 Subsection (b)(1). The corporation shall submit in the form and
18 content the comptroller requires any information relating to the
19 assets and liabilities that determine the amount of the credit, the
20 amount determined under Subsection (b)(1), or any other matter
21 relevant to the computation of the credit for which the corporation
22 is eligible.

23 (f) A credit allowed under this section may not be carried
24 forward or backward or used to create a business loss carryover
25 under Section 171.110.

26 (g) A corporation may not use a credit allowed under this
27 section in connection with the computation of the corporation's tax

1 on net taxable capital.

2 (h) In addition to the tax imposed by Section 171.002, an
3 additional tax is imposed on each corporation during each year the
4 corporation takes the credit allowed under this section. The
5 additional tax is equal to 0.2 percent of the corporation's net
6 taxable capital per year of privilege period.

7 (i) This section expires September 1, 2026.

8 (j) This section applies only to a corporation that becomes
9 subject to the franchise tax as a result of the application of
10 Section 171.001(d)(3).

11 ARTICLE 3. SALES AND USE TAXES

12 PART A. STATE SALES AND USE TAXES

13 SECTION 3A.01. Section 151.009, Tax Code, is amended to
14 read as follows:

15 Sec. 151.009. "TANGIBLE PERSONAL PROPERTY." "Tangible
16 personal property" means personal property that can be seen,
17 weighed, measured, felt, or touched or that is perceptible to the
18 senses in any other manner, and, for the purposes of this chapter,
19 the term includes a computer program, a license to use a computer
20 program, and a telephone prepaid calling card.

21 SECTION 3A.02. Section 151.00394(b), Tax Code, is amended
22 to read as follows:

23 (b) "Internet access service" does not include [~~and the~~
24 ~~exemption under Section 151.325 does not apply to~~] any other
25 taxable service listed in Section 151.0101(a), unless the taxable
26 service is provided in conjunction with and is merely incidental to
27 the provision of Internet access service.

1 SECTION 3A.03. Subchapter A, Chapter 151, Tax Code, is
2 amended by adding Section 151.0043 to read as follows:

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

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

12 SECTION 3A.04. Section 151.0101(a), Tax Code, is amended to
13 read as follows:

14 (a) "Taxable services" means:

- 15 (1) amusement services;
16 (2) cable television services;
17 (3) personal services;
18 (4) motor vehicle parking and storage services;
19 (5) the repair, remodeling, maintenance, and
20 restoration of tangible personal property, including motor vehicle
21 repair services, except:

22 (A) aircraft;

23 (B) a ship, boat, or other vessel, other than:

24 (i) a taxable boat or motor as defined by
25 Section 160.001;

26 (ii) a sports fishing boat; or

27 (iii) any other vessel used for pleasure;

1 and

2 (C) [~~the repair, maintenance, and restoration of~~
3 ~~a motor vehicle, and~~

4 [~~(D)~~] the [~~repair, maintenance,~~] creation[~~, and~~
5 ~~restoration~~] of a computer program, including its development [~~and~~
6 ~~modification, not sold by the person performing the repair,~~
7 ~~maintenance, creation, or restoration service~~];

8 (6) telecommunications services;

9 (7) credit reporting services;

10 (8) debt collection services;

11 (9) insurance services;

12 (10) information services;

13 (11) real property services;

14 (12) data processing services;

15 (13) real property repair and remodeling;

16 (14) security services;

17 (15) telephone answering services;

18 (16) Internet access service; and

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

24 SECTION 3A.05. Section 151.051(b), Tax Code, is amended to
25 read as follows:

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

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

3 (b) The application must be accompanied with:

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

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

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

15 [~~(C) waive the discount permitted by Section~~
16 ~~151.423 of this code on the payment of all taxes under the direct~~
17 ~~payment permit only,]~~

18 (2) a description, in the amount of detail that the
19 comptroller requires, of the accounting method by which the
20 applicant proposes to differentiate between taxable and exempt
21 transactions; and

22 (3) records establishing that the applicant is a
23 responsible person who annually purchases taxable items that have a
24 value when purchased of \$800,000 or more excluding the value of
25 taxable items for which resale certificates were or could have been
26 given.

27 SECTION 3A.07. Sections 151.424(a) and (c), Tax Code, are

1 amended to read as follows:

2 (a) A taxpayer who prepays the taxpayer's tax liability on
3 the basis of a reasonable estimate of the tax liability for a
4 quarter in which a prepayment is made or for a month in which a
5 prepayment is made may deduct and withhold 1.25 percent of the
6 amount of the prepayment [~~in addition to the amount permitted to be~~
7 ~~deducted and withheld under Section 151.423 of this code~~]. A
8 reasonable estimate of the tax liability must be at least 90 percent
9 of the tax ultimately due or the amount of tax paid in the same
10 quarter, or month, if a monthly prepayer, in the last preceding
11 year. Failure to prepay a reasonable estimate of the tax will
12 result in the loss of the entire prepayment discount.

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

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

26 Sec. 151.425. FORFEITURE OF DISCOUNT OR REIMBURSEMENT. If
27 a taxpayer fails to file a report required by this chapter when due

1 or to pay the tax when due, the taxpayer forfeits any claim to a
2 [~~deduction or~~] discount allowed under [~~Section 151.423 or~~] Section
3 151.424 [~~of this code~~].

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

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

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

13 (a) Except as inconsistent with this chapter and rules
14 adopted under this chapter, the seller of a motor vehicle shall
15 report and pay the tax imposed on a seller-financed sale to the
16 comptroller on the seller's receipts from seller-financed sales in
17 the same manner as the sales tax is reported and paid by a retailer
18 under Sections 151.401, 151.402, 151.405, 151.406, 151.409,
19 [~~151.423,~~] 151.424, and 151.425.

20 SECTION 3A.11. Sections 151.325 and 151.423, Tax Code, are
21 repealed.

22 SECTION 3A.12. There are exempted from the taxes imposed by
23 Chapter 151, Tax Code, the receipts from the sale, use, storage,
24 rental, or other consumption in this state of services that became
25 subject to the taxes because of the terms of this part and that are
26 the subject of a written contract or bid entered into on or before
27 September 1, 2005. The exemption provided by this section applies

1 only if the taxpayer, not later than November 1, 2005, gives to the
2 comptroller an electronic or paper copy of the contract or bid on
3 which the exemption is claimed. The exemption provided by this
4 section expires October 1, 2007.

5 SECTION 3A.13. (a) Except as otherwise provided by this
6 section, this part takes effect September 1, 2005, if this Act
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for effect on that
10 date, this part takes effect on the first day of the first month
11 that begins on or after the 91st day after the last day of the
12 legislative session.

13 (b) Section 151.051(b), Tax Code, as amended by this part,
14 takes effect October 1, 2005, if this Act receives a vote of
15 two-thirds of all the members elected to each house, as provided by
16 Section 39, Article III, Texas Constitution. If this Act does not
17 receive the vote necessary for effect on that date, Section
18 151.051(b), Tax Code, takes effect January 1, 2006.

19 PART B. MOTOR VEHICLE SALES AND USE TAX

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

22 (f) Notwithstanding Subsection (a), the total consideration
23 of a used motor vehicle is the amount on which the tax is computed as
24 provided by Section 152.0412.

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

27 (b) The tax rate is seven [~~6-1/4~~] percent of the total

1 consideration.

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

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

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

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

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

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

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

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

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

25 Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX
26 ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive
27 value" means the average retail value of a motor vehicle as

1 determined by the Texas Department of Transportation, based on a
2 nationally recognized motor vehicle industry reporting service.

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

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

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

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

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

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

23 (e) On request, a motor vehicle dealer operating under
24 Subchapter B, Chapter 503, Transportation Code, shall provide a
25 certified appraisal of the retail value of a motor vehicle. The
26 comptroller by rule shall establish a fee that a dealer may charge
27 for providing the certified appraisal. The county tax

1 assessor-collector shall retain a copy of a certified appraisal
2 received under this section for a period prescribed by the
3 comptroller.

4 (f) The Texas Department of Transportation shall maintain
5 information on the standard presumptive values of motor vehicles as
6 part of the department's registration and title system. The
7 department shall update the information at least quarterly each
8 calendar year.

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

11 SECTION 3B.08. Not later than December 1, 2005, the Texas
12 Department of Transportation shall:

13 (1) establish standard presumptive values for motor
14 vehicles as provided by Section 152.0412, Tax Code, as added by this
15 part;

16 (2) modify the department's registration and title
17 system as needed to include that information and administer that
18 section; and

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

21 SECTION 3B.09. (a) Except as provided by Subsection (b) of
22 this section, this part takes effect September 1, 2005, if this Act
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for effect on that
26 date, this part takes effect on the first day of the first month
27 that begins on or after the 91st day after the last day of the

1 legislative session.

2 (b) Section 152.0412, Tax Code, as added by this part, takes
3 effect December 1, 2005.

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

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

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

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

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

13 SECTION 3C.03. This part takes effect September 1, 2005, if
14 this Act receives a vote of two-thirds of all the members elected to
15 each house, as provided by Section 39, Article III, Texas
16 Constitution. If this Act does not receive the vote necessary for
17 effect on that date, this part takes effect on the first day of the
18 first month that begins on or after the 91st day after the last day
19 of the legislative session.

20 ARTICLE 4. CIGARETTE AND TOBACCO PRODUCTS TAXES

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

23 (b) The tax rates are:

24 (1) \$70.50 [~~\$20.50~~] per thousand on cigarettes
25 weighing three pounds or less per thousand; and

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

1 thousand.

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

4 (b) The tax rates are:

5 (1) 1.25 cents [~~one cent~~] per 10 or fraction of 10 on
6 cigars weighing three pounds or less per thousand;

7 (2) \$9.375 [~~\$7.50~~] per thousand on cigars that:

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

9 and

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

13 (3) \$13.75 [~~\$11~~] per thousand on cigars that:

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

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

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

20 (4) \$18.75 [~~\$15~~] per thousand on cigars that:

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

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

25 (C) contain a substantial amount of nontobacco
26 ingredients.

27 SECTION 4.03. Section 155.0211(b), Tax Code, is amended to

1 read as follows:

2 (b) The tax rate for tobacco products other than cigars is
3 40 [~~35.213~~] percent of the manufacturer's list price, exclusive of
4 any trade discount, special discount, or deal.

5 SECTION 4.04. This article takes effect September 1, 2005,
6 if this Act receives a vote of two-thirds of all the members elected
7 to each house, as provided by Section 39, Article III, Texas
8 Constitution. If this Act does not receive the vote necessary for
9 effect on that date, this article takes effect on the first day of
10 the first month that begins on or after the 91st day after the last
11 day of the legislative session.

12 ARTICLE 5. COLLECTION OF DELINQUENT OBLIGATIONS TO STATE

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

15 (c) A contract under this section is not valid unless
16 approved by the attorney general. The attorney general shall
17 approve a contract if the attorney general determines that the
18 contract complies with the requirements of this section, that the
19 contract does not conflict with any contract formed under Section
20 2107.003(b), and that the contract [~~and~~] is in the best interest of
21 the state. No judicial action by any person on behalf of the state
22 under a contract authorized and approved by this section may be
23 brought unless approved by the attorney general.

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

26 Sec. 2107.003. COLLECTION BY ATTORNEY GENERAL,
27 COMPTROLLER, OR OUTSIDE AGENT. (a) Except as provided by Section

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

8 (b) The attorney general:

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

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

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

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

1 (d) The agency contracting under Subsection (b) is entitled
2 to recover from the obligor, in addition to the amount of the
3 obligation, the costs incurred in undertaking the collection,
4 including the costs of a contract under this section. The obligor
5 is liable for costs of recovery under this section in an amount
6 equal to not more than 30 percent of the sum of the amount of the
7 obligation and any penalty and interest due on the obligation.

8 (e) A contract formed under Subsection (b) must provide for
9 the compensation due to the contractor. The amount of the
10 compensation shall be equal to not more than 30 percent of the sum
11 of the collected amount of:

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

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

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

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

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

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

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

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

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

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

25 (l) A person acting under a contract formed under Subsection
26 (b) or (c) and each employee or agent of that person are subject to
27 all prohibitions against the disclosure of confidential

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

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

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

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

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

26 (3) performs any act that results in a final judgment
27 for damages against this state.

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

3 (c) This subchapter does not apply to a contract:
4 (1) with an agency to collect an obligation under
5 Section 2107.003(b); or
6 (2) for legal services entered into by an institution
7 of higher education under Section 153.006, Education Code.

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

15 ARTICLE 6. USE OF CERTAIN TRAFFIC PENALTIES FOR
16 SCHOOL PROPERTY TAX RELIEF

17 SECTION 6.01. Subchapter D, Chapter 542, Transportation
18 Code, is amended by adding Section 542.405 to read as follows:

19 Sec. 542.405. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC
20 PENALTIES IN SCHOOL PROPERTY TAX RELIEF FUND. (a) In this section,
21 "photographic traffic signal enforcement system" means a system
22 that:

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

26 (2) is capable of producing one or more recorded
27 photographic or digital images that depict the license plate

1 attached to the front or the rear of a motor vehicle that is not
2 operated in compliance with the instructions of the traffic-control
3 signal; and

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

7 (b) This section applies only to a civil or administrative
8 penalty imposed on the owner of a motor vehicle by a local authority
9 that operates or contracts for the operation of a photographic
10 traffic signal enforcement system with respect to a highway under
11 its jurisdiction or that operates or contracts for the operation of
12 any other type of electronic traffic law enforcement system
13 consisting of a camera system that automatically produces one or
14 more recorded photographs or digital images of the license plate on
15 a motor vehicle or the operator of a motor vehicle.

16 (c) Of the gross amount received by a local authority from
17 the imposition of a civil or administrative penalty against the
18 owner of a motor vehicle, the local authority may retain \$1 and
19 shall remit the remainder to the comptroller for deposit to the
20 credit of the school property tax relief fund in the general revenue
21 fund.

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

24 SECTION 6.02. Section 542.405, Transportation Code, as
25 added by this article, applies to revenue received by a local
26 authority unit of this state from the imposition of a civil or
27 administrative penalty on or after the effective date of this Act,

1 regardless of whether the penalty was imposed before, on, or after
2 the effective date of this Act.

3 ARTICLE 7. UNCLAIMED PROPERTY

4 SECTION 7.01. Subchapter H, Chapter 74, Property Code, is
5 amended by adding Section 74.7085 to read as follows:

6 Sec. 74.7085. HEARING. (a) If, after an examination of
7 records under Section 74.702, the comptroller determines that a
8 person holds unclaimed property that should have been delivered to
9 the comptroller as provided by this chapter, the person may
10 petition the comptroller for a hearing on that determination and on
11 the imposition of any interest or penalty resulting from that
12 determination.

13 (b) A person must file a petition for a hearing with the
14 comptroller under this section not later than the 30th day after the
15 date the determination is made. If a petition for a hearing is not
16 filed before the expiration of the period provided by this
17 subsection, the determination is final on the expiration of that
18 period.

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

23 SECTION 7.02. Subchapter A, Chapter 74, Property Code, is
24 amended by adding Section 74.002 to read as follows:

25 Sec. 74.002. SINGLE BUSINESS ENTERPRISE DOCTRINE
26 INAPPLICABLE. The single business enterprise doctrine does not
27 apply to this chapter.

1 SECTION 7.03. The change in law made by Section 74.7085,
2 Property Code, as added by this article, applies only to a
3 determination by the comptroller made on or after the effective
4 date of this Act. A determination by the comptroller made before
5 the effective date of this Act is governed by the law in effect on
6 the date the determination was made, and the former law is continued
7 in effect for that purpose.

8 SECTION 7.04. Section 74.002, Property Code, as added by
9 this article, is intended only to clarify existing law with respect
10 to Chapter 74, Property Code.

11 ARTICLE 8. TEXAS ECONOMIC DEVELOPMENT ACT

12 SECTION 8.01. Section 313.007, Tax Code, is amended to read
13 as follows:

14 Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire
15 December 31, 2011 [~~2007~~].

16 SECTION 8.02. Section 313.024(a), Tax Code, is amended to
17 read as follows:

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

21 SECTION 8.03. Section 313.024(b), Tax Code, as amended by
22 House Bill No. 2201, Acts of the 79th Legislature, Regular Session,
23 2005, is amended to read as follows:

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

- 27 (1) manufacturing;

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

7 SECTION 8.04. Section 313.025(b), Tax Code, is amended to
8 read as follows:

9 (b) The governing body of a school district is not required
10 to consider an application for a limitation on appraised value that
11 is filed with the governing body under Subsection (a). If the
12 governing body of the school district does elect to consider an
13 application, the governing body shall request that the Texas
14 Education Agency [~~engage a third person to~~] conduct an economic
15 impact evaluation of the application on behalf of the school
16 district, and that agency shall conduct the evaluation as soon as
17 practicable. The governing body shall provide to the Texas
18 Education Agency any information requested by that agency. The
19 Texas Education Agency may develop a methodology to allow
20 comparisons of economic impact for different schedules of addition
21 of qualified investment or qualified property as part of the
22 economic impact evaluation. The economic impact evaluation of the
23 Texas Education Agency is binding on the governing body of the
24 school district and the applicant. The governing body shall
25 provide a copy of the evaluation to the applicant on request. The
26 Texas Education Agency may charge and collect a fee sufficient to
27 cover the costs of providing the economic impact evaluation. The

1 governing body of a school district shall [~~and~~] approve or
2 disapprove an application before the 121st day after the date the
3 application is filed, unless the Texas Education Agency's economic
4 impact evaluation has not been received or an extension is agreed to
5 by the governing body and the applicant.

6 SECTION 8.05. Section 313.051, Tax Code, is amended to read
7 as follows:

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

10 (1) a strategic investment area, as defined by Section
11 171.721; [~~Tax Code,~~] or

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

13 (A) [~~(1)~~] that has a population of less than
14 50,000;

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

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

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

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

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

23 (a-1) Notwithstanding Subsection (a), if on January 1,
24 2002, this subchapter applied to a school district in whose
25 territory is located a federal nuclear facility, this subchapter
26 continues to apply to the school district regardless of whether the
27 school district ceased or ceases to be described by Subsection (a)

1 after that date.

2 (b) The governing body of a school district to which this
3 subchapter applies may enter into an agreement in the same manner as
4 a school district to which Subchapter B applies may do so under
5 Subchapter B, subject to Sections 313.052-313.054. Except as
6 otherwise provided by this subchapter, the provisions of Subchapter
7 B apply to a school district to which this subchapter applies. For
8 purposes of this subchapter, a property owner is required to create
9 only at least 10 new jobs on the owner's qualified property. At
10 least 80 percent of all the new jobs created must be qualifying jobs
11 as defined by Section 313.021(3), except that, for a school
12 district described by Subsection (a)(2), each qualifying job must
13 pay at least 110 percent of the average weekly wage for
14 manufacturing jobs in the region designated for the regional
15 planning commission, council of governments, or similar regional
16 planning agency created under Chapter 391, Local Government Code,
17 in which the district is located.

18 SECTION 8.06. Section 313.051(b), Tax Code, as amended by
19 this article, applies only to a limitation on the appraised value
20 for school district maintenance and operations ad valorem tax
21 purposes for which the owner files an application on or after the
22 effective date of this Act. A limitation on the appraised value for
23 school district maintenance and operations ad valorem tax purposes
24 for which the owner files an application before the effective date
25 of this Act is governed by the law as it existed immediately before
26 the effective date of this Act, and that law is continued in effect
27 for that purpose.

ARTICLE 9. RADIOACTIVE SUBSTANCES FEE

SECTION 9.01. Section 401.003, Health and Safety Code, is amended by adding Subdivision (12-a) to read as follows:

(12-a) "Gross receipts" includes, with respect to an entity or affiliated members, owners, shareholders, or limited or general partners, all receipts from the entity's storage or disposal operations in Texas licensed under this chapter including any bonus, commission, or similar payment received by the entity from a customer, contractor, subcontractor, or other person doing business with the entity or affiliated members, owners, shareholders, or limited or general partners. This term does not include receipts from the entity's operations in Texas, or affiliated members, owners, shareholders, or limited or general partners, for capital reimbursements, and federal or state taxes or fees on waste received uniquely required to meet the specifications of a license or contract. The commission may promulgate rules in establishing the criteria for determining gross receipts consistent with the parameters of this definition.

SECTION 9.02. Subchapter G, Chapter 401, Health and Safety Code, is amended by adding Sections 401.271 and 401.272 to read as follows:

Sec. 401.271. STATE FEE ON RADIOACTIVE SUBSTANCES. (a) A holder of a license issued by the commission under this chapter that authorizes the storage or disposal of a radioactive substance from other persons shall remit each quarter an amount equal to 10 percent of the license holder's gross receipts received from storage or disposal operations under a license issued under this chapter as

1 follows:

2 (1) eight percent shall be remitted to the comptroller
3 for deposit into the general revenue fund; and

4 (2) two percent shall be remitted to the host county in
5 accordance with Sections 401.244(b) and (d).

6 (b) Subsection (a) does not apply to compact waste or
7 federal facility waste as defined by Section 401.2005, or
8 industrial solid waste as defined by Section 361.003.

9 Sec. 401.272. AUDIT AUTHORITY. The commission may audit a
10 license holder's financial records and waste manifest information
11 to ensure that the fees imposed under this chapter are accurately
12 paid. The license holder shall comply with the commission's
13 audit-related requests for information.

14 ARTICLE 10. CHARITABLE BINGO BY

15 CERTAIN INDIAN TRIBES

16 SECTION 10.01. Section 2001.002(11), Occupations Code, is
17 amended to read as follows:

18 (11) "Fraternal organization" means:

19 (A) a nonprofit organization organized to
20 perform and engaged primarily in performing charitable,
21 benevolent, patriotic, employment-related, or educational
22 functions that meet the other requirements of this chapter; ~~or~~

23 (B) a nonprofit National Historical District
24 Association representing the owners and lessees of a majority of
25 the real property located in a National Historical District
26 designated for not less than five years by the National Register of
27 Historic Places, Heritage Conservation and Recreation Service of

1 the United States Department of the Interior, if the association's
2 net proceeds are used for restoration, construction, maintenance,
3 and security in the district; or

4 (C) a nonprofit organization that:

5 (i) is organized under tribal law by a
6 federally recognized Indian tribe that is not subject to the Indian
7 Gaming Regulatory Act (18 U.S.C. Section 1166 et seq. and 25 U.S.C.
8 Section 2701 et seq.) and that exercises tribal authority over a
9 reservation, as defined by 25 U.S.C. Section 731 or 1300g; and

10 (ii) is organized to perform and is engaged
11 primarily in performing charitable, benevolent, patriotic,
12 employment-related, or educational functions.

13 The term "fraternal organization" does not include an
14 organization whose members are predominantly veterans or
15 dependents of veterans of the armed services of the United States.

16 SECTION 10.02. Subchapter C, Chapter 2001, Occupations
17 Code, is amended by adding Section 2001.1015 to read as follows:

18 Sec. 2001.1015. CHARITABLE BINGO BY TRIBAL FRATERNAL
19 ORGANIZATIONS. (a) A nonprofit organization that qualifies as a
20 fraternal organization under Section 2001.002(11) may conduct
21 bingo on the reservation of the Indian tribe under whose tribal law
22 the organization is organized on adoption by the tribe of rules
23 governing the conduct of bingo by the organization that conform to
24 the provisions of this chapter and of Sections 47(b) and (c),
25 Article III, Texas Constitution.

26 (b) An organization described by Subsection (a) may conduct
27 bingo activities only in accordance with the provisions of this

1 chapter in compliance with Sections 107(b) and 207(b), Ysleta del
2 Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas
3 Restoration Act (25 U.S.C. Sections 737 and 1300g-6).

4 (c) A tribal organization conducting bingo under this
5 section shall collect from a person who wins a bingo prize of more
6 than \$5 a fee in the amount of five percent of the amount or value of
7 the prize and shall remit the fee to the State of Texas in a manner
8 determined by the comptroller. The comptroller shall deposit the
9 fee to the credit of the school property tax relief fund.

10 ARTICLE 11. APPROPRIATION TO THE COMPTROLLER

11 SECTION 11.01. There is appropriated to the comptroller of
12 public accounts the amount of \$3,360,466 in fiscal year 2006 and
13 \$2,395,656 in fiscal year 2007 from the general revenue fund for
14 implementation of the provisions of this Act, including systems
15 modifications, taxpayer education, media costs, printing costs,
16 and postage.

17 ARTICLE 12. EFFECTIVE DATE

18 SECTION 12.01. (a) Except as provided by Subsection (b) of
19 this section, this Act takes effect September 1, 2005, if this Act
20 receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for effect on that
23 date, this Act takes effect on the 91st day after the last day of the
24 legislative session.

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

1 its terms.