

By: Keffer of Eastland, Grusendorf

H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

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

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

ARTICLE 1. PROPERTY TAXATION

PART A. LIMITATION ON SCHOOL DISTRICT TAX RATE

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

(d) A proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate, which may be not more than \$.997 [~~\$.1.50~~] on the \$100 valuation of taxable property in the district, stated in the proposition.

(e) An election held before September 1, 2005, authorizing a maintenance tax at a rate of at least \$.997 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate not to exceed \$.997.

(f) A district permitted by special law on January 1, 2005, to impose an ad valorem tax at a rate greater than \$1.50 may continue to impose a rate that is \$.503 less than the rate

1 previously authorized.

2 PART B. BUY-DOWN OF SCHOOL DISTRICT TAXES

3 SECTION 1B.01. Chapter 403, Government Code, is amended by  
4 adding Subchapter O to read as follows:

5 SUBCHAPTER O. DISTRIBUTION OF INCREASES

6 IN AVAILABLE STATE REVENUE FOR SCHOOL DISTRICT TAX RATE REDUCTION

7 Sec. 403.351. DEFINITIONS. In this subchapter:

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

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

19 Sec. 403.352. CERTIFICATION OF INCREASE IN AVAILABLE STATE  
20 REVENUE. In the statement required by Section 49a, Article III,  
21 Texas Constitution, in advance of a regular session of the  
22 legislature, the comptroller shall certify:

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

25 (2) the total amount of school district maintenance  
26 and operations taxes levied under Section 3(e), Article VII, Texas  
27 Constitution, for the tax year beginning in the second year of the

1 current fiscal biennium.

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

8 (1) 15 percent of the increase in available state  
9 revenue for the current fiscal biennium certified under Section  
10 403.352; and

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

14 (b) The comptroller shall distribute the amount required by  
15 Subsection (a) in equal amounts in each fiscal year of the fiscal  
16 biennium. The amount distributed in each fiscal year shall be  
17 apportioned among the school districts in amounts that, applied to  
18 the total taxable value of property in each district determined  
19 under Subchapter M, for the most recent year for which the  
20 information is available, would reduce the rate of each school  
21 district's maintenance and operations tax by the same percentage,  
22 except that a school district tax rate may not be reduced to less  
23 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 rollback tax rate of the  
26 district as provided by Section 26.08, Tax Code.

27 SECTION 1B.02. Subchapter E, Chapter 42, Education Code, is

1 amended by adding Section 42.2518 to read as follows:

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

3 (a) For any school year, a school district is entitled to  
4 additional state aid to the extent that an increase in the  
5 guaranteed level of state and local funds per weighted student per  
6 cent of tax effort under Section 42.302 applicable to that school  
7 year does not compensate the district for a reduction in district ad  
8 valorem tax revenue caused by ad valorem tax rate reduction made  
9 pursuant to Subchapter O, Chapter 403, Government Code.

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

12 SECTION 1B.03. Sections 26.08(i) and (k), Tax Code, are  
13 amended to read as follows:

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

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

1 elements for Chapters 41 and 42, Education Code, for the current  
2 year had been in effect for the preceding year;

3 (2) the rate of \$0.06 per \$100 of taxable value; and

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

5 (k) For purposes of this section, for the [~~2003, 2004,~~]  
6 2005, 2006, 2007, or 2008 tax year, for a school district that is  
7 entitled to state funds under Section 4(a-1), (a-2), (a-3), (a-4),  
8 (a-5), or (a-6), Article 3.50-9, Insurance Code, the rollback tax  
9 rate of the district is the sum of:

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

24 (2) the tax rate that, applied to the current total  
25 value for the district, would impose taxes in the amount that, when  
26 added to state funds that would be distributed to the district under  
27 Chapter 42, Education Code, and Subchapter O, Chapter 403,

1 Government Code, for the school year beginning in the current tax  
2 year using that tax rate, permits the district to comply with  
3 Section 3, Article 3.50-9, Insurance Code;

4 (3) the rate of \$0.06 per \$100 of taxable value; and

5 (4) the district's current debt rate.

6 PART C. MANDATORY SALES PRICE DISCLOSURE

7 SECTION 1C.01. The heading to Subchapter C, Chapter 22, Tax  
8 Code, is amended to read as follows:

9 SUBCHAPTER C. [~~OTHER~~] REPORTS OF POLITICAL SUBDIVISION ACTIONS

10 SECTION 1C.02. Chapter 22, Tax Code, is amended by adding  
11 Subchapter D to read as follows:

12 SUBCHAPTER D. REPORT OF SALES PRICE

13 Sec. 22.61. SALES PRICE DISCLOSURE REPORT. (a) Except as  
14 provided by Subsection (b), not later than the 10th day after the  
15 date the deed is recorded in the county real property records, the  
16 purchaser or grantee of real property under a recorded deed  
17 conveying an interest in the real property shall file a sales price  
18 disclosure report with the chief appraiser of the appraisal  
19 district established for the county in which the property is  
20 located.

21 (b) This section does not apply to a sale or other transfer  
22 of real property if the sale or other transfer is made:

23 (1) pursuant to a court order;

24 (2) to or from a trustee in bankruptcy;

25 (3) pursuant to a power of sale under a deed of trust  
26 or other encumbrance secured by the property;

27 (4) by a deed in lieu of foreclosure;

- 1           (5) by one co-owner to one or more other co-owners;
- 2           (6) to a spouse or to a person or persons in the first
- 3 degree of lineal consanguinity of one or more of the sellers or
- 4 grantors;
- 5           (7) of an interest less than a full fee simple
- 6 interest; or
- 7           (8) to an entity having the power to acquire the
- 8 property by eminent domain.

9           (c) A sales price disclosure report must be signed by the

10 purchaser or grantee of the real property described in the report.

11           Sec. 22.62. REPORT FORM. (a) A sales price disclosure

12 report filed under this subchapter must read as follows, with the

13 appropriate information included in the blanks:

14                           SALES PRICE DISCLOSURE REPORT

15           Section 22.61, Tax Code, requires a purchaser or grantee

16 under a deed to prepare this report, sign it, and file it with the

17 chief appraiser of the appraisal district established for the

18 county in which the property is located not later than the third day

19 after the date the deed is recorded. This report is not required to

20 be filed if the sale or transfer is made: (1) under a court order;

21 (2) to or from a trustee in bankruptcy; (3) under a deed of trust or

22 other encumbrance secured by the property; (4) by a deed in lieu of

23 foreclosure; (5) between co-owners; or (6) between spouses or

24 between family members in the first degree of lineal consanguinity.

25 Knowingly making a false statement on this form is grounds for

26 prosecution of a Class A misdemeanor or a state jail felony under

27 Section 37.10, Penal Code. The chief appraiser may not use the

1 information in this form as the sole basis on which to increase the  
2 market value of the property.

3 Seller's or grantor's name: \_\_\_\_\_

4 Purchaser's or grantee's name: \_\_\_\_\_

5 Purchaser's or grantee's address: \_\_\_\_\_

6 Property description (as stated in deed): \_\_\_\_\_

7 Sales price or other consideration paid for the property:  
8 \_\_\_\_\_

9 The method used to finance the sales price or consideration  
10 was:  none (cash sale)  cash and third-party financing  cash  
11 and seller financing  exchange of other property  other,  
12 describe: \_\_\_\_\_

13 Describe any unusual or extraordinary terms of the sale or  
14 transfer that affected the amount of the sales price or  
15 consideration: \_\_\_\_\_

16 Describe any other facts or circumstances that affected the  
17 amount of the sales price or consideration: \_\_\_\_\_

18 To the best of my knowledge, this statement is true and  
19 accurate.

20 Purchaser's or grantee's signature: \_\_\_\_\_

21 Date: \_\_\_\_\_

22 Return this form to: \_\_\_\_\_.

23 (b) The appraisal district shall include at the end of the  
24 form instructions for the filing of the form by mail, hand delivery,  
25 or, if permitted by the chief appraiser, facsimile machine or other  
26 electronic means.

27 (c) Each appraisal district shall prepare and make



1 available sales price disclosure report forms that conform to the  
2 requirements of this section. Except for instructions for the  
3 filing of the form, no additional information may be required to be  
4 included in a sales price disclosure report form.

5 (d) Each county clerk's or combined county and district  
6 clerk's office shall provide at no charge a sales price disclosure  
7 report form to each grantee or agent of a grantee who appears in  
8 person and tenders a deed to real property for recording. The sales  
9 price disclosure form must be the form that is prepared and made  
10 available by the appraisal district established for the county in  
11 which the property is located.

12 (e) At the end of a calendar month in which a deed to real  
13 property has been recorded in the deed records of the county, the  
14 county clerk or the combined county and district clerk shall  
15 provide the appraisal district established for the county with a  
16 copy of the grantee index or a report or list of deeds to real  
17 property filed for recording in that month.

18 Sec. 22.63. FILING AND RECEIPT OF REPORT. (a) A purchaser  
19 or grantee may file a sales price disclosure report with a chief  
20 appraiser by mail, hand delivery, or facsimile machine or other  
21 electronic means.

22 (b) On receipt of the completed sales price disclosure  
23 report, the chief appraiser shall provide to the purchaser or  
24 grantee a written acknowledgement that the report has been  
25 received. If the acknowledgement of receipt is mailed, the chief  
26 appraiser shall mail it to the purchaser or grantee at the address  
27 provided in the report.

1        Sec. 22.64. PREPARATION OF REPORT; IMMUNITY FROM LIABILITY.

2        (a) A sales price disclosure report must be prepared by the  
3 purchaser or grantee of the property described in the report or by a  
4 title insurance company, lender, real estate agent, or attorney.

5        (b) A title insurance company, lender, real estate agent, or  
6 attorney who prepares a sales price disclosure report is not liable  
7 to any person for preparing the report or for any unintentional  
8 errors or omissions in the report.

9        (c) The applicable title insurance company, lender, real  
10 estate agent, or attorney shall provide a sales price disclosure  
11 report form and filing instructions to each purchaser or grantee of  
12 real property unless the insurance company, lender, real estate  
13 agent, or attorney prepares the disclosure report or has confirmed  
14 that another person described by Subsection (a), other than the  
15 purchaser or grantee, will prepare and file the disclosure report.

16        Sec. 22.65. ACTION TO COMPEL COMPLIANCE. The chief  
17 appraiser may bring an action for an injunction to compel a person  
18 to comply with the requirements of this subchapter. If the court  
19 finds that this subchapter applies and that the person has failed to  
20 fully comply with its requirements, the court:

21                (1) shall order the person to comply; and

22                (2) may assess costs and reasonable attorney's fees  
23 against the person.

24        SECTION 1C.03. Section 23.013, Tax Code, is amended to read  
25 as follows:

26        Sec. 23.013. MARKET DATA COMPARISON METHOD OF APPRAISAL.

27        (a) If the chief appraiser uses the market data comparison method

1 of appraisal to determine the market value of real property, the  
2 chief appraiser shall use comparable sales data and shall adjust  
3 the comparable sales to the subject property.

4 (b) The chief appraiser may use information contained in a  
5 sales price disclosure report filed under Subchapter D, Chapter 22,  
6 in determining the market value of real property but may not  
7 increase the market value of the real property described in the  
8 report solely on the basis of the information contained in the  
9 report.

10 PART D. CONFIDENTIALITY OF CERTAIN APPRAISAL INFORMATION

11 SECTION 1D.01. Chapter 25, Tax Code, is amended by adding  
12 Section 25.027 to read as follows:

13 Sec. 25.027. CONFIDENTIALITY OF PHOTOGRAPHS OF CERTAIN  
14 RESIDENTIAL PROPERTY. (a) Information in appraisal records is  
15 confidential and is available only for the official use of the  
16 appraisal district, this state, the comptroller, and taxing units  
17 and political subdivisions of this state if the information is a  
18 photograph or a floor plan of an improvement to real property that  
19 is designed primarily for use as a human residence, including a  
20 residence homestead.

21 (b) This section does not apply to an aerial photograph that  
22 depicts five or more separately owned buildings.

23 PART E. TEXAS ECONOMIC DEVELOPMENT ACT

24 SECTION 1E.01. Section 313.051, Tax Code, is amended by  
25 adding Subsection (a-1) and amending Subsection (b) to read as  
26 follows:

27 (a-1) Notwithstanding Subsection (a), if on January 1,

1 2002, this chapter applied to a school district in whose territory  
2 is located a federal nuclear facility, this subchapter continues to  
3 apply to the school district regardless of whether the school  
4 district ceased or ceases to be described by Subsection (a) after  
5 that date.

6 (b) The governing body of a school district to which this  
7 subchapter applies may enter into an agreement in the same manner as  
8 a school district to which Subchapter B applies may do so under  
9 Subchapter B, subject to Sections 313.052-313.054. Except as  
10 otherwise provided by this subchapter, the provisions of Subchapter  
11 B apply to a school district to which this subchapter applies. For  
12 purposes of this subchapter, a property owner is required to create  
13 only at least 10 new jobs on the owner's qualified property. At  
14 least 10 [~~80~~] percent of all the new jobs created must be qualifying  
15 jobs as defined by Section 313.021(3).

16 SECTION 1E.02. Section 313.051(b), Tax Code, as amended by  
17 this part, applies only to a limitation on the appraised value for  
18 school district maintenance and operations ad valorem tax purposes  
19 for which the owner files an application on or after the effective  
20 date of this Act. A limitation on the appraised value for school  
21 district maintenance and operations ad valorem tax purposes for  
22 which the owner files an application before the effective date of  
23 this Act is governed by the law as it existed immediately before the  
24 effective date of this Act, and that law is continued in effect for  
25 that purpose.

26 PART F. PROPERTY TAX RELIEF FOR CULTURALLY SIGNIFICANT SITES

27 SECTION 1F.01. Section 11.24, Tax Code, is amended to read

1 as follows:

2           Sec. 11.24. HISTORIC AND CULTURALLY SIGNIFICANT SITES. The  
3 governing body of a taxing unit by official action of the body  
4 adopted in the manner required by law for official actions may  
5 exempt from taxation part or all of the assessed value of a  
6 structure or archeological site and the land necessary for access  
7 to and use of the structure or archeological site, if the structure  
8 or archeological site is:

9           (1) designated as a Recorded Texas Historic Landmark  
10 under Chapter 442, Government Code, or a state archeological  
11 landmark under Chapter 191, Natural Resources Code, by the Texas  
12 Historical Commission; or

13           (2) designated as a historically, culturally, or  
14 archeologically significant site in need of tax relief to encourage  
15 its preservation pursuant to an ordinance or other law adopted by  
16 the governing body of the unit.

17           SECTION 1F.02. The change in law made by Section 1F.01 of  
18 this part applies only to a tax year that begins on or after the  
19 effective date of this Act.

20           SECTION 1F.03. This part takes effect immediately if this  
21 Act receives a vote of two-thirds of all the members elected to each  
22 house, as provided by Section 39, Article III, Texas Constitution.  
23 If this Act does not receive the vote necessary for immediate  
24 effect, this part takes effect on the 91st day after the last day of  
25 the legislative session.

1           PART G.   INFORMATION ON TAX BILLS RELATING TO  
2                           PROPERTY VALUES AND TAXES

3           SECTION 1G.01.   Section 31.01, Tax Code, is amended by  
4 amending Subsection (c) and adding Subsection (c-1) to read as  
5 follows:

6           (c)   The tax bill or a separate statement accompanying the  
7 tax bill shall:

8                   (1)   identify the property subject to the tax;

9                   (2)   state the appraised value, assessed value, and  
10 taxable value of the property;

11                   (3)   if the property is land appraised as provided by  
12 Subchapter C, D, E, or H, Chapter 23, state the market value and the  
13 taxable value for purposes of deferred or additional taxation as  
14 provided by Section 23.46, 23.55, 23.76, or 23.9807, as applicable;

15                   (4)   state the assessment ratio for the unit;

16                   (5)   state the type and amount of any partial exemption  
17 applicable to the property, indicating whether it applies to  
18 appraised or assessed value;

19                   (6)   state the total tax rate for the unit;

20                   (7)   state the amount of tax due, the due date, and the  
21 delinquency date;

22                   (8)   explain the payment option and discounts provided  
23 by Sections 31.03 and 31.05, if available to the unit's taxpayers,  
24 and state the date on which each of the discount periods provided by  
25 Section 31.05 concludes, if the discounts are available;

26                   (9)   state the rates of penalty and interest imposed  
27 for delinquent payment of the tax;

1           (10) include the name and telephone number of the  
2 assessor for the unit and, if different, of the collector for the  
3 unit; ~~and~~

4           (11) for real property, state for the current tax year  
5 and each of the preceding five tax years:

6                   (A) the appraised value and taxable value of the  
7 property;

8                   (B) the total tax rate for the unit;

9                   (C) the amount of taxes imposed on the property  
10 by the unit; and

11                   (D) the difference, expressed as a percent  
12 increase or decrease, as applicable, in the amount of taxes imposed  
13 on the property by the unit compared to the amount imposed for the  
14 preceding tax year;

15           (12) for real property, state the differences,  
16 expressed as a percent increase or decrease, as applicable, in the  
17 following for the current tax year as compared to the fifth tax year  
18 before that tax year:

19                   (A) the appraised value and taxable value of the  
20 property;

21                   (B) the total tax rate for the unit; and

22                   (C) the amount of taxes imposed on the property  
23 by the unit; and

24           (13) include any other information required by the  
25 comptroller.

26           (c-1) If for any of the preceding six tax years any  
27 information required by Subsection (c)(11) or (12) to be included

1 in a tax bill or separate statement is unavailable, the tax bill or  
2 statement must state that the information is not available for that  
3 year. This subsection expires December 31, 2011.

4 PART H. DEPOSIT OF CERTAIN TRAFFIC PENALTIES  
5 IN FOUNDATION SCHOOL PROGRAM

6 SECTION 1H.01. Subchapter D, Chapter 542, Transportation  
7 Code, is amended by adding Section 542.405 to read as follows:

8 Sec. 542.405. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC  
9 PENALTIES FOR FOUNDATION SCHOOL PROGRAM. (a) In this section,  
10 "photographic traffic signal enforcement system" means a system  
11 that:

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

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

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

23 (b) This section applies only to a civil or administrative  
24 penalty imposed on the owner of a motor vehicle by a local authority  
25 that operates or contracts for the operation of a photographic  
26 traffic signal enforcement system with respect to a highway under  
27 its jurisdiction or that operates or contracts for the operation of



1 any other type of electronic traffic law enforcement system  
2 consisting of a camera system that automatically produces one or  
3 more recorded photographs or digital images of the license plate on  
4 a motor vehicle or the operator of a motor vehicle.

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

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

12 SECTION 1H.02. Section 542.405, Transportation Code, as  
13 added by this part, applies to revenue received by a local authority  
14 unit of this state from the imposition of a civil or administrative  
15 penalty on or after the effective date of this article, regardless  
16 of whether the penalty was imposed before, on, or after the  
17 effective date of this article.

18 PART I. SPLIT PAYMENT OF RESIDENCE HOMESTEAD TAXES

19 SECTION 1I.01. Section 31.03, Tax Code, is amended by  
20 adding Subsections (d) and (e) to read as follows:

21 (d) The governing body of a taxing unit that collects its  
22 own taxes may provide, in the manner provided by law for official  
23 action by the body, that a person who pays one-half of the unit's  
24 taxes on the taxpayer's residential homestead as defined in Section  
25 11.13, before December 1 may pay the remaining one-half of the taxes  
26 without penalty or interest before July 1 of the following year.

27 (e) The split payment option for residential homesteads set

1 forth in Subsection (d) applies to taxes for all units for which the  
2 adopting taxing unit collects taxes.

3 PART J. AD VALOREM TAXATION--RAIL FACILITY

4 SECTION 1J.01. (a) Section 25.07(b), Tax Code, is amended  
5 to read as follows:

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

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

10 (2) the property is county public school fund  
11 agricultural land;

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

14 (A) is an airport passenger terminal building or  
15 a building used primarily for maintenance of aircraft or other  
16 aircraft services, for aircraft equipment storage, or for air  
17 cargo;

18 (B) is an airport fueling system facility;

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

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

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

26 (iii) that is established and operating  
27 pursuant to federal law; or

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

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

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

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

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

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

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

24 (6) the property is owned by the Texas National  
25 Research Laboratory Commission or by a corporation formed by the  
26 Texas National Research Laboratory Commission under Section  
27 465.008(g), Government Code, and is used or is useful in connection

1 with an eligible undertaking as defined by Section 465.021,  
2 Government Code; [~~or~~]

3 (7) the property is:

4 (A) owned by a municipality, a public port, or a  
5 navigation district created or operating under Section 59, Article  
6 XVI, Texas Constitution, or under a statute enacted under Section  
7 59, Article XVI, Texas Constitution; and

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

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

15 (b) This section applies only to the appraisal records for a  
16 tax year that begins on or after January 1, 2006.

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

18 PART K. EFFECTIVE DATES

19 SECTION 1K.01. (a) As soon as practicable after the  
20 effective date of this Act, but not later than September 1, 2005,  
21 each appraisal district shall prepare and make available sales  
22 price disclosure report forms as provided by Section 22.62, Tax  
23 Code, as added by this article.

24 (b) Subchapter D, Chapter 22, Tax Code, as added by this  
25 article, applies only to a sale of real property that occurs on or  
26 after September 1, 2005.

27 SECTION 1K.02. Section 25.027, Tax Code, as added by this

1 article, prohibits the disclosure of information in appraisal  
2 records made confidential under that section only on or after the  
3 effective date of that section.

4 SECTION 1K.03. (a) Except as provided by this section, this  
5 article takes effect January 1, 2006, and applies only to an ad  
6 valorem tax year that begins on or after that date.

7 (b) This section and Part D of this article take effect  
8 immediately if this Act receives a vote of two-thirds of all the  
9 members elected to each house, as provided by Section 39, Article  
10 III, Texas Constitution. If this Act does not receive the vote  
11 necessary for immediate effect, this section and Part D of this  
12 article take effect on the 91st day after the last day of the  
13 legislative session.

14 ARTICLE 2. REFORMED FRANCHISE TAX

15 SECTION 2.01. Title 2, Tax Code, is amended by adding  
16 Subtitle K to read as follows:

17 SUBTITLE K. REFORMED FRANCHISE TAX

18 CHAPTER 251. REFORMED FRANCHISE TAX

19 Sec. 251.001. DEFINITIONS. In this chapter:

20 (1) "Business" means an entity that employs an  
21 individual to perform services and includes a sole proprietorship  
22 with one or more employees.

23 (2) "Calendar quarter," "commission," "compensation  
24 fund," and "contribution" have the meanings assigned those terms by  
25 Section 201.011, Labor Code.

26 (3) "Employer" has the meaning assigned by Subchapter  
27 C, Chapter 201, Labor Code.

1           (4) "Taxable business" means a business to which this  
2 chapter applies.

3           (5) "Wages" means wages, as defined under Subchapter  
4 F, Chapter 201, Labor Code, paid by a taxable business and includes  
5 the amounts excluded by Sections 201.082(1) and (9), Labor Code.

6           Sec. 251.002. RULES. The comptroller may adopt rules to  
7 implement and administer this chapter.

8           Sec. 251.0025. RULES: AVOIDANCE OF DOUBLE TAXATION. (a)  
9 The comptroller shall adopt rules that shall work in conjunction  
10 with the rules adopted under Section 171.0013, so that when a  
11 taxable business entity is owned through an ownership chain,  
12 whether or not each entity in the chain is subject to taxation under  
13 this chapter, the direct and indirect owners of the taxable  
14 business entity are not subject to taxation with respect to the same  
15 wages.

16           (b) The avoidance of double taxation rules adopted under  
17 this section shall apply regardless of whether the direct or  
18 indirect owner itself elects to be subject to the tax under this  
19 chapter, is subject to the tax under Chapter 171, or is exempt from  
20 taxation under this chapter or Chapter 171.

21           Sec. 251.003. LOCATION OF SERVICE. (a) The tax imposed by  
22 this chapter applies to wages for a service performed in this state  
23 or in and outside this state if:

24           (1) the service is localized in this state; or

25           (2) the service is not localized in any state and some  
26 of the service is performed in this state and:

27           (A) the base of operations is in this state, or

1 there is no base of operations, but the service is directed or  
2 controlled from this state; or

3 (B) the base of operations or place from which  
4 the service is directed or controlled is not in a state in which a  
5 part of the service is performed, and the residence of the person  
6 who performs the service is in this state.

7 (b) The tax imposed by this chapter applies to wages for a  
8 service performed anywhere in the United States, including service  
9 performed entirely outside this state, if:

10 (1) the service is not localized in a state;

11 (2) the service is performed by an individual who is  
12 one of a class of employees who are required to travel outside this  
13 state in performance of their duties; and

14 (3) the individual's base of operations is in this  
15 state or, if there is no base of operations, the individual's  
16 service is directed or controlled from this state.

17 (c) The tax imposed by this chapter applies to wages for a  
18 service performed outside the United States by a citizen of the  
19 United States.

20 (d) For the purposes of this section, service is localized  
21 in a state if the service is performed entirely within the state or  
22 the service performed outside the state is incidental to the  
23 service performed in the state. In this section, a service that is  
24 "incidental" includes a service that is temporary or that consists  
25 of isolated transactions.

26 Sec. 251.004. TAXABLE BUSINESS. Subject to Section  
27 251.007, the tax imposed by this chapter applies only to a business

1 that is an employer that pays or is required to pay a contribution  
2 under Subtitle A, Title 4, Labor Code.

3 Sec. 251.005. ELECTION OF TAXES. (a) Except as otherwise  
4 provided by this section, a business may elect to pay the tax  
5 imposed under this chapter or the tax imposed under Chapter 171.

6 (b) Except as provided by Subsection (b-1), a business that  
7 is wholly or partially in the business of leasing employees,  
8 including but not limited to leasing between members of an  
9 affiliated group, shall pay the tax under this chapter, and for the  
10 purposes of this chapter and Chapter 171, the business is  
11 considered to have elected the tax under this chapter.

12 (b-1) Notwithstanding Subsection (b), a business described  
13 by Subsection (b) that was in existence and paid the tax imposed  
14 under Chapter 171 for the business's most recent report year ending  
15 on or before January 1, 2005, may elect to pay either the tax  
16 imposed under this chapter or the tax imposed under Chapter 171.

17 (c) A business that does not have any employees in this  
18 state may not elect to pay the tax under this chapter.

19 (d) The comptroller shall promulgate a form for a business  
20 to use to make an election under this section.

21 (e) The election cannot be changed until after the third  
22 anniversary of the date the election is made.

23 Sec. 251.006. TAX IMPOSED. If a business elects to pay the  
24 tax under this chapter, the tax is imposed on the business for each  
25 employee for whom the business pays or is required to pay a  
26 contribution for a calendar quarter without regard to whether:

27 (1) the employee is full-time or part-time; or



1           (2) the wages paid were for the entire calendar  
2 quarter or a portion of the calendar quarter.

3           Sec. 251.007. TAX IMPOSED ON EMPLOYERS. (a)  
4 Notwithstanding Section 251.006, if a business elects to pay the  
5 tax under this chapter, the tax is imposed on the business for each  
6 individual who performs a service for the business for  
7 compensation, without regard to whether the business pays a  
8 contribution for a calendar quarter for the individual, if the  
9 individual is an employee of the business as provided by this  
10 section for all or a part of the calendar quarter.

11           (b) An individual is an employee of a business for purposes  
12 of this section if the business has a right to direct and control  
13 how the individual performs the service for which the individual is  
14 provided compensation, indicated by factors that include, but are  
15 not limited to:

16           (1) whether the individual is subject to the  
17 business's instructions about when, where, and how to work;

18           (2) whether the individual is trained to perform  
19 services in a particular manner;

20           (3) the extent to which the individual has  
21 unreimbursed business expenses;

22           (4) the extent to which the individual has a  
23 significant investment in the facilities the individual uses in  
24 performing the services;

25           (5) the extent to which the individual makes the  
26 individual's services available to the relevant market, by  
27 advertising, maintaining a visible business location, or

1 otherwise;

2 (6) the extent to which the individual can realize a  
3 profit or loss;

4 (7) the manner in which the individual is paid by the  
5 business;

6 (8) whether a written contract between the individual  
7 and the business provides that the individual is or is not an  
8 employee;

9 (9) whether the business provides the individual with  
10 employee-type benefits, including insurance, a pension plan,  
11 vacation pay, or sick pay;

12 (10) whether the relationship between the individual  
13 and the business is considered permanent or for a limited period;  
14 and

15 (11) the extent to which services performed by the  
16 individual are a key aspect of the affairs of the business.

17 Sec. 251.008. BASE AMOUNT OF WAGES. The base amount of  
18 wages for each employee is the total amount of wages paid to the  
19 employee during the calendar quarter.

20 Sec. 251.009. RATE. (a) Except as provided by Subsection  
21 (b), the rate of the tax for a business that elects to pay the tax  
22 under this chapter is equal to 1.15 percent of the base amount of  
23 wages for each employee as determined under Section 251.008.

24 (b) For a corporation that elects to pay the tax under this  
25 chapter and that had no employees in this state at any time between  
26 January 1, 2004, and January 1, 2005, but currently has employees in  
27 this state, the rate of the tax is equal to the greater of:

1           (1) 1.15 percent of the base amount of wages for each  
2 employee as determined under Section 251.008; or

3           (2) the amount of the franchise tax paid by the  
4 corporation in the previous report year.

5           (c) Subsection (b) expires December 31, 2008.

6           Sec. 251.010. EXEMPTION FOR GOVERNMENTAL ENTITIES. The tax  
7 imposed under this chapter does not apply to a governmental entity.

8           Sec. 251.011. EXEMPTION FOR SMALL BUSINESS. A business  
9 whose gross receipts in this state as determined under Section  
10 171.1032 for the applicable calendar year are less than or equal to  
11 \$150,000 is exempt from the taxes imposed under this chapter for  
12 that year.

13           Sec. 251.012. EXEMPTION FOR CERTAIN CHARITIES. (a) The tax  
14 imposed under this chapter does not apply to an organization exempt  
15 from federal income tax under Section 501(a) of the Internal  
16 Revenue Code of 1986 by being listed as an exempt organization in  
17 Section 501(c)(3) of that code.

18           (b) An organization exempt from federal income tax under  
19 Section 501(a) of the Internal Revenue Code of 1986 by being listed  
20 as an exempt organization under a provision of Section 501(c) other  
21 than Section 501(c)(3) may elect to pay the tax under this chapter  
22 or to pay the tax under Chapter 171. If the organization elects to  
23 pay the tax under Chapter 171, and Chapter 171 provides that the  
24 organization is exempt from taxation under that chapter, the  
25 organization may claim or continue to claim that exemption in the  
26 manner provided by Chapter 171.

27           Sec. 251.013. TAX NOT DEDUCTED FROM WAGES. A taxable

1 business may not deduct the tax imposed under this chapter from any  
2 wages of the taxable business's employees.

3 Sec. 251.014. CRIMINAL PENALTY. (a) A person who violates  
4 Section 251.013 commits an offense.

5 (b) An offense under this section is a Class A misdemeanor.

6 Sec. 251.015. CIVIL PENALTY. (a) A person who violates  
7 Section 251.013 is liable to the state for a civil penalty not to  
8 exceed \$500 for each violation. Each day a violation continues may  
9 be considered a separate violation for purposes of a civil penalty  
10 assessment.

11 (b) A person who does not pay the tax imposed by this chapter  
12 on wages paid to an individual who performs services for the person  
13 because the person determines that the individual is not an  
14 employee for purposes of this chapter is liable to the state for a  
15 civil penalty equal to twice the amount of tax owed under this  
16 chapter in relation to the individual unless the person can  
17 demonstrate that there was a reasonable basis for the  
18 determination.

19 (c) On request of the comptroller, the attorney general  
20 shall file suit to collect a penalty under this section.

21 Sec. 251.016. REPORTS AND PAYMENT. (a) Each taxable  
22 business shall, on or before the last day of the month immediately  
23 following each calendar quarter, file a report on wages in a form  
24 prescribed by the commission.

25 (b) The tax imposed under this chapter is due at the same  
26 time, collected in the same manner, and subject to the same  
27 penalties and interest as contributions assessed under Subtitle A,

1 Title 4, Labor Code.

2 (c) To the extent practicable, the commission shall combine  
3 the reporting and payment of contributions and the reporting and  
4 payment of the tax imposed under this chapter.

5 Sec. 251.017. ENFORCEMENT. The comptroller may enforce the  
6 collection of the tax under this chapter as provided by Subtitles A  
7 and B.

8 Sec. 251.018. DISPOSITION OF PROCEEDS. All proceeds from  
9 the collection of the taxes imposed under this chapter shall be  
10 deposited to the credit of the general revenue fund.

11 Sec. 251.019. CREDITS AGAINST INSURANCE PREMIUM TAXES. (a)  
12 Subject to Subsection (b), a business that pays insurance premium  
13 taxes under Subtitle B, Title 3, Insurance Code, and elects to pay  
14 the tax under this chapter is entitled to a credit of the entire  
15 amount of tax paid under this chapter against any premium tax that  
16 the business may owe.

17 (b) The business may not receive a credit in an amount that  
18 exceeds the amount of the tax or assessment due after applying any  
19 other credits. The business may carry any unused credit forward for  
20 not more than five years but it may not, at any time, receive a  
21 credit in an amount that exceeds the amount of the tax or assessment  
22 due, after applying any other credits.

23 (c) The business may not convey, assign, or transfer the  
24 credit allowed under this section to another entity unless all of  
25 the assets of the business are conveyed, assigned, or transferred  
26 in the same transaction.

27 (d) The comptroller shall adopt rules to implement this

1 section.

2 Sec. 251.0195. PROVISIONS APPLICABLE TO CERTAIN  
3 BUSINESSES. (a) Notwithstanding Section 251.019, a business that  
4 may owe insurance premium taxes under Subtitle B, Title 3,  
5 Insurance Code, is not entitled to a credit of the taxes paid under  
6 this chapter against any tax imposed on those gross receipts.

7 (b) A tax paid under this chapter by a taxable business that  
8 may owe insurance premium taxes under Subtitle B, Title 3,  
9 Insurance Code, is considered a disallowed expense for purposes of  
10 Article 5.13-2, Insurance Code, and may not be included by the  
11 taxable business in determining insurance rates or premiums.

12 Sec. 251.020. CREDITS FOR CERTAIN PROVIDERS OF HEALTH CARE  
13 SERVICES. (a) Except as provided by Subsection (f), a taxable  
14 business that participates in either the Medicaid program or the  
15 Medicare program as a provider of health care services and that  
16 receives not less than 15 percent of the business's revenue during a  
17 calendar quarter from payments received under the Medicaid or  
18 Medicare program, or both, is entitled to a credit in the amount  
19 provided by Subsection (b) against the taxes imposed under this  
20 chapter for that calendar quarter.

21 (b) The amount of the credit is equal to 40 percent of the  
22 total amount of payments the taxable business received from  
23 payments under the Medicaid and Medicare programs during that  
24 calendar quarter that can be verified, if necessary.

25 (c) A taxable business may not receive a credit in an amount  
26 that exceeds the amount of the tax or assessment due after applying  
27 any other credits.

1       (d) A taxable business may not convey, assign, or transfer  
2 the credit allowed under this section to another entity unless all  
3 of the assets of the business are conveyed, assigned, or  
4 transferred in the same transaction.

5       (e) The comptroller shall adopt rules to implement this  
6 section. The Health and Human Services Commission shall assist the  
7 comptroller in the formulation and adoption of the rules.

8       (f) A taxable business that participates in the Medicaid or  
9 Medicare program as a provider of durable medical equipment or as a  
10 vendor of pharmaceuticals may not count payments for those services  
11 for purposes of qualifying for the exemption under this section.

12       Sec. 251.0205. APPLICATION OF HEALTH CARE CREDIT TO OTHER  
13 PROVIDERS. (a) In this section, "physician" means:

14               (1) an individual licensed to practice medicine in  
15 this state;

16               (2) a professional association organized under the  
17 Texas Professional Association Act (Article 1528f, Vernon's Texas  
18 Civil Statutes);

19               (3) an approved nonprofit health corporation  
20 certified under Chapter 162, Occupations Code; or

21               (4) another person wholly owned by physicians and  
22 engaged in the practice of medicine as permitted by Subtitle B,  
23 Title 3, Occupations Code.

24       (b) The credit provided by Section 251.020 also applies to a  
25 physician that participates in the Medicaid program, the Medicare  
26 program, or the Children's Health Insurance Program (CHIP) as a  
27 provider of health care services and that receives not less than 15

1 percent of the provider's revenues during a calendar quarter from  
2 payments received under the Medicaid program, Medicare program, or  
3 Children's Health Insurance Program (CHIP), or any combination of  
4 the three.

5 SECTION 2.02. Section 171.001(a), Tax Code, is amended to  
6 read as follows:

7 (a) Subject to Section 171.0012, a [~~A~~] franchise tax is  
8 imposed on:

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

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

13 SECTION 2.03. Section 171.001(b)(3), Tax Code, is amended  
14 to read as follows:

15 (3) "Corporation":

16 (A) includes:

17 (i) [~~A~~] a limited liability company, as  
18 defined under the Texas Limited Liability Company Act;

19 (ii) [~~B~~] a savings and loan association;

20 [~~and~~]

21 (iii) [~~C~~] a banking corporation;

22 (iv) a sole proprietorship with one or more  
23 employees;

24 (v) a partnership owned solely by natural  
25 persons with one or more employees;

26 (vi) a form of business, with or without  
27 employees, that is operating, organized, or registered under the



1 laws of this state in a manner that provides liability limitations  
2 for a person who holds an ownership interest in the business; and

3 (vii) a partnership or joint venture owned  
4 at least in part by another form of business and with one or more  
5 employees; and

6 (B) does not include:

7 (i) a trust, estate, or escrow;

8 (ii) a real estate investment trust and its  
9 subsidiary entities;

10 (iii) a master limited partnership;

11 (iv) a family limited partnership;

12 (v) a regulated investment company;

13 (vi) a real estate mortgage investment  
14 conduit;

15 (vii) an investment partnership;

16 (viii) a sole proprietorship without any  
17 employees;

18 (ix) a partnership without any employees;

19 or

20 (x) an entity, arrangement, or investment  
21 vehicle without any employees that is used solely for a finance,  
22 securitization, or monetization purpose, or any partner,  
23 beneficiary, or member of such entity.

24 SECTION 2.04. Section 171.001, Tax Code, is amended by  
25 adding Subsection (d) to read as follows:

26 (d) For purposes of Subsection (a), a corporation does  
27 business in this state if the corporation is a foreign corporation

1 and is:

2 (1) holding a partnership interest, including an  
3 interest as an assignee, as a general partner in a general  
4 partnership that is doing business in this state;

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

8 (3) holding a partnership interest, including an  
9 interest as an assignee, as a limited partner in a limited  
10 partnership that is doing business in this state.

11 SECTION 2.05. Subchapter A, Chapter 171, Tax Code, is  
12 amended by adding Sections 171.0012 and 171.0013 to read as  
13 follows:

14 Sec. 171.0012. ELECTION OF TAXES. (a) Except as provided  
15 by Subsection (b), a corporation may elect to pay the tax imposed  
16 under this chapter or the tax imposed under Chapter 251.

17 (b) A business that is in the business of leasing employees  
18 may not elect to pay the tax imposed under this chapter and shall  
19 pay the tax imposed under Chapter 251.

20 (c) The comptroller shall promulgate a form for a  
21 corporation to use to make an election under this section. If the  
22 corporation is an entity described in Sections  
23 171.001(b)(3)(A)(iv)-(vii) and any interests in the corporation  
24 are owned by natural persons, the election form must be signed by  
25 each of those natural persons and by an authorized officer of the  
26 business. The election form shall provide that the business and  
27 those natural persons agree that the taxable earned surplus of the

1 business shall be calculated pursuant to this chapter without  
2 regard to any exclusion, exemption, or prohibition in Section 24,  
3 Article VIII, Texas Constitution.

4 (d) The election cannot be changed until after the third  
5 anniversary of the date the election is made.

6 Sec. 171.0013. RULES: AVOIDANCE OF DOUBLE TAXATION. (a)  
7 The comptroller shall adopt rules that shall work in conjunction  
8 with the rules adopted under Section 251.0025, so that when a  
9 corporation is owned through an ownership chain, whether or not  
10 each entity in the chain is subject to taxation under this chapter,  
11 the direct and indirect owners of the corporation are not subject to  
12 taxation with respect to the same taxable earned surplus.

13 (b) The avoidance of double taxation rules adopted under  
14 this section shall apply regardless of whether the direct or  
15 indirect owner itself elects to be subject to the tax under Chapter  
16 251, is subject to the tax under this chapter, or is exempt from  
17 taxation under this chapter or Chapter 251.

18 SECTION 2.06. Section 171.110, Tax Code, is amended by  
19 adding Subsections (m)-(o) to read as follows:

20 (m) Notwithstanding any other provision of this chapter, in  
21 determining net taxable earned surplus, payments to related  
22 entities for the following purposes are disallowed to the extent  
23 they exceed arm's-length rates and terms:

- 24 (1) intangible expenses;  
25 (2) interest charges; or  
26 (3) management fees.

27 (n) For the purpose of Subsection (m), the comptroller has

1 the same power as the Internal Revenue Service under Section 482,  
2 Internal Revenue Code of 1986, as effective January 1, 2006.

3 (o) For purposes of Subsections (m) and (n), "arm's-length  
4 rates and terms" means that:

5 (1) two or more related members enter into a written  
6 agreement for the transaction;

7 (2) such agreement is of a duration and contains rates  
8 and payment terms substantially similar to those that the related  
9 member would be able to obtain from an unrelated entity; and

10 (3) the borrower or payor substantially adheres to the  
11 payment terms of the agreement governing the transaction or any  
12 amendments to it, provided that there is a presumption that an  
13 interest rate does not exceed arm's-length rates and terms if the  
14 rate conforms to Sections 482 and 1274, Internal Revenue Code of  
15 1986, as effective January 1, 2006.

16 SECTION 2.07. Chapter 111, Tax Code, is amended by adding  
17 Subchapter H to read as follows:

18 SUBCHAPTER H. FORFEITURE OF RIGHT TO

19 TRANSACT BUSINESS IN THIS STATE

20 Sec. 111.401. APPLICABILITY OF SUBCHAPTER. This subchapter  
21 applies to a taxpayer that is a corporation, banking corporation,  
22 limited liability company, state or federal savings and loan  
23 association, and any other kind of business association, company,  
24 joint venture, partnership, or other combination of entities or  
25 persons engaged in business that qualifies under the law of this  
26 state for liability limitations for its owners or shareholders that  
27 are substantially equivalent to those for a corporation.

Sec. 111.402. APPLICATION TO NONCORPORATE ENTITIES. (a)

The comptroller may, for the same reasons and using the same procedures the comptroller uses in relation to the forfeiture of the corporate privileges of a corporation, forfeit the right to transact business in this state of another entity to which this subchapter applies and that is subject to a tax imposed by this title.

(b) The comptroller may, for the same reasons and using the same procedures the comptroller uses in relation to the forfeiture of a corporation's charter or certificate of authority, forfeit the certificate or registration of another entity to which this subchapter applies and that is subject to a tax imposed by this title.

(c) The provisions of this subchapter, including Section 111.407, that apply to the forfeiture of a corporation's corporate privileges and charter or certificate of authority apply to the forfeiture of another entity's right to transact business in this state and certificate or registration.

Sec. 111.403. FORFEITURE OF CORPORATE PRIVILEGES. The comptroller shall forfeit the corporate privileges of a corporation on which a tax is imposed under this title if the corporation:

(1) does not file, in accordance with this title and on or before the 45th day after the date notice of forfeiture is mailed, a report required by this title; or

(2) does not pay, on or before the 45th day after the date notice of forfeiture is mailed, a tax imposed under this title or does not pay, on or before the 45th day, a penalty imposed

1 relating to that tax.

2 Sec. 111.404. EFFECTS OF FORFEITURE. If the corporate  
3 privileges of a corporation are forfeited under this subchapter:

4 (1) the corporation shall be denied the right to sue or  
5 defend in a court of this state; and

6 (2) each director or officer of the corporation is  
7 liable for a debt of the corporation as provided by Section 111.407.

8 Sec. 111.405. SUIT ON CAUSE OF ACTION ARISING BEFORE  
9 FORFEITURE. In a suit against a corporation on a cause of action  
10 arising before the forfeiture of the corporate privileges of the  
11 corporation, affirmative relief may not be granted to the  
12 corporation unless its corporate privileges are revived under this  
13 subchapter.

14 Sec. 111.406. EXCEPTION TO FORFEITURE. The forfeiture of  
15 the corporate privileges of a corporation does not apply to the  
16 privilege to defend in a suit to forfeit the corporation's charter  
17 or certificate of authority.

18 Sec. 111.407. LIABILITY OF DIRECTOR AND OFFICERS. (a) If  
19 the corporate privileges of a corporation are forfeited for the  
20 failure to file a report or pay a tax or penalty imposed under this  
21 title, each director or officer of the corporation is liable for  
22 each debt of the corporation that is created or incurred in this  
23 state after the date on which the report, tax, or penalty is due and  
24 before the corporate privileges are revived. The liability  
25 includes liability for any tax or penalty imposed under this title  
26 on the corporation that becomes due and payable after the date of  
27 the forfeiture.

1       (b) The liability of a director or officer is in the same  
2 manner and to the same extent as if the director or officer were a  
3 partner and the corporation were a partnership.

4       (c) A director or officer is not liable for a debt of the  
5 corporation if the director or officer shows that the debt was  
6 created or incurred:

7             (1) over the director's objection; or

8             (2) without the director's knowledge and that the  
9 exercise of reasonable diligence to become acquainted with the  
10 affairs of the corporation would not have revealed the intention to  
11 create the debt.

12       (d) If a corporation's charter or certificate of authority  
13 and its corporate privileges are forfeited and revived under this  
14 subchapter, the liability under this section of a director or  
15 officer of the corporation is not affected by the revival of the  
16 charter or certificate and the corporate privileges.

17       Sec. 111.408. NOTICE OF FORFEITURE. (a) If the comptroller  
18 proposes to forfeit the corporate privileges of a corporation, the  
19 comptroller shall notify the corporation that the forfeiture will  
20 occur without a judicial proceeding unless the corporation:

21             (1) files, within the time established by Section  
22 111.403, the report to which that section refers; or

23             (2) pays, within the time established by Section  
24 111.403, the delinquent tax and penalty to which that section  
25 refers.

26       (b) The notice shall be written or printed and shall be  
27 verified by the seal of the comptroller's office.

1       (c) The comptroller shall mail the notice to the corporation  
2 not later than the 45th day before the forfeiture of corporate  
3 privileges. The notice shall be addressed to the corporation and  
4 mailed to the address named in the corporation's charter as its  
5 principal place of business or to another known place of business of  
6 the corporation.

7       (d) The comptroller shall keep at the comptroller's office a  
8 record of the date on which the notice is mailed. For the purposes  
9 of this subchapter, the notice and the record of the mailing date  
10 constitute legal and sufficient notice of the forfeiture.

11       Sec. 111.409. JUDICIAL PROCEEDING NOT REQUIRED FOR  
12 FORFEITURE. The forfeiture of the corporate privileges of a  
13 corporation is effected by the comptroller without a judicial  
14 proceeding.

15       Sec. 111.410. REVIVAL OF CORPORATE PRIVILEGES. The  
16 comptroller shall revive the corporate privileges of a corporation  
17 if the corporation, before the forfeiture of its charter or  
18 certificate of authority, pays any tax, penalty, or interest due  
19 under this title.

20       Sec. 111.411. BANKING CORPORATIONS AND SAVINGS AND LOAN  
21 ASSOCIATIONS. (a) Except as provided by Subsection (b), this  
22 subchapter does not apply to a banking corporation that is  
23 organized under the laws of this state or under federal law and has  
24 its main office in this state.

25       (b) The banking commissioner shall appoint a conservator  
26 under Subtitle A, Title 3, Finance Code, to pay the tax of a banking  
27 corporation that is organized under the laws of this state and that



1 the commissioner certifies as being delinquent in the payment of  
2 the corporation's tax.

3 Sec. 111.412. SAVINGS AND LOAN ASSOCIATION. (a) Except as  
4 provided by Subsection (b), this subchapter does not apply to a  
5 savings and loan association that is organized under the laws of  
6 this state or under federal law and has its main office in this  
7 state.

8 (b) The savings and loan commissioner shall appoint a  
9 conservator under Subtitle B or C, Title 3, Finance Code, to pay the  
10 tax of a savings and loan association that is organized under the  
11 laws of this state and that the commissioner certifies as being  
12 delinquent in the payment of the association's tax.

13 Sec. 111.413. GROUNDS FOR FORFEITURE OF CHARTER OR  
14 CERTIFICATE OF AUTHORITY. It is a ground for the forfeiture of a  
15 corporation's charter or certificate of authority if the corporate  
16 privileges of the corporation are forfeited under this subchapter  
17 and the corporation does not pay, on or before the 120th day after  
18 the date the corporate privileges are forfeited, the amount  
19 necessary for the corporation to revive under this subchapter its  
20 corporate privileges.

21 Sec. 111.414. CERTIFICATION BY COMPTROLLER. After the  
22 120th day after the date the corporate privileges of a corporation  
23 are forfeited under this subchapter, the comptroller shall certify  
24 the name of the corporation to the attorney general and the  
25 secretary of state.

26 Sec. 111.415. SUIT FOR JUDICIAL FORFEITURE. On receipt of  
27 the comptroller's certification, the attorney general shall bring

1 suit to forfeit the charter or certificate of authority of a  
2 corporation if a ground exists for the forfeiture of the charter or  
3 certificate.

4 Sec. 111.416. RECORD OF JUDICIAL FORFEITURE. (a) If a  
5 district court forfeits a corporation's charter or certificate of  
6 authority under this subchapter, the clerk of the court shall  
7 promptly mail to the secretary of state a certified copy of the  
8 court's judgment. On receipt of the copy of the judgment, the  
9 secretary of state shall inscribe on the corporation's record at  
10 the secretary's office the words "Judgment of Forfeiture" and the  
11 date of the judgment.

12 (b) If a court forfeits a corporation's charter or  
13 certificate of authority under this subchapter, the court may  
14 appoint a receiver for the corporation and may administer the  
15 receivership under the laws relating to receiverships.

16 (c) If an appeal of the judgment is perfected, the clerk of  
17 the court shall promptly certify to the secretary of state that the  
18 appeal has been perfected. On receipt of the certification, the  
19 secretary of state shall inscribe on the corporation's record at  
20 the secretary's office the word "Appealed" and the date on which the  
21 appeal was perfected.

22 (d) If final disposition of an appeal is made, the clerk of  
23 the court making the disposition shall promptly certify to the  
24 secretary of state the type of disposition made and the date of the  
25 disposition. On receipt of the certification, the secretary of  
26 state shall inscribe on the corporation's record at the secretary's  
27 office a brief note of the type of final disposition made and the

1 date of the disposition.

2 Sec. 111.417. REVIVAL OF CHARTER OR CERTIFICATE OF  
3 AUTHORITY AFTER JUDICIAL FORFEITURE. A corporation whose charter  
4 or certificate of authority is judicially forfeited under this  
5 subchapter is entitled to have its charter or certificate revived  
6 and to have its corporate privileges revived if:

7 (1) the corporation files each report that is required  
8 by this title and that is delinquent;

9 (2) the corporation pays the tax, penalty, and  
10 interest that is imposed under this title and that is due at the  
11 time the suit under Section 111.418 to set aside forfeiture is  
12 filed; and

13 (3) the forfeiture of the corporation's charter or  
14 certificate is set aside in a suit under Section 111.418.

15 Sec. 111.418. SUIT TO SET ASIDE JUDICIAL FORFEITURE. If a  
16 corporation's charter or certificate of authority is judicially  
17 forfeited under this subchapter, a stockholder, director, or  
18 officer of the corporation at the time of the forfeiture of the  
19 charter or certificate or of the corporate privileges of the  
20 corporation may bring suit in a district court of Travis County in  
21 the name of the corporation to set aside the forfeiture of the  
22 charter or certificate. The suit must be in the nature of a bill of  
23 review. The secretary of state and attorney general must be made  
24 defendants in the suit.

25 Sec. 111.419. RECORD OF SUIT TO SET ASIDE JUDICIAL  
26 FORFEITURE. If a court under this subchapter sets aside the  
27 forfeiture of a corporation's charter or certificate of authority,

1 the secretary of state shall inscribe on the corporation's record  
2 in the secretary's office the words "Charter Revived by Court  
3 Order" or "Certificate Revived by Court Order," a citation to the  
4 suit, and the date of the court's judgment.

5 Sec. 111.420. CORPORATE PRIVILEGES AFTER JUDICIAL  
6 FORFEITURE IS SET ASIDE. If a court under this subchapter sets  
7 aside the forfeiture of a corporation's charter or certificate of  
8 authority, the comptroller shall revive the corporate privileges of  
9 the corporation and shall inscribe on the corporation's record in  
10 the comptroller's office a note of the revival.

11 Sec. 111.421. FORFEITURE BY SECRETARY OF STATE. The  
12 secretary of state may forfeit the charter or certificate of  
13 authority of a corporation if:

14 (1) the secretary receives the comptroller's  
15 certification under Section 111.414;

16 (2) the corporation does not revive its forfeited  
17 corporate privileges on or before the 120th day after the date that  
18 the corporate privileges were forfeited; and

19 (3) the corporation does not have assets from which a  
20 judgment for any tax, penalty, or court costs imposed by this title  
21 may be satisfied.

22 Sec. 111.422. JUDICIAL PROCEEDING NOT REQUIRED FOR  
23 FORFEITURE BY SECRETARY OF STATE. The forfeiture by the secretary  
24 of state of a corporation's charter or certificate of authority  
25 under this subchapter is effected without a judicial proceeding.

26 Sec. 111.423. RECORD OF FORFEITURE BY SECRETARY OF STATE.  
27 The secretary of state shall effect a forfeiture of a corporation's

1 charter or certificate of authority under this subchapter by  
2 inscribing on the corporation's record in the secretary's office  
3 the words "Charter Forfeited" or "Certificate Forfeited," the date  
4 on which this inscription is made, and a citation to this subchapter  
5 as authority for the forfeiture.

6 Sec. 111.424. REVIVAL OF CHARTER OR CERTIFICATE OF  
7 AUTHORITY AFTER FORFEITURE BY SECRETARY OF STATE. A corporation  
8 whose charter or certificate of authority is forfeited under this  
9 subchapter by the secretary of state is entitled to have its charter  
10 or certificate revived and to have its corporate privileges revived  
11 if:

12 (1) the corporation files each report that is required  
13 by this title and that is delinquent;

14 (2) the corporation pays the tax, penalty, and  
15 interest that is imposed by this title and that is due at the time  
16 the request under Section 111.425 to set aside forfeiture is made;  
17 and

18 (3) the forfeiture of the corporation's charter or  
19 certificate is set aside in a proceeding under Section 111.425.

20 Sec. 111.425. PROCEEDING TO SET ASIDE FORFEITURE BY  
21 SECRETARY OF STATE. (a) If a corporation's charter or certificate  
22 of authority is forfeited under this subchapter by the secretary of  
23 state, a stockholder, director, or officer of the corporation at  
24 the time of the forfeiture of the charter or certificate or of the  
25 corporate privileges of the corporation may request in the name of  
26 the corporation that the secretary of state set aside the  
27 forfeiture of the charter or certificate.

1       (b) If a request is made, the secretary of state shall  
2 determine if each delinquent report has been filed and any  
3 delinquent tax, penalty, or interest has been paid. If each report  
4 has been filed and the tax, penalty, or interest has been paid, the  
5 secretary shall set aside the forfeiture of the corporation's  
6 charter or certificate of authority.

7       Sec. 111.426. CORPORATE PRIVILEGES AFTER FORFEITURE BY  
8 SECRETARY OF STATE IS SET ASIDE. If the secretary of state sets  
9 aside under this subchapter the forfeiture of a corporation's  
10 charter or certificate of authority, the comptroller shall revive  
11 the corporate privileges of the corporation.

12       Sec. 111.427. USE OF CORPORATE NAME AFTER REVIVAL OF  
13 CHARTER OR CERTIFICATE OF AUTHORITY. If a corporation's charter or  
14 certificate of authority is forfeited under this subchapter by the  
15 secretary of state and if the corporation requests the secretary to  
16 set aside the forfeiture under Section 111.425, the corporation  
17 shall determine from the secretary whether the corporation's name  
18 is available for use. If the name is not available, the corporation  
19 shall amend its charter or certificate to change its name.

20       SECTION 2.08. Subchapter A, Chapter 171, Tax Code, is  
21 amended by adding Section 171.006 to read as follows:

22       Sec. 171.006. DISALLOWED EXPENSE FOR CERTAIN TAXABLE  
23 BUSINESSES. A tax paid under this chapter by a taxable business  
24 that may owe insurance premium taxes under Subtitle B, Title 3,  
25 Insurance Code, is considered a disallowed expense for purposes of  
26 Article 5.13-2, Insurance Code, and may not be included by the  
27 taxable business in determining insurance rates or premiums.

1 SECTION 2.09. Section 203.001, Insurance Code, as effective  
2 April 1, 2005, is amended by adding Subsection (d) to read as  
3 follows:

4 (d) This section does not prohibit the imposition of a tax  
5 imposed by Chapter 171 or 251, Tax Code, unless a specific exemption  
6 for insurers or health maintenance organizations is provided in  
7 those chapters.

8 SECTION 2.10. The following provisions of the Tax Code are  
9 repealed:

10 (1) Sections 171.052, 171.0525, and 171.0527; and

11 (2) Subchapter U, Chapter 171, as added by Chapters  
12 209 and 1274, Acts of the 78th Legislature, Regular Session, 2003.

13 SECTION 2.11. This article takes effect January 1, 2006.

14 ARTICLE 3. SALES AND USE TAXES

15 PART A. STATE SALES AND USE TAXES

16 SECTION 3A.01. Section 151.051(b), Tax Code, is amended to  
17 read as follows:

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

20 SECTION 3A.02. Subchapter A, Chapter 151, Tax Code, is  
21 amended by adding Section 151.0029 to read as follows:

22 Sec. 151.0029. BILLBOARD ADVERTISING SERVICE. (a)  
23 "Billboard advertising service" means a service allowing a  
24 purchaser to obtain outdoor advertising on a billboard, including  
25 the rental of the billboard space.

26 (b) In this section, "billboard" means a sign that:

27 (1) is a separate and fixed structure directly

1 attached to land or a building;

2 (2) is designed to have its content changed at  
3 frequent intervals in an economically feasible manner; and

4 (3) is designed to prominently display outdoor  
5 advertising that is visible to the occupants of motor vehicles  
6 driving by the sign.

7 SECTION 3A.03. Chapter 151, Tax Code, is amended by adding  
8 Section 151.0037 to read as follows:

9 Sec. 151.0037. ELECTIVE COSMETIC PROCEDURES. (a) In this  
10 section, "elective cosmetic procedures" means a cosmetic medical  
11 procedure performed on an individual that is directed at improving  
12 the procedure subject's appearance and that does not meaningfully  
13 promote the proper function of the body or prevent or treat illness  
14 or disease. "Cosmetic medical procedure" includes but is not  
15 limited to cosmetic surgery, hair transplants, cosmetic  
16 injections, cosmetic soft tissue fillers, dermabrasion and  
17 chemical peel, laser hair removal, laser skin resurfacing, laser  
18 treatment of leg veins, sclerotherapy, and cosmetic dentistry.  
19 "Cosmetic medical procedure" does not include reconstructive  
20 surgery or dentistry.

21 (b) This section does not apply to reconstructive surgery or  
22 dentistry that includes any surgery or dentistry performed on  
23 abnormal structures caused by or related to congenital defects,  
24 developmental abnormalities, injury, trauma, infection, tumors, or  
25 disease, including procedures to improve function or give a more  
26 normal appearance.

27 SECTION 3A.04. Subchapter A, Chapter 151, Tax Code, is



1 amended by adding Sections 151.0043 and 151.0044 to read as  
2 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 Sec. 151.0044. "MOTOR VEHICLE WASH OR DETAIL SERVICES."  
13 "Motor vehicle wash or detail services" includes:

14 (1) cleaning of the exterior or interior of a motor  
15 vehicle, including washing, waxing, polishing, buffing, detailing,  
16 shampooing, vacuuming, finishing, or steam cleaning; and

17 (2) providing a self-service, automated, or  
18 coin-operated facility that provides the services described in  
19 Subdivision (1).

20 SECTION 3A.05. Section 151.008, Tax Code, is amended by  
21 adding Subsection (c) to read as follows:

22 (c) An individual is not a "seller" or "retailer" for  
23 purposes of this section if:

24 (1) the individual is not engaged in the active  
25 conduct of a trade or business in this state for the purposes of  
26 affecting sales of taxable items; and

27 (2) the only sales made by the individual are sales of

1 taxable personal property described by Section 151.304(b)(5).

2 SECTION 3A.06. Section 151.0101(a), Tax Code, is amended to  
3 read as follows:

4 (a) "Taxable services" means:

5 (1) amusement services;

6 (2) cable television services;

7 (3) personal services;

8 (4) motor vehicle parking and storage services;

9 (5) the repair, remodeling, maintenance, and  
10 restoration of tangible personal property, including motor vehicle  
11 repair services, except:

12 (A) aircraft;

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

14 (i) a taxable boat or motor as defined by  
15 Section 160.001;

16 (ii) a sports fishing boat; or

17 (iii) any other vessel used for pleasure;

18 and

19 (C) [~~the repair, maintenance, and restoration of~~  
20 ~~a motor vehicle, and~~

21 [~~(D)~~] the repair, maintenance, creation, and  
22 restoration of a computer program, including its development and  
23 modification, not sold by the person performing the repair,  
24 maintenance, creation, or restoration service;

25 (6) telecommunications services;

26 (7) credit reporting services;

27 (8) debt collection services;

- 1           (9) insurance services;
- 2           (10) information services;
- 3           (11) real property services;
- 4           (12) data processing services;
- 5           (13) real property repair and remodeling;
- 6           (14) security services;
- 7           (15) telephone answering services;
- 8           (16) Internet access service; ~~and~~
- 9           (17) a sale by a transmission and distribution  
10 utility, as defined in Section 31.002, Utilities Code, of  
11 transmission or delivery of service directly to an electricity  
12 end-use customer whose consumption of electricity is subject to  
13 taxation under this chapter;
- 14           (18) billboard advertising services;
- 15           (19) motor vehicle wash or detail services; and
- 16           (20) elective cosmetic procedures.

17           SECTION 3A.07. Section 151.304(b), Tax Code, is amended to  
18 read as follows:

- 19           (b) In this section, "occasional sale" means:
  - 20           (1) one or two sales of taxable items, other than an  
21 amusement service, at retail during a 12-month period by a person  
22 who does not habitually engage, or hold himself out as engaging, in  
23 the business of selling taxable items at retail;
  - 24           (2) the sale of the entire operating assets of a  
25 business or of a separate division, branch, or identifiable segment  
26 of a business;
  - 27           (3) a transfer of all or substantially all the

1 property used by a person in the course of an activity if after the  
2 transfer the real or ultimate ownership of the property is  
3 substantially similar to that which existed before the transfer;  
4 [~~or~~]

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

9 (5) the sale of taxable personal property by an  
10 individual if:

11 (A) the property was originally bought by the  
12 individual or a member of the individual's family for the personal  
13 use of the individual or the individual's family;

14 (B) the individual does not hold a permit issued  
15 under this chapter and is not required to obtain a permit as a  
16 "seller" or "retailer" as those terms are defined by Section  
17 151.008;

18 (C) the individual does not employ an auctioneer,  
19 broker, or factor, other than an online auction, to sell the  
20 property; and

21 (D) the sale would otherwise not be considered an  
22 occasional sale under this section.

23 SECTION 3A.08. (a) Subchapter H, Chapter 151, Tax Code, is  
24 amended by adding Section 151.3131 to read as follows:

25 Sec. 151.3131. PARKING AND STORAGE SERVICES. (a) Motor  
26 vehicle parking and storage services are exempted under this  
27 section from the taxes imposed by this chapter only if the services

1 are:

2 (1) provided at a parking facility owned or operated  
3 by:

4 (A) a health facility;

5 (B) a nonprofit corporation that has donated land  
6 on which a health facility is located or land that a health facility  
7 uses to enhance the delivery of health services provided by the  
8 health facility; or

9 (C) an entity that contracts with the health  
10 facility or nonprofit corporation to provide the motor vehicle  
11 parking and storage services; and

12 (2) the motor vehicle parking and storage services are  
13 primarily used by patients of and visitors to the health facility  
14 and people who work at the health facility.

15 (b) A person who operates a facility that provides motor  
16 vehicle parking and storage services is not exempted under this  
17 section until the person submits to the comptroller, in the form  
18 required by the comptroller, notice that the person operates a  
19 facility eligible for exemption and the comptroller verifies that  
20 the facility is eligible. The comptroller shall maintain a list of  
21 facilities in this state that provide motor vehicle parking and  
22 storage services that are exempted from the taxes imposed under  
23 this chapter.

24 (c) A facility that provides motor vehicle parking and  
25 storage services exempted under this section shall prominently  
26 display at the entrance or payment area of the facility a notice  
27 that the parking and storage services provided are exempted from

1 the taxes imposed under this chapter.

2 (d) In this section, "health facility" means:

3 (1) a hospital, clinic, nursing home, extended care  
4 facility, outpatient facility, rehabilitation facility, medical or  
5 dental laboratory, medical or dental office building, x-ray or  
6 scanning facility, medical or dental research, diagnostic, or  
7 educational facility;

8 (2) an adult care facility, foster care facility,  
9 live-care facility, retirement home or village, home for the aging,  
10 or other facility that furnishes medical or nursing attention or  
11 services and food and shelter to an individual for more than one  
12 year;

13 (3) a multiunit housing facility for the staff,  
14 nurses, interns, and other employees of a health facility and for  
15 their relatives or for patients or relatives of patients admitted  
16 for treatment or care in a health facility; or

17 (4) any other structure or facility that is related to  
18 or essential to the operation of a health facility.

19 (b) A facility that provides motor vehicle parking and  
20 storage services exempted under Section 151.3131, Tax Code, as  
21 added by this section, that is in existence on the effective date of  
22 this part and that provides users with a separate statement of the  
23 amount charged for services and taxes may not:

24 (1) collect taxes imposed under Chapter 151, Tax Code,  
25 on or after the date on which the facility is exempted; or

26 (2) increase the amount charged for motor vehicle  
27 parking and storage services before the 180th day after the date on

1 which the facility is exempted.

2 (c) A facility that provides motor vehicle parking and  
3 storage services exempted under Section 151.3131, Tax Code, as  
4 added by this section, that is in existence on the effective date of  
5 this part, and that charges tax inclusive of rates for motor vehicle  
6 parking and storage services:

7 (1) shall reduce each rate charged to an amount not to  
8 exceed the amount obtained by multiplying each rate charged by the  
9 percentage obtained by dividing 1.00 by 1.00 plus the combined  
10 state, local, and transportation authority tax rate otherwise  
11 applicable to the facility on the date on which the facility is  
12 exempted; and

13 (2) may not increase those rates before the 180th day  
14 after the date on which the facility is exempted.

15 (d) A facility that provides motor vehicle parking and  
16 storage services exempted under Section 151.3131, Tax Code, as  
17 added by this section, and that is not in existence on the effective  
18 date of this Act, may not collect taxes imposed under Chapter 151,  
19 Tax Code, on or after the date on which the facility is exempted.

20 SECTION 3A.09. Subchapter H, Chapter 151, Tax Code, is  
21 amended by adding Section 151.3132 to read as follows:

22 Sec. 151.3132. DIAPERS. (a) Diapers are exempt from the  
23 taxes imposed by this chapter.

24 (b) The exemption under Subsection (a) applies to:

25 (1) the sale or use of disposable diapers;

26 (2) the sale or use of reusable cloth diapers; and

27 (3) diaper services that provide diaper rental and

1 laundry.

2 SECTION 3A.10. Section 151.315, Tax Code, is amended to  
3 read as follows:

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

7 SECTION 3A.11. Section 151.423, Tax Code, is amended to  
8 read as follows:

9 Sec. 151.423. REIMBURSEMENT TO TAXPAYER FOR TAX  
10 COLLECTIONS. A taxpayer may deduct and withhold .33 [~~one-half~~] of  
11 one percent of the amount of taxes due from the taxpayer on a timely  
12 return as reimbursement for the cost of collecting the taxes  
13 imposed by this chapter. The comptroller shall provide a card with  
14 each form distributed for the collection of taxes under this  
15 chapter. The card may be inserted by the taxpayer with the tax  
16 payment to provide for contribution of all or part of the  
17 reimbursement provided by this section for use as grants under  
18 Subchapter M, Chapter 56, Education Code. If the taxpayer chooses  
19 to contribute the reimbursement for the grants, the taxpayer shall  
20 include the amount of the reimbursement contribution with the tax  
21 payment. The comptroller shall transfer money contributed under  
22 this section for grants under Subchapter M, Chapter 56, Education  
23 Code, to the appropriate fund.

24 SECTION 3A.12. There are exempted from the taxes imposed by  
25 Chapter 151, Tax Code, the receipts from the sale, use, storage,  
26 rental, or other consumption in this state of services that became  
27 subject to the taxes because of the terms of this part and that are



1 the subject of a written contract or bid entered into on or before  
2 June 1, 2005. The exemption provided by this section expires July  
3 1, 2007.

4 SECTION 3A.13. This part takes effect July 1, 2005, if this  
5 Act receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for effect on that  
8 date, this part takes effect October 1, 2005.

9 PART B. MOTOR VEHICLE SALES AND USE TAX

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

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

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

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

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

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

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

25 (b) The tax rate is 10 percent of the gross rental receipts  
26 from the rental of a rented motor vehicle for 30 days or less and  
27 7.35 [~~6-1/4~~] percent of the gross rental receipts from the rental of

1 a rented motor vehicle for longer than 30 days.

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

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

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

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

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

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

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

24 (c) If the amount paid for a motor vehicle subject to the tax  
25 imposed by this chapter is less than the standard presumptive value  
26 of the vehicle, a county tax assessor-collector shall compute the  
27 tax on the standard presumptive value unless the purchaser

1 establishes the retail value of the vehicle as provided by  
2 Subsection (d).

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

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

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

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

13 (e) On request, a motor vehicle dealer operating under  
14 Subchapter B, Chapter 503, Transportation Code, shall provide a  
15 certified appraisal of the retail value of a motor vehicle. The  
16 comptroller by rule shall establish a fee that a dealer may charge  
17 for providing the certified appraisal. The county tax  
18 assessor-collector shall retain a copy of a certified appraisal  
19 received under this section for a period prescribed by the  
20 comptroller.

21 (f) The Texas Department of Transportation shall maintain  
22 information on the standard presumptive values of motor vehicles as  
23 part of the department's registration and title system. The  
24 department shall update the information at least quarterly each  
25 calendar year.

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

1 SECTION 3B.08. Not later than October 1, 2005, the Texas  
2 Department of Transportation shall:

3 (1) establish standard presumptive values for motor  
4 vehicles as provided by Section 152.0412, Tax Code, as added by this  
5 part;

6 (2) modify the department's registration and title  
7 system as needed to include that information and administer that  
8 section; and

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

11 SECTION 3B.09. (a) Except as provided by Subsection (b) of  
12 this section, this part takes effect July 1, 2005, if this Act  
13 receives a vote of two-thirds of all the members elected to each  
14 house, as provided by Section 39, Article III, Texas Constitution.  
15 If this Act does not receive the vote necessary for effect on that  
16 date, this part takes effect September 1, 2005.

17 (b) Section 152.0412, Tax Code, as added by this part, takes  
18 effect October 1, 2005.

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

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

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

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

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

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

6 PART D. TAX ON DISCRETIONARY FOOD AND DRINK ITEMS

7 SECTION 3D.01. Subtitle E, Title 2, Tax Code, is amended by  
8 adding Chapter 164 to read as follows:

9 CHAPTER 164. TAX ON DISCRETIONARY FOOD AND DRINK ITEMS

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 164.001. DEFINITIONS. In this chapter:

12 (1) "Snack food" means any item that is ordinarily  
13 sold for consumption without further preparation and that is not  
14 generally considered a major component of a well-balanced meal.  
15 The term includes:

16 (A) bakery items, including pastries, donuts,  
17 cakes, tortes, pies, tarts, bars, and cookies;

18 (B) candy;

19 (C) chips, including chips made from potatoes,  
20 flour, or corn;

21 (D) popcorn;

22 (E) pretzels; and

23 (F) roasted nuts.

24 (2) "Soft drink" means a nonalcoholic beverage that  
25 contains natural or artificial sweeteners. The term does not  
26 include a beverage that:

27 (A) contains:

- 1                   (i) milk or milk products;
- 2                   (ii) soy, rice, or similar milk
- 3 substitutes; or
- 4                   (iii) more than 50 percent of vegetable or
- 5 fruit juice by volume;

6                   (B) is intended by the manufacturer for

7 consumption by an infant and that is commonly referred to as "infant

8 formula"; or

9                   (C) is intended by the manufacturer for use for

10 weight reduction.

11                   [Sections 164.002-164.050 reserved for expansion]

12                   SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

13                   Sec. 164.051. TAX IMPOSED. (a) A tax is imposed on each

14 sale at retail of soft drinks or snack food.

15                   (b) The tax rate is three percent of the sales price of the

16 soft drinks or snack food.

17                   (c) The tax imposed under this chapter is in addition to any

18 other tax imposed by state law.

19                   Sec. 164.052. EXCEPTIONS TO APPLICATION OF TAX. The tax

20 imposed under this chapter does not apply to a food or a beverage

21 sold in or by a restaurant, lunch counter, cafeteria, hotel,

22 organization listed as a 501(c)(3) under the Internal Revenue Code

23 of 1986, or other business for consumption on the premises of the

24 business.

25                   Sec. 164.053. RULES. The comptroller by rule shall

26 prescribe the manner in which the tax imposed under this chapter is

27 administered, imposed, and collected.

1           [Sections 164.054-164.100 reserved for expansion]

2                           SUBCHAPTER C. ALLOCATION OF TAX

3           Sec. 164.101. ALLOCATION OF TAX. The revenue from the tax  
4 imposed under this chapter shall be deposited to the credit of the  
5 general revenue fund.

6           SECTION 3D.02. This part takes effect July 1, 2005, if this  
7 Act 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 September 1, 2005.

11                           ARTICLE 4. CIGARETTE AND TOBACCO PRODUCTS TAXES

12   PART A. RATES

13           SECTION 4A.01. Section 154.021(b), Tax Code, is amended to  
14 read as follows:

15           (b) The tax rates are:

16                           (1) \$71.10 [~~\$20.50~~] per thousand on cigarettes  
17 weighing three pounds or less per thousand; and

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

21           SECTION 4A.02. Section 155.021(b), Tax Code, is amended to  
22 read as follows:

23           (b) The tax rates are:

24                           (1) 3.44 cents [~~one cent~~] per 10 or fraction of 10 on  
25 cigars weighing three pounds or less per thousand;

26                           (2) \$25.80 [~~\$7.50~~] per thousand on cigars that:

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

1 and

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

5 (3) \$37.84 [~~\$11~~] per thousand on cigars that:

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

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

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

12 (4) \$51.60 [~~\$15~~] per thousand on cigars that:

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

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

17 (C) contain a substantial amount of nontobacco  
18 ingredients.

19 SECTION 4A.03. Section 155.0211(b), Tax Code, is amended to  
20 read as follows:

21 (b) The tax rate for tobacco products other than cigars is  
22 40 [~~35.213~~] percent of the manufacturer's list price, exclusive of  
23 any trade discount, special discount, or deal.

24 SECTION 4A.04. This part takes effect July 1, 2005, if this  
25 Act receives a vote of two-thirds of all the members elected to each  
26 house, as provided by Section 39, Article III, Texas Constitution.  
27 If this Act does not receive the vote necessary for effect on that



1 date, this part takes effect September 1, 2005.

2 ARTICLE 5. TELECOMMUNICATIONS INFRASTRUCTURE FUND

3 SECTION 5.01. Section 57.048, Utilities Code, is amended by  
4 adding Subsections (f)-(i) to read as follows:

5 (f) Notwithstanding any other provision of this title, a  
6 certificated telecommunications utility may recover from the  
7 utility's customers an assessment imposed on the utility under this  
8 subchapter after the total amount deposited to the credit of the  
9 fund, excluding interest and loan repayments, is equal to \$1.5  
10 billion, as determined by the comptroller. A certificated  
11 telecommunications utility may recover only the amount of the  
12 assessment imposed after the total amount deposited to the credit  
13 of the fund, excluding interest and loan repayments, is equal to  
14 \$1.5 billion, as determined by the comptroller. The utility may  
15 recover the assessment through a monthly billing process.

16 (g) The comptroller shall publish in the Texas Register the  
17 date on which the total amount deposited to the credit of the fund,  
18 excluding interest and loan repayments, is equal to \$1.5 billion.

19 (h) Not later than February 15 of each year, a certificated  
20 telecommunications utility that wants to recover the assessment  
21 under Subsection (f) shall file with the commission an affidavit or  
22 affirmation stating the amount that the utility paid to the  
23 comptroller under this section during the previous calendar year  
24 and the amount the utility recovered from its customers in  
25 cumulative payments during that year.

26 (i) The commission shall maintain the confidentiality of  
27 information the commission receives under this section that is

1 claimed to be confidential for competitive purposes. The  
2 confidential information is exempt from disclosure under Chapter  
3 552, Government Code.

4 SECTION 5.02. Section 57.0485, Utilities Code, is amended  
5 to read as follows:

6 Sec. 57.0485. ALLOCATION OF REVENUE [ACCOUNTS]. ~~[(a)]~~ The  
7 comptroller shall deposit ~~[50 percent of]~~ the money collected by  
8 the comptroller under Section 57.048 to the credit of the general  
9 revenue fund ~~[public schools account in the fund. The comptroller~~  
10 ~~shall deposit the remainder of the money collected by the~~  
11 ~~comptroller under Section 57.048 to the credit of the qualifying~~  
12 ~~entities account in the fund.~~

13 ~~[(b) Interest earned on money in an account shall be~~  
14 ~~deposited to the credit of that account].~~

15 SECTION 5.03. Section 57.051, Utilities Code, is amended to  
16 read as follows:

17 Sec. 57.051. SUNSET PROVISION. The Telecommunications  
18 Infrastructure Fund ~~[Board]~~ is subject to Chapter 325, Government  
19 Code (Texas Sunset Act). Unless continued in existence as provided  
20 by that chapter, ~~[the board is abolished and]~~ this subchapter  
21 expires September 1, 2011 ~~[2005]~~.

22 SECTION 5.04. Sections 57.048(c) and (d), Utilities Code,  
23 are repealed.

24 SECTION 5.05. If, on the day before the effective date of  
25 this article, the assessment prescribed by Section 57.048,  
26 Utilities Code, is imposed at a rate of less than 1.25 percent, the  
27 comptroller shall, on the effective date of this article, reset the

1 rate of the assessment to 1.25 percent.

2 SECTION 5.06. This article takes effect July 1, 2005, if  
3 this Act receives a vote of two-thirds of all the members elected to  
4 each house, as provided by Section 39, Article III, Texas  
5 Constitution. If this Act does not receive the vote necessary for  
6 effect on that date, this article takes effect September 1, 2005.

7 ARTICLE 6. SUPREME COURT JURISDICTION

8 SECTION 6.01. (a) The supreme court has exclusive  
9 jurisdiction over a challenge to the constitutionality of this Act  
10 or any part of this Act and may issue injunctive or declaratory  
11 relief in connection with the challenge.

12 (b) The supreme court shall rule on a challenge filed under  
13 this section on or before the 120th day after the date the challenge  
14 is filed.

15 (c) This section does not apply to an action pending on the  
16 date on which the last legislative vote enacting this Act is taken.

17 ARTICLE 7. SEVERABILITY

18 SECTION 7.01. If any provision of this Act or its  
19 application to any person or circumstance is held invalid, the  
20 invalidity does not affect other provisions or applications of this  
21 Act that can be given effect without the invalid provision or  
22 application, and to this end the provisions of this Act are declared  
23 to be severable.

24 ARTICLE 8. EFFECTIVE DATE

25 SECTION 8.01. (a) Except as provided by Subsection (b) of  
26 this section, this Act takes effect July 1, 2005, if this Act  
27 receives a vote of two-thirds of all the members elected to each

1 house, as provided by Section 39, Article III, Texas Constitution.  
2 If this Act does not receive the vote necessary for effect on that  
3 date, this Act takes effect September 1, 2005.

4 (b) If a section, part, or article of this bill provides a  
5 different effective date than provided by Subsection (a) of this  
6 section, that section, part, or article takes effect according to  
7 its terms.