

1-1 By: Keffer of Eastland, Grusendorf H.B. No. 3
1-2 (Senate Sponsor - Ogden)
1-3 (In the Senate - Received from the House March 16, 2005;
1-4 March 22, 2005, read first time and referred to Committee on
1-5 Finance; May 6, 2005, reported adversely, with favorable Committee
1-6 Substitute by the following vote: Yeas 11, Nays 4; May 6, 2005,
1-7 sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 3 By: Ogden

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to financing public schools in this state and reducing
1-12 school property taxes.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 ARTICLE 1. PUBLIC SCHOOL FINANCE

1-15 PART A. EDUCATION FUNDING AND SCHOOL PROPERTY TAX RELIEF

1-16 SECTION 1A.01. Section 41.002(e), Education Code, is
1-17 amended to read as follows:

1-18 (e) Notwithstanding Subsection (a), and except as provided
1-19 by Subsection (g), in accordance with a determination of the
1-20 commissioner, the wealth per student that a school district may
1-21 have after exercising an option under Section 41.003(2) or (3) may
1-22 not be less than the amount needed to maintain state and local
1-23 revenue in an amount equal to state and local revenue per weighted
1-24 student for maintenance and operation of the district for the
1-25 1992-1993 school year less the district's current year distribution
1-26 per weighted student from the available school fund, other than
1-27 amounts distributed under Chapter 31, if the district imposes an
1-28 effective tax rate for maintenance and operation of the district
1-29 equal to the greater of the district's current tax rate or the
1-30 maximum maintenance tax rate permitted under Section 45.003 [~~\$1.50~~
1-31 ~~on the \$100 valuation of taxable property~~].

1-32 SECTION 1A.02. Section 41.157(d), Education Code, is
1-33 amended to read as follows:

1-34 (d) Notwithstanding Section 45.003, the consolidated taxing
1-35 district may levy, assess, and collect a maintenance tax for the
1-36 benefit of the component districts at a rate that exceeds the
1-37 maximum maintenance tax rate permitted under Section 45.003 [~~\$1.50~~
1-38 ~~per \$100 valuation of taxable property~~] to the extent necessary to
1-39 pay contracted obligations on the lease purchase of permanent
1-40 improvements to real property entered into on or before May 12,
1-41 1993. The proposition to impose taxes at the necessary rate must be
1-42 submitted to the voters in the manner provided by Section 45.003.

1-43 SECTION 1A.03. Section 42.252(a), Education Code, is
1-44 amended to read as follows:

1-45 (a) Each school district's share of the Foundation School
1-46 Program is determined by the following formula:

$$1-47 \text{LFA} = \text{TR} \times \text{DPV}$$

1-48 where:

1-49 "LFA" is the school district's local share;

1-50 "TR" is a tax rate which for each hundred dollars of valuation
1-51 is an effective tax rate of \$0.76 [~~\$0.86~~]; and

1-52 "DPV" is the taxable value of property in the school district
1-53 for the preceding tax year determined under Subchapter M, Chapter
1-54 403, Government Code.

1-55 SECTION 1A.04. Section 42.253, Education Code, is amended
1-56 by adding Subsection (e-2) to read as follows:

1-57 (e-2) For the 2005-2006 and 2006-2007 school years, the
1-58 limit authorized by Subsection (e) is reduced by \$0.20. This
1-59 subsection expires September 1, 2007.

1-60 SECTION 1A.05. Section 42.303, Education Code, is amended
1-61 to read as follows:

1-62 Sec. 42.303. LIMITATION ON [~~ENRICHMENT~~] TAX RATE. (a) The
1-63 district [~~enrichment~~] tax rate ("DTR") under Section 42.302 may not

2-1 exceed \$0.69 [~~\$0.64~~] per \$100 of valuation, or a greater amount for
2-2 any year provided by appropriation.

2-3 (b) Notwithstanding Subsection (a), for the 2005 tax year,
2-4 the district tax rate ("DTR") under Section 42.302 may not exceed
2-5 \$0.54 per \$100 of valuation. This subsection expires September 1,
2-6 2006.

2-7 SECTION 1A.06. Section 45.003, Education Code, is amended
2-8 by amending Subsection (d) and adding Subsections (e) and (f) to
2-9 read as follows:

2-10 (d) A proposition submitted to authorize the levy of
2-11 maintenance taxes must include the question of whether the
2-12 governing board or commissioners court may levy, assess, and
2-13 collect annual ad valorem taxes for the further maintenance of
2-14 public schools, at a rate not to exceed the rate, which may be not
2-15 more than \$1.45 [~~\$1.50~~] on the \$100 valuation of taxable property in
2-16 the district, stated in the proposition.

2-17 (e) Notwithstanding Subsection (d), for the 2005 and 2006
2-18 tax years, a school district may not impose a maintenance tax at a
2-19 rate that exceeds \$1.30 per \$100 of valuation. A district may not
2-20 exceed the rate described by this subsection in a subsequent school
2-21 year unless authorized by a majority of the qualified voters of the
2-22 district voting at an election held for that purpose.

2-23 (f) An election held before January 1, 2005, authorizing a
2-24 maintenance tax at a rate of at least \$1.30 on the \$100 valuation of
2-25 taxable property in the district is sufficient to authorize a rate
2-26 of \$1.30 or less for the 2005 tax year or a subsequent tax year.

2-27 SECTION 1A.07. Sections 45.006(b) and (f), Education Code,
2-28 are amended to read as follows:

2-29 (b) Notwithstanding Section 45.003, a school district may
2-30 levy, assess, and collect maintenance taxes at a rate that exceeds
2-31 the maximum maintenance tax rate permitted under Section 45.003
2-32 [\$1.50 per \$100 valuation of taxable property] if:

2-33 (1) additional ad valorem taxes are necessary to pay a
2-34 debt of the district that:

2-35 (A) resulted from the rendition of a judgment
2-36 against the district before May 1, 1995;

2-37 (B) is greater than \$5 million;

2-38 (C) decreases a property owner's ad valorem tax
2-39 liability;

2-40 (D) requires the district to refund to the
2-41 property owner the difference between the amount of taxes paid by
2-42 the property owner and the amount of taxes for which the property
2-43 owner is liable; and

2-44 (E) is payable according to the judgment in more
2-45 than one of the district's fiscal years; and

2-46 (2) the additional taxes are approved by the voters of
2-47 the district at an election held for that purpose.

2-48 (f) The governing body of a school district that adopts a
2-49 tax rate that exceeds the maximum maintenance tax rate permitted
2-50 under Section 45.003 [~~\$1.50 per \$100 valuation of taxable property~~]
2-51 may set the amount of the exemption from taxation authorized by
2-52 Section 11.13(n), Tax Code, at any time before the date the
2-53 governing body adopts the district's tax rate for the tax year in
2-54 which the election approving the additional taxes is held.

2-55 SECTION 1A.08. (a) This part takes effect September 1,
2-56 2005.

2-57 (b) This part applies beginning with the 2005-2006 school
2-58 year.

2-59 PART B. [RESERVED]

2-60 PART C. REPEALER; TRANSITION; EFFECTIVE DATE

2-61 SECTION 1C.01. Effective September 1, 2005, the following
2-62 laws are repealed:

2-63 (1) Sections 1-3 and 57, Chapter 201, Acts of the 78th
2-64 Legislature, Regular Session, 2003; and

2-65 (2) Section 42.253(e-1), Education Code.

2-66 ARTICLE 2. RESTRICTIONS ON PROPERTY

2-67 VALUATION AND STATE AID TO

2-68 SCHOOL DISTRICTS

2-69 SECTION 2.01. Section 11.431(a), Tax Code, is amended to

3-1 read as follows:

3-2 (a) The chief appraiser shall accept and approve or deny an
3-3 application for a residence homestead exemption after the deadline
3-4 for filing the application [~~it~~] has passed if the application [~~it~~]
3-5 is filed not later than [~~one year after~~] the delinquency date for
3-6 the taxes on the homestead.

3-7 SECTION 2.02. Section 25.25, Tax Code, is amended by
3-8 amending Subsections (c), (e), (l), and (m) and adding Subsection
3-9 (c-1) to read as follows:

3-10 (c) The appraisal review board, on motion of the chief
3-11 appraiser or of a property owner, may direct by written order
3-12 changes in the appraisal roll for any of the five preceding years to
3-13 correct:

3-14 (1) clerical errors relating to the qualification of
3-15 property for an exemption under Section 11.13 that affect a
3-16 property owner's liability for a tax imposed in that tax year;

3-17 (2) multiple appraisals of a property in that tax
3-18 year; or

3-19 (3) the inclusion of property that does not exist in
3-20 the form or at the location described in the appraisal roll.

3-21 (c-1) The appraisal review board, on motion of the chief
3-22 appraiser or of a property owner, may direct by written order
3-23 changes in the appraisal roll to correct clerical errors that
3-24 affect a property owner's liability for a tax imposed on the owner's
3-25 residence homestead other than clerical errors described by
3-26 Subsection (c)(1). A motion under this subsection must be filed
3-27 before the first anniversary of the deadline under Section 41.12(a)
3-28 for approval by the appraisal review board of the appraisal records
3-29 for the year in which the tax is imposed.

3-30 (e) If the chief appraiser and the property owner do not
3-31 agree to the correction before the 15th day after the date the
3-32 motion is filed, a party bringing a motion under Subsection (c),
3-33 (c-1), or (d) is entitled on request to a hearing on and a
3-34 determination of the motion by the appraisal review board. A party
3-35 bringing a motion under this section must describe the error or
3-36 errors that the motion is seeking to correct. Not later than 15
3-37 days before the date of the hearing, the board shall deliver written
3-38 notice of the date, time, and place of the hearing to the chief
3-39 appraiser, the property owner, and the presiding officer of the
3-40 governing body of each taxing unit in which the property is located.
3-41 The chief appraiser, the property owner, and each taxing unit are
3-42 entitled to present evidence and argument at the hearing and to
3-43 receive written notice of the board's determination of the motion.
3-44 A property owner who files the motion must comply with the payment
3-45 requirements of Section 42.08 or forfeit the right to a final
3-46 determination of the motion.

3-47 (l) A motion may be filed under Subsection (c) or (c-1)
3-48 regardless of whether, for a tax year to which the motion relates,
3-49 the owner of the property protested under Chapter 41 an action
3-50 relating to the value of the property that is the subject of the
3-51 motion.

3-52 (m) The hearing on a motion under Subsection (c), (c-1), or
3-53 (d) shall be conducted in the manner provided by Subchapter C,
3-54 Chapter 41.

3-55 SECTION 2.03. Section 42.253(i), Education Code, is amended
3-56 to read as follows:

3-57 (i) Not later than March 1 each year, the commissioner shall
3-58 determine the actual amount of state funds to which each school
3-59 district is entitled under the allocation formulas in this chapter
3-60 for the current school year and shall compare that amount with the
3-61 amount of the warrants issued to each district for that year.
3-62 Except as provided by Section 42.257(b), if [~~it~~] the amount of the
3-63 warrants differs from the amount to which a district is entitled
3-64 because of variations in the district's tax rate, student
3-65 enrollment, or taxable value of property, the commissioner shall
3-66 adjust the district's entitlement for the next fiscal year
3-67 accordingly.

3-68 SECTION 2.04. Section 42.257(b), Education Code, is amended
3-69 to read as follows:

4-1 (b) If the district would have received a greater amount
 4-2 from the foundation school fund for the applicable school year
 4-3 using the adjusted value, the commissioner shall add the difference
 4-4 to subsequent distributions to the district from the foundation
 4-5 school fund. If the final determination is made after the last day
 4-6 of the state fiscal year corresponding to the tax year for which the
 4-7 determination is made, the commissioner shall add one-fifth of the
 4-8 difference to the September payment to the district of the current
 4-9 year entitlement from the foundation school fund for each of the
 4-10 next five years. An adjustment does not affect the local fund
 4-11 assignment of any other district.

4-12 SECTION 2.05. Section 42.259(f), Education Code, is amended
 4-13 to read as follows:

4-14 (f) Except as provided by Section 42.257(b) or by Subsection
 4-15 (c)(8) or (d)(3) of this section, any previously unpaid additional
 4-16 funds from prior years owed to a district shall be paid to the
 4-17 district together with the September payment of the current year
 4-18 entitlement.

4-19 SECTION 2.06. Section 403.302(h), Government Code, is
 4-20 amended to read as follows:

4-21 (h) On request of the commissioner of education or a school
 4-22 district, the comptroller may audit the total taxable value of
 4-23 property in a school district and may revise the annual study
 4-24 findings. The request for audit is limited to corrections and
 4-25 changes in a school district's appraisal roll that occurred after
 4-26 preliminary certification of the annual study findings by the
 4-27 comptroller. ~~The [Except as otherwise provided by this subsection,~~
 4-28 ~~the] request for audit must be filed with the comptroller not later~~
 4-29 ~~than the first [third] anniversary of the date of the final~~
 4-30 ~~certification of the annual study findings. [The request for audit~~
 4-31 ~~may be filed not later than the first anniversary of the date the~~
 4-32 ~~chief appraiser certifies a change to the appraisal roll if the~~
 4-33 ~~chief appraiser corrects the appraisal roll under Section 25.25 or~~
 4-34 ~~42.41, Tax Code, and the change results in a material reduction in~~
 4-35 ~~the total taxable value of property in the school district.] The~~
 4-36 comptroller shall certify the findings of the audit to the
 4-37 commissioner of education.

4-38 SECTION 2.07. (a) The change in law made by this article to
 4-39 Section 11.431, Tax Code, applies only to an application for a
 4-40 residence homestead exemption for the 2005 and subsequent tax
 4-41 years. Section 11.431, Tax Code, as that section existed
 4-42 immediately before the effective date of this article, applies to
 4-43 an application for a residence homestead exemption for the 2004 tax
 4-44 year and is continued in effect for that purpose.

4-45 (b) The change in law made by this article to Section 25.25,
 4-46 Tax Code, does not affect a motion filed under that section before
 4-47 the effective date of this article.

4-48 SECTION 2.08. This article takes effect July 1, 2005, if
 4-49 this Act receives a vote of two-thirds of all the members elected to
 4-50 each house, as provided by Section 39, Article III, Texas
 4-51 Constitution. If this Act does not receive the vote necessary for
 4-52 effect on that date, this article takes effect September 1, 2005.

4-53 ARTICLE 3. STATE PROPERTY TAX

4-54 SECTION 3.01. Chapter 45, Education Code, is amended by
 4-55 adding Subchapter I to read as follows:

4-56 SUBCHAPTER I. STATE AD VALOREM TAX

4-57 Sec. 45.251. STATE AD VALOREM TAX. (a) A state ad valorem
 4-58 tax for elementary and secondary school purposes is imposed on all
 4-59 taxable property in this state.

4-60 (b) The tax is imposed at the rate of \$1.10 per \$100 of
 4-61 taxable value of property subject to the tax.

4-62 (c) Except as otherwise provided by law, the state shall be
 4-63 treated, for purposes of the state ad valorem tax, as a taxing unit
 4-64 under Title 1, Tax Code.

4-65 Sec. 45.252. APPRAISAL OF PROPERTY. (a) Property subject
 4-66 to the state ad valorem tax shall be appraised by the appraisal
 4-67 district that appraises property for taxation by the school
 4-68 district in which the property has taxable situs under Chapter 21,
 4-69 Tax Code.

5-1 (b) Property subject to the state ad valorem tax shall be
 5-2 appraised in the manner provided by Title 1, Tax Code, for the
 5-3 appraisal of property that is subject to ad valorem taxation by a
 5-4 school district.

5-5 Sec. 45.253. TAX COLLECTION. (a) The assessor and
 5-6 collector for each school district shall assess and collect, as
 5-7 applicable, state ad valorem taxes imposed on property included on
 5-8 the appraisal roll for state taxation certified to the comptroller
 5-9 and to the assessor for that school district under Section 26.01,
 5-10 Tax Code, unless the governing body of the school district
 5-11 contracts with an official, taxing unit, or political subdivision
 5-12 of this state for the assessment or collection of the ad valorem
 5-13 taxes of the district, in which event the official, taxing unit, or
 5-14 political subdivision that assess or collects taxes for the school
 5-15 district shall also assess or collect, as applicable, the state ad
 5-16 valorem taxes.

5-17 (b) Each assessor or collector of state ad valorem taxes is
 5-18 entitled to be reimbursed by the comptroller for the actual costs
 5-19 incurred by the assessor or collector in assessing or collecting
 5-20 state ad valorem taxes. However, an assessor or collector is not
 5-21 entitled to be reimbursed for any amount that is greater than the
 5-22 additional incremental costs incurred in assessing or collecting
 5-23 the state ad valorem taxes.

5-24 (c) The comptroller shall:

5-25 (1) prescribe methods of accounting for and remitting
 5-26 state ad valorem taxes;

5-27 (2) prescribe methods for establishing an assessor's
 5-28 or collector's additional incremental costs incurred in assessing
 5-29 or collecting state ad valorem taxes;

5-30 (3) prescribe and furnish forms for periodic reports
 5-31 relating to state ad valorem taxes; and

5-32 (4) periodically examine the records of each assessor
 5-33 or collector of state ad valorem taxes to verify the accuracy of any
 5-34 reports required under this subsection.

5-35 (d) The comptroller may require an assessor or collector of
 5-36 state ad valorem taxes to give a bond to the state, conditioned on
 5-37 the faithful performance of the person's duties as assessor or
 5-38 collector, in the amount the comptroller considers appropriate to
 5-39 protect the state from potential losses with regard to assessment
 5-40 or collection of state ad valorem taxes.

5-41 Sec. 45.254. DUTIES AND POWERS OF COMPTROLLER. (a) Except
 5-42 as otherwise provided by this subchapter, a duty imposed on or power
 5-43 granted to the governing body of a taxing unit by Title 1, Tax Code,
 5-44 may, for purposes of the state ad valorem tax, be exercised by the
 5-45 comptroller. A reference to the presiding officer of a governing
 5-46 body in Title 1, Tax Code, is a reference to the comptroller for the
 5-47 purposes of the state tax.

5-48 (b) The comptroller may delegate to the assessor or
 5-49 collector for a school district any function of the comptroller
 5-50 with respect to the assessment or collection of the state ad valorem
 5-51 tax and may designate a school district assessor or collector as the
 5-52 comptroller's agent for purposes of administration of assessment or
 5-53 collection of the state ad valorem tax.

5-54 Sec. 45.255. ADMINISTRATION AND REFUND ACCOUNTS. The
 5-55 comptroller shall deposit to the credit of the general revenue fund
 5-56 in appropriately designated accounts an amount of revenue collected
 5-57 from the state ad valorem tax to pay for the expenses of
 5-58 administering this subchapter and for the payment of tax refunds
 5-59 that may become payable.

5-60 Sec. 45.256. NONAPPLICABILITY OF CERTAIN OTHER TAX LAWS.
 5-61 Title 2, Tax Code, does not apply to the state ad valorem tax.

5-62 Sec. 45.257. TAX INCREMENT FINANCING. Except as otherwise
 5-63 provided by Section 311.0131, Tax Code, the state may not pay any
 5-64 portion of the tax increment produced by the state into the tax
 5-65 increment fund for a reinvestment zone designated under Chapter
 5-66 311, Tax Code.

5-67 Sec. 45.258. TAX ABATEMENT. (a) Except as otherwise
 5-68 provided by this section, the state may not participate in tax
 5-69 abatement under Section 311.0125 or 311.013(g) or Chapter 312, Tax

6-1 Code.

6-2 (b) If school district property taxes on property located in
 6-3 the taxing jurisdiction of a school district are abated under a tax
 6-4 abatement agreement entered into by the school district under
 6-5 Chapter 312, Tax Code, the terms of the agreement regarding the
 6-6 portion of the value of the property that is to be exempted from
 6-7 taxation in each year of the agreement apply to the taxation of the
 6-8 property by the state. A modification of the agreement by the
 6-9 parties to the agreement under Section 312.208, Tax Code, that
 6-10 increases the portion of the value of the property that is to be
 6-11 exempted from taxation or that extends the duration of the
 6-12 agreement does not apply to the imposition of the state ad valorem
 6-13 tax unless the modification was entered into before January 1,
 6-14 2005.

6-15 Sec. 45.259. LIMITATION ON APPRAISED VALUE OF CERTAIN
 6-16 PROPERTY FOR STATE TAXATION. This section applies only in
 6-17 connection with property for which before April 1, 2005, the owner
 6-18 of the property has submitted to a school district an application
 6-19 under Section 313.025, Tax Code, for a limitation on appraised
 6-20 value under Subchapter B or C, Chapter 313, Tax Code, that is
 6-21 subsequently approved by the district, and applies only to the
 6-22 amount stated in the application. In each tax year in which the
 6-23 appraised value of the property is subject to the limitation, the
 6-24 appraised value of the property for purposes of the state ad valorem
 6-25 tax is the same as the appraised value of the property for school
 6-26 district tax purposes.

6-27 Sec. 45.260. TAX RELIEF FOR RESIDENCE HOMESTEADS. (a) In
 6-28 this section, "residence homestead" has the meaning assigned by
 6-29 Section 11.13, Tax Code.

6-30 (b) The governing body of a school district, before July 1
 6-31 and in the manner required for official action, may direct the
 6-32 collector for the district to pay on behalf of the property owner a
 6-33 specified portion, not to exceed 20 percent, of the state ad valorem
 6-34 tax imposed for the then current tax year on a residence homestead
 6-35 that is also taxed by the school district, if the remaining amount
 6-36 of the state ad valorem tax imposed on the residence homestead is
 6-37 paid before the delinquency date.

6-38 (c) If the governing body of a school district takes action
 6-39 under Subsection (b), in a tax bill for a residence homestead sent
 6-40 under Section 31.01, Tax Code, in addition to the information
 6-41 required by that section, the assessor for the school district
 6-42 shall state the total amount of state ad valorem taxes due and
 6-43 inform the person that the school district will pay a portion of
 6-44 that amount, specified in the tax bill, if the remaining amount of
 6-45 the state ad valorem taxes is paid before the delinquency date.

6-46 (d) A school district may use any available funds, including
 6-47 funds received from the state under the Foundation School Program,
 6-48 to make a payment authorized under this section.

6-49 SECTION 3.02. Section 6.03(d), Tax Code, is amended to read
 6-50 as follows:

6-51 (d) The voting entitlement of a taxing unit that is entitled
 6-52 to vote for directors is determined by dividing the total dollar
 6-53 amount of property taxes imposed in the district by the taxing unit
 6-54 for the preceding tax year by the sum of the total dollar amount of
 6-55 property taxes imposed in the district for that year by each taxing
 6-56 unit that is entitled to vote, by multiplying the quotient by 1,000,
 6-57 and by rounding the product to the nearest whole number. That
 6-58 number is multiplied by the number of directorships to be filled. A
 6-59 taxing unit participating in two or more districts is entitled to
 6-60 vote in each district in which it participates, but only the taxes
 6-61 imposed in a district are used to calculate voting entitlement in
 6-62 that district. In calculating the voting entitlement of a taxing
 6-63 unit entitled to vote for directors, state taxes imposed in a school
 6-64 district are treated as if those taxes were imposed by the school
 6-65 district.

6-66 SECTION 3.03. Subchapter A, Chapter 6, Tax Code, is amended
 6-67 by adding Section 6.038 to read as follows:

6-68 Sec. 6.038. STATE PARTICIPATION. (a) The comptroller and
 6-69 the state do not participate in the election of the board of

7-1 directors of an appraisal district, the governance or management of
 7-2 the district, or the determination of the district's finances and
 7-3 budget.

7-4 (b) The comptroller by rule shall establish guidelines and
 7-5 criteria under which, if the comptroller finds that generally
 7-6 accepted appraisal standards and practices were not used by the
 7-7 appraisal district appraising property subject to the state ad
 7-8 valorem tax or that the appraised values assigned to property
 7-9 subject to that tax are invalid, the comptroller may:

7-10 (1) withhold payment of all or part of the portion of
 7-11 the amount of the budget of the appraisal district that is allocated
 7-12 to the state until the district takes appropriate actions to remedy
 7-13 the deficiencies in appraisals found by the comptroller; or

7-14 (2) direct that all or any part of the portion of the
 7-15 amount of the budget of the district allocated to the state be
 7-16 applied to remedying those deficiencies.

7-17 SECTION 3.04. Section 6.06(d), Tax Code, is amended to read
 7-18 as follows:

7-19 (d) The state and each [Each] taxing unit participating in
 7-20 the district are each [is] allocated a portion of the amount of the
 7-21 budget equal to the proportion that the total dollar amount of the
 7-22 property taxes imposed in the district by the state or taxing unit
 7-23 for the tax year in which the budget proposal is prepared bears to
 7-24 the sum of the total dollar amount of property taxes imposed in the
 7-25 district by the state and each participating unit for that year.
 7-26 For purposes of this subsection, only state ad valorem taxes
 7-27 imposed in a school district or portion of a school district for
 7-28 which the appraisal district appraises property for taxation are
 7-29 considered as state ad valorem taxes imposed in the district. If a
 7-30 taxing unit participates in two or more districts, only the taxes
 7-31 imposed in a district are used to calculate the unit's cost
 7-32 allocations in that district. If the number of real property
 7-33 parcels in a taxing unit is less than 5 percent of the total number
 7-34 of real property parcels in the district and the taxing unit imposes
 7-35 in excess of 25 percent of the total amount of the property taxes
 7-36 imposed in the district by all of the participating taxing units for
 7-37 a year, the unit's allocation may not exceed a percentage of the
 7-38 appraisal district's budget equal to three times the unit's
 7-39 percentage of the total number of real property parcels appraised
 7-40 by the district.

7-41 SECTION 3.05. Sections 11.13(b) and (c), Tax Code, are
 7-42 amended to read as follows:

7-43 (b) An adult is entitled to exemption from taxation by the
 7-44 state for elementary and secondary public school purposes or by a
 7-45 school district of \$15,000 of the appraised value of the adult's
 7-46 residence homestead, except that \$10,000 of the exemption does not
 7-47 apply to an entity operating under former Chapter 17, 18, 25, 26,
 7-48 27, or 28, Education Code, as those chapters existed on May 1, 1995,
 7-49 as permitted by Section 11.301, Education Code.

7-50 (c) In addition to the exemption provided by Subsection (b)
 7-51 [of this section], an adult who is disabled or is 65 years of age or
 7-52 older is entitled to an exemption from taxation by the state for
 7-53 elementary and secondary public school purposes or by a school
 7-54 district of \$10,000 of the appraised value of the adult's [his]
 7-55 residence homestead.

7-56 SECTION 3.06. Section 11.14, Tax Code, is amended by adding
 7-57 Subsection (f) to read as follows:

7-58 (f) Subsection (c) does not apply to the comptroller or to
 7-59 the state ad valorem tax.

7-60 SECTION 3.07. Section 11.251, Tax Code, is amended by
 7-61 adding Subsection (l) to read as follows:

7-62 (l) The exemption provided by Subsection (b) does not apply
 7-63 to the state ad valorem tax unless the property is exempt from that
 7-64 tax under Section 1-j(d), Article VIII, Texas Constitution.

7-65 SECTION 3.08. The heading to Section 11.26, Tax Code, is
 7-66 amended to read as follows:

7-67 Sec. 11.26. LIMITATION OF SCHOOL TAXES [TAX] ON HOMESTEADS
 7-68 OF ELDERLY OR DISABLED.

7-69 SECTION 3.09. Section 11.26, Tax Code, is amended by

8-1 amending Subsections (a), (b), (g), (h), (j), and (k) and adding
8-2 Subsections (a-1) and (g-1) to read as follows:

8-3 (a) The tax officials shall appraise the property to which
8-4 this section applies and calculate taxes as on other property, but
8-5 if the tax so calculated exceeds the limitation imposed by this
8-6 section, the tax imposed is the amount of the tax as limited by this
8-7 section, except as otherwise provided by this section. The state or
8-8 a [A] school district may not increase the total annual amount of ad
8-9 valorem tax it imposes on the residence homestead of an individual
8-10 65 years of age or older or on the residence homestead of an
8-11 individual who is disabled, as defined by Section 11.13, above the
8-12 amount of the tax it imposed in the first tax year in which the
8-13 individual qualified that residence homestead for the applicable
8-14 exemption provided by Section 11.13(c) for an individual who is 65
8-15 years of age or older or is disabled. If the individual qualified
8-16 that residence homestead for the exemption after the beginning of
8-17 that first year and the residence homestead remains eligible for
8-18 the same exemption for the next year, and if the state or school
8-19 district taxes imposed on the residence homestead in the next year
8-20 are less than the amount of taxes the state or school district, as
8-21 applicable, imposed in that first year, the state or [a] school
8-22 district may not subsequently increase the total annual amount of
8-23 ad valorem taxes it imposes on the residence homestead above the
8-24 amount it imposed in the year immediately following the first year
8-25 for which the individual qualified that residence homestead for the
8-26 same exemption, except as provided by Subsection (b).

8-27 (a-1) If the first tax year the individual qualified the
8-28 residence homestead for the exemption provided by Section 11.13(c)
8-29 for individuals 65 years of age or older was a tax year before the
8-30 2006 [1997] tax year, except as provided by Subsection (b):

8-31 (1) the amount of the limitation provided by this
8-32 section on state taxes is the amount of tax the school district in
8-33 which the property is located imposed for the 2005 [1996] tax year
8-34 [less an amount equal to the amount determined by multiplying
8-35 \$10,000 times the tax rate of the school district for the 1997 tax
8-36 year,] plus any 2006 state [1997] tax attributable to improvements
8-37 made in 2005 [1996], other than improvements made to comply with
8-38 governmental regulations or repairs; and

8-39 (2) the amount of the limitation provided by this
8-40 section on school district taxes is the amount of tax the school
8-41 district imposed for the 2005 tax year less the amount of state
8-42 taxes imposed in the 2006 tax year, plus any 2006 school taxes
8-43 attributable to improvements made in 2005, other than improvements
8-44 made to comply with governmental regulations or repairs.

8-45 (b) If an individual makes improvements to the individual's
8-46 residence homestead, other than improvements required to comply
8-47 with governmental requirements or repairs, the state or the school
8-48 district may increase the tax on the homestead in the first year the
8-49 value of the homestead is increased on the appraisal roll because of
8-50 the enhancement of value by the improvements. The amount of the tax
8-51 increase is determined by applying the current tax rate to the
8-52 difference in the assessed value of the homestead with the
8-53 improvements and the assessed value it would have had without the
8-54 improvements. A limitation imposed by this section then applies to
8-55 the increased amount of tax until more improvements, if any, are
8-56 made.

8-57 (g) Except as provided by Subsection (b), if an individual
8-58 who receives a limitation on tax increases imposed by this section,
8-59 including a surviving spouse who receives a limitation under
8-60 Subsection (i), subsequently qualifies a different residence
8-61 homestead for the same exemption under Section 11.13, the state or a
8-62 school district may not impose ad valorem taxes on the subsequently
8-63 qualified homestead in a year in an amount that exceeds the amount
8-64 of taxes the state or the school district would have imposed on the
8-65 subsequently qualified homestead in the first year in which the
8-66 individual receives that same exemption for the subsequently
8-67 qualified homestead had the limitation on tax increases imposed by
8-68 this section not been in effect, multiplied by a fraction the
8-69 numerator of which is the total amount of [~~school district~~] taxes

9-1 imposed by the state or the school district, as applicable, on the
 9-2 former homestead in the last year in which the individual received
 9-3 that same exemption for the former homestead and the denominator of
 9-4 which is the total amount of taxes the state or the school district,
 9-5 as applicable, [~~taxes that~~] would have [~~been~~] imposed on the former
 9-6 homestead in the last year in which the individual received that
 9-7 same exemption for the former homestead had the limitation on tax
 9-8 increases imposed by this section not been in effect.

9-9 (g-1) Subsection (g) does not apply to a residence homestead
 9-10 to which this subsection applies. Except as provided by Subsection
 9-11 (b), if an individual who receives a limitation on tax increases
 9-12 imposed by this section in a tax year before the 2006 tax year,
 9-13 including a surviving spouse who receives a limitation under
 9-14 Subsection (i), subsequently qualifies a different residence
 9-15 homestead for an exemption under Section 11.13(c) and the first
 9-16 year in which the subsequently qualified homestead qualifies for
 9-17 the exemption is a tax year after the 2005 tax year:

9-18 (1) the state may not impose taxes on the subsequently
 9-19 qualified homestead in an amount that exceeds the amount of taxes
 9-20 the state would have imposed on the subsequently qualified
 9-21 homestead in the first year in which the individual receives that
 9-22 exemption for the subsequently qualified homestead had the
 9-23 limitation on tax increases imposed by this section not been in
 9-24 effect, multiplied by a fraction the numerator of which is the total
 9-25 amount of school district taxes imposed on the former homestead in
 9-26 the last year in which the individual received that exemption for
 9-27 the former homestead and the denominator of which is the total
 9-28 amount of school district taxes that would have been imposed on the
 9-29 former homestead in the last year in which the individual received
 9-30 that exemption for the former homestead had the limitations on tax
 9-31 increases imposed by this section not been in effect; and

9-32 (2) the school district may not impose taxes on the
 9-33 subsequently qualified homestead in an amount that exceeds the
 9-34 positive amount, if any, by which the limitation on state taxes
 9-35 calculated under Subdivision (1) exceeds the amount of state taxes
 9-36 imposed in the first year in which the subsequently qualified
 9-37 homestead receives the exemption.

9-38 (h) An individual who receives a limitation on tax increases
 9-39 under this section, including a surviving spouse who receives a
 9-40 limitation under Subsection (i), and who subsequently qualifies a
 9-41 different residence homestead for an exemption under Section
 9-42 11.13(c) [~~11.13~~], or an agent of the individual, is entitled to
 9-43 receive from the chief appraiser of the appraisal district in which
 9-44 the former homestead was located a written certificate providing
 9-45 the information necessary to determine whether the individual may
 9-46 qualify for that same limitation on the subsequently qualified
 9-47 homestead under Subsection (g) or (g-1) and to calculate the amount
 9-48 of taxes the state and the school district may impose on the
 9-49 subsequently qualified homestead.

9-50 (j) If an individual who qualifies for an exemption provided
 9-51 by Section 11.13(c) for an individual 65 years of age or older dies
 9-52 in the first year in which the individual qualified for the
 9-53 exemption and the individual first qualified for the exemption
 9-54 after the beginning of that year, except as provided by Subsection
 9-55 (k), the amount to which the surviving spouse's state or school
 9-56 district taxes are limited under Subsection (i) is the amount of
 9-57 state or school district taxes, as applicable, imposed on the
 9-58 residence homestead in that year determined as if the individual
 9-59 qualifying for the exemption had lived for the entire year.

9-60 (k) If in the first tax year after the year in which an
 9-61 individual dies in the circumstances described by Subsection (j)
 9-62 the amount of [~~school district~~] taxes imposed by the state or the
 9-63 school district on the residence homestead of the surviving spouse
 9-64 is less than the amount of state or school district taxes, as
 9-65 applicable, imposed in the preceding year as limited by Subsection
 9-66 (j), in a subsequent tax year the surviving spouse's state or school
 9-67 district taxes on that residence homestead are limited to the
 9-68 amount of taxes imposed by the state or the school district, as
 9-69 applicable, in that first tax year after the year in which the

10-1 individual dies.

10-2 SECTION 3.10. Section 21.03(a), Tax Code, is amended to
10-3 read as follows:

10-4 (a) If personal property that is taxable by this state or a
10-5 taxing unit of this state is used continually outside this state,
10-6 whether regularly or irregularly, the appraisal office shall
10-7 allocate to this state the portion of the total market value of the
10-8 property that fairly reflects its use in this state.

10-9 SECTION 3.11. Section 21.031(a), Tax Code, is amended to
10-10 read as follows:

10-11 (a) If a vessel or other watercraft that is taxable by this
10-12 state or a taxing unit of this state is used continually outside
10-13 this state, whether regularly or irregularly, the appraisal office
10-14 shall allocate to this state the portion of the total market value
10-15 of the vessel or watercraft that fairly reflects its use in this
10-16 state. The appraisal office shall not allocate to this state the
10-17 portion of the total market value of the vessel or watercraft that
10-18 fairly reflects its use in another state or country, in
10-19 international waters, or beyond the Gulfward boundary of this
10-20 state.

10-21 SECTION 3.12. Section 22.28, Tax Code, is amended to read as
10-22 follows:

10-23 Sec. 22.28. PENALTY FOR DELINQUENT REPORT. (a) Except as
10-24 otherwise provided by Section 22.30, the chief appraiser shall
10-25 impose a penalty on a person who fails to timely file a rendition
10-26 statement or property report required by this chapter in an amount
10-27 equal to 10 percent of the total amount of taxes imposed on the
10-28 property for that year by the state, if the property has taxable
10-29 situs in a school district or portion of a school district for which
10-30 the appraisal district appraises property for taxation, and by the
10-31 other taxing units participating in the appraisal district.

10-32 (b) The chief appraiser may retain a portion of a penalty
10-33 collected under this section, not to exceed 20 percent of the amount
10-34 of the penalty, to cover the chief appraiser's costs of collecting
10-35 the penalty. The chief appraiser shall distribute the remainder of
10-36 the penalty to the state and each other taxing unit participating in
10-37 the appraisal district that imposes taxes on the property in
10-38 proportion to the state's or the taxing unit's share of the total
10-39 amount of taxes imposed on the property by the state and all other
10-40 taxing units participating in the district used to determine the
10-41 amount of the penalty.

10-42 SECTION 3.13. Sections 22.29(a) and (d), Tax Code, are
10-43 amended to read as follows:

10-44 (a) The chief appraiser shall impose an additional penalty
10-45 on the person equal to 50 percent of the total amount of taxes
10-46 imposed on the property for the tax year of the statement or report
10-47 by the state, if the property has taxable situs in a school district
10-48 or portion of a school district for which the appraisal district
10-49 appraises property for taxation, and by the other taxing units
10-50 participating in the appraisal district if it is finally determined
10-51 by a court that:

10-52 (1) the person filed a false statement or report with
10-53 the intent to commit fraud or to evade the tax; or

10-54 (2) the person alters, destroys, or conceals any
10-55 record, document, or thing, or presents to the chief appraiser any
10-56 altered or fraudulent record, document, or thing, or otherwise
10-57 engages in fraudulent conduct, for the purpose of affecting the
10-58 course or outcome of an inspection, investigation, determination,
10-59 or other proceeding before the appraisal district.

10-60 (d) The chief appraiser may retain a portion of a penalty
10-61 collected under this section, not to exceed 20 percent of the amount
10-62 of the penalty, to cover the chief appraiser's costs of collecting
10-63 the penalty. The chief appraiser shall distribute the remainder of
10-64 the penalty to the state and each other taxing unit participating in
10-65 the appraisal district that imposes taxes on the property in
10-66 proportion to the state's or the taxing unit's share of the total
10-67 amount of taxes imposed on the property by the state and all other
10-68 taxing units participating in the district used to determine the
10-69 amount of the penalty.

11-1 SECTION 3.14. Section 23.46(d), Tax Code, is amended to
11-2 read as follows:

11-3 (d) A tax lien attaches to the land on the date the sale or
11-4 change of use occurs to secure payment of the additional tax and
11-5 interest imposed by Subsection (c) [~~of this section~~] and any
11-6 penalties incurred. The lien exists in favor of the state and all
11-7 taxing units for which the additional tax is imposed.

11-8 SECTION 3.15. Section 23.55(b), Tax Code, is amended to
11-9 read as follows:

11-10 (b) A tax lien attaches to the land on the date the change of
11-11 use occurs to secure payment of the additional tax and interest
11-12 imposed by this section and any penalties incurred. The lien exists
11-13 in favor of the state and all taxing units for which the additional
11-14 tax is imposed.

11-15 SECTION 3.16. Section 23.76(b), Tax Code, is amended to
11-16 read as follows:

11-17 (b) A tax lien attaches to the land on the date the change of
11-18 use occurs to secure payment of the additional tax and interest
11-19 imposed by this section and any penalties incurred. The lien exists
11-20 in favor of the state and all taxing units for which the additional
11-21 tax is imposed.

11-22 SECTION 3.17. Section 23.86(b), Tax Code, is amended to
11-23 read as follows:

11-24 (b) A tax lien attaches to the land on the date the change of
11-25 use occurs or the deed restriction expires to secure payment of the
11-26 additional tax and interest imposed by this section and any
11-27 penalties incurred. The lien exists in favor of the state and all
11-28 taxing units for which the additional tax is imposed.

11-29 SECTION 3.18. Section 23.96(b), Tax Code, is amended to
11-30 read as follows:

11-31 (b) A tax lien attaches to the property on the date the deed
11-32 restriction expires to secure payment of the additional tax and
11-33 interest imposed by this section and any penalties incurred. The
11-34 lien exists in favor of the state and all taxing units for which the
11-35 additional tax is imposed.

11-36 SECTION 3.19. Section 23.9807(c), Tax Code, is amended to
11-37 read as follows:

11-38 (c) A tax lien attaches to the land on the date the change of
11-39 use occurs to secure payment of the additional tax and interest
11-40 imposed by this section and any penalties incurred. The lien exists
11-41 in favor of the state and all taxing units for which the additional
11-42 tax is imposed.

11-43 SECTION 3.20. Section 25.19(b), Tax Code, as amended by
11-44 Chapters 1358 and 1517, Acts of the 76th Legislature, Regular
11-45 Session, 1999, is reenacted and amended to read as follows:

11-46 (b) The chief appraiser shall separate real from personal
11-47 property and include in the notice for each:

11-48 (1) a list of the taxing units other than the state in
11-49 which the property is taxable and, if the property is appraised by
11-50 the appraisal district for state taxation, a statement that the
11-51 property is subject to the state tax for elementary and secondary
11-52 public school purposes;

11-53 (2) the appraised value of the property in the
11-54 preceding year;

11-55 (3) the taxable value of the property in the preceding
11-56 year for:

11-57 (A) each taxing unit taxing the property; and

11-58 (B) state taxation for elementary and secondary
11-59 public school purposes, if the property is appraised by the
11-60 appraisal district for state taxation;

11-61 (4) the appraised value of the property for the
11-62 current year and the kind and amount of each partial exemption, if
11-63 any, approved for the current year;

11-64 (5) if the appraised value is greater than it was in
11-65 the preceding year, the amount of tax that would be imposed on the
11-66 property on the basis of the tax rate for each taxing unit other
11-67 than the state for the preceding year;

11-68 (6) in italic typeface, the following statement: "The
11-69 Texas Legislature does not set the amount of your local taxes. Your

12-1 local property tax burden is decided by your locally elected
 12-2 officials, and all inquiries concerning your local taxes should be
 12-3 directed to those officials";

12-4 (7) a detailed explanation of the time and procedure
 12-5 for protesting the value;

12-6 (8) the date and place the appraisal review board will
 12-7 begin hearing protests; and

12-8 (9) a brief explanation that the governing body of
 12-9 each local taxing unit decides whether [~~or not~~] taxes on the
 12-10 property will increase and the appraisal district only determines
 12-11 the value of the property.

12-12 SECTION 3.21. The heading to Section 26.01, Tax Code, is
 12-13 amended to read as follows:

12-14 Sec. 26.01. SUBMISSION OF ROLLS TO STATE AND TAXING UNITS.

12-15 SECTION 3.22. Sections 26.01(a), (c), and (d), Tax Code,
 12-16 are amended to read as follows:

12-17 (a) By July 25, the chief appraiser shall prepare and
 12-18 certify to the assessor for each taxing unit participating in the
 12-19 appraisal district that part of the appraisal roll for the
 12-20 appraisal district that lists the property taxable by the unit. By
 12-21 that date the chief appraiser shall prepare and certify to the
 12-22 comptroller and to the assessor for each school district that
 12-23 participates in the appraisal district that part of the appraisal
 12-24 roll for the appraisal district that lists property for which the
 12-25 appraisal district appraises the property for state taxation. The
 12-26 part certified to the comptroller and school district assessor is
 12-27 the appraisal roll for state taxes. The part certified to the
 12-28 assessor is the appraisal roll for the taxing unit. The chief
 12-29 appraiser shall consult with the assessor for each taxing unit and
 12-30 the comptroller and notify each taxing unit and the comptroller in
 12-31 writing by April 1 of the form in which the roll will be provided to
 12-32 each unit and to the comptroller.

12-33 (c) The chief appraiser shall prepare and certify to the
 12-34 assessor for each taxing unit and the comptroller a listing of those
 12-35 properties that [~~which~~] are taxable by that unit or the state, as
 12-36 applicable, but that [~~which~~] are under protest and therefore not
 12-37 included on the appraisal roll approved by the appraisal review
 12-38 board and certified by the chief appraiser. This listing shall
 12-39 include the appraised market value, productivity value (if
 12-40 applicable), and taxable value as determined by the appraisal
 12-41 district and shall also include the market value, taxable value,
 12-42 and productivity value (if applicable) as claimed by the property
 12-43 owner filing the protest if available. If the property owner does
 12-44 not claim a value and the appraised value of the property in the
 12-45 current year is equal to or less than its value in the preceding
 12-46 year, the listing shall include a reasonable estimate of the market
 12-47 value, taxable value, and productivity value (if applicable) that
 12-48 would be assigned to the property if the taxpayer's claim is upheld.
 12-49 If the property owner does not claim a value and the appraised value
 12-50 of the property is higher than its appraised value in the preceding
 12-51 year, the listing shall include the appraised market value,
 12-52 productivity value (if applicable) and taxable value of the
 12-53 property in the preceding year, except that if there is a reasonable
 12-54 likelihood that the appraisal review board will approve a lower
 12-55 appraised value for the property than its appraised value in the
 12-56 preceding year, the chief appraiser shall make a reasonable
 12-57 estimate of the taxable value that would be assigned to the property
 12-58 if the property owner's claim is upheld. The taxing unit shall use
 12-59 the lower value for calculations as prescribed in Sections 26.04
 12-60 and 26.041 [~~of this code~~].

12-61 (d) The chief appraiser shall prepare and certify to the
 12-62 assessor for each taxing unit and the comptroller a list of those
 12-63 properties of which the chief appraiser has knowledge that are
 12-64 reasonably likely to be taxable by that unit or the state, as
 12-65 applicable, but that are not included on the appraisal roll
 12-66 certified to the assessor or the comptroller under Subsection (a)
 12-67 or included on the listing certified to the assessor or the
 12-68 comptroller under Subsection (c). The chief appraiser shall
 12-69 include on the list for each property the market value, appraised

13-1 value, and kind and amount of any partial exemptions as determined
 13-2 by the appraisal district for the preceding year and a reasonable
 13-3 estimate of the market value, appraised value, and kind and amount
 13-4 of any partial exemptions for the current year. Until the property
 13-5 is added to the appraisal roll, the assessor for a ~~the~~ taxing unit
 13-6 shall include each property on the list in the calculations
 13-7 prescribed by Sections 26.04 and 26.041, and for that purpose shall
 13-8 use the lower market value, appraised value, or taxable value, as
 13-9 appropriate, included on or computed using the information included
 13-10 on the list for the property.

13-11 SECTION 3.23. Chapter 26, Tax Code, is amended by adding
 13-12 Section 26.011 to read as follows:

13-13 Sec. 26.011. PROVISIONS NOT APPLICABLE TO STATE TAX.
 13-14 Sections 26.04, 26.041, 26.05, 26.051, 26.06, 26.07, and 26.08 do
 13-15 not apply to the state ad valorem tax or to the comptroller.

13-16 SECTION 3.24. Section 26.05, Tax Code, is amended to read as
 13-17 follows:

13-18 Sec. 26.05. TAX RATE. (a) The governing body of each
 13-19 taxing unit, before the later of September 30 or the 60th day after
 13-20 the date the certified appraisal roll is received by the taxing
 13-21 unit, shall adopt a tax rate for the current tax year and shall
 13-22 notify the assessor for the unit of the rate adopted. The tax rate
 13-23 consists of two components, each of which must be approved
 13-24 separately. The components are:

13-25 (1) the rate that, if applied to the total taxable
 13-26 value, will impose the total amount published under Section
 13-27 26.04(e)(3)(C), less any amount of additional sales and use tax
 13-28 revenue that will be used to pay debt service; and

13-29 (2) the rate that, if applied to the total taxable
 13-30 value, will impose the amount of taxes imposed to fund maintenance
 13-31 and operation expenditures for the unit in the prior year ~~[needed to~~
 13-32 ~~fund maintenance and operation expenditures of the unit for the~~
 13-33 ~~next year]~~. A unit may not impose taxes that exceed the taxes
 13-34 levied to fund maintenance and operation expenditures for the prior
 13-35 year unless the unit does each of the following:

13-36 (A) includes in its order, ordinance, or
 13-37 resolution, in type larger than all other elements of the
 13-38 instrument, the following statement: "THIS TAX RATE RAISES MORE
 13-39 TAXES THAN LAST YEAR'S TAX RATE. THE PROPOSED RATE WOULD RAISE
 13-40 TAXES ON A \$100,000 HOME BY [Insert amount]."

13-41 (B) includes on the home page of any Internet
 13-42 website operated by the unit the following statement: "[Insert
 13-43 name of unit] ADOPTED A TAX RATE THAT RAISES MORE TAXES THAN LAST
 13-44 YEAR'S TAX RATE. THE PROPOSED RATE RAISES TAXES ON A \$100,000 HOME
 13-45 BY APPROXIMATELY [Insert amount]."

13-46 (b) A taxing unit may not impose property taxes in any year
 13-47 until the governing body has adopted a tax rate for that year, and
 13-48 the annual tax rate must be set by ordinance, resolution, or order,
 13-49 depending on the method prescribed by law for adoption of a law by
 13-50 the governing body. The vote on the ordinance, resolution, or order
 13-51 setting the tax rate must be separate from the vote adopting the
 13-52 budget. The vote that adopts a rate that exceeds the effective rate
 13-53 must be a record vote.

13-54 (c) If the governing body of a taxing unit does not adopt a
 13-55 tax rate before the date required by Subsection (a), the tax rate
 13-56 for the taxing unit for that tax year is the lower of the effective
 13-57 tax rate calculated for that tax year or the tax rate adopted by the
 13-58 taxing unit for the preceding tax year. A tax rate established by
 13-59 this subsection is treated as an adopted tax rate. Before the fifth
 13-60 day after the establishment of a tax rate by this subsection, the
 13-61 governing body of the taxing unit must ratify the applicable tax
 13-62 rate in the manner required by Subsection (b).

13-63 (d) The governing body of a taxing unit other than a school
 13-64 district may not adopt a tax rate that exceeds the lower of the
 13-65 rollback tax rate or ~~[103 percent of]~~ the effective tax rate
 13-66 calculated as provided by this chapter until the governing body has
 13-67 held two ~~a~~ public hearings ~~hearing~~ on the proposed tax rate and
 13-68 has otherwise complied with Section 26.06 and Section 26.065. The
 13-69 governing body of a taxing unit shall reduce a tax rate set by law or

14-1 by vote of the electorate to the lower of the rollback tax rate or
 14-2 [~~103 percent of~~] the effective tax rate and may not adopt a higher
 14-3 rate unless it first complies with Section 26.06.

14-4 (e) A person who owns taxable property is entitled to an
 14-5 injunction restraining the collection of taxes by a taxing unit in
 14-6 which the property is taxable if the taxing unit has not complied
 14-7 with the requirements of this section and the failure to comply was
 14-8 not in good faith. An action to enjoin the collection of taxes must
 14-9 be filed prior to the date a taxing unit delivers substantially all
 14-10 of its tax bills.

14-11 (f) Except as required by the law under which an obligation
 14-12 was created, the governing body may not apply any tax revenues
 14-13 generated by the rate described in Subsection (a)(1) of this
 14-14 section for any purpose other than the retirement of debt.

14-15 SECTION 3.25. Section 26.06, Tax Code, is amended as
 14-16 follows:

14-17 Sec. 26.06. NOTICE, HEARING, AND VOTE ON TAX
 14-18 INCREASE. (a) Public hearings [~~A public hearing~~] required by
 14-19 Section 26.05 may not be held before the seventh day after the date
 14-20 the notice of the public hearings [~~hearing~~] on the proposed tax
 14-21 increase is given. The hearings [~~hearing~~] must be on a weekday that
 14-22 is not a public holiday. The second hearing must take place no
 14-23 sooner than three days after the first hearing. The hearings
 14-24 [~~hearing~~] must be held inside the boundaries of the unit in a
 14-25 publicly owned building or, if a suitable publicly owned building
 14-26 is not available, in a suitable building to which the public
 14-27 normally has access. At the hearings [~~hearing~~], the governing body
 14-28 must afford adequate opportunity for proponents and opponents of
 14-29 the tax increase to present their views.

14-30 (b) The notice of the [~~a~~] public hearings [~~hearing~~] may not
 14-31 be smaller than one-quarter page of a standard-size or a
 14-32 tabloid-size newspaper, and the headline on the notice must be in
 14-33 18-point or larger type. The notice must:

14-34 (1) contain a statement in the following form:

14-35 "NOTICE OF PUBLIC HEARING ON TAX INCREASE

14-36 "Last year, the [name of taxing unit] property tax rate was
 14-37 [\$[insert rate]]. That rate raised \$[insert amount] which was used to
 14-38 fund operations such as [insert sample descriptions of unit's
 14-39 operations].

14-40 "This year, [name of taxing unit] is proposing a property tax
 14-41 rate of \$[insert rate]. This rate would raise \$[insert amount]
 14-42 (which is \$[insert amount] more than last year).

14-43 "There will be two public hearings to consider this increase.
 14-44 The first public hearing will be held on (date and time) at (meeting
 14-45 place). The second hearing will be held on (date and time) at
 14-46 (meeting place).

14-47 "You have a right to attend this meeting and make comments.
 14-48 You are encouraged to attend and you have a right to testify."

14-49 [~~"The (name of the taxing unit) will hold a public hearing on~~
 14-50 ~~a proposal to increase total tax revenues from properties on the tax~~
 14-51 ~~roll in the preceding year by (percentage by which proposed tax rate~~
 14-52 ~~exceeds lower of rollback tax rate or effective tax rate calculated~~
 14-53 ~~under this chapter) percent. Your individual taxes may increase at~~
 14-54 ~~a greater or lesser rate, or even decrease, depending on the change~~
 14-55 ~~in the taxable value of your property in relation to the change in~~
 14-56 ~~taxable value of all other property and the tax rate that is~~
 14-57 ~~adopted.~~

14-58 [~~"The public hearing will be held on (date and time) at~~
 14-59 ~~(meeting place).~~

14-60 [~~"(Names of all members of the governing body, showing how~~
 14-61 ~~each voted on the proposal to consider the tax increase or, if one~~
 14-62 ~~or more were absent, indicating the absences.)"~~], and

14-63 [~~(2) contain the following information:~~

14-64 [~~(A) the unit's adopted tax rate for the~~
 14-65 ~~preceding year and the proposed tax rate, expressed as an amount per~~
 14-66 ~~\$100,~~

14-67 [~~(B) the difference, expressed as an amount per~~
 14-68 ~~\$100 and as a percent increase or decrease, as applicable, in the~~
 14-69 ~~proposed tax rate compared to the adopted tax rate for the preceding~~

15-1 year;

15-2 [~~(C) the average appraised value of a residence~~
 15-3 ~~homestead in the taxing unit in the preceding year and in the~~
 15-4 ~~current year; the unit's homestead exemption, other than an~~
 15-5 ~~exemption available only to disabled persons or persons 65 years of~~
 15-6 ~~age or older, applicable to that appraised value in each of those~~
 15-7 ~~years; and the average taxable value of a residence homestead in the~~
 15-8 ~~unit in each of those years, disregarding any homestead exemption~~
 15-9 ~~available only to disabled persons or persons 65 years of age or~~
 15-10 ~~older;~~

15-11 [~~(D) the amount of tax that would have been~~
 15-12 ~~imposed by the unit in the preceding year on a residence homestead~~
 15-13 ~~appraised at the average appraised value of a residence homestead~~
 15-14 ~~in that year, disregarding any homestead exemption available only~~
 15-15 ~~to disabled persons or persons 65 years of age or older;~~

15-16 [~~(E) the amount of tax that would be imposed by~~
 15-17 ~~the unit in the current year on a residence homestead appraised at~~
 15-18 ~~the average appraised value of a residence homestead in the current~~
 15-19 ~~year, disregarding any homestead exemption available only to~~
 15-20 ~~disabled persons or persons 65 years of age or older, if the~~
 15-21 ~~proposed tax rate is adopted; and~~

15-22 [~~(F) the difference between the amounts of tax~~
 15-23 ~~calculated under Paragraphs (D) and (E), expressed in dollars and~~
 15-24 ~~cents and described as the annual increase or decrease, as~~
 15-25 ~~applicable, in the tax to be imposed by the unit on the average~~
 15-26 ~~residence homestead in the unit in the current year if the proposed~~
 15-27 ~~tax rate is adopted.]~~

15-28 (c) The notice may be delivered by mail to each property
 15-29 owner in the unit, or it may be published in a newspaper. If the
 15-30 notice is published in a newspaper, it may not be in the part of the
 15-31 paper in which legal notices and classified advertisements appear.
 15-32 If the unit operates an Internet website, the notice shall appear on
 15-33 that site from the beginning of the first publication until the
 15-34 second hearing is concluded.

15-35 (d) At the public hearing the governing body shall announce
 15-36 the date, time, and place of the meeting at which it will vote on the
 15-37 proposed tax rate. After the hearing the governing body shall give
 15-38 notice of the meeting at which it will vote on the proposed tax rate
 15-39 and the notice shall be in the same form as prescribed by
 15-40 Subsections (b) and (c), except that it must state the following:

15-41 "NOTICE OF VOTE ON TAX RATE

15-42 "The (name of the taxing unit) conducted [~~a~~] public hearings
 15-43 [~~hearing~~] on a proposal to increase the total tax revenues of the
 15-44 (name of the taxing unit) from properties on the tax roll in the
 15-45 preceding year by (percentage by which proposed tax rate exceeds
 15-46 lower of rollback tax rate or effective tax rate calculated under
 15-47 this chapter) percent on (date and times [~~time~~] public hearings
 15-48 were [~~hearing was~~] conducted).

15-49 "The (governing body of the taxing unit) is scheduled to vote
 15-50 on the tax rate that will result in that tax increase at a public
 15-51 meeting to be held on (date and time) at (meeting place)."

15-52 (e) The meeting to vote on the tax increase may not be
 15-53 earlier than the third day or later than the 14th day after the date
 15-54 of the last public hearing. The meeting must be held inside the
 15-55 boundaries of the taxing unit in a publicly owned building or, if a
 15-56 suitable publicly owned building is not available, in a suitable
 15-57 building to which the public normally has access. If the governing
 15-58 body does not adopt a tax rate that exceeds the lower of the
 15-59 rollback tax rate or [~~103 percent of~~] the effective tax rate by the
 15-60 14th day, it must give a new notice under Subsection (d) before it
 15-61 may adopt a rate that exceeds the lower of the rollback tax rate or
 15-62 103 percent of the effective tax rate. A motion on the adoption of
 15-63 an order, ordinance, resolution, or any other action that adopts a
 15-64 tax rate that exceeds the effective rate must be made in the
 15-65 following form: "I move that property taxes be increased by the
 15-66 adoption of a tax rate of _____." The vote that adopts a rate
 15-67 that exceeds the effective rate must be a record vote.

15-68 (f) The comptroller by rule shall prescribe the language and
 15-69 format to be used in the part of the notice required by Subsection

16-1 (b)(2). A notice under Subsection (b) is not valid if it does not
 16-2 substantially conform to the language and format prescribed by the
 16-3 comptroller under this subsection.

16-4 (g) This section does not apply to a school district. A
 16-5 school district shall provide notice of a public hearing on a tax
 16-6 increase as required by Section 44.004, Education Code.

16-7 SECTION 3.26. Section 26.07(b), Tax Code, is amended to
 16-8 read as follows:

16-9 (b) A petition is valid only if:

16-10 (1) it states that it is intended to require an
 16-11 election in the taxing unit on the question of reducing the tax rate
 16-12 for the current year;

16-13 (2) it is signed by a number of registered voters of
 16-14 the taxing unit equal to at least seven [~~10~~] percent of the number
 16-15 of registered voters of a [the] taxing unit with a maintenance and
 16-16 operations property tax levy equal to or in excess of \$5 million, or
 16-17 10 percent of the number of registered voters of a taxing unit with
 16-18 a maintenance and operations property tax levy of less than \$5
 16-19 million, according to the most recent official list of registered
 16-20 voters; and

16-21 (3) it is submitted to the governing body on or before
 16-22 the 90th day after the date on which the governing body adopted the
 16-23 tax rate for the current year.

16-24 SECTION 3.27. Section 26.09(c), Tax Code, is amended to
 16-25 read as follows:

16-26 (c) The tax is calculated by:

16-27 (1) subtracting from the appraised value of a property
 16-28 as shown on the appraisal roll for a taxing [the] unit or the state
 16-29 the amount of any partial exemption allowed the property owner that
 16-30 applies to appraised value to determine taxable [~~net appraised~~]
 16-31 value; and

16-32 (2) [~~multiplying the net appraised value by the~~
 16-33 ~~assessment ratio to determine assessed value;~~

16-34 [~~(3) subtracting from the assessed value the amount of~~
 16-35 ~~any partial exemption allowed the property owner to determine~~
 16-36 ~~taxable value; and~~

16-37 [~~(4)~~] multiplying the taxable value by the applicable
 16-38 tax rate.

16-39 SECTION 3.28. Section 26.12, Tax Code, is amended by adding
 16-40 Subsection (e) to read as follows:

16-41 (e) For purposes of this section, the state is not a taxing
 16-42 unit.

16-43 SECTION 3.29. Section 26.15(c), Tax Code, is amended to
 16-44 read as follows:

16-45 (c) At any time, the governing body of a taxing unit, on
 16-46 motion of the assessor for the unit or of a property owner, shall
 16-47 direct by written order changes in the tax roll to correct errors in
 16-48 the mathematical computation of a tax. The assessor shall enter the
 16-49 corrections ordered by the governing body. The comptroller may
 16-50 order changes in the state tax roll to correct errors in the
 16-51 mathematical computation of the state ad valorem tax.

16-52 SECTION 3.30. Section 31.01, Tax Code, is amended by
 16-53 amending Subsection (c) and adding Subsection (c-1) to read as
 16-54 follows:

16-55 (c) The tax bill or a separate statement accompanying the
 16-56 tax bill shall:

16-57 (1) identify the property subject to the tax;

16-58 (2) state the appraised value, assessed value, and
 16-59 taxable value of the property;

16-60 (3) if the property is land appraised as provided by
 16-61 Subchapter C, D, E, or H, Chapter 23, state the market value and the
 16-62 taxable value for purpose of deferred or additional taxation as
 16-63 provided by Section 23.46, 23.55, 23.76, or 23.9807, as applicable;

16-64 (4) state the assessment ratio for the unit;

16-65 (5) state the type and amount of any partial exemption
 16-66 applicable to the property, indicating whether it applies to
 16-67 appraised or assessed value;

16-68 (6) state the total tax rate for the unit;

16-69 (7) state the amount of tax due, the due date, and the

17-1 delinquency date;

17-2 (8) explain the payment option and discounts provided
17-3 by Sections 31.03 and 31.05, if available to the unit's taxpayers,
17-4 and state the date on which each of the discount periods provided by
17-5 Section 31.05 concludes, if the discounts are available;

17-6 (9) state the rates of penalty and interest imposed
17-7 for delinquent payment of the tax;

17-8 (10) include the name and telephone number of the
17-9 assessor for the unit and, if different, of the collector for the
17-10 unit; ~~and~~

17-11 (11) for real property, state for the current tax year
17-12 and each of the preceding five tax years:

17-13 (A) the appraised value and taxable value of
17-14 property;

(B) the total tax rate for the unit;

17-15 (C) the amount of taxes imposed on the property
17-16 by the unit; and

17-17 (D) the difference, expressed as a percent
17-18 increase or decrease, as applicable, in the amount of taxes imposed
17-19 on the property by the unit compared to the amount imposed for the
17-20 preceding tax year;

17-21 (12) for real property, state the differences,
17-22 expressed as a percent increase or decrease, as applicable, in the
17-23 following for the current year as compared to the fifth tax year
17-24 before that tax year:

17-25 (A) the appraised value and taxable value of
17-26 property;

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

17-27 (C) the amount of taxes imposed on the property
17-28 by the unit; and

17-29 (13) include any other information required by the
17-30 comptroller.

17-31 (c-1) If for any of the preceding six tax years any
17-32 information required by Subsection (c)(11) or (12) to be included
17-33 in a tax bill or separate statement is unavailable, the tax bill or
17-34 statement must state that the information is not available for that
17-35 year.

17-36 SECTION 3.31. Section 31.11(a), Tax Code, is amended to
17-37 read as follows:

17-38 (a) If a taxpayer applies to the tax collector of a taxing
17-39 unit for a refund of an overpayment or erroneous payment of taxes
17-40 and the auditor for the unit or the comptroller in the case of the
17-41 state ad valorem tax determines that the payment was erroneous or
17-42 excessive, the tax collector or, for state taxes, the comptroller
17-43 shall refund the amount of the excessive or erroneous payment from
17-44 available current tax collections or from funds appropriated by the
17-45 unit or the state, as appropriate, for making refunds. For taxes
17-46 other than state taxes ~~However~~, the collector may not make the
17-47 refund unless:

17-48 (1) in the case of a collector who collects taxes for
17-49 one taxing unit, the governing body of the taxing unit also
17-50 determines that the payment was erroneous or excessive and approves
17-51 the refund if the amount of the refund exceeds:

17-52 (A) \$2,500 for a refund to be paid by a county
17-53 with a population of 1.5 million or more; or

17-54 (B) \$500 for a refund to be paid by any other
17-55 taxing unit; or

17-56 (2) in the case of a collector who collects taxes for
17-57 more than one taxing unit, the governing body of the taxing unit
17-58 that employs the collector also determines that the payment was
17-59 erroneous or excessive and approves the refund if the amount of the
17-60 refund exceeds \$2,500.

17-61 SECTION 3.32. Sections 32.01(a) and (d), Tax Code, are
17-62 amended to read as follows:

17-63 (a) On January 1 of each year, a tax lien attaches to
17-64 property to secure the payment of all taxes, penalties, and
17-65 interest ultimately imposed for the year by the state or a taxing
17-66 unit on the property, whether or not the taxes are imposed in the
17-67 year the lien attaches. The lien to secure the payment of state ad
17-68 valorem taxes shall be a first lien on the property.

18-1 valorem taxes and applicable penalties and interest exists in favor
 18-2 of the state. The lien to secure the payment of taxes imposed by a
 18-3 taxing unit and applicable penalties and interest exists in favor
 18-4 of the [each] taxing unit having power to tax the property.

18-5 (d) The lien under this section is perfected on attachment
 18-6 and, except as provided by Section 32.03(b), perfection requires no
 18-7 further action by the state or taxing unit.

18-8 SECTION 3.33. Section 33.01(a), Tax Code, is amended to
 18-9 read as follows:

18-10 (a) A delinquent tax, including a delinquent state ad
 18-11 valorem tax, incurs a penalty of six percent of the amount of the
 18-12 tax for the first calendar month it is delinquent plus one percent
 18-13 for each additional month or portion of a month the tax remains
 18-14 unpaid prior to July 1 of the year in which it becomes delinquent.
 18-15 However, a tax delinquent on July 1 incurs a total penalty of twelve
 18-16 percent of the amount of the delinquent tax without regard to the
 18-17 number of months the tax has been delinquent. A delinquent tax
 18-18 continues to incur the penalty provided by this subsection as long
 18-19 as the tax remains unpaid, regardless of whether a judgment for the
 18-20 delinquent tax has been rendered.

18-21 SECTION 3.34. Subchapter A, Chapter 33, Tax Code, is
 18-22 amended by adding Section 33.11 to read as follows:

18-23 Sec. 33.11. COLLECTION OF DELINQUENT STATE AD VALOREM
 18-24 TAXES; PENALTY. (a) The collector for a school district has the
 18-25 same powers and duties regarding the collection of delinquent state
 18-26 ad valorem taxes imposed on property having taxable situs in the
 18-27 school district as the collector has regarding delinquent school
 18-28 district taxes on that property.

18-29 (b) The attorney who represents a school district to enforce
 18-30 the collection of delinquent school district taxes represents the
 18-31 state to enforce the collection of delinquent state ad valorem
 18-32 taxes imposed on property having taxable situs in the school
 18-33 district. If the governing body of a school district contracts with
 18-34 a private attorney to enforce the collection of delinquent school
 18-35 district ad valorem taxes, the contract applies to the collection
 18-36 of delinquent state ad valorem taxes on property taxable by that
 18-37 school district without further action. The compensation of the
 18-38 private attorney for collecting delinquent state ad valorem taxes
 18-39 is equal to a percentage of the amount collected that represents the
 18-40 portion of that amount attributable to the additional penalty
 18-41 provided by Subsection (c). If the governing body of a school
 18-42 district contracts with an official, taxing unit, or political
 18-43 subdivision of this state for the collection of the ad valorem taxes
 18-44 of the school district that includes the collection of delinquent
 18-45 school district taxes, the contract applies to the collection of
 18-46 delinquent state ad valorem taxes on property taxable by that
 18-47 school district without further action.

18-48 (c) State ad valorem taxes that remain delinquent on July 1
 18-49 of the year in which they become delinquent incur an additional
 18-50 penalty to defray costs of collection if the collection of the
 18-51 delinquent taxes is covered by a contract with a private attorney
 18-52 under Subsection (b). The amount of the penalty is the amount of
 18-53 the compensation specified in the contract.

18-54 (d) A tax lien attaches in favor of the state to the property
 18-55 on which the tax is imposed to secure payment of the penalty.

18-56 (e) The person responsible for collecting the delinquent
 18-57 state ad valorem tax shall deliver a notice of delinquency and of
 18-58 the penalty to the property owner at least 30 and not more than 60
 18-59 days before July 1.

18-60 (f) Sections 6.30, 33.07, and 33.08 do not apply to the
 18-61 state ad valorem tax.

18-62 SECTION 3.35. Sections 33.21(a) and (b), Tax Code, are
 18-63 amended to read as follows:

18-64 (a) A person's personal property is subject to seizure for
 18-65 the payment of a delinquent tax, penalty, and interest the person
 18-66 [he] owes the state or a taxing unit on property.

18-67 (b) A person's personal property is subject to seizure for
 18-68 the payment of a tax imposed by the state or other [a] taxing unit on
 18-69 the person's [his] property before the tax becomes delinquent if:

19-1 (1) the collector discovers that property on which the
 19-2 tax has been or will be imposed is about to be removed from the
 19-3 county; and

19-4 (2) the collector knows of no other personal property
 19-5 in the county from which the tax may be satisfied.

19-6 SECTION 3.36. Section 33.23(b), Tax Code, is amended to
 19-7 read as follows:

19-8 (b) A bond may not be required of the state or other [a]
 19-9 taxing unit for issuance or delivery of a tax warrant, and a fee or
 19-10 court cost may not be charged for issuance or delivery of a warrant.

19-11 SECTION 3.37. Section 33.44(b), Tax Code, is amended to
 19-12 read as follows:

19-13 (b) For purposes of joining a county, citation may be served
 19-14 on the county ~~[tax]~~ assessor-collector. For purposes of joining
 19-15 any other taxing unit, citation may be served on the officer charged
 19-16 with collecting taxes for the unit or on the presiding officer or
 19-17 secretary of the governing body of the unit. For purposes of
 19-18 joining the state, citation shall be served on the school district
 19-19 collector who collects state ad valorem taxes on the property.
 19-20 Citation may be served by certified mail, return receipt requested.
 19-21 A person on whom service is authorized by this subsection may waive
 19-22 the issuance and service of citation in behalf of the person's [his]
 19-23 taxing unit.

19-24 SECTION 3.38. Section 34.04(b), Tax Code, is amended to
 19-25 read as follows:

19-26 (b) A copy of the petition shall be served, in the manner
 19-27 prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended,
 19-28 or that rule's successor, on all parties to the underlying action
 19-29 not later than the 20th day before the date set for a hearing on the
 19-30 petition. If the state is a party to the underlying action, the
 19-31 copy of the petition to be served on the state shall be served on the
 19-32 school district collector who collects state ad valorem taxes on
 19-33 the subject property. The attorney who represents the state to
 19-34 enforce the collection of delinquent state ad valorem taxes in the
 19-35 school district in which the property is located shall represent
 19-36 the state at the hearing.

19-37 SECTION 3.39. The heading to Chapter 41, Tax Code, is
 19-38 amended to read as follows:

19-39 CHAPTER 41. ADMINISTRATIVE [LOCAL] REVIEW

19-40 SECTION 3.40. Section 41.03, Tax Code, is amended to read as
 19-41 follows:

19-42 Sec. 41.03. CHALLENGE BY STATE OR TAXING UNIT. (a) The
 19-43 state or another [A] taxing unit is entitled to challenge before the
 19-44 appraisal review board:

19-45 (1) the level of appraisals of any category of
 19-46 property in the district or in any territory in the district, but
 19-47 not the appraised value of a single taxpayer's property;

19-48 (2) an exclusion of property from the appraisal
 19-49 records;

19-50 (3) a grant in whole or in part of a partial exemption;

19-51 (4) a determination that land qualifies for appraisal
 19-52 as provided by Subchapter C, D, E, or H, Chapter 23; or

19-53 (5) failure to identify the taxing unit as one in which
 19-54 a particular property is taxable.

19-55 (b) If the state or other [a] taxing unit challenges a
 19-56 determination that land qualifies for appraisal under Subchapter H,
 19-57 Chapter 23, on the ground that the land is not located in an
 19-58 aesthetic management zone, critical wildlife habitat zone, or
 19-59 streamside management zone, the state or other taxing unit must
 19-60 first seek a determination letter from the director of the Texas
 19-61 Forest Service. The appraisal review board shall accept the letter
 19-62 as conclusive proof of the type, size, and location of the zone.

19-63 SECTION 3.41. Subchapter A, Chapter 41, Tax Code, is
 19-64 amended by adding Sections 41.031 and 41.032 to read as follows:

19-65 Sec. 41.031. CHALLENGE BY STATE. The state is entitled to
 19-66 challenge before the appraisal review board the exclusion of
 19-67 property from the appraisal roll for state ad valorem taxes.

19-68 Sec. 41.032. REPRESENTATION OF STATE. The comptroller
 19-69 represents the state in a challenge by the state under this

20-1 subchapter. The comptroller may delegate that function to the
 20-2 appropriate school district assessor or collector.

20-3 SECTION 3.42. Section 41.06(a), Tax Code, is amended to
 20-4 read as follows:

20-5 (a) The secretary of the appraisal review board shall
 20-6 deliver to the comptroller on behalf of the state and to the
 20-7 presiding officer of the governing body of each taxing unit other
 20-8 than the state entitled to appear at a challenge hearing written
 20-9 notice of the date, time, and place fixed for the hearing. The
 20-10 secretary shall deliver the notice not later than the 10th day
 20-11 before the date of the hearing.

20-12 SECTION 3.43. Section 41.07(d), Tax Code, is amended to
 20-13 read as follows:

20-14 (d) The board shall deliver by certified mail a notice of
 20-15 the issuance of the order and a copy of the order to the taxing unit.
 20-16 If the order of the board excludes property from the appraisal roll
 20-17 for state ad valorem taxes, the board shall also deliver a notice of
 20-18 issuance and a copy of the order to the comptroller and the
 20-19 appropriate school district assessor in the manner prescribed by
 20-20 the comptroller.

20-21 SECTION 3.44. Section 41.47(d), Tax Code, is amended to
 20-22 read as follows:

20-23 (d) The board shall deliver by certified mail a notice of
 20-24 issuance of the order and a copy of the order to the property owner
 20-25 and the chief appraiser. If the order of the board excludes
 20-26 property from the appraisal roll for state ad valorem taxes, the
 20-27 board shall also deliver a notice of issuance and a copy of the
 20-28 order to the comptroller and the appropriate school district
 20-29 assessor in the manner prescribed by the comptroller.

20-30 SECTION 3.45. Subchapter A, Chapter 42, Tax Code, is
 20-31 amended by adding Section 42.032 to read as follows:

20-32 Sec. 42.032. RIGHT OF APPEAL BY COMPTROLLER. (a) The
 20-33 comptroller is entitled to appeal an order of the appraisal review
 20-34 board excluding property from the appraisal roll for state ad
 20-35 valorem taxes.

20-36 (b) The attorney general shall represent the comptroller in
 20-37 an appeal under this section. The attorney general may delegate its
 20-38 duties under this section to a county or district attorney or may
 20-39 contract with a private attorney for the performance of those
 20-40 duties.

20-41 SECTION 3.46. Sections 42.06(a) and (c), Tax Code, are
 20-42 amended to read as follows:

20-43 (a) To exercise the party's right to appeal an order of an
 20-44 appraisal review board, a party other than a property owner must
 20-45 file written notice of appeal within 15 days after the date the
 20-46 party receives the notice required by Section 41.47 or, in the case
 20-47 of a taxing unit or the comptroller, by Section 41.07 that the order
 20-48 appealed has been issued. To exercise the right to appeal an order
 20-49 of the comptroller, a party other than a property owner must file
 20-50 written notice of appeal within 15 days after the date the party
 20-51 receives the comptroller's order. A property owner is not required
 20-52 to file a notice of appeal under this section.

20-53 (c) If the chief appraiser, a taxing unit, ~~or~~ a county, or
 20-54 the comptroller appeals~~, the chief appraiser, if the appeal is of~~
 20-55 an order of the appraisal review board, the chief appraiser ~~or the~~
 20-56 comptroller, if the appeal is of an order of the comptroller,
 20-57 shall deliver a copy of the notice to the property owner whose property is
 20-58 involved in the appeal. If the appeal is of an order of the
 20-59 comptroller, the comptroller shall deliver a copy of the notice to
 20-60 the property owner. The chief appraiser or the comptroller shall
 20-61 deliver the copy of the notice within 10 days after the date the
 20-62 notice is filed.

20-63 SECTION 3.47. Sections 42.43(a), (b), and (c), Tax Code,
 20-64 are amended to read as follows:

20-65 (a) If the final determination of an appeal that decreases a
 20-66 property owner's tax liability occurs after the property owner has
 20-67 paid the owner's ~~his~~ taxes, the taxing unit and the comptroller,
 20-68 if the property is subject to the state ad valorem tax, shall refund
 20-69 to the property owner the difference between the amount of taxes

21-1 paid and amount of taxes for which the property owner is liable.

21-2 (b) For a refund made under this section because an
 21-3 exemption under Section 11.20 that was denied by the chief
 21-4 appraiser or appraisal review board is granted, the taxing unit or
 21-5 the comptroller shall include with the refund interest on the
 21-6 amount refunded calculated at an annual rate that is equal to the
 21-7 auction average rate quoted on a bank discount basis for
 21-8 three-month treasury bills issued by the United States government,
 21-9 as published by the Federal Reserve Board, for the week in which the
 21-10 taxes became delinquent, but not more than 10 percent, calculated
 21-11 from the delinquency date for the taxes until the date the refund is
 21-12 made. For any other refund made under this section, the taxing unit
 21-13 or the comptroller shall include with the refund interest on the
 21-14 amount refunded at an annual rate of eight percent, calculated from
 21-15 the delinquency date for the taxes until the date the refund is
 21-16 made.

21-17 (c) Notwithstanding Subsection (b), if a taxing unit or the
 21-18 comptroller does not make a refund, including interest, required by
 21-19 this section before the 60th day after the date the chief appraiser
 21-20 certifies a correction to the appraisal roll under Section 42.41,
 21-21 the taxing unit or the comptroller shall include with the refund
 21-22 interest on the amount refunded at an annual rate of 12 percent,
 21-23 calculated from the delinquency date for the taxes until the date
 21-24 the refund is made.

21-25 SECTION 3.48. Sections 43.01 and 43.04, Tax Code, are
 21-26 amended to read as follows:

21-27 Sec. 43.01. AUTHORITY TO BRING SUIT. The comptroller or a
 21-28 [A] taxing unit may sue the appraisal district that appraises
 21-29 property for the state or the unit to compel the appraisal district
 21-30 to comply with the provisions of this title, rules of the
 21-31 comptroller, or other applicable law.

21-32 Sec. 43.04. SUIT TO COMPEL COMPLIANCE WITH DEADLINES. The
 21-33 comptroller or the governing body of a taxing unit may sue the chief
 21-34 appraiser or members of the appraisal review board, as applicable,
 21-35 for failure to comply with the deadlines imposed by Section
 21-36 25.22(a), 26.01(a), or 41.12. If the court finds that the chief
 21-37 appraiser or appraisal review board failed to comply for good cause
 21-38 shown, the court shall enter an order fixing a reasonable deadline
 21-39 for compliance. If the court finds that the chief appraiser or
 21-40 appraisal review board failed to comply without good cause, the
 21-41 court shall enter an order requiring the chief appraiser or
 21-42 appraisal review board to comply with the deadline not later than
 21-43 the 10th day after the date the judgment is signed. In a suit
 21-44 brought under this section, the court may enter any other order the
 21-45 court considers necessary to ensure compliance with the court's
 21-46 deadline or the applicable statutory requirements. Failure to obey
 21-47 an order of the court is punishable as contempt.

21-48 SECTION 3.49. Subchapter A, Chapter 313, Tax Code, is
 21-49 amended by adding Section 313.008 to read as follows:

21-50 Sec. 313.008. REPORT TO LEGISLATURE. (a) Not later than
 21-51 December 1, 2006, the Legislative Budget Board shall submit a
 21-52 report to the legislature that includes recommended changes to this
 21-53 chapter to provide incentives and credits relating to the state ad
 21-54 valorem tax that are consistent with the purposes described by
 21-55 Section 313.003.

21-56 (b) This section expires January 1, 2007.

21-57 SECTION 3.50. Chapter 311, Tax Code, is amended by adding
 21-58 Section 311.0131 to read as follows:

21-59 Sec. 311.0131. SCHOOL DISTRICT ANNUAL OBLIGATION TO TAX
 21-60 INCREMENT FUND; STATE PAYMENT OF PORTION OF OBLIGATION. (a) This
 21-61 section applies only to a reinvestment zone created before
 21-62 September 1, 1999, for which a school district enters into an
 21-63 agreement under Section 311.013(f) with the governing body of the
 21-64 municipality that created the zone to pay into the tax increment
 21-65 fund for the zone a portion of the school district's tax increment
 21-66 produced from property located in the zone.

21-67 (b) Notwithstanding the terms of the agreement regarding
 21-68 the portion of the school district's tax increment required to be
 21-69 paid into the fund, in each year, the portion of the school

22-1 district's tax increment the school district is required to pay
 22-2 into the fund is the school district annual obligation for the
 22-3 school district for that year calculated under Subsection (c).

22-4 (c) The municipality that created the zone or its designee
 22-5 shall calculate the school district annual obligation for a school
 22-6 district by applying the applicable school district's tax rate for
 22-7 the 2004 tax year to the captured appraised value for the school
 22-8 district for the year for which the obligation is calculated and
 22-9 multiplying that amount by the percentage of the school district's
 22-10 tax increment for the year for which the obligation is calculated
 22-11 that the school district agreed to pay into the tax increment fund
 22-12 in that year under Section 311.013(f).

22-13 (d) The school district annual obligation for each year
 22-14 shall be apportioned between the school district and the state in
 22-15 proportion to the amount of taxes each of those entities imposes on
 22-16 the captured appraised value for the zone in that year as calculated
 22-17 under this subsection. The amount of taxes the state imposes on
 22-18 that captured appraised value is calculated by multiplying the rate
 22-19 of the state ad valorem tax rate for that year by the captured
 22-20 appraised value for the state. The amount of taxes the school
 22-21 district imposes on that captured appraised value used in making
 22-22 the apportionment is calculated by multiplying the school district
 22-23 local fund assignment tax rate for that year by the captured
 22-24 appraised value for the school district. The tax increment base for
 22-25 the state under Section 311.012 is determined as if this section
 22-26 were in effect for the year in which the reinvestment zone was
 22-27 created.

22-28 (e) If more than one school district imposes taxes on
 22-29 property in a reinvestment zone, the school district annual
 22-30 obligation for each school district and the portion of that
 22-31 obligation that the state is required to pay under this section
 22-32 shall be calculated separately for the portion of the property in
 22-33 the reinvestment zone located in each school district.

22-34 (f) The comptroller shall verify the payments to be made by
 22-35 the state under this section and shall retain from state property
 22-36 tax collections sufficient funds to make the calculated payments.
 22-37 From the retained funds, the comptroller shall pay to the school
 22-38 district or, if required by the agreement, to the municipality the
 22-39 portion of the school district annual obligation apportioned to the
 22-40 state under Subsection (c).

22-41 (g) On receipt of the state's portion of the school district
 22-42 annual obligation by a school district, the school district
 22-43 promptly shall pay the state's portion to the municipality. At the
 22-44 time of payment of the state's portion to the municipality, the
 22-45 school district shall pay to the municipality any unpaid balance of
 22-46 the school district's portion of the school district annual
 22-47 obligation.

22-48 (h) Amounts paid to a municipality under Subsections (f) and
 22-49 (g) shall be deposited to the credit of the tax increment fund on
 22-50 behalf of the school district.

22-51 (i) This section ceases to apply to a reinvestment zone on
 22-52 the earlier date specified by Section 311.017(a)(1) or (2) for the
 22-53 reinvestment zone. If the agreement provides that the termination
 22-54 date may be extended, the state's obligation to pay a portion of the
 22-55 school district annual obligation ceases on the date the school
 22-56 district ceases to be required to pay any tax increment produced by
 22-57 the school district into the tax increment fund for the zone.

22-58 SECTION 3.51. The changes in law made by this article to
 22-59 Chapter 41, Tax Code, apply only to a challenge or protest under
 22-60 that chapter for which the notice is filed on or after the effective
 22-61 date of this article. A challenge or protest for which the notice
 22-62 is filed before the effective date of this article is covered by the
 22-63 law in effect when the notice of protest was filed, and the former
 22-64 law is continued in effect for that purpose.

22-65 SECTION 3.52. The changes in law made by this article apply
 22-66 to each tax year that begins on or after January 1, 2006. The
 22-67 changes in law do not apply to a tax year that begins before January
 22-68 1, 2006, and the law as it existed before January 1, 2006, is
 22-69 continued in effect for purposes of taxes imposed in that tax year.

SECTION 3.53. (a) This article takes effect only if the constitutional amendment proposed by ____J.R. No. ____, 79th Legislature, Regular Session, 2005, is approved by the voters.

(b) If the constitutional amendment proposed by ____J.R. No. ____, 79th Legislature, Regular Session, 2005, is not approved by the voters, this article has no effect.

(c) Except as otherwise specifically provided by this Act, this article takes effect January 1, 2006, but only if H.B. No. 2, Acts of the 79th Legislature, Regular Session, 2005, becomes law. If H.B. No. 2 does not become law, this article has no effect.

ARTICLE 4. FRANCHISE TAX

SECTION 4.01. Section 171.001(a), Tax Code, is amended to read as follows:

(a) A franchise tax is imposed on[+] ~~[-(1)]~~ each taxable entity ~~[corporation]~~ that does business in this state or that is chartered or organized in this state~~[-, and~~

~~[-(2)] each limited liability company that does business in this state or that is organized under the laws of this state].~~

SECTION 4.02. Sections 171.001(b)(2), (4), and (5), Tax Code, are amended to read as follows:

(2) "Beginning date" means:

(A) for a taxable entity ~~[corporation]~~ chartered or organized in this state, the date on which the taxable entity's ~~[corporation's]~~ charter or organization takes effect; or ~~[and]~~

(B) for any other taxable entity ~~[a foreign corporation]~~, the date on which the taxable entity ~~[corporation]~~ begins doing business in this state.

(4) "Charter" includes a limited liability company's certificate of organization, a limited partnership's certificate of limited partnership, and the registration of a limited liability partnership.

(5) "Internal Revenue Code" means the Internal Revenue Code of 1986 in effect for the federal tax year beginning on ~~[or after]~~ January 1, 2005 ~~[1996, and before January 1, 1997]~~, and any regulations adopted under that code applicable to that period.

SECTION 4.03. Section 171.001, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) On or before November 1 of each even-numbered year, the comptroller shall submit proposed legislation to update the definition of "Internal Revenue Code" in Subsection (b) to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the chair of the Senate Committee on Finance; and
- (5) the chair of the House Committee on Ways and Means.

SECTION 4.04. Sections 171.0011(a), (b), and (c), Tax Code, are amended to read as follows:

(a) An additional tax is imposed on a taxable entity ~~[corporation]~~ that for any reason becomes no longer subject to the earned surplus component of the tax, without regard to whether the taxable entity ~~[corporation]~~ remains subject to the taxable capital component of the tax.

(b) The additional tax is equal to four ~~[4.5]~~ percent of the taxable entity's ~~[corporation's]~~ net taxable earned surplus computed on the period beginning on the day after the last day for which the tax imposed on net taxable earned surplus was computed under Section 171.1532 and ending on the date the taxable entity ~~[corporation]~~ is no longer subject to the earned surplus component of the tax.

(c) The additional tax imposed and any report required by the comptroller are due on the 60th day after the date the taxable entity ~~[corporation]~~ becomes no longer subject to the earned surplus component of the tax.

SECTION 4.05. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.0013 to read as follows:

Sec. 171.0013. TAXABLE ENTITY. (a) Except as provided by Subsection (b), "taxable entity" means a general partnership, limited partnership, limited liability partnership, corporation,

24-1 banking corporation, savings and loan association, limited
 24-2 liability company, trust, business trust, professional
 24-3 association, business association, joint venture, joint stock
 24-4 company, holding company, or other legal entity.

24-5 (b) "Taxable entity" does not include:

24-6 (1) a sole proprietorship; or

24-7 (2) a passive entity as described by Subsection (c).

24-8 (c) An entity is a passive entity only if:

24-9 (1) the entity is a limited partnership or a trust,
 24-10 other than a business trust;

24-11 (2) the entity makes no payments of wages or other
 24-12 compensation to employees or independent contractors, other than
 24-13 for accounting or legal services reasonably necessary for the
 24-14 operation of the entity;

24-15 (3) during the period on which earned surplus is
 24-16 based, the entity receives at least 90 percent of its income from
 24-17 one or more of the following:

24-18 (A) interest;

24-19 (B) dividends;

24-20 (C) real property rents;

24-21 (D) gains from the sale of real property and
 24-22 securities, other than a sale of securities of an entity that
 24-23 constitutes a controlling interest held by the selling entity and
 24-24 its related parties; or

24-25 (E) mineral royalties and other nonoperating
 24-26 mineral interests;

24-27 (4) the income described in Subdivision (3) comes only
 24-28 from assets acquired and held for investment purposes; and

24-29 (5) the entity was formed, created, or organized
 24-30 before April 30, 2005.

24-31 SECTION 4.06. Sections 171.002(a), (b), and (d), Tax Code,
 24-32 are amended to read as follows:

24-33 (a) The rates of the franchise tax are:

24-34 (1) 0.25 percent per year of privilege period of net
 24-35 taxable capital; and

24-36 (2) four [~~4.5~~] percent of net taxable earned surplus.

24-37 (b) The amount of franchise tax on each taxable entity
 24-38 [~~corporation~~] is computed by adding the following:

24-39 (1) the amount calculated by applying the tax rate
 24-40 prescribed by Subsection (a)(1) to the taxable entity's
 24-41 [~~corporation's~~] net taxable capital; and

24-42 (2) the difference between:

24-43 (A) the amount calculated by applying the tax
 24-44 rate prescribed by Subsection (a)(2) to the taxable entity's
 24-45 [~~corporation's~~] net taxable earned surplus; and

24-46 (B) the amount determined under Subdivision (1).

24-47 (d) A taxable entity [~~corporation~~] is not required to pay
 24-48 any tax and is not considered to owe any tax for a period if:

24-49 (1) the amount of tax computed for the taxable entity
 24-50 [~~corporation~~] is less than \$100; or

24-51 (2) the amount of the taxable entity's [~~corporation's~~]
 24-52 gross receipts:

24-53 (A) from its entire business under Section
 24-54 171.105 is less than:

24-55 (i) for a taxable entity other than a
 24-56 general partnership, \$150,000; and

24-57 (ii) for a general partnership, \$300,000;
 24-58 and

24-59 (B) from its entire business under Section
 24-60 171.1051, including the amount excepted under Section 171.1051(a),
 24-61 is less than:

24-62 (i) for a taxable entity other than a
 24-63 general partnership, \$150,000; and

24-64 (ii) for a general partnership, \$300,000.

24-65 SECTION 4.07. Subchapter B, Chapter 171, Tax Code, is
 24-66 amended by adding Section 171.088 to read as follows:

24-67 Sec. 171.088. EXEMPTION--NONCORPORATE TAXABLE ENTITY
 24-68 ELIGIBLE FOR CERTAIN EXEMPTIONS. A taxable entity that is not a
 24-69 corporation but that, because of its activities, would qualify for

25-1 a specific exemption under this subchapter if it were a corporation
 25-2 qualifies for the exemption and is exempt from the tax in the same
 25-3 manner and under the same conditions as a corporation.

25-4 SECTION 4.08. Subchapter C, Chapter 171, Tax Code, is
 25-5 amended by adding Section 171.1001 to read as follows:

25-6 Sec. 171.1001. DEFINITIONS. In this subchapter:

25-7 (1) "Arm's length" means the standard of conduct under
 25-8 which unrelated parties having substantially equal bargaining
 25-9 power, each acting in its own interest, would negotiate or carry out
 25-10 a particular transaction.

25-11 (2) "Controlling interest" means:

25-12 (A) for a corporation, either 50 percent or more,
 25-13 owned directly or indirectly, of the total combined voting power of
 25-14 all classes of stock of the corporation, or 50 percent or more,
 25-15 owned directly or indirectly, of the beneficial ownership interest
 25-16 in the voting stock of the corporation;

25-17 (B) for a partnership, association, trust, or
 25-18 other entity, 50 percent or more, owned directly or indirectly, of
 25-19 the capital, profits, or beneficial interest in the partnership,
 25-20 association, trust, or other entity; and

25-21 (C) notwithstanding Paragraphs (A) and (B), for a
 25-22 passive entity, 20 percent or more, owned directly or indirectly,
 25-23 of the capital, profits, or beneficial interest in the passive
 25-24 entity.

25-25 (3) "Interest payment" means an amount allowable as an
 25-26 interest deduction under Section 163, Internal Revenue Code.

25-27 (4) "Management fee" means a fee for services of a
 25-28 managerial or administrative nature, including services pertaining
 25-29 to management, accounts receivable and payable, employee benefit
 25-30 plans, insurance, legal matters, payroll, data processing,
 25-31 purchasing, taxes, financial matters, securities, accounting,
 25-32 reporting, and compliance.

25-33 (5) "Related party" means a person, corporation, or
 25-34 other entity, including an entity that is treated as a pass-through
 25-35 or disregarded entity for purposes of federal taxation, whether the
 25-36 person, corporation, or entity is a taxable entity or not, in which
 25-37 one person, corporation, or entity, or set of related persons,
 25-38 corporations, or entities, directly or indirectly owns or controls
 25-39 a controlling interest in another entity.

25-40 (6) "Royalty payment" means a payment directly
 25-41 connected to the acquisition, use, maintenance or management,
 25-42 ownership, sale, exchange, or any other disposition of licenses,
 25-43 trademarks, copyrights, trade names, trade dress, service marks,
 25-44 mask works, trade secrets, patents, or any other similar types of
 25-45 intangible assets as determined by the comptroller.

25-46 (7) "Valid business purpose" means one or more
 25-47 business purposes, other than the avoidance or reduction of taxes,
 25-48 that alone or in combination constitute the primary motivation for
 25-49 a business activity or transaction that changes in a meaningful
 25-50 way, apart from tax effects, the economic position of the entity. A
 25-51 valid business purpose includes compliance with a regulatory
 25-52 requirement of:

25-53 (A) the federal government;

25-54 (B) a state or local government;

25-55 (C) a foreign nation; or

25-56 (D) an agency or political subdivision of any
 25-57 entity listed in Paragraphs (A)-(C).

25-58 SECTION 4.09. Section 171.101, Tax Code, is amended to read
 25-59 as follows:

25-60 Sec. 171.101. DETERMINATION OF NET TAXABLE CAPITAL. The
 25-61 [~~(a) Except as provided by Subsections (b) and (c), the~~] net taxable
 25-62 capital of a taxable entity [~~corporation~~] is computed by:

25-63 (1) [~~adding the corporation's stated capital, as~~
 25-64 ~~defined by Article 1.02, Texas Business Corporation Act, and the~~
 25-65 ~~corporation's surplus, to determine the corporation's taxable~~
 25-66 ~~capital,~~

25-67 [~~(2)~~] apportioning the taxable entity's surplus
 25-68 [~~corporation's taxable capital~~] to this state as provided by
 25-69 Section 171.106(a) or (c), as applicable, to determine the taxable

entity's ~~[corporation's]~~ apportioned taxable capital; and
 (2) ~~[(3)]~~ subtracting from the amount computed under
 Subdivision (1) ~~[(2)]~~ any other allowable deductions to determine
 the taxable entity's ~~[corporation's]~~ net taxable capital.

~~[(b) The net taxable capital of a limited liability company
 is computed by:~~

~~[(1) adding the company's members' contributions, as
 provided for under the Texas Limited Liability Company Act, and
 surplus to determine the company's taxable capital;~~

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

~~[(3) subtracting from the amount computed under
 Subdivision (2) any other allowable deductions, to determine the
 company's net taxable capital.~~

~~[(c) The net taxable capital of a savings and loan
 association is computed by:~~

~~[(1) determining the association's net worth; and~~

~~[(2) apportioning the amount determined under
 Subdivision (1) to this state in the same manner that the taxable
 capital of a corporation is apportioned to this state under Section
 171.106(a) to determine the association's net taxable capital.]~~

SECTION 4.10. Section 171.103, Tax Code, is amended to read
 as follows:

Sec. 171.103. DETERMINATION OF GROSS RECEIPTS FROM BUSINESS
 DONE IN THIS STATE FOR TAXABLE CAPITAL. In apportioning taxable
 capital, the gross receipts of a taxable entity ~~[corporation]~~ from
 its business done in this state is the sum of the taxable entity's
~~[corporation's]~~ receipts from:

(1) each sale of tangible personal property if the
 property is delivered or shipped to a buyer in this state regardless
 of the FOB point or another condition of the sale, and each sale of
 tangible personal property shipped from this state to a purchaser
 in another state in which the seller is not subject to taxation;

(2) each service performed in this state;

(3) each rental of property situated in this state;

(4) the use of a patent, copyright, trademark,
 franchise, or license in this state;

(5) each sale of real property located in this state,
 including royalties from oil, gas, or other mineral interests; and

(6) other business done in this state.

SECTION 4.11. Section 171.1032, Tax Code, is amended to
 read as follows:

Sec. 171.1032. DETERMINATION OF GROSS RECEIPTS FROM
 BUSINESS DONE IN THIS STATE FOR TAXABLE EARNED SURPLUS. (a) Except
 for the gross receipts of a taxable entity ~~[corporation]~~ that are
 subject to the provisions of Section 171.1061, in apportioning
 taxable earned surplus, the gross receipts of a taxable entity
~~[corporation]~~ from its business done in this state is the sum of the
taxable entity's ~~[corporation's]~~ receipts from:

(1) each sale of tangible personal property if the
 property is delivered or shipped to a buyer in this state regardless
 of the FOB point or another condition of the sale, and each sale of
 tangible personal property shipped from this state to a purchaser
 in another state in which the seller is not subject to any tax on, or
 measured by, net income, without regard to whether the tax is
 imposed;

(2) each service performed in this state;

(3) each rental of property situated in this state;

(4) the use of a patent, copyright, trademark,
 franchise, or license in this state;

(5) each sale of real property located in this state,
 including royalties from oil, gas, or other mineral interests;

(6) each entity that is not a taxable entity
~~[partnership or joint venture]~~ to the extent provided by Subsection
 (c); and

(7) other business done in this state.

27-1 (b) A taxable entity [~~corporation~~] shall deduct from its
 27-2 gross receipts computed under Subsection (a) any amount to the
 27-3 extent included under Subsection (a) because of the application of
 27-4 Section 78 or Sections 951-964, Internal Revenue Code, any amount
 27-5 excludable under Section 171.110(k), and dividends received from a
 27-6 subsidiary, associate, or affiliated entity [~~corporation~~] that
 27-7 does not transact a substantial portion of its business or
 27-8 regularly maintain a substantial portion of its assets in the
 27-9 United States.

27-10 (c) A taxable entity [~~corporation~~] shall include in its
 27-11 gross receipts computed under Subsection (a) the taxable entity's
 27-12 [~~corporation's~~] share of the gross receipts of each entity that is
 27-13 not a taxable entity [~~partnership and joint venture~~] of which the
 27-14 taxable entity [~~corporation~~] is a part apportioned to this state as
 27-15 though the taxable entity [~~corporation~~] directly earned the
 27-16 receipts, including receipts from business done with the taxable
 27-17 entity [~~corporation~~].

27-18 SECTION 4.12. Section 171.104, Tax Code, is amended to read
 27-19 as follows:

27-20 Sec. 171.104. GROSS RECEIPTS FROM BUSINESS DONE IN TEXAS:
 27-21 DEDUCTION FOR FOOD AND MEDICINE RECEIPTS. A taxable entity
 27-22 [~~corporation~~] may deduct from its receipts includable under Section
 27-23 171.103(1) [~~of this code~~] the amount of the taxable entity's
 27-24 [~~corporation's~~] receipts from sales of the following items, if the
 27-25 items are shipped from outside this state and the receipts would be
 27-26 includable under Section 171.103(1) [~~of this code~~] in the absence
 27-27 of this section:

27-28 (1) food that is exempted from the Limited Sales,
 27-29 Excise, and Use Tax Act by Section 151.314(a) [~~of this code~~]; and

27-30 (2) health care supplies that are exempted from the
 27-31 Limited Sales, Excise, and Use Tax Act by Section 151.313 [~~of this~~
 27-32 ~~code~~].

27-33 SECTION 4.13. Section 171.105, Tax Code, is amended to read
 27-34 as follows:

27-35 Sec. 171.105. DETERMINATION OF GROSS RECEIPTS FROM ENTIRE
 27-36 BUSINESS FOR TAXABLE CAPITAL. (a) In apportioning taxable
 27-37 capital, the gross receipts of a taxable entity [~~corporation~~] from
 27-38 its entire business is the sum of the taxable entity's
 27-39 [~~corporation's~~] receipts from:

27-40 (1) each sale of the taxable entity's [~~corporation's~~]
 27-41 tangible personal property;

27-42 (2) each service, rental, or royalty; and

27-43 (3) other business.

27-44 (b) If a taxable entity [~~corporation~~] sells an investment or
 27-45 capital asset, the taxable entity's [~~corporation's~~] gross receipts
 27-46 from its entire business for taxable capital include only the net
 27-47 gain from the sale.

27-48 SECTION 4.14. Section 171.1051, Tax Code, is amended to
 27-49 read as follows:

27-50 Sec. 171.1051. DETERMINATION OF GROSS RECEIPTS FROM ENTIRE
 27-51 BUSINESS FOR TAXABLE EARNED SURPLUS. (a) Except for the gross
 27-52 receipts of a taxable entity [~~corporation~~] that are subject to the
 27-53 provisions of Section 171.1061, in apportioning taxable earned
 27-54 surplus, the gross receipts of a taxable entity [~~corporation~~] from
 27-55 its entire business is the sum of the taxable entity's
 27-56 [~~corporation's~~] receipts from:

27-57 (1) each sale of the taxable entity's [~~corporation's~~]
 27-58 tangible personal property;

27-59 (2) each service, rental, or royalty;

27-60 (3) each entity that is not a taxable entity
 27-61 [~~partnership and joint venture~~] as provided by Subsection (d); and

27-62 (4) other business.

27-63 (b) If a taxable entity [~~corporation~~] sells an investment or
 27-64 capital asset, the taxable entity's [~~corporation's~~] gross receipts
 27-65 from its entire business for taxable earned surplus includes only
 27-66 the net gain from the sale.

27-67 (c) A taxable entity [~~corporation~~] shall deduct from its
 27-68 gross receipts computed under Subsection (a) any amount to the
 27-69 extent included in Subsection (a) because of the application of

28-1 Section 78 or Sections 951-964, Internal Revenue Code, any amount
 28-2 excludable under Section 171.110(k), and dividends received from a
 28-3 subsidiary, associate, or affiliated entity [~~corporation~~] that
 28-4 does not transact a substantial portion of its business or
 28-5 regularly maintain a substantial portion of its assets in the
 28-6 United States.

28-7 (d) A taxable entity [~~corporation~~] shall include in its
 28-8 gross receipts computed under Subsection (a) the taxable entity's
 28-9 [~~corporation's~~] share of the gross receipts of each entity that is
 28-10 not a taxable entity [~~partnership and joint venture~~] of which the
 28-11 taxable entity [~~corporation~~] is a part.

28-12 SECTION 4.15. Sections 171.106(a)-(d), Tax Code, are
 28-13 amended to read as follows:

28-14 (a) Except as provided by Subsections (c) and (d), a taxable
 28-15 entity's [~~corporation's~~] taxable capital is apportioned to this
 28-16 state to determine the amount of the tax imposed under Section
 28-17 171.002(b)(1) by multiplying the taxable entity's [~~corporation's~~]
 28-18 taxable capital by a fraction, the numerator of which is the taxable
 28-19 entity's [~~corporation's~~] gross receipts from business done in this
 28-20 state, as determined under Section 171.103, and the denominator of
 28-21 which is the taxable entity's [~~corporation's~~] gross receipts from
 28-22 its entire business, as determined under Section 171.105.

28-23 (b) Except as provided by Subsections (c) and (d), a taxable
 28-24 entity's [~~corporation's~~] taxable earned surplus is apportioned to
 28-25 this state to determine the amount of tax imposed under Section
 28-26 171.002(b)(2) by multiplying the taxable earned surplus by a
 28-27 fraction, the numerator of which is the taxable entity's
 28-28 [~~corporation's~~] gross receipts from business done in this state, as
 28-29 determined under Section 171.1032, and the denominator of which is
 28-30 the taxable entity's [~~corporation's~~] gross receipts from its entire
 28-31 business, as determined under Section 171.1051.

28-32 (c) A taxable entity's [~~corporation's~~] taxable capital or
 28-33 earned surplus that is derived, directly or indirectly, from the
 28-34 sale of management, distribution, or administration services to or
 28-35 on behalf of a regulated investment company, including a taxable
 28-36 entity [~~corporation~~] that includes trustees or sponsors of employee
 28-37 benefit plans that have accounts in a regulated investment company,
 28-38 is apportioned to this state to determine the amount of the tax
 28-39 imposed under Section 171.002 by multiplying the taxable entity's
 28-40 [~~corporation's~~] total taxable capital or earned surplus from the
 28-41 sale of services to or on behalf of a regulated investment company
 28-42 by a fraction, the numerator of which is the average of the sum of
 28-43 shares owned at the beginning of the year and the sum of shares
 28-44 owned at the end of the year by the investment company shareholders
 28-45 who are commercially domiciled in this state or, if the
 28-46 shareholders are individuals, are residents of this state, and the
 28-47 denominator of which is the average of the sum of shares owned at
 28-48 the beginning of the year and the sum of shares owned at the end of
 28-49 the year by all investment company shareholders. The taxable
 28-50 entity [~~corporation~~] shall make a separate computation to allocate
 28-51 taxable capital and earned surplus. In this subsection, "regulated
 28-52 investment company" has the meaning assigned by Section 851(a),
 28-53 Internal Revenue Code.

28-54 (d) A taxable entity's [~~corporation's~~] taxable capital or
 28-55 taxable earned surplus that is derived, directly or indirectly,
 28-56 from the sale of management, administration, or investment services
 28-57 to an employee retirement plan is apportioned to this state to
 28-58 determine the amount of the tax imposed under Section 171.002 by
 28-59 multiplying the taxable entity's [~~corporation's~~] total taxable
 28-60 capital or earned surplus from the sale of services to an employee
 28-61 retirement plan company by a fraction, the numerator of which is the
 28-62 average of the sum of beneficiaries domiciled in Texas at the
 28-63 beginning of the year and the sum of beneficiaries domiciled in
 28-64 Texas at the end of the year, and the denominator of which is the
 28-65 average of the sum of all beneficiaries at the beginning of the year
 28-66 and the sum of all beneficiaries at the end of the year. The taxable
 28-67 entity [~~corporation~~] shall make a separate computation to apportion
 28-68 taxable capital and earned surplus. In this section, "employee
 28-69 retirement plan" means a plan or other arrangement that is

29-1 qualified under Section 401(a), Internal Revenue Code, or satisfies
 29-2 the requirements of Section 403, Internal Revenue Code, or a
 29-3 government plan described in Section 414(d), Internal Revenue Code.
 29-4 The term does not include an individual retirement account or
 29-5 individual retirement annuity within the meaning of Section 408,
 29-6 Internal Revenue Code.

29-7 SECTION 4.16. Section 171.1061, Tax Code, is amended to
 29-8 read as follows:

29-9 Sec. 171.1061. ALLOCATION OF CERTAIN TAXABLE EARNED SURPLUS
 29-10 TO THIS STATE. An item of income included in a taxable entity's
 29-11 [~~corporation's~~] taxable earned surplus, except that portion
 29-12 derived from dividends and interest, that a state, other than this
 29-13 state, or a country, other than the United States, cannot tax
 29-14 because the activities generating that item of income do not have
 29-15 sufficient unitary connection with the taxable entity's
 29-16 [~~corporation's~~] other activities conducted within that state or
 29-17 country under the United States Constitution, is allocated to this
 29-18 state if the taxable entity's [~~corporation's~~] commercial domicile
 29-19 is in this state. Income that can only be allocated to the state of
 29-20 commercial domicile because the income has insufficient unitary
 29-21 connection with any other state or country shall be allocated to
 29-22 this state or another state or country net of expenses related to
 29-23 that income. A portion of a taxable entity's [~~corporation's~~]
 29-24 taxable earned surplus allocated to this state under this section
 29-25 may not be apportioned under Section 171.110(a)(2).

29-26 SECTION 4.17. Sections 171.107(b), (d), and (e), Tax Code,
 29-27 are amended to read as follows:

29-28 (b) A taxable entity [~~corporation~~] may deduct from its
 29-29 apportioned taxable capital the amortized cost of a solar energy
 29-30 device or from its apportioned taxable earned surplus 10 percent of
 29-31 the amortized cost of a solar energy device if:

29-32 (1) the device is acquired by the taxable entity
 29-33 [~~corporation~~] for heating or cooling or for the production of
 29-34 power;

29-35 (2) the device is used in this state by the taxable
 29-36 entity [~~corporation~~]; and

29-37 (3) the cost of the device is amortized in accordance
 29-38 with Subsection (c) [~~of this section~~].

29-39 (d) A taxable entity [~~corporation~~] that makes a deduction
 29-40 under this section shall file with the comptroller an amortization
 29-41 schedule showing the period in which a deduction is to be made. On
 29-42 the request of the comptroller, the taxable entity [~~corporation~~]
 29-43 shall file with the comptroller proof of the cost of the solar
 29-44 energy device or proof of the device's operation in this state.

29-45 (e) A taxable entity [~~corporation~~] may elect to make the
 29-46 deduction authorized by this section either from apportioned
 29-47 taxable capital or apportioned taxable earned surplus for each
 29-48 separate regular annual period. An election for an initial period
 29-49 applies to the second tax period and to the first regular annual
 29-50 period.

29-51 SECTION 4.18. Section 171.109, Tax Code, is amended by
 29-52 amending Subsections (a), (b)-(f), (h), (j), (k), (m), and (n), by
 29-53 reenacting and amending Subsection (g), as amended by Chapters 801
 29-54 and 1198, Acts of the 71st Legislature, Regular Session, 1989, and
 29-55 by adding Subsection (a-2) to read as follows:

29-56 (a) In this chapter:

29-57 (1) "Surplus" or "taxable capital" means the net
 29-58 assets of a taxable entity [~~corporation minus its stated capital.~~
 29-59 ~~For a limited liability company, "surplus" means the net assets of~~
 29-60 ~~the company minus its members' contributions~~]. Surplus includes
 29-61 unrealized, estimated, or contingent losses or obligations or any
 29-62 writedown of assets other than those listed in Subsection (i) [~~of~~
 29-63 ~~this section~~] net of appropriate income tax provisions. The
 29-64 definition under this subdivision does not apply to earned surplus.

29-65 (2) "Net assets" means the total assets of a taxable
 29-66 entity [~~corporation~~] minus its total debts.

29-67 (3) "Debt" means any legally enforceable obligation
 29-68 measured in a certain amount of money which must be performed or
 29-69 paid within an ascertainable period of time or on demand.

30-1 (a-2) In this section, "distribution" includes a dividend.

30-2 (b) Except as otherwise provided in this section, a taxable
 30-3 entity [~~corporation~~] must compute its surplus, assets, and debts
 30-4 according to generally accepted accounting principles. If
 30-5 generally accepted accounting principles are unsettled or do not
 30-6 specify an accounting practice for a particular purpose related to
 30-7 the computation of surplus, assets, or debts, the comptroller by
 30-8 rule may establish rules to specify the applicable accounting
 30-9 practice for that purpose.

30-10 (c) A taxable entity [~~corporation~~] whose taxable capital is
 30-11 less than \$1 million may report its surplus according to the method
 30-12 used in the taxable entity's [~~corporation's~~] most recent federal
 30-13 income tax return originally due on or before the date on which the
 30-14 taxable entity's [~~corporation's~~] franchise tax report is originally
 30-15 due. In determining if taxable capital is less than \$1 million, the
 30-16 taxable entity [~~corporation~~] shall apply the methods the taxable
 30-17 entity [~~corporation~~] used in computing that federal income tax
 30-18 return unless another method is required under this chapter.

30-19 (d) A taxable entity [~~corporation~~] shall report its surplus
 30-20 based solely on its own financial condition. Consolidated
 30-21 reporting of surplus is prohibited.

30-22 (e) A taxable entity [~~Unless the provisions of Section~~
 30-23 ~~171.111 apply due to an election under that section, a corporation~~]
 30-24 may not change the accounting methods used to compute its surplus
 30-25 more often than once every four years without the written consent of
 30-26 the comptroller. A change in accounting methods is not justified
 30-27 solely because it results in a reduction of tax liability.

30-28 (f) A taxable entity making a distribution [~~corporation~~
 30-29 ~~declaring dividends~~] shall exclude the distribution [~~those~~
 30-30 ~~dividends~~] from its taxable capital, and a taxable entity
 30-31 [~~corporation~~] receiving a distribution [~~dividends~~] shall include
 30-32 the distribution [~~those dividends~~] in its gross receipts and
 30-33 taxable capital as of the earlier of:

30-34 (1) the date the distribution is [~~dividends are~~]
 30-35 declared, if the distribution is [~~dividends are~~] actually paid in
 30-36 cash or property other than a note payable within one year after the
 30-37 declaration date; or

30-38 (2) the date the distribution is [~~dividends are~~]
 30-39 actually paid in cash or property other than a note payable.

30-40 (g) All oil and gas exploration and production activities
 30-41 conducted by a taxable entity [~~corporation~~] that reports its
 30-42 surplus according to generally accepted accounting principles as
 30-43 required or permitted by this chapter must be reported according to
 30-44 the successful efforts or the full cost method of accounting.

30-45 (h) A parent or investor taxable entity [~~corporation~~] must
 30-46 use the cost method of accounting in reporting and calculating the
 30-47 franchise tax on its investments in subsidiary taxable entities
 30-48 [~~corporations~~] or other investees. The retained earnings of a
 30-49 subsidiary taxable entity [~~corporation~~] or other investee before
 30-50 acquisition by the parent or investor taxable entity [~~corporation~~]
 30-51 may not be excluded from the cost of the subsidiary taxable entity
 30-52 [~~corporation~~] or investee to the parent or investor taxable entity
 30-53 [~~corporation~~] and must be included by the parent or investor
 30-54 taxable entity [~~corporation~~] in calculating its surplus.

30-55 (j) A taxable entity [~~corporation~~] may not exclude from
 30-56 surplus:

30-57 (1) liabilities for compensation and other benefits
 30-58 provided to employees, other than wages, that are not debt as of the
 30-59 end of the accounting period on which the taxable capital component
 30-60 is based, including retirement, medical, insurance,
 30-61 postretirement, and other similar benefits; and

30-62 (2) deferred investment tax credits.

30-63 (k) Notwithstanding any other provision in this chapter, a
 30-64 taxable entity [~~corporation~~] subject to the tax imposed by this
 30-65 chapter shall use double entry bookkeeping to account for all
 30-66 transactions that affect the computation of that tax.

30-67 (m) A taxable entity [~~corporation~~] may not use the push-down
 30-68 method of accounting in computing or reporting its surplus.

30-69 (n) A taxable entity [~~corporation~~] must use the equity

31-1 method of accounting when reporting an investment in an entity that
 31-2 is not a taxable entity [a partnership or joint venture].

31-3 SECTION 4.19. Section 171.110, Tax Code, is amended by
 31-4 amending Subsections (a), (d), (e), (f), and (h) and adding
 31-5 Subsections (m), (n), and (o) to read as follows:

31-6 (a) The net taxable earned surplus of a taxable entity
 31-7 [corporation] is computed by:

31-8 (1) determining the taxable entity's [corporation's]
 31-9 reportable federal taxable income and making the following
 31-10 adjustments:

31-11 (A) for a corporation, subtracting [from that
 31-12 amount] any amount excludable under Subsection (k) and [7] any
 31-13 amount included in reportable federal taxable income under Section
 31-14 78 or Sections 951-964, Internal Revenue Code;

31-15 (B) for a corporation, subtracting [7, and]
 31-16 dividends received from a subsidiary, associate, or affiliated
 31-17 taxable entity [corporation] that does not transact a substantial
 31-18 portion of its business or regularly maintain a substantial portion
 31-19 of its assets in the United States;

31-20 (C) [7, and] adding 15 percent of compensation as
 31-21 described by Subsection (m) [to that amount any compensation of
 31-22 officers or directors, or if a bank, any compensation of directors
 31-23 and executive officers, to the extent excluded in determining
 31-24 federal taxable income to determine the corporation's taxable
 31-25 earned surplus]; and

31-26 (D) for a partnership other than a partnership
 31-27 that is registered with or that has filed a certificate of formation
 31-28 or similar document with the secretary of state of this state or
 31-29 with an appropriate filing officer of any other state:

31-30 (i) subtracting the distributive share of
 31-31 income for each partner that is a natural person; and

31-32 (ii) adding, for each partner that is a
 31-33 natural person, the product of an amount equal to 0.33 percent of
 31-34 the gross receipts, as defined under Section 171.1051, of the
 31-35 partnership times the ratio of the distributive share of the income
 31-36 of that partner to the total income of the partnership;

31-37 (2) apportioning the taxable entity's [corporation's]
 31-38 taxable earned surplus to this state as provided by Section
 31-39 171.106(b) or (c), as applicable, to determine the taxable entity's
 31-40 [corporation's] apportioned taxable earned surplus;

31-41 (3) adding the taxable entity's [corporation's]
 31-42 taxable earned surplus allocated to this state as provided by
 31-43 Section 171.1061; and

31-44 (4) subtracting from that amount any allowable
 31-45 deductions and any business loss that is carried forward to the tax
 31-46 reporting period and deductible under Subsection (e).

31-47 (d) A corporation's reportable federal taxable income is
 31-48 the corporation's federal taxable income under Subsection (a)(1)
 31-49 after Schedule C special deductions and before net operating loss
 31-50 deductions as computed under the Internal Revenue Code, except that
 31-51 an S corporation's reportable federal taxable income is the amount
 31-52 of the income reportable to the Internal Revenue Service as taxable
 31-53 to the corporation's shareholders. Reportable federal taxable
 31-54 income for a partnership is the partnership's income as an entity as
 31-55 determined under rules adopted by the comptroller using principles
 31-56 similar to the standards applied to a corporation. Reportable
 31-57 federal taxable income for an entity other than a corporation or
 31-58 partnership is determined under rules adopted by the comptroller
 31-59 using principles similar to the standards applied to a corporation.

31-60 (e) For purposes of this section, a business loss is any
 31-61 negative amount of earned surplus after apportionment and
 31-62 allocation. The business loss shall be carried forward to the year
 31-63 succeeding the loss year as a deduction to net taxable earned
 31-64 surplus, then successively to the succeeding four taxable years
 31-65 after the loss year or until the loss is exhausted, whichever occurs
 31-66 first, but for not more than five taxable years after the loss year.
 31-67 Notwithstanding the preceding sentence, a business loss from a tax
 31-68 year that ends before January 1, 1991, may not be used to reduce net
 31-69 taxable earned surplus. A business loss can be carried forward only

32-1 by the taxable entity [~~corporation~~] that incurred the loss and
 32-2 cannot be transferred to or claimed by any other entity, including
 32-3 the survivor of a merger if the loss was incurred by the taxable
 32-4 entity [~~corporation~~] that did not survive the merger.

32-5 (f) A taxable entity [~~corporation~~] may use either the "first
 32-6 in-first out" or "last in-first out" method of accounting to
 32-7 compute its net taxable earned surplus, but only to the extent that
 32-8 the taxable entity [~~corporation~~] used that method on its most
 32-9 recent federal income tax report originally due on or before the
 32-10 date on which the taxable entity's [~~corporation's~~] franchise tax
 32-11 report is originally due.

32-12 (h) A taxable entity [~~corporation~~] shall report its net
 32-13 taxable earned surplus based solely on its own financial condition.
 32-14 Consolidated reporting is prohibited.

32-15 (m) For purposes of this section, compensation for a taxable
 32-16 entity is the amount the taxable entity entered as total payments in
 32-17 Part 1, line 1, of the federal Internal Revenue Service Form 940 or
 32-18 940-EZ, Employer's Annual Federal Unemployment (FUTA) Tax Return,
 32-19 and guaranteed payments to partners, during the period on which
 32-20 earned surplus is based, except that:

32-21 (1) for a taxable entity that is a client company of a
 32-22 staff leasing services company, compensation is the amount the
 32-23 client company entered as total payments in Part 1, line 1, of Form
 32-24 940 or 940-EZ, plus payments by the staff leasing services company
 32-25 to assigned employees of the client company; and

32-26 (2) for a taxable entity that is a staff leasing
 32-27 services company, compensation is the amount the staff leasing
 32-28 services company entered as total payments in Part 1, line 1, of
 32-29 Form 940 or 940-EZ, minus payments by the staff leasing services
 32-30 company to assigned employees of a client company.

32-31 (n) A staff leasing services company shall submit to the
 32-32 comptroller a copy of each quarterly report filed with the Texas
 32-33 Workforce Commission under Section 91.044(a), Labor Code,
 32-34 containing the name, address, telephone number, federal income tax
 32-35 identification number, and classification code of each client
 32-36 company.

32-37 (o) For purposes of this section, the terms "assigned
 32-38 employee," "client company," "license holder," and "staff leasing
 32-39 services company" have the meanings assigned by Section 91.001,
 32-40 Labor Code.

32-41 SECTION 4.19A. (a) Section 171.110(a), Tax Code, is
 32-42 amended to read as follows:

32-43 (a) The net taxable earned surplus of a taxable entity
 32-44 [~~corporation~~] is computed by:

32-45 (1) determining the taxable entity's [~~corporation's~~]
 32-46 reportable federal taxable income and making the following
 32-47 adjustments:

32-48 (A) for a corporation, subtracting [~~from that~~
 32-49 ~~amount~~] any amount excludable under Subsection (k) and [~~7~~] any
 32-50 amount included in reportable federal taxable income under Section
 32-51 78 or Sections 951-964, Internal Revenue Code;

32-52 (B) for a corporation, subtracting [~~7~~ ~~and~~]
 32-53 dividends received from a subsidiary, associate, or affiliated
 32-54 taxable entity [~~corporation~~] that does not transact a substantial
 32-55 portion of its business or regularly maintain a substantial portion
 32-56 of its assets in the United States;

32-57 (C) [~~7~~ ~~and~~] adding 25 percent of compensation as
 32-58 described by Subsection (m) [to that amount any compensation of
 32-59 officers or directors, or if a bank, any compensation of directors
 32-60 and executive officers, to the extent excluded in determining
 32-61 federal taxable income to determine the corporation's taxable
 32-62 earned surplus]; and

32-63 (D) for a partnership other than a partnership
 32-64 that is registered with or that has filed a certificate of formation
 32-65 or similar document with the secretary of state of this state or
 32-66 with an appropriate filing officer of any other state:

32-67 (i) subtracting the distributive share of
 32-68 income for each partner that is a natural person; and

32-69 (ii) adding, for each partner that is a

33-1 natural person, the product of an amount equal to 0.33 percent of
 33-2 the gross receipts, as defined under Section 171.1051, of the
 33-3 partnership times the ratio of the distributive share of the income
 33-4 of that partner to the total income of the partnership;

33-5 (2) apportioning the taxable entity's [~~corporation's~~]
 33-6 taxable earned surplus to this state as provided by Section
 33-7 171.106(b) or (c), as applicable, to determine the taxable entity's
 33-8 [~~corporation's~~] apportioned taxable earned surplus;

33-9 (3) adding the taxable entity's [~~corporation's~~]
 33-10 taxable earned surplus allocated to this state as provided by
 33-11 Section 171.1061; and

33-12 (4) subtracting from that amount any allowable
 33-13 deductions and any business loss that is carried forward to the tax
 33-14 reporting period and deductible under Subsection (e).

33-15 (b) This section takes effect January 1, 2007, and applies
 33-16 to a report originally due on or after that date, but only if the
 33-17 constitutional amendment proposed by S.J.R. No. 38, 79th
 33-18 Legislature, Regular Session, 2005, is approved by the voters. If
 33-19 that amendment is not approved by the voters, this section has no
 33-20 effect.

33-21 SECTION 4.20. Subchapter C, Chapter 171, Tax Code, is
 33-22 amended by adding Sections 171.1101-171.1103 to read as follows:

33-23 Sec. 171.1101. ADD-BACK OF PAYMENTS TO RELATED PARTY.

33-24 (a) A taxable entity shall add back to reportable federal taxable
 33-25 income any payments made to a related party that is a passive entity
 33-26 as described by Section 171.0013(c) during the period on which
 33-27 earned surplus is based to the extent deducted in computing
 33-28 reportable federal taxable income. The safe harbors provided by
 33-29 Section 171.1102 do not apply to payments under this subsection.

33-30 (b) Except as provided by Section 171.1102, a taxable entity
 33-31 shall add back to reportable federal taxable income any royalty
 33-32 payments, interest payments, and management fees made to a related
 33-33 party that is not a passive entity as described by Section
 33-34 171.0013(c), during the period on which earned surplus is based to
 33-35 the extent deducted in computing reportable federal taxable income.

33-36 Sec. 171.1102. SAFE HARBORS FOR CERTAIN PAYMENTS AND FEES.

33-37 (a) A taxable entity is not required to add back royalty payments
 33-38 to a related party to the extent:

33-39 (1) the related party during the period on which
 33-40 earned surplus is based directly or indirectly paid or incurred the
 33-41 amount to a person or entity that is not a related party, the
 33-42 transaction was done for a valid business purpose, and the payments
 33-43 were made at arm's length; or

33-44 (2) the royalty payments are paid or incurred to a
 33-45 related party organized under the laws of a foreign nation, are
 33-46 subject to a comprehensive income tax treaty between the foreign
 33-47 nation and the United States, and are taxed in the foreign nation at
 33-48 a tax rate equal to or greater than four percent.

33-49 (b) A taxable entity is not required to add back interest
 33-50 payments to a related party to the extent:

33-51 (1) the interest is at or below the applicable federal
 33-52 rate compounded annually for debt instruments under Section
 33-53 1274(d), Internal Revenue Code, that was in effect at the time of
 33-54 the agreement; or

33-55 (2) the related party during the period on which
 33-56 earned surplus is based directly or indirectly paid or incurred the
 33-57 amount to a person or entity that is not a related party, the
 33-58 transaction was done for a valid business purpose, and the payments
 33-59 were made at arm's length.

33-60 (c) A taxable entity is not required to add back a royalty
 33-61 payment or an interest payment made to a related party, or a
 33-62 management fee paid to a related party, if the combined tax paid to
 33-63 this state, or to this state and one or more other states each of
 33-64 which has a tax rate equal to or greater than the rate under Section
 33-65 171.002(a)(2), by the taxable entity and the related party exceeds
 33-66 the tax that would have been paid by the taxable entity if the
 33-67 royalty payment or interest payment had not been made.

33-68 (d) A taxable entity is not required to add back a
 33-69 management fee paid to a related party to the extent that the

34-1 transaction was done for a valid business purpose and the fee was
 34-2 paid at arm's length.

34-3 Sec. 171.1103. ADJUSTMENT TO INCOME AND EXPENSES BY
 34-4 COMPTROLLER. (a) The comptroller may distribute, apportion, or
 34-5 allocate gross income, deductions, credits, or allowances between
 34-6 or among two or more organizations, trades, or businesses, whether
 34-7 or not incorporated, whether or not organized in the United States,
 34-8 and whether or not affiliated, if:

34-9 (1) the organizations, trades, or businesses are owned
 34-10 or controlled directly or indirectly by the same interests; and

34-11 (2) the comptroller determines that the distribution,
 34-12 apportionment, or allocation is necessary to reflect an arm's
 34-13 length standard, within the meaning of 26 C.F.R. Section 1.482-1,
 34-14 and to clearly reflect the income of those organizations, trades,
 34-15 or businesses.

34-16 (b) The comptroller shall apply the administrative and
 34-17 judicial interpretations of Section 482, Internal Revenue Code, in
 34-18 administering this section.

34-19 SECTION 4.21. Sections 171.112(b)-(f) and (h), Tax Code,
 34-20 are amended to read as follows:

34-21 (b) Except as otherwise provided in this section, a taxable
 34-22 entity [~~corporation~~] must compute gross receipts in accordance with
 34-23 generally accepted accounting principles. If generally accepted
 34-24 accounting principles are unsettled or do not specify an accounting
 34-25 practice for a particular purpose related to the computation of
 34-26 gross receipts, the comptroller by rule may establish rules to
 34-27 specify the applicable accounting practice.

34-28 (c) A taxable entity [~~corporation~~] whose taxable capital is
 34-29 less than \$1 million may report its gross receipts according to the
 34-30 method used in the taxable entity's [~~corporation's~~] most recent
 34-31 federal income tax return originally due on or before the date on
 34-32 which the taxable entity's [~~corporation's~~] franchise tax report is
 34-33 originally due. In determining if taxable capital is less than \$1
 34-34 million, the taxable entity [~~corporation~~] shall apply the methods
 34-35 the taxable entity [~~corporation~~] used in computing that federal
 34-36 income tax return unless another method is required under this
 34-37 chapter.

34-38 (d) A taxable entity [~~corporation~~] shall report its gross
 34-39 receipts based solely on its own financial condition. Consolidated
 34-40 reporting is prohibited.

34-41 (e) Unless the provisions of Section 171.111 apply due to an
 34-42 election under that section, a taxable entity [~~corporation~~] may not
 34-43 change its accounting methods used to calculate gross receipts more
 34-44 often than once every four years without the express written
 34-45 consent of the comptroller. A change in accounting methods is not
 34-46 justified solely because it results in a reduction of tax
 34-47 liability.

34-48 (f) Notwithstanding any other provision in this chapter, a
 34-49 taxable entity [~~corporation~~] subject to the tax imposed by this
 34-50 chapter shall use double entry bookkeeping to account for all
 34-51 transactions that affect the computation of that tax.

34-52 (h) Except as otherwise provided by this section, a taxable
 34-53 entity [~~corporation~~] shall use the same accounting methods to
 34-54 apportion its taxable capital as it used to compute its taxable
 34-55 capital.

34-56 SECTION 4.22. Sections 171.1121(a)-(d), Tax Code, are
 34-57 amended to read as follows:

34-58 (a) For purposes of this section, "gross receipts" means all
 34-59 revenues reportable by a taxable entity [~~corporation~~] on its
 34-60 federal tax return, without deduction for the cost of property
 34-61 sold, materials used, labor performed, or other costs incurred,
 34-62 unless otherwise specifically provided in this chapter. "Gross
 34-63 receipts" does not include revenues that are not included in
 34-64 taxable earned surplus. For example, Schedule C special deductions
 34-65 and any amounts subtracted from reportable federal taxable income
 34-66 under Section 171.110(a)(1) are not included in taxable earned
 34-67 surplus and therefore are not considered gross receipts.

34-68 (b) Except as otherwise provided by this section, a taxable
 34-69 entity [~~corporation~~] shall use the same accounting methods to

35-1 apportion taxable earned surplus as used in computing reportable
35-2 federal taxable income.

35-3 (c) A taxable entity [~~corporation~~] shall report its gross
35-4 receipts based solely on its own financial condition. Consolidated
35-5 reporting is prohibited.

35-6 (d) Unless the provisions of Section 171.111 apply due to an
35-7 election under that section, a taxable entity [~~corporation~~] may not
35-8 change its accounting methods used to calculate gross receipts more
35-9 often than once every four years without the express written
35-10 consent of the comptroller. A change in accounting methods is not
35-11 justified solely because it results in a reduction of tax
35-12 liability.

35-13 SECTION 4.23. Section 171.113, Tax Code, is amended to read
35-14 as follows:

35-15 Sec. 171.113. ALTERNATE METHOD OF DETERMINING TAXABLE
35-16 CAPITAL AND GROSS RECEIPTS FOR CERTAIN TAXABLE ENTITIES
35-17 [~~CORPORATIONS~~]. (a) This section applies only to:

35-18 (1) a corporation organized as a close corporation
35-19 under Part 12, Texas Business Corporation Act, that has not more
35-20 than 35 shareholders;

35-21 (2) a foreign corporation organized under the close
35-22 corporation law of another state that has not more than 35
35-23 shareholders; [~~and~~]

35-24 (3) an S corporation as that term is defined by Section
35-25 1361, Internal Revenue Code of 1986 (26 U.S.C. Section 1361); and

35-26 (4) a taxable entity other than a corporation that has
35-27 35 or fewer owners.

35-28 (b) A taxable entity [~~corporation~~] to which this section
35-29 applies may elect to compute its surplus, assets, debts, and gross
35-30 receipts according to the method the taxable entity [~~corporation~~]
35-31 uses to report its federal income tax instead of as provided by
35-32 Sections 171.109(b) and (g) and Section 171.112(b). This section
35-33 does not affect the application of the other subsections of
35-34 Sections 171.109 and 171.112 and other provisions of this chapter
35-35 to a taxable entity [~~corporation~~] making the election.

35-36 (c) The comptroller may adopt rules as necessary to specify
35-37 the reporting requirements for taxable entities [~~corporations~~] to
35-38 which this section applies.

35-39 (d) This section does not apply to a subsidiary of a taxable
35-40 entity [~~corporation~~] unless it applies to the parent [~~corporation~~]
35-41 of the subsidiary.

35-42 (e) The election under Subsection (b) becomes effective
35-43 when written notice of the election is received by the comptroller
35-44 from the taxable entity [~~corporation~~]. An election under
35-45 Subsection (b) must be postmarked not later than the due date for
35-46 the electing taxable entity's [~~corporation's~~] franchise tax report
35-47 to which the election applies.

35-48 SECTION 4.24. Section 171.151, Tax Code, is amended to read
35-49 as follows:

35-50 Sec. 171.151. PRIVILEGE PERIOD COVERED BY TAX. The
35-51 franchise tax shall be paid for each of the following:

35-52 (1) an initial period beginning on the taxable
35-53 entity's [~~corporation's~~] beginning date and ending on the day
35-54 before the first anniversary of the beginning date;

35-55 (2) a second period beginning on the first anniversary
35-56 of the beginning date and ending on December 31 following that date;
35-57 and

35-58 (3) after the initial and second periods have expired,
35-59 a regular annual period beginning each year on January 1 and ending
35-60 the following December 31.

35-61 SECTION 4.25. Section 171.152(c), Tax Code, is amended to
35-62 read as follows:

35-63 (c) Payment of the tax covering the regular annual period is
35-64 due May 15, of each year after the beginning of the regular annual
35-65 period. However, if the first anniversary of the taxable entity's
35-66 [~~corporation's~~] beginning date is after October 3 and before
35-67 January 1, the payment of the tax covering the first regular annual
35-68 period is due on the same date as the tax covering the initial
35-69 period.

36-1 SECTION 4.26. Sections 171.153(a) and (c), Tax Code, are
36-2 amended to read as follows:

36-3 (a) The tax covering the initial period is reported on the
36-4 initial report and is based on the business done by the taxable
36-5 entity [~~corporation~~] during the period beginning on the taxable
36-6 entity's [~~corporation's~~] beginning date and:

36-7 (1) ending on the last accounting period ending date
36-8 that is at least six months after the beginning date and at least 60
36-9 days before the original due date of the initial report; or

36-10 (2) if there is no such period ending date in
36-11 Subdivision (1) [~~of this subsection~~], then ending on the day that is
36-12 the last day of a calendar month and that is nearest to the end of
36-13 the taxable entity's [~~corporation's~~] first year of business; or

36-14 (3) ending on the day after the merger occurs, for the
36-15 survivor of a merger which occurs after the day on which the tax is
36-16 based in Subdivision (1) or [~~Subdivision~~] (2), whichever is
36-17 applicable, [~~of Subsection (a)~~] and before January 1, of the year an
36-18 initial report is due by the survivor.

36-19 (c) The tax covering the regular annual period is based on
36-20 the business done by the taxable entity [~~corporation~~] during its
36-21 last accounting period that ends in the year before the year in
36-22 which the tax is due; unless a taxable entity [~~corporation~~] is the
36-23 survivor of a merger which occurs between the end of its last
36-24 accounting period in the year before the report year and January 1
36-25 of the report year, in which case the tax will be based on the
36-26 financial condition of the surviving taxable entity [~~corporation~~]
36-27 for the 12-month period ending on the day after the merger.
36-28 However, if the first anniversary of the taxable entity's
36-29 [~~corporation's~~] beginning date is after October 3 and before
36-30 January 1, the tax covering the first regular annual period is based
36-31 on the same business on which the tax covering the initial period is
36-32 based and is reported on the initial report.

36-33 SECTION 4.27. Section 171.1532, Tax Code, is amended to
36-34 read as follows:

36-35 Sec. 171.1532. BUSINESS ON WHICH TAX ON NET TAXABLE EARNED
36-36 SURPLUS IS BASED. (a) The tax covering the privilege periods
36-37 included on the initial report, as required by Section 171.153, is
36-38 based on the business done by the taxable entity [~~corporation~~]
36-39 during the period beginning on the taxable entity's [~~corporation's~~]
36-40 beginning date and:

36-41 (1) ending on the last accounting period ending date
36-42 that is at least 60 days before the original due date of the initial
36-43 report; or

36-44 (2) if there is no such period ending date in
36-45 Subdivision (1) [~~of this subsection~~], then ending on the day that is
36-46 the last day of a calendar month and that is nearest to the end of
36-47 the taxable entity's [~~corporation's~~] first year of business.

36-48 (b) The tax covering the regular annual period, other than a
36-49 regular annual period included on the initial report, is based on
36-50 the business done by the taxable entity [~~corporation~~] during the
36-51 period beginning with the day after the last date upon which net
36-52 taxable earned surplus on a previous report was based and ending
36-53 with its last accounting period ending date for federal income tax
36-54 purposes in the year before the year in which the report is
36-55 originally due.

36-56 SECTION 4.28. Section 171.154, Tax Code, is amended to read
36-57 as follows:

36-58 Sec. 171.154. PAYMENT TO COMPTROLLER. A taxable entity
36-59 [~~corporation~~] on which a tax is imposed by this chapter shall pay
36-60 the tax to the comptroller.

36-61 SECTION 4.29. Section 171.201, Tax Code, is amended to read
36-62 as follows:

36-63 Sec. 171.201. INITIAL REPORT. (a) Except as provided by
36-64 Section 171.2022, a taxable entity [~~corporation~~] on which the
36-65 franchise tax is imposed shall file an initial report with the
36-66 comptroller containing:

36-67 (1) information showing the financial condition of the
36-68 taxable entity [~~corporation~~] on the day that is the last day of a
36-69 calendar month and that is nearest to the end of the taxable

entity's ~~corporation's~~ first year of business;

(2) the name and address of:
 (A) each officer, ~~and~~ director, and manager of
 the taxable entity ~~corporation~~;

(B) for a limited partnership, each general
 partner;

(C) for a general partnership or limited
 liability partnership, each managing partner or, if there is not a
 managing partner, each partner; or

(D) for a trust, each trustee;

(3) the name and address of the agent of the taxable
 entity ~~corporation~~ designated under Section 171.354; and

(4) other information required by the comptroller.

(b) The taxable entity ~~corporation~~ shall file the report
 on or before the date the payment is due under Subsection (a) of
 Section 171.152.

SECTION 4.30. Sections 171.202(a)-(c), (e), (f), and (i),
 Tax Code, are amended to read as follows:

(a) Except as provided by Section 171.2022, a taxable entity
~~corporation~~ on which the franchise tax is imposed shall file an
 annual report with the comptroller containing:

(1) financial information of the taxable entity
~~corporation~~ necessary to compute the tax under this chapter;

(2) the name and address of each officer and director
 of the taxable entity ~~corporation~~;

(3) the name and address of the agent of the taxable
 entity ~~corporation~~ designated under Section 171.354; and

(4) other information required by the comptroller.

(b) The taxable entity ~~corporation~~ shall file the report
 before May 16 of each year after the beginning of the regular annual
 period. The report shall be filed on forms supplied by the
 comptroller.

(c) The comptroller shall grant an extension of time to a
taxable entity ~~corporation~~ that is not required by rule to make
 its tax payments by electronic funds transfer for the filing of a
 report required by this section to any date on or before the next
 November 15, if a taxable entity ~~corporation~~:

(1) requests the extension, on or before May 15, on a
 form provided by the comptroller; and

(2) remits with the request:
 (A) not less than 90 percent of the amount of tax
 reported as due on the report filed on or before November 15; or

(B) 100 percent of the tax reported as due for the
 previous calendar year on the report due in the previous calendar
 year and filed on or before May 14.

(e) The comptroller shall grant an extension of time for the
 filing of a report required by this section by a taxable entity
~~corporation~~ required by rule to make its tax payments by
 electronic funds transfer to any date on or before the next August
 15, if the taxable entity ~~corporation~~:

(1) requests the extension, on or before May 15, on a
 form provided by the comptroller; and

(2) remits with the request:
 (A) not less than 90 percent of the amount of tax
 reported as due on the report filed on or before August 15; or

(B) 100 percent of the tax reported as due for the
 previous calendar year on the report due in the previous calendar
 year and filed on or before May 14.

(f) The comptroller shall grant an extension of time to a
taxable entity ~~corporation~~ required by rule to make its tax
 payments by electronic funds transfer for the filing of a report due
 on or before August 15 to any date on or before the next November 15,
 if the taxable entity ~~corporation~~:

(1) requests the extension, on or before August 15, on
 a form provided by the comptroller; and

(2) remits with the request the difference between the
 amount remitted under Subsection (e) and 100 percent of the amount
 of tax reported as due on the report filed on or before November 15.

(i) If a taxable entity ~~corporation~~ requesting an

38-1 extension under Subsection (c) or (e) does not file the report due
 38-2 in the previous calendar year on or before May 14, the taxable
 38-3 entity [~~corporation~~] may not receive an extension under Subsection
 38-4 (c) or (e) unless the taxable entity [~~corporation~~] complies with
 38-5 Subsection (c)(2)(A) or (e)(2)(A), as appropriate.

38-6 SECTION 4.31. Section 171.2022, Tax Code, is amended to
 38-7 read as follows:

38-8 Sec. 171.2022. EXEMPTION FROM REPORTING REQUIREMENTS. A
 38-9 taxable entity [~~corporation~~] that does not owe any tax under this
 38-10 chapter for any period is not required to file a report under
 38-11 Section 171.201 or [~~7~~] 171.202 [~~7~~, ~~or~~ 171.2021]. The exemption
 38-12 applies only to a period for which no tax is due.

38-13 SECTION 4.32. Section 171.204, Tax Code, is amended to read
 38-14 as follows:

38-15 Sec. 171.204. INFORMATION REPORT. (a) Except as provided
 38-16 by Subsection (b), to determine eligibility for the exemption
 38-17 provided by Section 171.2022, or to determine the amount of the
 38-18 franchise tax or the correctness of a franchise tax report, the
 38-19 comptroller may require [~~an officer of~~] a taxable entity
 38-20 [~~corporation~~] that may be subject to the tax imposed under this
 38-21 chapter to file an information report with the comptroller stating
 38-22 the amount of the taxable entity's [~~corporation's~~] taxable capital
 38-23 and earned surplus, or any other information the comptroller may
 38-24 request.

38-25 (b) The comptroller may require a taxable entity [~~an officer~~
 38-26 ~~of a corporation~~] that does not owe any tax because of the
 38-27 application of Section 171.002(d)(2) to file an abbreviated
 38-28 information report with the comptroller stating the amount of the
 38-29 taxable entity's [~~corporation's~~] gross receipts from its entire
 38-30 business. The comptroller may not require a taxable entity
 38-31 [~~corporation~~] described by this subsection to file an information
 38-32 report that requires the taxable entity [~~corporation~~] to report or
 38-33 compute its earned surplus or taxable capital.

38-34 SECTION 4.33. Section 171.205, Tax Code, is amended to read
 38-35 as follows:

38-36 Sec. 171.205. ADDITIONAL INFORMATION REQUIRED BY
 38-37 COMPTROLLER. The comptroller may require a taxable entity
 38-38 [~~corporation~~] on which the franchise tax is imposed to furnish to
 38-39 the comptroller information from the taxable entity's
 38-40 [~~corporation's~~] books and records that has not been filed
 38-41 previously and that is necessary for the comptroller to determine
 38-42 the amount of the tax.

38-43 SECTION 4.34. Section 171.206, Tax Code, is amended to read
 38-44 as follows:

38-45 Sec. 171.206. CONFIDENTIAL INFORMATION. Except as provided
 38-46 by Section 171.207 [~~of this code~~], the following information is
 38-47 confidential and may not be made open to public inspection:

38-48 (1) information that is obtained from a record or
 38-49 other instrument that is required by this chapter to be filed with
 38-50 the comptroller; or

38-51 (2) information, including information about the
 38-52 business affairs, operations, profits, losses, or expenditures of a
 38-53 taxable entity [~~corporation~~], obtained by an examination of the
 38-54 books and records, officers, partners, trustees, agents, or
 38-55 employees of a taxable entity [~~corporation~~] on which a tax is
 38-56 imposed by this chapter.

38-57 SECTION 4.35. Section 171.208, Tax Code, is amended to read
 38-58 as follows:

38-59 Sec. 171.208. PROHIBITION OF DISCLOSURE OF INFORMATION. A
 38-60 person, including a state officer or employee or an owner [~~a~~
 38-61 ~~shareholder~~] of a taxable entity [~~corporation~~], who has access to a
 38-62 report filed under this chapter may not make known in a manner not
 38-63 permitted by law the amount or source of the taxable entity's
 38-64 [~~corporation's~~] income, profits, losses, expenditures, or other
 38-65 information in the report relating to the financial condition of
 38-66 the taxable entity [~~corporation~~].

38-67 SECTION 4.36. Section 171.209, Tax Code, is amended to read
 38-68 as follows:

38-69 Sec. 171.209. RIGHT OF OWNER [~~SHAREHOLDER~~] TO EXAMINE OR

39-1 RECEIVE REPORTS. If an owner [~~a person owning at least one share of~~
 39-2 ~~outstanding stock~~] of a taxable entity [~~corporation~~] on whom the
 39-3 franchise tax is imposed presents evidence of the ownership to the
 39-4 comptroller, the person is entitled to examine or receive a copy of
 39-5 an initial or annual report that is filed under Section 171.201 or
 39-6 171.202 [~~of this code~~] and that relates to the taxable entity
 39-7 [~~corporation~~].

39-8 SECTION 4.37. Section 171.211, Tax Code, is amended to read
 39-9 as follows:

39-10 Sec. 171.211. EXAMINATION OF [~~CORPORATE~~] RECORDS. To
 39-11 determine the franchise tax liability of a taxable entity
 39-12 [~~corporation~~], the comptroller may investigate or examine the
 39-13 records of the taxable entity [~~corporation~~].

39-14 SECTION 4.38. The heading to Subchapter F, Chapter 171, Tax
 39-15 Code, is amended to read as follows:

39-16 SUBCHAPTER F. FORFEITURE OF CORPORATE AND BUSINESS PRIVILEGES

39-17 SECTION 4.39. Subchapter F, Chapter 171, Tax Code, is
 39-18 amended by adding Section 171.2515 to read as follows:

39-19 Sec. 171.2515. FORFEITURE OF RIGHT OF PARTNERSHIP TO
 39-20 TRANSACT BUSINESS IN THIS STATE. (a) The comptroller may, for the
 39-21 same reasons and using the same procedures the comptroller uses in
 39-22 relation to the forfeiture of the corporate privileges of a
 39-23 corporation, forfeit the right of a partnership subject to a tax
 39-24 imposed by this chapter to transact business in this state.

39-25 (b) The provisions of this subchapter, including Section
 39-26 171.255, that apply to the forfeiture of corporate privileges apply
 39-27 to the forfeiture of a partnership's right to transact business in
 39-28 this state.

39-29 SECTION 4.40. Section 171.351, Tax Code, is amended to read
 39-30 as follows:

39-31 Sec. 171.351. VENUE OF SUIT TO ENFORCE CHAPTER. Venue of a
 39-32 civil suit against a taxable entity [~~corporation~~] to enforce this
 39-33 chapter is either in a county where the taxable entity's
 39-34 [~~corporation's~~] principal office is located according to its
 39-35 charter or certificate of authority or in Travis County.

39-36 SECTION 4.41. Section 171.353, Tax Code, is amended to read
 39-37 as follows:

39-38 Sec. 171.353. APPOINTMENT OF RECEIVER. If a court forfeits
 39-39 a taxable entity's [~~corporation's~~] charter or certificate of
 39-40 authority, the court may appoint a receiver for the taxable entity
 39-41 [~~corporation~~] and may administer the receivership under the laws
 39-42 relating to receiverships.

39-43 SECTION 4.42. Section 171.354, Tax Code, is amended to read
 39-44 as follows:

39-45 Sec. 171.354. AGENT FOR SERVICE OF PROCESS. Each taxable
 39-46 entity [~~corporation~~] on which a tax is imposed by this chapter shall
 39-47 designate a resident of this state as the taxable entity's
 39-48 [~~corporation's~~] agent for the service of process.

39-49 SECTION 4.43. Sections 171.362(a), (d), and (e), Tax Code,
 39-50 are amended to read as follows:

39-51 (a) If a taxable entity [~~corporation~~] on which a tax is
 39-52 imposed by this chapter fails to pay the tax when it is due and
 39-53 payable or fails to file a report required by this chapter when it
 39-54 is due, the taxable entity [~~corporation~~] is liable for a penalty of
 39-55 five percent of the amount of the tax due.

39-56 (d) If a taxable entity [~~corporation~~] electing to remit
 39-57 under [~~Paragraph (A) of Subdivision (2) of Subsection (c) of~~]
 39-58 Section 171.202(c)(2)(A) [~~171.202 of this code~~] remits less than
 39-59 the amount required, the penalties imposed by this section and the
 39-60 interest imposed under Section 111.060 [~~of this code~~] are assessed
 39-61 against the difference between the amount required to be remitted
 39-62 under [~~Paragraph (A) of Subdivision (2) of Subsection (c) of~~]
 39-63 Section 171.202(c)(2)(A) [~~171.202~~] and the amount actually
 39-64 remitted on or before May 15.

39-65 (e) If a taxable entity [~~corporation~~] remits the entire
 39-66 amount required by [~~Subsection (c) of~~] Section 171.202(c) [~~171.202~~
 39-67 ~~of this code~~], no penalties will be imposed against the amount
 39-68 remitted on or before November 15.

39-69 SECTION 4.44. Sections 171.363(a) and (b), Tax Code, are

40-1 amended to read as follows:

40-2 (a) A taxable entity [~~corporation~~] commits an offense if the
 40-3 taxable entity [~~corporation~~] is subject to the provisions of this
 40-4 chapter and the taxable entity [~~corporation~~] wilfully:

40-5 (1) fails to file a report;
 40-6 (2) fails to keep books and records as required by this
 40-7 chapter;

40-8 (3) files a fraudulent report;

40-9 (4) violates any rule of the comptroller for the
 40-10 administration and enforcement of the provisions of this chapter;
 40-11 or

40-12 (5) attempts in any other manner to evade or defeat any
 40-13 tax imposed by this chapter or the payment of the tax.

40-14 (b) A person commits an offense if the person is an
 40-15 accountant or an agent for or an officer or employee of a taxable
 40-16 entity [~~corporation~~] and the person knowingly enters or provides
 40-17 false information on any report, return, or other document filed by
 40-18 the taxable entity [~~corporation~~] under this chapter.

40-19 SECTION 4.45. Section 171.401, Tax Code, is amended to read
 40-20 as follows:

40-21 Sec. 171.401. REVENUE DEPOSITED IN FOUNDATION SCHOOL
 40-22 [~~GENERAL REVENUE~~] FUND. The revenue from the tax imposed by this
 40-23 chapter [~~on corporations~~] shall be deposited to the credit of the
 40-24 foundation school [~~general revenue~~] fund.

40-25 SECTION 4.46. Chapter 171, Tax Code, is amended by adding
 40-26 Subchapter V to read as follows:

40-27 SUBCHAPTER V. TAX CREDIT FOR CERTAIN PHYSICIANS

40-28 Sec. 171.901. DEFINITION. In this subchapter, "physician"
 40-29 means:

40-30 (1) an individual licensed to practice medicine in
 40-31 this state;

40-32 (2) a professional association organized under the
 40-33 Texas Professional Association Act (Article 1528f, Vernon's Texas
 40-34 Civil Statutes);

40-35 (3) an approved nonprofit health corporation
 40-36 certified under Chapter 162, Occupations Code; or

40-37 (4) another person wholly owned by physicians and
 40-38 engaged in the practice of medicine as permitted by Subtitle B,
 40-39 Title 3, Occupations Code.

40-40 Sec. 171.902. QUALIFICATION. (a) A physician that
 40-41 participates in the Medicaid program or the Children's Health
 40-42 Insurance Program (CHIP) as a provider of health care services is
 40-43 entitled to a credit in the amount provided by Subsection (b)
 40-44 against the taxes imposed under this chapter for that calendar
 40-45 quarter.

40-46 (b) The amount of credit is equal to 20 percent of the total
 40-47 amount of payments the physician received from payments under the
 40-48 Medicaid or Children's Health Insurance Program (CHIP) during that
 40-49 calendar quarter that can be verified, if necessary.

40-50 Sec. 171.903. LIMITATIONS. (a) A physician may not
 40-51 receive a credit in an amount that exceeds the amount of the tax or
 40-52 assessment due after applying any other credits.

40-53 (b) A physician may not convey, assign, or transfer the
 40-54 credit allowed under this subchapter to any other physician unless
 40-55 all of the assets of the practice of the physician are conveyed,
 40-56 assigned, or transferred in the same transaction.

40-57 Sec. 171.904. RULES. The comptroller shall adopt rules to
 40-58 implement this subchapter. The Health and Human Services
 40-59 Commission shall assist the comptroller in the formulation and
 40-60 adoption of the rules.

40-61 SECTION 4.47. Chapter 171, Tax Code, is amended by adding
 40-62 Subchapter W to read as follows:

40-63 SUBCHAPTER W. APPLICATION OF REFUNDS AND CREDITS TO NONCORPORATE
 40-64 TAXABLE ENTITIES

40-65 Sec. 171.921. APPLICATION OF REFUNDS AND CREDITS TO
 40-66 NONCORPORATE TAXABLE ENTITIES. A taxable entity that is not a
 40-67 corporation but that, because of its activities, would qualify for
 40-68 a specific refund or credit under this chapter if it were a
 40-69 corporation qualifies for the refund or credit in the same manner

41-1 and under the same conditions as a corporation.

41-2 SECTION 4.48. Article 1, Texas Revised Partnership Act
 41-3 (Article 6132b-1.01 et seq.), is amended by adding Section 1.07 to
 41-4 read as follows:

41-5 Sec. 1.07. CERTIFICATE OF FORMATION. (a) A general
 41-6 partnership may file a certificate of formation with the secretary
 41-7 of state.

41-8 (b) A general partnership that files a certificate of
 41-9 formation with the secretary of state is not subject to Section
 41-10 171.110(a)(1)(D), Tax Code.

41-11 (c) The secretary of state shall:

41-12 (1) promulgate a form for a certificate of formation
 41-13 for the purpose of this section; and

41-14 (2) establish a database, accessible to the
 41-15 comptroller, of general partnerships that file certificates of
 41-16 formation.

41-17 SECTION 4.49. Subchapter A, Chapter 152, Business
 41-18 Organizations Code, is amended by adding Section 152.006 to read as
 41-19 follows:

41-20 Sec. 152.006. CERTIFICATE OF FORMATION. (a) A general
 41-21 partnership may file a certificate of formation with the secretary
 41-22 of state.

41-23 (b) A general partnership that files a certificate of
 41-24 formation with the secretary of state is not subject to Section
 41-25 171.110(a)(1)(D), Tax Code.

41-26 (c) The secretary of state shall:

41-27 (1) promulgate a form for a certificate of formation
 41-28 for the purpose of this section; and

41-29 (2) establish a database, accessible to the
 41-30 comptroller, of general partnerships that file certificates of
 41-31 formation.

41-32 SECTION 4.50. Sections 171.110(b), (c), (g), (i), and (j),
 41-33 Tax Code, are repealed.

41-34 SECTION 4.51. (a) Subject to other provisions of this
 41-35 section, this article applies to reports originally due on or after
 41-36 the effective date of this article.

41-37 (b) For an entity becoming subject to the franchise tax
 41-38 under this article:

41-39 (1) income or losses, and related gross receipts,
 41-40 occurring before January 1, 2005, may not be considered for
 41-41 purposes of the earned surplus component, or for apportionment
 41-42 purposes for the taxable capital component;

41-43 (2) an entity subject to the franchise tax on January
 41-44 1, 2006, for which January 1, 2006, is not the beginning date, shall
 41-45 file an annual report due May 15, 2006, based on the period:

41-46 (A) beginning on the later of:

41-47 (i) January 1, 2005; or

41-48 (ii) the date the entity was organized in
 41-49 this state or, if a foreign entity, the date it began doing business
 41-50 in this state; and

41-51 (B) ending on the date the entity's last
 41-52 accounting period ends in 2005 or, if none, on December 31, 2005;
 41-53 and

41-54 (3) an entity subject to the earned surplus component
 41-55 of the franchise tax at any time after August 31, 2005, and before
 41-56 January 1, 2006, but not subject to the earned surplus component on
 41-57 January 1, 2006, shall file a final report computed on net taxable
 41-58 earned surplus, for the privilege of doing business at any time
 41-59 after August 31, 2005, and before January 1, 2006, based on the
 41-60 period:

41-61 (A) beginning on the later of:

41-62 (i) January 1, 2005; or

41-63 (ii) the date the entity was organized in
 41-64 this state or, if a foreign entity, the date it began doing business
 41-65 in this state; and

41-66 (B) ending on the date the entity became no
 41-67 longer subject to the earned surplus component of the tax.

41-68 (c) For purposes of this article, an existing partnership is
 41-69 considered as continuing if it is not terminated.

42-1 (d) A partnership is considered terminated only if no part
42-2 of any business, financial operation, or venture of the partnership
42-3 continues to be carried on by any of its partners in a partnership.

42-4 (e) For a merger or consolidation of two or more
42-5 partnerships, the resulting partnership is, for purposes of this
42-6 article, considered the continuation of any merging or
42-7 consolidating partnership whose members own an interest of more
42-8 than 50 percent in the capital and profits of the resulting
42-9 partnership.

42-10 (f) For a division of a partnership into two or more
42-11 partnerships, the resulting partnerships, other than any resulting
42-12 partnership the members of which had an interest of 50 percent or
42-13 less in the capital and profits of the prior partnership, are, for
42-14 purposes of this article, considered a continuation of the prior
42-15 partnership.

42-16 SECTION 4.52. If a credit under Chapter 171, Tax Code, as
42-17 amended by this article, is found by a court in a final judgment
42-18 upheld on appeal or no longer subject to appeal to be
42-19 unconstitutional, the credit is disallowed for all entities on or
42-20 after the date the final judgment was entered by the court and an
42-21 entity is not entitled to and may not apply for the credit on or
42-22 after that date for any reporting period beginning before, on, or
42-23 after that date.

42-24 SECTION 4.53. (a) This section applies to a suit brought by
42-25 an entity subject to the tax under Chapter 171, Tax Code, as amended
42-26 by this article, contending that the imposition of the tax on the
42-27 entity is unconstitutional.

42-28 (b) The suit must be brought in a district court in Travis
42-29 County.

42-30 (c) The judgment of the district court may be reviewed only
42-31 by direct appeal to the supreme court filed on or before the 15th
42-32 day after the date the district court enters its judgment. The
42-33 district court shall try the suit and the supreme court shall hear
42-34 any appeal relating to the suit as expeditiously as possible.

42-35 (d) If an entity bringing a suit to which this section
42-36 applies contends, in whole or in part, that the imposition of the
42-37 tax under Chapter 171, Tax Code, as amended by this article, on the
42-38 entity is unconstitutional because of the requirements of Section
42-39 24, Article VIII, Texas Constitution, and a court in a final
42-40 judgment upheld on appeal or no longer subject to appeal finds that
42-41 it is unconstitutional on that basis, then, notwithstanding Section
42-42 171.110(a)(1)(D), Tax Code, as added by this article, all taxable
42-43 entities, other than a corporation or limited liability company,
42-44 shall, in determining net taxable earned surplus:

42-45 (1) subtract that portion of the taxable entity's
42-46 reportable federal taxable income on which the imposition of the
42-47 tax under Chapter 171, Tax Code, as amended by this article, has
42-48 been found to be unconstitutional; and

42-49 (2) add the product of an amount equal to 0.75 percent
42-50 of the gross receipts, as defined under Section 171.1051, Tax Code,
42-51 as amended by this article, of the taxable entity times the ratio of
42-52 the portion of the entity's income described under Subdivision (1)
42-53 to the total income of the entity.

42-54 SECTION 4.54. This article takes effect September 1, 2005,
42-55 and applies to reports originally due on or after that date.

42-56 ARTICLE 5. SALES AND USE TAXES

42-57 PART A. STATE SALES AND USE TAX

42-58 SECTION 5A.01. Section 151.051(b), Tax Code, is amended to
42-59 read as follows:

42-60 (b) The sales tax rate is 6.5 [~~6-1/4~~] percent of the sales
42-61 price of the taxable item sold.

42-62 SECTION 5A.01A. (a) Section 151.051(b), Tax Code, is
42-63 amended to read as follows:

42-64 (b) The sales tax rate is 6.75 [~~6-1/4~~] percent of the sales
42-65 price of the taxable item sold.

42-66 (b) This section takes effect on the first anniversary of
42-67 the date Section 5A.01 of this Act takes effect, but only if the
42-68 constitutional amendment proposed by S.J.R. No. 38, 79th
42-69 Legislature, Regular Session, 2005, is approved by the voters. If

43-1 that amendment is not approved by the voters, this section has no
43-2 effect.

43-3 SECTION 5A.02. Subchapter H, Chapter 151, Tax Code, is
43-4 amended by adding Section 151.327 to read as follows:

43-5 Sec. 151.327. SCHOOL SUPPLIES BEFORE START OF SCHOOL. (a)
43-6 The sale or storage, use, or other consumption of a school supply,
43-7 including a backpack, is exempted from the taxes imposed by this
43-8 chapter if the school supply is purchased:

43-9 (1) for use by a student in a class in a public or
43-10 private elementary or secondary school;

43-11 (2) during the period described by Section
43-12 151.326(a)(2); and

43-13 (3) for a sales price of less than \$100 per item.

43-14 (b) The comptroller shall adopt rules specifying the school
43-15 supplies that are exempt from taxation under this section.

43-16 (c) The exemption provided by this section does not apply to
43-17 the purchase of a textbook.

43-18 SECTION 5A.03. (a) Subchapter I, Chapter 151, Tax Code, is
43-19 amended by adding Section 151.433 to read as follows:

43-20 Sec. 151.433. TAX REIMBURSEMENT FOR FINANCIAL ASSISTANCE
43-21 AND FOOD STAMP RECIPIENTS. (a) This section applies to a person
43-22 who:

43-23 (1) receives financial assistance under Chapter 31,
43-24 Human Resources Code, or nutritional assistance under Chapter 33,
43-25 Human Resources Code, through the use of an electronic benefits
43-26 transfer system; or

43-27 (2) is eligible to receive financial assistance under
43-28 Chapter 31, Human Resources Code, through the use of an electronic
43-29 benefits transfer system, but to whom that financial assistance is
43-30 not paid because a sanction is applied against the person under
43-31 Section 31.0032, Human Resources Code.

43-32 (b) The comptroller and the executive commissioner of the
43-33 Health and Human Services Commission by joint rule shall establish
43-34 a program to reimburse a person to which this section applies for 20
43-35 percent of the estimated tax the person will pay under this chapter
43-36 during a state fiscal year.

43-37 (c) Not later than August 15 of each year, using available
43-38 statistical data, the comptroller by rule shall estimate the amount
43-39 of taxes a person to which this section applies will pay under this
43-40 chapter during the next state fiscal year. In estimating that
43-41 amount, the comptroller shall consider:

43-42 (1) the amount of the individual's federal adjusted
43-43 gross income, as defined by federal law;

43-44 (2) the number of dependents the individual has for
43-45 federal income tax purposes; and

43-46 (3) any other information the comptroller considers
43-47 appropriate.

43-48 (d) Based on the estimations made under Subsection (c), the
43-49 comptroller shall develop and adopt a table specifying by income
43-50 bracket and number of dependents:

43-51 (1) the estimated amount of taxes persons to which
43-52 this section applies will pay under this chapter during the next
43-53 state fiscal year; and

43-54 (2) the amount of reimbursement the persons are
43-55 eligible to receive under Subsection (b).

43-56 (e) The comptroller shall provide the table to the executive
43-57 commissioner of the Health and Human Services Commission as soon as
43-58 possible after the date the table is adopted. Using the table, the
43-59 executive commissioner shall provide to each person to which this
43-60 section applies reimbursement in the form of:

43-61 (1) additional monthly state money payments if the
43-62 person is receiving financial assistance under Chapter 31, Human
43-63 Resources Code; or

43-64 (2) additional monthly nutritional assistance if the
43-65 person is not receiving financial assistance under Chapter 31,
43-66 Human Resources Code, but is receiving nutritional assistance under
43-67 Chapter 33, Human Resources Code.

43-68 (f) Reimbursement provided under Subsection (e) must be
43-69 made available to the person using the electronic benefits transfer

44-1 system through which the person is receiving the financial or
 44-2 nutritional assistance. Except as provided by Subsection (g), the
 44-3 amount of the monthly reimbursement is equal to one-twelfth of the
 44-4 amount determined under Subsection (d)(2).

44-5 (g) Notwithstanding any other law, the total amount of
 44-6 reimbursements provided under this section may not exceed \$100
 44-7 million each state fiscal year. The comptroller and the executive
 44-8 commissioner of the Health and Human Services Commission shall take
 44-9 any necessary action to ensure that this limit is not exceeded,
 44-10 including:

44-11 (1) decreasing the percentage of reimbursement of
 44-12 taxes paid under this chapter for which a person is otherwise
 44-13 eligible;

44-14 (2) decreasing the amounts of the monthly state money
 44-15 payments or monthly nutritional assistance on a pro rata basis or by
 44-16 a specific amount; or

44-17 (3) suspending the reimbursements.

44-18 (h) Notwithstanding any other law, a person described by
 44-19 Subsection (a)(2) is entitled to reimbursement provided under this
 44-20 section to the same extent the person would be entitled to that
 44-21 reimbursement if a sanction were not applied against the person
 44-22 under Section 31.0032, Human Resources Code.

44-23 (b) Subchapter B, Chapter 31, Human Resources Code, is
 44-24 amended by adding Section 31.0321 to read as follows:

44-25 Sec. 31.0321. EXCLUSION OF CERTAIN TAX REIMBURSEMENTS. The
 44-26 Health and Human Services Commission may not consider any
 44-27 reimbursement of estimated taxes to which a person may be entitled
 44-28 under Section 151.433, Tax Code, in determining:

44-29 (1) whether the person meets household income and
 44-30 resource requirements for financial assistance under this chapter;
 44-31 or

44-32 (2) the amount of financial assistance granted to the
 44-33 person under this chapter for the support of dependent children.

44-34 (c) Chapter 33, Human Resources Code, is amended by adding
 44-35 Section 33.028 to read as follows:

44-36 Sec. 33.028. EXCLUSION OF CERTAIN TAX REIMBURSEMENTS. To
 44-37 the extent permitted by federal law, the Health and Human Services
 44-38 Commission may not consider any reimbursement of estimated taxes to
 44-39 which a person may be entitled under Section 151.433, Tax Code, in
 44-40 determining whether the person meets the household income and
 44-41 resource requirements for eligibility for food stamps.

44-42 (d) If before implementing any provision of this section a
 44-43 state agency determines that a waiver or authorization from a
 44-44 federal agency is necessary for implementation of that provision,
 44-45 the agency affected by the provision shall request the waiver or
 44-46 authorization and may delay implementing that provision until the
 44-47 waiver or authorization is granted.

44-48 SECTION 5A.04. The change in law made by this part does not
 44-49 affect tax liability accruing before the effective date of this
 44-50 part. That liability continues in effect as if this part had not
 44-51 been enacted, and the former law is continued in effect for the
 44-52 collection of taxes due and for civil and criminal enforcement of
 44-53 the liability of those taxes.

44-54 SECTION 5A.05. Except as otherwise provided by this part,
 44-55 this part takes effect July 1, 2005, if this Act receives a vote of
 44-56 two-thirds of all the members elected to each house, as provided by
 44-57 Section 39, Article III, Texas Constitution. If this Act does not
 44-58 receive the vote necessary for effect on that date, this part takes
 44-59 effect October 1, 2005.

44-60 PART B. MOTOR VEHICLE SALES AND USE TAX

44-61 SECTION 5B.01. Section 152.002, Tax Code, is amended by
 44-62 adding Subsection (f) to read as follows:

44-63 (f) Notwithstanding Subsection (a), the total consideration
 44-64 of a used motor vehicle is the amount on which the tax is computed as
 44-65 provided by Section 152.0412.

44-66 SECTION 5B.02. Section 152.021(b), Tax Code, is amended to
 44-67 read as follows:

44-68 (b) The tax rate is 6.5 [~~6-1/4~~] percent of the total
 44-69 consideration.

45-1 SECTION 5B.02A. (a) Section 152.021(b), Tax Code, is
45-2 amended to read as follows:

45-3 (b) The tax rate is 6.75 [~~6-1/4~~] percent of the total
45-4 consideration.

45-5 (b) This section takes effect on the first anniversary of
45-6 the date on which Section 5B.02 of this Act takes effect, but only
45-7 if the constitutional amendment proposed by S.J.R. No. 38, 79th
45-8 Legislature, Regular Session, 2005, is approved by the voters. If
45-9 that amendment is not approved by the voters, this section has no
45-10 effect.

45-11 SECTION 5B.03. Section 152.022(b), Tax Code, is amended to
45-12 read as follows:

45-13 (b) The tax rate is 6.5 [~~6-1/4~~] percent of the total
45-14 consideration.

45-15 SECTION 5B.03A. (a) Section 152.022(b), Tax Code, is
45-16 amended to read as follows:

45-17 (b) The tax rate is 6.75 [~~6-1/4~~] percent of the total
45-18 consideration.

45-19 (b) This section takes effect on the first anniversary of
45-20 the date Section 5B.03 of this Act takes effect, but only if the
45-21 constitutional amendment proposed by S.J.R. No. 38, 79th
45-22 Legislature, Regular Session, 2005, is approved by the voters. If
45-23 that amendment is not approved by the voters, this section has no
45-24 effect.

45-25 SECTION 5B.04. Section 152.026(b), Tax Code, is amended to
45-26 read as follows:

45-27 (b) The tax rate is 10 percent of the gross rental receipts
45-28 from the rental of a rented motor vehicle for 30 days or less and 6.5
45-29 [~~6-1/4~~] percent of the gross rental receipts from the rental of a
45-30 rented motor vehicle for longer than 30 days.

45-31 SECTION 5B.04A. (a) Section 152.026(b), Tax Code, is
45-32 amended to read as follows:

45-33 (b) The tax rate is 10 percent of the gross rental receipts
45-34 from the rental of a rented motor vehicle for 30 days or less and
45-35 6.75 [~~6-1/4~~] percent of the gross rental receipts from the rental of
45-36 a rented motor vehicle for longer than 30 days.

45-37 (b) This section takes effect on the first anniversary of
45-38 the date Section 5B.04 of this Act takes effect, but only if the
45-39 constitutional amendment proposed by S.J.R. No. 38, 79th
45-40 Legislature, Regular Session, 2005, is approved by the voters. If
45-41 that amendment is not approved by the voters, this section has no
45-42 effect.

45-43 SECTION 5B.05. Section 152.028(b), Tax Code, is amended to
45-44 read as follows:

45-45 (b) The tax rate is 6.5 [~~6-1/4~~] percent of the total
45-46 consideration.

45-47 SECTION 5B.05A. (a) Section 152.028(b), Tax Code, is
45-48 amended to read as follows:

45-49 (b) The tax rate is 6.75 [~~6-1/4~~] percent of the total
45-50 consideration.

45-51 (b) This section takes effect on the first anniversary of
45-52 the date Section 5B.05 of this Act takes effect, but only if the
45-53 constitutional amendment proposed by S.J.R. No. 38, 79th
45-54 Legislature, Regular Session, 2005, is approved by the voters. If
45-55 that amendment is not approved by the voters, this section has no
45-56 effect.

45-57 SECTION 5B.06. Section 152.041(a), Tax Code, is amended to
45-58 read as follows:

45-59 (a) The tax assessor-collector of the county in which an
45-60 application for registration or for a Texas certificate of title is
45-61 made shall collect taxes imposed by this chapter, subject to
45-62 Section 152.0412, unless another person is required by this chapter
45-63 to collect the taxes.

45-64 SECTION 5B.07. Subchapter C, Chapter 152, Tax Code, is
45-65 amended by adding Section 152.0412 to read as follows:

45-66 Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX
45-67 ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive
45-68 value" means the average retail value of a motor vehicle as
45-69 determined by the Texas Department of Transportation, based on a

46-1 nationally recognized motor vehicle industry reporting service.

46-2 (b) If the amount paid for a motor vehicle subject to the tax
 46-3 imposed by this chapter is equal to or greater than the standard
 46-4 presumptive value of the vehicle, a county tax assessor-collector
 46-5 shall compute the tax on the amount paid.

46-6 (c) If the amount paid for a motor vehicle subject to the tax
 46-7 imposed by this chapter is less than the standard presumptive value
 46-8 of the vehicle, a county tax assessor-collector shall compute the
 46-9 tax on the standard presumptive value unless the purchaser
 46-10 establishes the retail value of the vehicle as provided by
 46-11 Subsection (d).

46-12 (d) A county tax assessor-collector shall compute the tax
 46-13 imposed by this chapter on the retail value of a motor vehicle if:

46-14 (1) the retail value is shown on an appraisal
 46-15 certified by an adjuster licensed under Chapter 4101, Insurance
 46-16 Code, or by a motor vehicle dealer operating under Subchapter B,
 46-17 Chapter 503, Transportation Code;

46-18 (2) the appraisal is on a form prescribed by the
 46-19 comptroller for that purpose; and

46-20 (3) the purchaser of the vehicle obtains the appraisal
 46-21 not later than the 20th day after the date of purchase.

46-22 (e) On request, a motor vehicle dealer operating under
 46-23 Subchapter B, Chapter 503, Transportation Code, shall provide a
 46-24 certified appraisal of the retail value of a motor vehicle. The
 46-25 comptroller by rule shall establish a fee that a dealer may charge
 46-26 for providing the certified appraisal. The county tax
 46-27 assessor-collector shall retain a copy of a certified appraisal
 46-28 received under this section for a period prescribed by the
 46-29 comptroller.

46-30 (f) The Texas Department of Transportation shall maintain
 46-31 information on the standard presumptive values of motor vehicles as
 46-32 part of the department's registration and title system. The
 46-33 department shall update the information at least quarterly each
 46-34 calendar year.

46-35 (g) This section does not apply to a transaction described
 46-36 by Section 152.024 or 152.025.

46-37 SECTION 5B.08. Not later than October 1, 2005, the Texas
 46-38 Department of Transportation shall:

46-39 (1) establish standard presumptive values for motor
 46-40 vehicles as provided by Section 152.0412, Tax Code, as added by this
 46-41 part;

46-42 (2) modify the department's registration and title
 46-43 system as needed to include that information and administer that
 46-44 section; and

46-45 (3) make that information available through the system
 46-46 to all county tax assessor-collectors.

46-47 SECTION 5B.09. (a) Except as provided by this part and
 46-48 Subsection (b) of this section, this part takes effect July 1, 2005,
 46-49 if this Act receives a vote of two-thirds of all the members elected
 46-50 to each house, as provided by Section 39, Article III, Texas
 46-51 Constitution. If this Act does not receive the vote necessary for
 46-52 effect on that date, this part takes effect September 1, 2005.

46-53 (b) Section 152.0412, Tax Code, as added by this part, takes
 46-54 effect October 1, 2005.

46-55 PART C. BOAT AND MOTOR BOAT SALES AND USE TAX

46-56 SECTION 5C.01. Section 160.021(b), Tax Code, is amended to
 46-57 read as follows:

46-58 (b) The tax rate is 6.5 [~~6-1/4~~] percent of the total
 46-59 consideration.

46-60 SECTION 5C.01A. (a) Section 160.021(b), Tax Code, is
 46-61 amended to read as follows:

46-62 (b) The tax rate is 6.75 [~~6-1/4~~] percent of the total
 46-63 consideration.

46-64 (b) This section takes effect on the first anniversary of
 46-65 the date Section 5C.01 of this Act takes effect, but only if the
 46-66 constitutional amendment proposed by S.J.R. No. 38, 79th
 46-67 Legislature, Regular Session, 2005, is approved by the voters. If
 46-68 that amendment is not approved by the voters, this section has no
 46-69 effect.

47-1 SECTION 5C.02. Section 160.022(b), Tax Code, is amended to
47-2 read as follows:

47-3 (b) The tax rate is 6.5 [~~6-1/4~~] percent of the total
47-4 consideration.

47-5 SECTION 5C.02A. (a) Section 160.022(b), Tax Code, is
47-6 amended to read as follows:

47-7 (b) The tax rate is 6.75 [~~6-1/4~~] percent of the total
47-8 consideration.

47-9 (b) This section takes effect on the first anniversary of
47-10 the date Section 5C.02 of this Act takes effect, but only if the
47-11 constitutional amendment proposed by S.J.R. No. 38, 79th
47-12 Legislature, Regular Session, 2005, is approved by the voters. If
47-13 that amendment is not approved by the voters, this section has no
47-14 effect.

47-15 SECTION 5C.03. This part takes effect July 1, 2005, if this
47-16 Act receives a vote of two-thirds of all the members elected to each
47-17 house, as provided by Section 39, Article III, Texas Constitution.
47-18 If this Act does not receive the vote necessary for effect on that
47-19 date, this part takes effect September 1, 2005.

47-20 PART D. MOTOR FUELS TAX

47-21 SECTION 5D.01. Section 162.503, Tax Code, is amended to
47-22 read as follows:

47-23 Sec. 162.503. ALLOCATION OF GASOLINE TAX. (a) Except as
47-24 provided by Subsection (b), on [On] or before the fifth workday
47-25 after the end of each month, the comptroller, after making all
47-26 deductions for refund purposes and for the amounts allocated under
47-27 Sections 162.502 and 162.5025, shall allocate the net remainder of
47-28 the taxes collected under Subchapter B as follows:

47-29 (1) one-fourth of the tax shall be deposited to the
47-30 credit of the available school fund;

47-31 (2) one-half of the tax shall be deposited to the
47-32 credit of the state highway fund for the construction and
47-33 maintenance of the state road system under existing law; and

47-34 (3) from the remaining one-fourth of the tax the
47-35 comptroller shall:

47-36 (A) deposit to the credit of the county and road
47-37 district highway fund all the remaining tax receipts until a total
47-38 of \$7,300,000 has been credited to the fund each fiscal year; and

47-39 (B) after the amount required to be deposited to
47-40 the county and road district highway fund has been deposited,
47-41 deposit to the credit of the state highway fund the remainder of the
47-42 one-fourth of the tax, the amount to be provided on the basis of
47-43 allocations made each month of the fiscal year, which sum shall be
47-44 used by the Texas Department of Transportation for the
47-45 construction, improvement, and maintenance of farm-to-market
47-46 roads.

47-47 (b) During the months of June, July, and August of each
47-48 odd-numbered year, the comptroller may not make the allocations to
47-49 the state highway fund and county and road district highway fund
47-50 otherwise required by Subsections (a)(2) and (3). After September
47-51 5 and before September 11 of that year, the comptroller shall
47-52 allocate and deposit to the state highway fund the total amount of
47-53 revenue that would have been otherwise allocated and deposited to
47-54 that fund during those months.

47-55 SECTION 5D.02. Section 162.504, Tax Code, is amended to
47-56 read as follows:

47-57 Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) Except as
47-58 provided by Subsection (b), on [On] or before the fifth workday
47-59 after the end of each month, the comptroller, after making
47-60 deductions for refund purposes, for the administration and
47-61 enforcement of this chapter, and for the amounts allocated under
47-62 Section 162.5025, shall allocate the remainder of the taxes
47-63 collected under Subchapter C as follows:

47-64 (1) one-fourth of the taxes shall be deposited to the
47-65 credit of the available school fund; and

47-66 (2) three-fourths of the taxes shall be deposited to
47-67 the credit of the state highway fund.

47-68 (b) During the months of June, July, and August of each
47-69 odd-numbered year, the comptroller may not make the allocation to

48-1 the state highway fund otherwise required by Subsection (a)(2).
 48-2 After September 5 and before September 11 of that year, the
 48-3 comptroller shall allocate and deposit to the state highway fund
 48-4 the total amount of revenue that would have been otherwise
 48-5 allocated to that fund during those months.

48-6 SECTION 5D.03. Section 162.505, Tax Code, is amended to
 48-7 read as follows:

48-8 Sec. 162.505. ALLOCATION OF LIQUEFIED GAS TAX. (a) Except
 48-9 as provided by Subsection (b), on ~~[On]~~ or before the fifth workday
 48-10 after the end of each month, the comptroller, after making
 48-11 deductions for refund purposes and for the administration and
 48-12 enforcement of this chapter, shall allocate the remainder of the
 48-13 taxes collected under Subchapter D as follows:

48-14 (1) one-fourth of the taxes shall be deposited to the
 48-15 credit of the available school fund; and

48-16 (2) three-fourths of the taxes shall be deposited to
 48-17 the credit of the state highway fund.

48-18 (b) During the months of June, July, and August of each
 48-19 odd-numbered year, the comptroller may not make the allocation to
 48-20 the state highway fund otherwise required by Subsection (a)(2).
 48-21 After September 5 and before September 11 of that year, the
 48-22 comptroller shall allocate and deposit to the state highway fund
 48-23 the total amount of revenue that would have been otherwise
 48-24 allocated to that fund during those months.

48-25 SECTION 5D.04. This part takes effect July 1, 2005, if this
 48-26 Act receives a vote of two-thirds of all the members elected to each
 48-27 house, as provided by Section 39, Article III, Texas Constitution.
 48-28 If this Act does not receive the vote necessary for effect on that
 48-29 date, this part takes effect September 1, 2005.

48-30 PART E. HOTEL OCCUPANCY TAXES

48-31 SECTION 5E.01. Section 156.001, Tax Code, is amended to
 48-32 read as follows:

48-33 Sec. 156.001. DEFINITION. In this chapter, "hotel" means a
 48-34 building in which members of the public obtain sleeping
 48-35 accommodations for consideration. The term includes a hotel,
 48-36 motel, tourist home, tourist house, tourist court, lodging house,
 48-37 inn, rooming house, or bed and breakfast. The term does not
 48-38 include:

48-39 (1) a hospital, sanitarium, or nursing home; ~~[or]~~

48-40 (2) a dormitory or other housing facility owned or
 48-41 leased and operated by an institution of higher education or a
 48-42 private or independent institution of higher education as those
 48-43 terms are defined by Section 61.003, Education Code, used by the
 48-44 institution for the purpose of providing sleeping accommodations
 48-45 for persons engaged in an educational program or activity at the
 48-46 institution; or

48-47 (3) that part of an apartment or condominium building
 48-48 that consists of unfurnished dwelling units that are leased to
 48-49 tenants, as defined by Section 92.001, Property Code.

48-50 SECTION 5E.02. Section 351.002(c), Tax Code, is amended to
 48-51 read as follows:

48-52 (c) The tax does not apply to a person who has the right to
 48-53 use or possess a room in a hotel for at least 30 consecutive days, so
 48-54 long as there is no interruption of payment for that period ~~[is a~~
 48-55 ~~permanent resident under Section 156.101 of this code].~~

48-56 SECTION 5E.03. Section 352.001(1), Tax Code, is amended to
 48-57 read as follows:

48-58 (1) "Hotel" has the meaning assigned by Section
 48-59 156.001 ~~[156.001(1)].~~

48-60 SECTION 5E.04. Section 352.002(c), Tax Code, is amended to
 48-61 read as follows:

48-62 (c) The tax does not apply to a person who has the right to
 48-63 use or possess a room in a hotel for at least 30 consecutive days, so
 48-64 long as there is no interruption of payment for that period ~~[is a~~
 48-65 ~~permanent resident under Section 156.101 of this code].~~

48-66 SECTION 5E.05. Section 156.101, Tax Code, is repealed.

48-67 SECTION 5E.06. This part takes effect July 1, 2005, if this
 48-68 Act receives a vote of two-thirds of all the members elected to each
 48-69 house, as provided by Section 39, Article III, Texas Constitution.

If this Act does not receive the vote necessary for effect on that date, this part takes effect October 1, 2005.

ARTICLE 6. TAX ON TOBACCO PRODUCTS AND ALCOHOL

PART A. CIGARETTE AND TOBACCO PRODUCTS

SECTION 6A.01. Section 154.021(b), Tax Code, is amended to read as follows:

(b) The tax rates are:

(1) \$58 [~~\$20.50~~] per thousand on cigarettes weighing three pounds or less per thousand; and

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

SECTION 6A.02. Section 155.021(b), Tax Code, is amended to read as follows:

(b) The tax rates are:

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

(2) \$9.375 [~~\$7.50~~] per thousand on cigars that:
(A) weigh more than three pounds per thousand;

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

(3) \$13.75 [~~\$11~~] per thousand on cigars that:
(A) weigh more than three pounds per thousand;
(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

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

(4) \$18.75 [~~\$15~~] per thousand on cigars that:
(A) weigh more than three pounds per thousand;
(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain a substantial amount of nontobacco ingredients.

SECTION 6A.03. Section 155.0211(b), Tax Code, is amended to read as follows:

(b) The tax rate for tobacco products other than cigars is 44.02 [~~35.213~~] percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal.

SECTION 6A.04. This part takes effect July 1, 2005, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this part takes effect September 1, 2005.

PART B. ALCOHOL TAXES

SECTION 6B.01. Section 201.03, Alcoholic Beverage Code, is amended to read as follows:

Sec. 201.03. TAX ON DISTILLED SPIRITS. (a) A tax is imposed on the first sale of distilled spirits at the rate of \$3 [~~\$2.40~~] per gallon.

(b) The minimum tax imposed on packages of distilled spirits containing two ounces or less is 6.25 [~~five~~] cents per package.

(c) Should packages containing less than one-half pint but more than two ounces ever be legalized in this state, the minimum tax imposed on each of these packages is 15.25 cents [~~\$0.122~~].

SECTION 6B.02. Section 201.04, Alcoholic Beverage Code, is amended to read as follows:

Sec. 201.04. TAX ON VINOUS LIQUOR. (a) A tax is imposed on the first sale of vinous liquor that does not contain over 14 percent of alcohol by volume at the rate of 25.5 [~~20.4~~] cents per gallon.

(b) A tax is imposed on vinous liquor that contains more than 14 percent of alcohol by volume at the rate of 51 [~~40.8~~] cents per gallon.

(c) A tax is imposed on artificially carbonated and natural sparkling vinous liquor at the rate of 64.5 [~~51.6~~] cents per gallon.

50-1 SECTION 6B.03. Section 201.42, Alcoholic Beverage Code, is
50-2 amended to read as follows:

50-3 Sec. 201.42. TAX ON ALE AND MALT LIQUOR. A tax is imposed on
50-4 the first sale of ale and malt liquor at the rate of 24.75 cents
50-5 [~~\$0.198~~] per gallon.

50-6 SECTION 6B.04. Section 203.01, Alcoholic Beverage Code, is
50-7 amended to read as follows:

50-8 Sec. 203.01. TAX ON BEER. A tax is imposed on the first sale
50-9 of beer manufactured in this state or imported into this state at
50-10 the rate of \$7.50 [~~six dollars~~] per barrel.

50-11 SECTION 6B.05. Section 183.021, Tax Code, is amended to
50-12 read as follows:

50-13 Sec. 183.021. TAX IMPOSED ON MIXED BEVERAGES. A tax at the
50-14 rate of 17.5 [~~14~~] percent is imposed on the gross receipts of a
50-15 permittee received from the sale, preparation, or service of mixed
50-16 beverages or from the sale, preparation, or service of ice or
50-17 nonalcoholic beverages that are sold, prepared, or served for the
50-18 purpose of being mixed with an alcoholic beverage and consumed on
50-19 the premises of the permittee.

50-20 SECTION 6B.06. This part takes effect July 1, 2005, if this
50-21 Act receives a vote of two-thirds of all the members elected to each
50-22 house, as provided by Section 39, Article III, Texas Constitution.
50-23 If this Act does not receive the vote necessary for effect on that
50-24 date, this part takes effect September 1, 2005.

50-25 ARTICLE 7. MISCELLANEOUS FEES AND FUNDS

50-26 PART A. TRANSFERRING CERTAIN TOBACCO SETTLEMENT PROCEEDS INTO 50-27 DEDICATED GENERAL REVENUE ACCOUNTS

50-28 SECTION 7A.01. Subchapter G, Chapter 403, Government Code,
50-29 is amended by adding Sections 403.108 and 403.1081-403.1083 to read
50-30 as follows:

50-31 Sec. 403.108. SECONDARY HEALTH ACCOUNT FOR HIGHER
50-32 EDUCATION. (a) In this section:

50-33 (1) "Earnings account" means the account described by
50-34 Subsection (d).

50-35 (2) "Secondary account" means the secondary health
50-36 account for higher education.

50-37 (b) The secondary account and the earnings account are
50-38 dedicated accounts in the general revenue fund.

50-39 (c) The secondary account consists of:

50-40 (1) money transferred to the account at the direction
50-41 of the legislature; and

50-42 (2) donations to the account.

50-43 (d) The earnings account consists of the earnings received
50-44 from investment of the assets in the secondary account. The
50-45 comptroller shall periodically transfer those earnings from the
50-46 secondary account to the earnings account.

50-47 (e) Money in the secondary account may be used only for a
50-48 purpose described by Subsection (d) or (f).

50-49 (f) The comptroller shall manage and invest assets in the
50-50 secondary account in authorized investments under Section 404.024.
50-51 Any expenses incurred by the comptroller in managing and investing
50-52 assets in the secondary account shall be paid from the account.

50-53 (g) Money in the earnings account may be appropriated only
50-54 for a purpose specified in and subject to any conditions and
50-55 reporting requirements prescribed by Subchapter A, Chapter 63,
50-56 Education Code, for the use of money from the permanent health fund
50-57 for higher education.

50-58 (h) An institution of higher education that has accepted a
50-59 gift under former Subchapter I, Chapter 51, Education Code, that
50-60 was conditioned on the institution's receipt of state matching
50-61 funds from the eminent scholars fund may use money the institution
50-62 receives under this section to provide the state matching funds and
50-63 treat the money as if it were a distribution to the institution from
50-64 the eminent scholars fund for purposes of the former Subchapter I.

50-65 (i) An institution of higher education that receives a
50-66 distribution from the earnings account shall include in the report
50-67 required by Section 63.004, Education Code:

50-68 (1) the total amount of money the institution received
50-69 from the account;

51-1 (2) the purpose for which the money was used; and
 51-2 (3) any other information required by the Legislative
 51-3 Budget Board.

51-4 (j) Section 404.071 does not apply to the secondary account
 51-5 or the earnings account.

51-6 Sec. 403.1081. SECONDARY ACCOUNTS FOR EACH INSTITUTION OF
 51-7 HIGHER EDUCATION. (a) In this section:

51-8 (1) "Earnings account" means an account described by
 51-9 Subsection (e).

51-10 (2) "Secondary account" means the secondary accounts
 51-11 described by Subsection (b).

51-12 (b) In addition to the permanent endowment funds created by
 51-13 Section 63.101, Education Code, there is a secondary account for
 51-14 the benefit of each institution of higher education or group of
 51-15 related components of an institution of higher education listed in
 51-16 Section 63.101(a), Education Code.

51-17 (c) Each secondary account and earnings account is a
 51-18 dedicated account in the general revenue fund.

51-19 (d) A secondary account consists of:

51-20 (1) money transferred to the account at the direction
 51-21 of the legislature; and

51-22 (2) donations to the account.

51-23 (e) An earnings account for an institution or group of
 51-24 related components of an institution consists of the earnings
 51-25 received from investment of the assets in the corresponding
 51-26 secondary account for the institution or group of components. The
 51-27 comptroller shall periodically transfer those earnings from the
 51-28 secondary account to the earnings account.

51-29 (f) Money in a secondary account may be used only for a
 51-30 purpose described by Subsection (e) or (g).

51-31 (g) The comptroller shall manage and invest assets in a
 51-32 secondary account in authorized investments under Section 404.024.
 51-33 Any expenses incurred by the comptroller in managing and investing
 51-34 assets in a secondary account shall be paid from the account.

51-35 (h) Money in an earnings account may be appropriated only
 51-36 for a purpose specified in and subject to any conditions and
 51-37 reporting requirements prescribed by Subchapter B, Chapter 63,
 51-38 Education Code, for the use of money from the corresponding
 51-39 permanent endowment fund established by that subchapter.

51-40 (i) An institution of higher education that has accepted a
 51-41 gift under former Subchapter I, Chapter 51, Education Code, that
 51-42 was conditioned on the institution's receipt of state matching
 51-43 funds from the eminent scholars fund may use money the institution
 51-44 receives under this section to provide the state matching funds and
 51-45 treat the money as if it were a distribution to the institution from
 51-46 the eminent scholars fund for purposes of the former Subchapter I.

51-47 (j) An institution of higher education that receives an
 51-48 appropriation from an earnings account shall include in the report
 51-49 required by Section 63.103, Education Code:

51-50 (1) the total amount of money the institution received
 51-51 from the account;

51-52 (2) the purpose for which the money was used; and

51-53 (3) any other information required by the Legislative
 51-54 Budget Board.

51-55 (k) Section 404.071 does not apply to a secondary account or
 51-56 an earnings account.

51-57 Sec. 403.1082. SECONDARY ACCOUNT FOR HIGHER EDUCATION
 51-58 NURSING, ALLIED HEALTH, AND OTHER HEALTH-RELATED PROGRAMS. (a) In
 51-59 this section:

51-60 (1) "Earnings account" means the account described by
 51-61 Subsection (d).

51-62 (2) "Secondary account" means the secondary account
 51-63 for higher education nursing, allied health, and other
 51-64 health-related programs.

51-65 (b) The secondary account and the earnings account are
 51-66 dedicated accounts in the general revenue fund.

51-67 (c) The secondary account consists of:

51-68 (1) money transferred to the account at the direction
 51-69 of the legislature; and

52-1 (2) donations to the account.

52-2 (d) The earnings account consists of the earnings received
52-3 from investment of the assets in the secondary account. The
52-4 comptroller shall periodically transfer those earnings from the
52-5 secondary account to the earnings account.

52-6 (e) Money in the secondary account may be used only for a
52-7 purpose described by Subsection (d) or (f).

52-8 (f) The comptroller shall manage and invest assets in the
52-9 secondary account in authorized investments under Section 404.024.
52-10 Any expenses incurred by the comptroller in managing and investing
52-11 assets in the secondary account shall be paid from the account.

52-12 (g) Money in the earnings account may be appropriated only
52-13 for a purpose specified in and subject to any conditions and
52-14 reporting requirements prescribed by Subchapter C, Chapter 63,
52-15 Education Code, for the use of money from the permanent fund for
52-16 higher education nursing, allied health, and other health-related
52-17 programs.

52-18 (h) The Texas Higher Education Coordinating Board shall
52-19 include in the report required by Section 63.203, Education Code:

52-20 (1) the name of each institution that received a grant
52-21 from the earnings account;

52-22 (2) the purpose for which the grant was used; and

52-23 (3) any additional information required by the
52-24 Legislative Budget Board.

52-25 (i) Section 404.071 does not apply to the secondary account
52-26 or the earnings account.

52-27 Sec. 403.1083. SECONDARY ACCOUNT FOR MINORITY HEALTH
52-28 RESEARCH AND EDUCATION. (a) In this section:

52-29 (1) "Earnings account" means the account described by
52-30 Subsection (d).

52-31 (2) "Secondary account" means the secondary account
52-32 for minority health research and education.

52-33 (b) The secondary account and the earnings account are
52-34 dedicated accounts in the general revenue fund.

52-35 (c) The secondary account consists of:

52-36 (1) money transferred to the account at the direction
52-37 of the legislature; and

52-38 (2) donations to the account.

52-39 (d) The earnings account consists of the earnings received
52-40 from investment of the assets in the secondary account. The
52-41 comptroller shall periodically transfer those earnings from the
52-42 secondary account to the earnings account.

52-43 (e) Money in the secondary account may be used only for a
52-44 purpose described by Subsection (d) or (f).

52-45 (f) The comptroller shall manage and invest assets in the
52-46 secondary account in authorized investments under Section 404.024.
52-47 Any expenses incurred by the comptroller in managing and investing
52-48 assets in the secondary account shall be paid from the account.

52-49 (g) Money in the earnings account may be appropriated only
52-50 to the Texas Higher Education Coordinating Board for the purpose of
52-51 providing grants as specified by Section 63.302(c), Education Code,
52-52 for money from the permanent fund for minority health research and
52-53 education.

52-54 (h) The Texas Higher Education Coordinating Board shall
52-55 report regarding the money received under this section in the
52-56 manner required by Section 63.302(f), Education Code, and shall
52-57 include in the report:

52-58 (1) the total amount distributed under this section;

52-59 (2) the name of each institution that received a
52-60 grant;

52-61 (3) the purpose of each grant, including a description
52-62 of any partnership formed; and

52-63 (4) any additional information required by the
52-64 Legislative Budget Board.

52-65 (i) Section 404.071 does not apply to the secondary account
52-66 or the earnings account.

52-67 SECTION 7A.02. Section 403.1069, Government Code, is
52-68 amended to read as follows:

52-69 Sec. 403.1069. REPORTING REQUIREMENT. The Department of

53-1 State Health Services [~~department~~] shall provide a report to the
 53-2 Legislative Budget Board on the permanent funds established under
 53-3 this subchapter from which the department may receive an
 53-4 appropriation of the available earnings [~~to the Legislative Budget~~
 53-5 ~~Board~~] no later than November 1 of each year. The report shall
 53-6 include the total amount of money distributed from each fund, the
 53-7 purpose for which the money was used, and any additional
 53-8 information that may be requested by the Legislative Budget Board.

53-9 SECTION 7A.03. (a) On November 1, 2006, all amounts held in
 53-10 the following funds shall be transferred, in the estimated amount
 53-11 listed, to the accounts established under Sections 403.108,
 53-12 403.1081, 403.1082, and 403.1083, Government Code, as added by this
 53-13 Act, as specified by this section:

53-14 Fund Number	Fund Name	Amount
53-15 0810	Permanent Health Fund for Higher Education	\$376,600,000
53-16 0811	Permanent Endowment Fund for Health Related Institutions - University of Texas Health 53-18 Science Center at San Antonio	\$215,200,000
53-19 0812	Permanent Endowment Fund for Health Related Institutions - University of Texas M.D. Anderson Cancer Center	\$107,600,000
53-20 0813	Permanent Endowment Fund for Health Related Institutions - University of Texas Southwestern Medical 53-28 Center at Dallas	\$53,800,000
53-29 0814	Permanent Endowment Fund for Health Related Institutions - University of Texas Medical 53-32 Branch at Galveston	\$26,900,000
53-33 0815	Permanent Endowment Fund for Health Related Institutions - University of Texas Health 53-36 Science Center at Houston	\$26,900,000
53-37 0816	Permanent Endowment Fund for Health Related Institutions - University of Texas Health 53-40 Science Center at Tyler	\$26,900,000
53-41 0817	Permanent Endowment Fund for Health Related Institutions - University of Texas at El Paso	\$26,900,000
53-42 0818	Permanent Endowment Fund for Health Related Institutions - Texas A&M University Health 53-46 Science Center	\$25,600,000
53-47 0819	Permanent Endowment Fund for Health Related Institutions - University of North Texas 53-51 Health Science Center at Fort Worth	\$25,400,000
53-52 0820	Permanent Endowment Fund for Health Related Institutions - Components of Texas Tech 53-56 University Health Science Center in El Paso	\$26,500,000
53-57 0821	Permanent Endowment Fund for Health Related Institutions - Components of Texas Tech 53-61 University Health Science Center other than El Paso	\$26,500,000
53-62 0822	Permanent Endowment Fund for Health Related Institutions - University of Texas Regional 53-65 Academic Health Center	\$21,500,000
53-66 0823	Permanent Endowment Fund for Health Related Institutions -	

54-1		Baylor College of Medicine	\$24,400,000
54-2	0824	Permanent Fund for Higher	
54-3		Education Nursing, Allied	
54-4		Health and Other Health	
54-5		Related Programs	\$44,000,000
54-6	0825	Permanent Fund for Minority	
54-7		Health Research and Education	\$24,400,000
54-8		Informational Total:	\$1,079,100,000

(b) Amounts transferred from the Permanent Health Fund for Higher Education shall be deposited to the credit of the secondary health account for higher education established under Section 403.108, Government Code, as added by this Act.

(c) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Health Science Center at San Antonio shall be deposited to the credit of the secondary account established for the benefit of The University of Texas Health Science Center at San Antonio under Section 403.1081, Government Code, as added by this Act.

(d) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas M. D. Anderson Cancer Center shall be deposited to the credit of the secondary account established for the benefit of The University of Texas M. D. Anderson Cancer Center under Section 403.1081, Government Code, as added by this Act.

(e) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Southwestern Medical Center at Dallas shall be deposited to the credit of the secondary account established for the benefit of The University of Texas Southwestern Medical Center at Dallas under Section 403.1081, Government Code, as added by this Act.

(f) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Medical Branch at Galveston shall be deposited to the credit of the secondary account established for the benefit of The University of Texas Medical Branch at Galveston under Section 403.1081, Government Code, as added by this Act.

(g) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Health Science Center at Houston shall be deposited to the credit of the secondary account established for the benefit of The University of Texas Health Science Center at Houston under Section 403.1081, Government Code, as added by this Act.

(h) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Health Science Center at Tyler shall be deposited to the credit of the secondary account established for the benefit of The University of Texas Health Science Center at Tyler under Section 403.1081, Government Code, as added by this Act.

(i) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas at El Paso shall be deposited to the credit of the secondary account established for the benefit of The University of Texas at El Paso under Section 403.1081, Government Code, as added by this Act.

(j) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - Texas A&M University Health Science Center shall be deposited to the credit of the secondary account established for the benefit of The Texas A&M University Health Science Center under Section 403.1081, Government Code, as added by this Act.

(k) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of North Texas Health Science Center at Fort Worth shall be deposited to the credit of the secondary account established for the benefit of the University of North Texas Health Science Center at Fort Worth under Section 403.1081, Government Code, as added by this Act.

(l) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - Components of Texas Tech University Health Sciences Center in El Paso shall be deposited to the credit of the secondary account established for the benefit of

55-1 the components of Texas Tech University Health Sciences Center in
55-2 El Paso under Section 403.1081, Government Code, as added by this
55-3 Act.

55-4 (m) Amounts transferred from the Permanent Endowment Fund
55-5 for Health Related Institutions - Components of Texas Tech
55-6 University Health Sciences Center other than El Paso shall be
55-7 deposited to the credit of the secondary account established for
55-8 the benefit of the components of Texas Tech University Health
55-9 Sciences Center other than El Paso under Section 403.1081,
55-10 Government Code, as added by this Act.

55-11 (n) Amounts transferred from the Permanent Endowment Fund
55-12 for Health Related Institutions - University of Texas Regional
55-13 Academic Health Center shall be deposited to the credit of the
55-14 secondary account established for the benefit of The University of
55-15 Texas Regional Academic Health Center under Section 403.1081,
55-16 Government Code, as added by this Act.

55-17 (o) Amounts transferred from the Permanent Endowment Fund
55-18 for Health Related Institutions - Baylor College of Medicine shall
55-19 be deposited to the credit of the secondary account established for
55-20 the benefit of Baylor College of Medicine under Section 403.1081,
55-21 Government Code, as added by this Act.

55-22 (p) Amounts transferred from the Permanent Fund for Higher
55-23 Education Nursing, Allied Health, and Other Health Related Programs
55-24 shall be deposited to the credit of the secondary account for higher
55-25 education nursing, allied health, and other health-related
55-26 programs established under Section 403.1082, Government Code, as
55-27 added by this Act.

55-28 (q) Amounts transferred from the Permanent Fund for
55-29 Minority Health Research and Education shall be deposited to the
55-30 credit of the secondary account for minority health research and
55-31 education established under Section 403.1083, Government Code, as
55-32 added by this Act.

55-33 SECTION 7A.04. (a) The transfers to accounts in the general
55-34 revenue fund made by this article may not result in a reduction in
55-35 the amount available for distribution from those accounts, and the
55-36 same amount that would have been distributed from the permanent
55-37 funds but for the transfers made by this article shall be
55-38 appropriated and distributed from the applicable accounts created
55-39 by this article. If the earnings from the secondary account that
55-40 are transferred to the earnings account are inadequate to make a
55-41 distribution of the same amount that would have been distributed
55-42 from the permanent funds, to the extent that the difference is
55-43 solely the result of an investment policy other than total return,
55-44 the comptroller shall transfer the difference to the applicable
55-45 earnings account from the unobligated portion of general revenue.

55-46 (b) The comptroller of public accounts shall determine the
55-47 amount of any loss to the Permanent Health Fund for Higher Education
55-48 and other funds administered by The University of Texas System as a
55-49 result of the transfer to general revenue under this article. On
55-50 August 31, 2007, the comptroller shall transfer from general
55-51 revenue to the applicable secondary account created by this Act, an
55-52 amount equal to the amount of the loss. In determining the amount
55-53 of the loss, the comptroller shall consider the difference in the
55-54 rate of return on investment of that secondary account and the rate
55-55 of return over the preceding three years on investment of the
55-56 Permanent University Fund.

55-57 (c) Notwithstanding any other provision of this article,
55-58 the total of distributions under sections (a) and (b) from the
55-59 accounts created by this article, plus transfers under Subsection
55-60 (b) of this section, may not exceed \$65 million for any fiscal year.

55-61 SECTION 7A.05. This part takes effect September 1, 2005.

55-62 PART B. TEXAS MOBILITY FUND

55-63 SECTION 7B.01. Subchapter M, Chapter 201, Transportation
55-64 Code, is amended by adding Section 201.9471 to read as follows:

55-65 Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO
55-66 FUND. (a) Notwithstanding Sections 521.058, 521.313, 521.3466,
55-67 521.427, 522.029, 524.051, and 724.046, to the extent that those
55-68 sections allocate money to the Texas mobility fund, in state fiscal
55-69 year 2006 the comptroller shall deposit that money to the credit of

56-1 the general revenue fund instead of to the credit of the Texas
 56-2 mobility fund.

56-3 (b) Notwithstanding Sections 521.313, 521.3466, 521.427,
 56-4 522.029, 524.051, and 724.046, to the extent that those sections
 56-5 allocate money to the Texas mobility fund, in state fiscal year 2007
 56-6 the comptroller shall deposit that money to the credit of the
 56-7 general revenue fund instead of to the credit of the Texas mobility
 56-8 fund.

56-9 (c) This section expires January 1, 2008.

56-10 SECTION 7B.02. This part takes effect September 1, 2005.

56-11 PART C. TELECOMMUNICATIONS INFRASTRUCTURE FUND

56-12 SECTION 7C.01. Section 57.048, Utilities Code, is amended
 56-13 by amending Subsections (a), (b), and (e) and adding Subsections
 56-14 (f)-(i) to read as follows:

56-15 (a) An annual assessment is imposed on each
 56-16 telecommunications utility, ~~and~~ each commercial mobile service
 56-17 provider, and each cable company doing business in this state.

56-18 (b) The assessment is imposed at the rate of 1.25 percent of
 56-19 the taxable telecommunications receipts of the telecommunications
 56-20 utility, ~~or~~ commercial mobile service provider, or cable
 56-21 company~~, subject to this section~~.

56-22 (e) The comptroller may require a telecommunications
 56-23 utility, ~~or~~ commercial mobile service provider, or cable company
 56-24 to provide any report or information necessary to fulfill the
 56-25 comptroller's duties under this section. Information provided to
 56-26 the comptroller under this section is confidential and exempt from
 56-27 disclosure under Chapter 552, Government Code.

56-28 (f) Notwithstanding any other provision of this title, a
 56-29 certificated telecommunications utility may recover from the
 56-30 utility's customers an assessment imposed on the utility under this
 56-31 subchapter after the total amount deposited to the credit of the
 56-32 fund, excluding interest and loan repayments, is equal to \$1.5
 56-33 billion, as determined by the comptroller. A certificated
 56-34 telecommunications utility may recover only the amount of the
 56-35 assessment imposed after the total amount deposited to the credit
 56-36 of the fund, excluding interest and loan repayments, is equal to
 56-37 \$1.5 billion, as determined by the comptroller. The utility may
 56-38 recover the assessment through a monthly billing process.

56-39 (g) The comptroller shall publish in the Texas Register the
 56-40 date on which the total amount deposited to the credit of the fund,
 56-41 excluding interest and loan repayments, is equal to \$1.5 billion.

56-42 (h) Not later than February 15 of each year, a certificated
 56-43 telecommunications utility that wants to recover the assessment
 56-44 under Subsection (f) shall file with the commission an affidavit or
 56-45 affirmation stating the amount that the utility paid to the
 56-46 comptroller under this section during the previous calendar year
 56-47 and the amount the utility recovered from its customers in
 56-48 cumulative payments during that year.

56-49 (i) The commission shall maintain the confidentiality of
 56-50 information the commission receives under this section that is
 56-51 claimed to be confidential for competitive purposes. The
 56-52 confidential information is exempt from disclosure under Chapter
 56-53 552, Government Code.

56-54 SECTION 7C.02. Section 57.0485, Utilities Code, is amended
 56-55 to read as follows:

56-56 Sec. 57.0485. ALLOCATION OF REVENUE [ACCOUNTS]. ~~[(a)]~~ The
 56-57 comptroller shall deposit ~~[50 percent of]~~ the money collected by
 56-58 the comptroller under Section 57.048 to the credit of the general
 56-59 revenue fund ~~[public schools account in the fund. The comptroller~~
 56-60 shall deposit the remainder of the money collected by the
 56-61 comptroller under Section 57.048 to the credit of the qualifying
 56-62 entities account in the fund.

56-63 ~~[(b) Interest earned on money in an account shall be~~
 56-64 ~~deposited to the credit of that account].~~

56-65 SECTION 7C.03. Section 57.051, Utilities Code, is amended
 56-66 to read as follows:

56-67 Sec. 57.051. SUNSET PROVISION. The Telecommunications
 56-68 Infrastructure Fund ~~[Board]~~ is subject to Chapter 325, Government
 56-69 Code (Texas Sunset Act). Unless continued in existence as provided

57-1 by that chapter, [~~the board is abolished and~~] this subchapter
 57-2 expires September 1, 2011 [2005].

57-3 SECTION 7C.04. Sections 57.043 and 57.048(c) and (d),
 57-4 Utilities Code, are repealed.

57-5 SECTION 7C.05. If, on the day before the effective date of
 57-6 this part, the assessment prescribed by Section 57.048, Utilities
 57-7 Code, is imposed at a rate of less than 1.25 percent, the
 57-8 comptroller shall, on the effective date of this part, reset the
 57-9 rate of the assessment to 1.25 percent.

57-10 SECTION 7C.06. This part takes effect July 1, 2005, if this
 57-11 Act receives a vote of two-thirds of all the members elected to each
 57-12 house, as provided by Section 39, Article III, Texas Constitution.
 57-13 If this Act does not receive the vote necessary for effect on that
 57-14 date, this part takes effect September 1, 2005.

57-15 ARTICLE 8. EFFECTS OF IMPLEMENTATION; EFFECTIVE DATE

57-16 SECTION 8.01. SPECIAL REPORT ON EFFECTS OF CERTAIN TAX
 57-17 POLICIES ON PERSONAL INCOME AND BUSINESSES. (a) The comptroller of
 57-18 public accounts shall prepare a report that provides a
 57-19 comprehensive analysis of the effects of tax policies adopted by
 57-20 the 79th Legislature on the personal income of residents of this
 57-21 state and on businesses in this state. Not later than October 15,
 57-22 2006, the comptroller shall submit the report to the governor,
 57-23 lieutenant governor, speaker of the house of representatives, and
 57-24 each other member of the legislature.

57-25 (b) The report required under Subsection (a) of this section
 57-26 must include at least the following information with respect to
 57-27 business taxes enacted or significantly reformed by the 79th
 57-28 Legislature:

57-29 (1) the total amount of the tax revenue collected from
 57-30 businesses between the effective date of this Act and the date of
 57-31 the report;

57-32 (2) a profile of the businesses that paid the taxes by:
 57-33 (A) the number of employees;
 57-34 (B) the two-digit standard industrial
 57-35 classification; and

57-36 (C) for the period described by Subdivision (1)
 57-37 of this subsection:

57-38 (i) the total amount of wages paid and,
 57-39 reported separately, the total amount of taxable wages paid;

57-40 (ii) the total amount of profits made and,
 57-41 reported separately, the total amount of taxable profits made;

57-42 (iii) the total amount of taxes paid; and
 57-43 (iv) any credits used to reduce tax
 57-44 liability;

57-45 (3) the percentage of the taxes that were paid by
 57-46 businesses with fewer than 100 employees;

57-47 (4) an estimate of the number and wages of workers not
 57-48 covered by the taxes; and

57-49 (5) an estimate of the number, two-digit standard
 57-50 industrial classification, and profits of, and an estimate of the
 57-51 wages paid by, businesses not covered by the taxes.

57-52 (c) The report required under Subsection (a) of this section
 57-53 must also include at least the following:

57-54 (1) with respect to major legislation enacted by the
 57-55 79th Legislature, a tax incidence analysis, categorized by industry
 57-56 sector and family income level, of the effects of:

57-57 (A) any reduction in school district tax rates;

57-58 (B) any changes in business taxation;

57-59 (C) any changes in property taxation;

57-60 (D) any increase in the rate of the sales tax on
 57-61 the sales tax base as compared to the sales tax base that existed on
 57-62 January 1, 2005;

57-63 (E) any repeal of a sales tax exemption or
 57-64 exclusion;

57-65 (F) any increase in the rate of the motor vehicle
 57-66 sales and use tax;

57-67 (G) any increase in the rate of the boat and boat
 57-68 motor sales and use tax;

57-69 (H) any tax imposed on the sale of discretionary

58-1 food and drink items;

58-2 (I) any increase in rate of the cigarette, cigar,
58-3 or tobacco products tax;

58-4 (J) any changes in the assessments imposed under
58-5 Subchapter C, Chapter 57, Utilities Code, for the
58-6 Telecommunications Infrastructure Fund; and

58-7 (K) any other changes in major state taxes; and
58-8 (2) with respect to residents of this state who
58-9 itemize deductions on their federal income tax returns, an
58-10 analysis, categorized by income level, of:

58-11 (A) the amount of state sales taxes deducted from
58-12 those persons' federal income taxes; and

58-13 (B) the difference between the federal income tax
58-14 deductions for property taxes paid that were claimed by those
58-15 persons before property tax rate reductions were enacted by the
58-16 79th Legislature and the federal income tax deductions for property
58-17 taxes paid that were claimed by those persons after those
58-18 reductions were enacted.

58-19 (d) Not later than October 15, 2008, the comptroller of
58-20 public accounts shall:

58-21 (1) update the information contained in the report
58-22 submitted under this section; and

58-23 (2) submit the updated report to the persons listed in
58-24 Subsection (a) of this section.

58-25 SECTION 8.02. (a) Except as provided by Subsections (b) and
58-26 (c) of this section, this Act takes effect July 1, 2005, if this Act
58-27 receives a vote of two-thirds of all the members elected to each
58-28 house, as provided by Section 39, Article III, Texas Constitution.
58-29 If this Act does not receive the vote necessary for effect on that
58-30 date, this Act takes effect September 1, 2005.

58-31 (b) If a section, part, or article of this bill provides a
58-32 different effective date than provided by Subsection (a) of this
58-33 section, that section, part, or article takes effect according to
58-34 its terms.

58-35 (c) This Act takes effect only if House Bill No. 2, Acts of
58-36 the 79th Legislature, Regular Session, 2005, becomes law. If that
58-37 bill does not become law, this Act has no effect.

58-38 * * * * *