

By: Armbrister

S.B. No. 1325

A BILL TO BE ENTITLED

1 AN ACT

2 relating to taxes, fees, and programs administered by the
3 comptroller; providing a penalty.

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

5 SECTION 1. Section 161.081, Health and Safety Code, is
6 amended by amending Subdivision (1) and adding Subdivision (1-a) to
7 read as follows:

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

11 (1-a) "Cigarette" has the meaning assigned by Section
12 154.001, Tax Code.

13 SECTION 2. Subchapter H, Chapter 161, Health and Safety
14 Code, is amended by adding Section 161.0821 to read as follows:

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

19 (b) An offense under this section is a Class C misdemeanor.

20 SECTION 3. Section 285.063(a), Health and Safety Code, is
21 amended to read as follows:

22 (a) The adoption or abolition of the tax or change in the tax
23 rate takes effect on the first day of the first calendar quarter
24 occurring after the expiration of the first complete calendar

1 quarter occurring after the date on which the comptroller receives
2 a notice of the results of the election. Following an election to
3 adopt the tax under this subchapter, the district must submit to the
4 comptroller a description of the boundaries of the district and a
5 map of the district clearly showing the district's boundaries at
6 the same time it submits the results of the election held as
7 provided by this subchapter.

8 SECTION 4. Section 775.0753, Health and Safety Code, is
9 amended by adding Subsection (d) to read as follows:

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

15 SECTION 5. Section 776.0753, Health and Safety Code, is
16 amended by adding Subsection (d) to read as follows:

17 (d) The district must submit to the comptroller a
18 description of the boundaries of the district and a map of the
19 district clearly showing the district's boundaries at the same time
20 it submits the results of the election held as provided by this
21 chapter.

22 SECTION 6. Article 1.16(b), Insurance Code, is amended to
23 read as follows:

24 (b) Assessments for the expenses of such domestic
25 examination which shall be sufficient to meet all the expenses and
26 disbursements necessary to comply with the provisions of the laws
27 of Texas relating to the examination of insurance companies and to

1 comply with the provisions of this Article and Articles 1.17 and
2 1.18 of this Code, shall be made by the State Board of Insurance
3 upon the corporations or associations to be examined taking into
4 consideration annual premium receipts, and/or admitted assets that
5 are not attributable to 90 percent of pension plan contracts as
6 defined in Section 818(a) of the Internal Revenue Code of 1986 (26
7 U.S.C. Section 818(a)), and/or insurance in force; provided such
8 assessments shall be made and collected as follows: (1) expenses
9 attributable directly to a specific examination including
10 employees' salaries and expenses and expenses provided by Article
11 1.28 of this Code shall be collected at the time of examination; (2)
12 assessments calculated annually for each corporation or
13 association which take into consideration annual premium receipts,
14 and/or admitted assets that are not attributable to 90 percent of
15 pension plan contracts as defined in Section 818(a) of the Internal
16 Revenue Code of 1986 (26 U.S.C. Section 818(a)), and/or insurance
17 in force shall be assessed annually for each such corporation or
18 association. In computing the assessments, the board may not
19 consider insurance premiums for insurance contracted for by a state
20 or federal governmental entity to provide welfare benefits to
21 designated welfare recipients or contracted for in accordance with
22 or in furtherance of Title 2, Human Resources Code, or the federal
23 Social Security Act (42 U.S.C. Section 301 et seq.). The amount of
24 all examination and evaluation fees paid in each taxable year to the
25 State of Texas by an insurance carrier shall be allowed as a credit
26 on the amount of premium taxes due [~~under this article~~]. The
27 limitations provided by Sections 803.007(1) and (2)(B) of this code

1 for domestic insurance companies apply to foreign insurance
2 companies.

3 SECTION 7. Sections 221.002(b) and (c), Insurance Code, are
4 amended to read as follows:

5 (b) Except as provided by Subsection (c), in determining an
6 insurer's taxable premiums [~~premium receipts~~], the insurer shall
7 include the total gross amounts of premiums, membership fees,
8 assessments, dues, revenues, and any other considerations on
9 insurance written by the insurer in a calendar year from any kind of
10 insurance written on each and every kind of property or risks
11 located in this state, including:

- 12 (1) fire insurance;
- 13 (2) ocean marine insurance;
- 14 (3) inland marine insurance;
- 15 (4) accident insurance;
- 16 (5) credit insurance;
- 17 (6) livestock insurance;
- 18 (7) fidelity insurance;
- 19 (8) guaranty insurance;
- 20 (9) surety insurance;
- 21 (10) casualty insurance;
- 22 (11) workers' compensation insurance;
- 23 (12) employers' liability insurance; [~~and~~]
- 24 (13) crop insurance written by a farm mutual insurance
25 company; and
- 26 (14) home warranty insurance.

27 (c) The following premium receipts are not included in

1 determining an insurer's taxable premium receipts:

2 (1) premium receipts received from the business of
3 title insurance;

4 (2) premium receipts received from the business of
5 life insurance, personal accident insurance, life and accident
6 insurance, or health and accident insurance for profit, written by
7 a life insurance company, life and accident insurance company,
8 health and accident insurance company, or for mutual benefit or
9 protection in this state;

10 (3) premium receipts received from another authorized
11 insurer for reinsurance;

12 (4) returned premiums and dividends paid to
13 policyholders; ~~and~~

14 (5) premiums excluded by another law of this state;
15 and

16 (6) premium finance charges clearly identified in a
17 premium note or other evidence of premiums payable that are
18 separately stated to the policyholder in an invoice, billing, or
19 contract.

20 SECTION 8. Section 222.002(b), Insurance Code, is amended
21 to read as follows:

22 (b) Except as otherwise provided by this section, in
23 determining an insurer's taxable gross premiums or a health
24 maintenance organization's taxable gross revenues, the insurer or
25 health maintenance organization shall include the total gross
26 amounts of premiums, membership fees, assessments, dues, revenues,
27 and other considerations received by the insurer or health

1 maintenance organization in a calendar year from any kind of health
2 maintenance organization certificate or contract or insurance
3 policy or contract covering risks on individuals or groups [~~a~~
4 ~~person~~] located in this state and arising from the business of a
5 health maintenance organization or the business of life insurance,
6 accident insurance, health insurance, life and accident insurance,
7 life and health insurance, health and accident insurance, life,
8 health, and accident insurance, including variable life insurance,
9 credit life insurance, and credit accident and health insurance for
10 profit or otherwise or for mutual benefit or protection.

11 SECTION 9. Section 223.003(a), Insurance Code, is amended
12 to read as follows:

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

21 SECTION 10. Section 252.003, Insurance Code, is amended to
22 read as follows:

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

27 (1) bombardment;

- 1 (2) civil war or commotion;
- 2 (3) cyclone;
- 3 (4) earthquake;
- 4 (5) excess or deficiency of moisture;
- 5 (6) explosion as defined by Article 5.52;
- 6 (7) fire;
- 7 (8) flood;
- 8 (9) frost and freeze;
- 9 (10) hail;
- 10 (11) insurrection;
- 11 (12) invasion;
- 12 (13) lightning;
- 13 (14) military or usurped power;
- 14 (15) an order of a civil authority made to prevent the
- 15 spread of a conflagration, epidemic, or catastrophe;
- 16 (16) rain;
- 17 (17) riot;
- 18 (18) the rising of the waters of the ocean or its
- 19 tributaries;
- 20 (19) smoke or smudge;
- 21 (20) strike or lockout;
- 22 (21) tornado;
- 23 (22) vandalism or malicious mischief;
- 24 (23) volcanic eruption;
- 25 (24) water or other fluid or substance resulting from
- 26 the breakage or leakage of sprinklers, pumps, or other apparatus
- 27 erected for extinguishing fires, water pipes, or other conduits or

1 containers;

2 (25) weather or climatic conditions; [~~or~~]

3 (26) windstorm;

4 (27) an event covered under a home warranty insurance
5 policy; or

6 (28) an event covered under an inland marine insurance
7 policy.

8 SECTION 11. Section 271.002(a), Insurance Code, is amended
9 to read as follows:

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

12 SECTION 12. Section 1502.053, Insurance Code, is amended to
13 read as follows:

14 Sec. 1502.053. EXEMPTION FROM CERTAIN TAXES. (a) The
15 issuer of a [A] children's health benefit plan approved under
16 Section 1502.051 [issuer] is not subject to the premium tax or the
17 tax on revenues imposed under Chapter 222 with respect to money
18 received for coverage provided under that plan.

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

22 SECTION 13. Section 383.101, Local Government Code, is
23 amended by adding Subsection (d) to read as follows:

24 (d) The district must submit to the comptroller a
25 description of the boundaries of the district and a map of the
26 district clearly showing the district's boundaries at the same time
27 it submits the results of the election held as provided by this

1 chapter.

2 SECTION 14. Section 387.012, Local Government Code, is
3 amended to read as follows:

4 Sec. 387.012. EFFECTIVE DATE OF TAX. (a) The adoption of
5 the tax, the change of the tax rate, or the repeal of the tax takes
6 effect on the first day of the first calendar quarter occurring
7 after the expiration of the first complete quarter occurring after
8 the date the comptroller receives a notice of the results of the
9 election adopting, changing, or repealing the tax.

10 (b) The district must submit to the comptroller a
11 description of the boundaries of the district and a map of the
12 district clearly showing the district's boundaries at the same time
13 it submits the results of the election held as provided by this
14 chapter.

15 SECTION 15. Section 111.009, Tax Code, is amended by
16 amending Subsection (a) and adding Subsections (e) and (f) to read
17 as follows:

18 (a) A person having a direct interest in a determination may
19 petition the comptroller for a redetermination and may assert legal
20 and factual grounds to challenge the assessment.

21 (e) The person filing the petition may assert credits or
22 claim a refund for the same tax type and same period to offset the
23 assessment. Any credits asserted or refund claimed must be
24 included in the petition or must be filed within the applicable
25 limitations period, except as otherwise provided by this section.
26 The comptroller shall promulgate procedural rules that ensure that
27 redetermination proceedings are expeditiously finalized and that

1 provide that all parties receive equal time to prepare and submit
2 their positions prior to the hearing.

3 (f) A credit or refund for the same tax type and same period
4 may be filed in the redetermination proceeding for all issues if the
5 credit is asserted or the refund is claimed within one year from the
6 date of filing of the petition for redetermination. This provision
7 does not authorize the filing of a separate refund or credit that is
8 not authorized by Section 111.107(b).

9 SECTION 16. Section 111.010, Tax Code, is amended by adding
10 Subsection (e) to read as follows:

11 (e) A judgment in a suit arising under this section remains
12 valid and enforceable until satisfied and does not require periodic
13 renewal. The provisions of Section 34.001, Civil Practice and
14 Remedies Code, shall not apply to a judgment in a suit arising under
15 this section.

16 SECTION 17. Section 111.016, Tax Code, is amended by adding
17 Subsection (e) to read as follows:

18 (e) The comptroller may assess the responsible individual
19 liable under Subsection (b) at any time before the expiration of one
20 year after the later of the date the tax liability of the
21 corporation, association, limited liability company, limited
22 partnership, or other legal entity becomes final or the date the
23 bankruptcy proceeding is closed or dismissed.

24 SECTION 18. Subchapter B, Chapter 111, Tax Code, is amended
25 by adding Section 111.0511 to read as follows:

26 Sec. 111.0511. RESTRICTED OR CONDITIONAL PAYMENTS OF TAXES,
27 PENALTIES, AND INTEREST PROHIBITED. Unless the restriction or

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

9 SECTION 19. Section 111.0625, Tax Code, is amended to read
10 as follows:

11 Sec. 111.0625. ELECTRONIC TRANSFER OF CERTAIN
12 PAYMENTS. (a) The comptroller by rule shall require a taxpayer who
13 paid \$100,000 or more during the preceding fiscal year in a category
14 of payments required under this title to transfer payments in that
15 category by means of electronic funds transfer in accordance with
16 Section 404.095, Government Code, if the comptroller reasonably
17 anticipates the person will pay at least that amount during the
18 current fiscal year.

19 (b) The comptroller may by rule reduce the amount provided
20 in Subsection (a) to \$50,000 or more.

21 SECTION 20. Section 111.107(a), Tax Code, is amended to
22 read as follows:

23 (a) Except as otherwise expressly provided, a person may
24 request a refund or a credit or the comptroller may make a refund or
25 issue a credit for the overpayment of a tax imposed by this title at
26 any time before the expiration of the period during which the
27 comptroller may assess a deficiency for the tax and not thereafter

1 unless the refund or credit is requested:

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

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

7 (3) under Chapter 162 [~~153~~], except Section
8 162.126(f), 162.128(d), 162.228(f), or 162.230(d) [~~153.1195(e),~~
9 ~~153.121(d), 153.2225(e), or 153.224(d)~~].

10 SECTION 21. Section 151.006, Tax Code, is amended to read as
11 follows:

12 Sec. 151.006. "SALE FOR RESALE". "Sale for resale" means a
13 sale of:

14 (1) tangible personal property or a taxable service to
15 a purchaser who acquires the property or service for the purpose of
16 reselling it in the United States of America or a possession or
17 territory of the United States of America or in the United Mexican
18 States in the normal course of business in the form or condition in
19 which it is acquired or as an attachment to or integral part of
20 other tangible personal property or taxable service;

21 (2) tangible personal property to a purchaser for the
22 sole purpose of the purchaser's leasing or renting it in the United
23 States of America or a possession or territory of the United States
24 of America or in the United Mexican States in the normal course of
25 business to another person, but not if incidental to the leasing or
26 renting of real estate;

27 (3) tangible personal property to a purchaser who

1 acquires the property for the purpose of transferring it in the
2 United States of America or a possession or territory of the United
3 States of America or in the United Mexican States as an integral
4 part of a taxable service; or

5 (4) a taxable service performed on tangible personal
6 property that is held for sale by the purchaser of the taxable
7 service.

8 SECTION 22. Section 151.011(a), Tax Code, is amended to
9 read as follows:

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

21 SECTION 23. Section 151.3111(b), Tax Code, is amended to
22 read as follows:

23 (b) Subsection (a) does not apply to the performance of a
24 service on:

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

27 (2) tangible personal property that is exempted solely

1 because of the application of Section 151.303, 151.304, or 151.306;

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

4 (4) a taxable boat or motor as defined by Section
5 160.001; ~~[or]~~

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

8 (7) through December 31, 2007, tangible personal
9 property that is exempted solely because of the application of
10 Section 151.3162.

11 SECTION 24. Section 151.3162(d), Tax Code, is amended to
12 read as follows:

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

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

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

27 (3) for an item for which the taxable event occurs on

1 or after January 1, 2006, and before January 1, 2008, the taxpayer
2 is entitled to a refund or credit in an amount equal to 75 percent of
3 the tax paid on the item.

4 SECTION 25. Section 151.318(c), Tax Code, is amended to
5 read as follows:

6 (c) The exemption does not include:

7 (1) intraplant transportation equipment, including
8 intraplant transportation equipment used to move a product or raw
9 material in connection with the manufacturing process and
10 specifically including all piping and conveyor systems, provided
11 that the following remain eligible for the exemption:

12 (A) piping or conveyor systems that are a
13 component part of a single item of manufacturing equipment or
14 pollution control equipment eligible for the exemption under
15 Subsection (a)(2), (a)(4), or (a)(5);

16 (B) piping or conveyor systems through which the
17 product or an intermediate or preliminary product that will become
18 an ingredient or component part of the product is recycled or
19 circulated in a loop between the single item of manufacturing
20 equipment and the ancillary equipment that supports only that
21 single item of manufacturing equipment if the single item of
22 manufacturing equipment and the ancillary equipment operate
23 together to perform a specific step in the manufacturing process;
24 and

25 (C) piping or conveyor systems through which the
26 product or an intermediate or preliminary product that will become
27 an ingredient or component part of the product is recycled back to

1 another single item of manufacturing equipment and its ancillary
2 equipment in the same manufacturing process;

3 (2) hand tools;

4 (3) maintenance supplies not otherwise exempted under
5 this section, maintenance equipment, janitorial supplies or
6 equipment, office equipment or supplies, equipment or supplies used
7 in sales or distribution activities, research or development of new
8 products, or transportation activities;

9 (4) machinery and equipment or supplies to the extent
10 not otherwise exempted under this section used to maintain or store
11 tangible personal property; or

12 (5) tangible personal property used in the
13 transmission or distribution of electricity, including
14 transformers, cable, switches, breakers, capacitor banks,
15 regulators, relays, reclosers, fuses, interruptors, reactors,
16 arrestors, resistors, insulators, instrument transformers, and
17 telemetry units not otherwise exempted under this section, and
18 lines, conduit, towers, and poles.

19 SECTION 26. Section 154.111(b), Tax Code, is amended to
20 read as follows:

21 (b) An application for a permit required by this chapter
22 must be accompanied by a fee of:

23 (1) \$300 for a bonded agent's permit;

24 (2) \$300 for a distributor's permit;

25 (3) \$200 for a wholesaler's permit;

26 (4) \$15 for each permit for a vehicle if the applicant
27 is also applying for a permit as a bonded agent, distributor, or

1 wholesaler or has received a current permit from the comptroller
2 under Sections 154.101 and 154.110; [~~and~~]

3 (5) \$180 for a retailer's permit; and

4 (6) \$300 for a manufacturer's permit.

5 SECTION 27. Section 154.509, Tax Code, is amended to read as
6 follows:

7 Sec. 154.509. PERMITS. A person commits an offense if the
8 person:

9 (1) as a manufacturer, distributor, bonded agent,
10 importer, wholesaler, or retailer, receives or possesses
11 cigarettes without having a valid permit;

12 (2) as a manufacturer, distributor, bonded agent,
13 importer, wholesaler, or retailer, receives or possesses
14 cigarettes without having a permit posted where it can be easily
15 seen by the public;

16 (3) as a distributor or wholesaler, does not deliver
17 an invoice to the purchaser as required by Section 154.203;

18 (4) as a manufacturer, distributor, bonded agent,
19 importer, wholesaler, or retailer, sells cigarettes without having
20 a valid permit; or

21 (5) as a manufacturer, bonded agent, or importer,
22 stores, distributes, or delivers cigarettes in unstamped packages
23 without having a valid permit.

24 SECTION 28. Section 155.049(b), Tax Code, is amended to
25 read as follows:

26 (b) An application for a permit required by this chapter
27 must be accompanied by a fee of:

- 1 (1) \$300 for a bonded agent's permit;
- 2 (2) \$300 for a distributor's permit;
- 3 (3) \$200 for a wholesaler's permit;
- 4 (4) \$15 for each permit for a vehicle if the applicant
- 5 is also applying for a permit as a bonded agent, distributor, or
- 6 wholesaler or has received a current permit from the comptroller
- 7 under Sections 155.041 and 155.048; ~~and~~
- 8 (5) \$180 for a retailer's permit; and
- 9 (6) \$300 for a manufacturer's permit.

10 SECTION 29. Section 155.207, Tax Code, is amended to read as
11 follows:

12 Sec. 155.207. PERMITS. A person commits an offense if the
13 person:

14 (1) as a manufacturer, distributor, bonded agent,
15 importer, wholesaler, or retailer, receives or possesses tobacco
16 products without having a valid permit;

17 (2) as a manufacturer, distributor, bonded agent,
18 importer, wholesaler, or retailer, receives or possesses tobacco
19 products without having a permit posted where it can be easily seen
20 by the public;

21 (3) as a distributor or wholesaler, does not deliver
22 an invoice to the purchaser as required by Section 155.102;

23 (4) as a manufacturer, distributor, bonded agent,
24 importer, wholesaler, or retailer, sells tobacco products without
25 having a valid permit; or

26 (5) as a manufacturer, bonded agent, or importer,
27 stores, distributes, or delivers tobacco products on which the tax

1 has not been paid without having a valid permit.

2 SECTION 30. Section 156.051(b), Tax Code, is amended to
3 read as follows:

4 (b) The price of a room or space in a hotel does not include
5 the cost of food served by the hotel and the cost of personal
6 services performed by the hotel for the person except for those
7 services related to cleaning and readying the room or space for use
8 or possession.

9 SECTION 31. Section 156.052, Tax Code, is amended to read as
10 follows:

11 Sec. 156.052. RATE OF TAX. The rate of the tax imposed by
12 this chapter is six percent of the price paid for a room or space in
13 a hotel.

14 SECTION 32. Section 156.053, Tax Code, is amended to read as
15 follows:

16 Sec. 156.053. COLLECTION OF TAX. A person owning,
17 operating, managing, or controlling a hotel, or subletting a room
18 or space in a hotel, shall collect for the state the tax that is
19 imposed by this chapter and that is calculated on the amount paid
20 for the [a] room or space in the hotel.

21 SECTION 33. Section 162.001, Tax Code, is amended by adding
22 Subdivision (63) to read as follows:

23 (63) "Dyed diesel fuel retail dealer" means a dealer
24 who acquires dyed diesel fuel from a licensed supplier, permissive
25 supplier, or distributor for resale and delivery by the dealer into
26 the fuel supply tanks of motorboats, refrigeration units, or other
27 off-highway equipment at a retail location.

1 SECTION 34. Sections 162.101(b) and (c), Tax Code, are
2 amended to read as follows:

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

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

16 SECTION 35. Section 162.103(d), Tax Code, is amended to
17 read as follows:

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

25 SECTION 36. Section 162.128(d), Tax Code, is amended to
26 read as follows:

27 (d) A supplier, [~~or~~] permissive supplier, distributor,

1 importer, exporter, or blender that determines taxes were
2 erroneously reported and remitted or that paid more taxes than were
3 due this state because of a mistake of fact or law may take a credit
4 on the monthly tax report on which the error has occurred and tax
5 payment made to the comptroller. The credit must be taken before
6 the expiration of the applicable period of limitation as provided
7 by Chapter 111.

8 SECTION 37. Sections 162.201(b) and (c), Tax Code, are
9 amended to read as follows:

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

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

23 SECTION 38. Section 162.204(a), Tax Code, is amended to
24 read as follows:

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

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

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

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

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

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

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

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

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

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

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

8 (8) dyed diesel fuel sold or delivered by a supplier to
9 another supplier and dyed diesel fuel sold or delivered by a
10 supplier or distributor into the bulk storage facility of a dyed
11 diesel fuel retail dealer or dyed diesel fuel bonded user or to a
12 purchaser who provides a signed statement as provided by Section
13 162.206;

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

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

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

27 (12) dyed kerosene when delivered by a supplier,

1 distributor, or importer into a storage facility at a retail
2 business from which all deliveries are exclusively for heating,
3 cooking, lighting, or similar nonhighway use; or

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

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

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

13 SECTION 39. Section 162.205(a), Tax Code, is amended to
14 read as follows:

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

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

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

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

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

9 (5) a terminal operator;

10 (6) an exporter;

11 (7) a blender;

12 (8) a motor fuel transporter;

13 (9) an aviation fuel dealer;

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

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

16 (12) a dyed diesel fuel retail dealer.

17 SECTION 40. Section 162.206, Tax Code, is amended by adding
18 Subsection (k) to read as follows:

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

1 to the comptroller within the 60-day period, the comptroller may
2 verify the reason or basis for the signed statements before
3 allowing the exempt sales. An exempt sale may not be granted on the
4 basis of signed statements delivered to the comptroller after the
5 60-day period.

6 SECTION 41. Section 162.211(b), Tax Code, is amended to
7 read as follows:

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

12 SECTION 42. Section 162.213, Tax Code, is amended to read as
13 follows:

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

26 (b) A licensed supplier or permissive supplier who sells
27 diesel fuel tax-free to a supplier, ~~or~~ permissive supplier, or

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

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

14 SECTION 43. Section 162.215(d), Tax Code, is amended to
15 read as follows:

16 (d) An aviation fuel dealer and a dyed diesel fuel retail
17 dealer are ~~is~~ not required to file a return.

18 SECTION 44. Section 162.216, Tax Code, is amended by adding
19 Subsection (1-1) to read as follows:

20 (1-1) A dyed diesel fuel retail dealer shall keep:

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

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

24 (B) dyed and undyed diesel fuel purchased or
25 received, showing the name of the seller and the date of each
26 purchase or receipt;

27 (C) dyed and undyed diesel fuel sold or used,

1 showing the date of the sale or use; and

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

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

5 (A) the stamped or preprinted name and address of
6 the seller;

7 (B) the name of the purchaser;

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

9 (D) the number of gallons of dyed diesel fuel
10 delivered;

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

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

15 SECTION 45. Section 162.230(d), Tax Code, is amended to
16 read as follows:

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

25 SECTION 46. The heading to Section 162.409, Tax Code, is
26 amended to read as follows:

27 Sec. 162.409. ISSUANCE OF BAD CHECK TO LICENSED

1 DISTRIBUTOR, ~~[OR]~~ LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

2 SECTION 47. Sections 162.409(a) and (d), Tax Code, are
3 amended to read as follows:

4 (a) A person commits an offense if:

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

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

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

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

21 SECTION 48. Section 171.052, Tax Code, is amended to read as
22 follows:

23 Sec. 171.052. CERTAIN CORPORATIONS. An insurance
24 organization~~[, title insurance company, or title insurance agent]~~
25 authorized to engage in insurance business in this state now
26 required to pay an annual tax under Chapter 221, 222, or 224 ~~[4-or~~
27 9], Insurance Code, measured by its gross premium receipts is

1 exempted from the franchise tax. A nonadmitted insurance
2 organization that is required to pay a gross premium receipts tax
3 during a tax year is exempted from the franchise tax for that same
4 tax year. [~~Farm mutuals, local mutual aid associations, and burial~~
5 ~~associations are not subject to the franchise tax.~~]

6 SECTION 49. Section 171.109(h), Tax Code, is amended to
7 read as follows:

8 (h) A parent or investor corporation must use the cost
9 method of accounting in reporting and calculating the franchise tax
10 on its investments in subsidiary corporations or other investees.
11 In calculating the historical cost of an investment in a subsidiary
12 under the cost method of accounting, the cost may not be adjusted by
13 the preacquisition [~~The~~] retained earnings of the [~~a~~] subsidiary
14 corporation or other investee [~~before acquisition by the parent or~~
15 ~~investor corporation may not be excluded from the cost of the~~
16 ~~subsidiary corporation or investee to the parent or investor~~
17 ~~corporation and must be included by the parent or investor~~
18 ~~corporation in calculating its surplus~~].

19 SECTION 50. Section 171.110, Tax Code, is amended by adding
20 Subsection (m) to read as follows:

21 (m) Except as otherwise provided by this section, in
22 computing taxable earned surplus, a corporation is considered to
23 have made an election to use the same methods used in filing its
24 federal income tax return. The corporation shall report based on
25 its own financial condition. Consolidated reporting is prohibited.

26 SECTION 51. Section 171.1121(b), Tax Code, is amended to
27 read as follows:

1 (b) Except as otherwise provided by this section, a
2 corporation shall use the same accounting methods to apportion
3 taxable earned surplus as it used to compute taxable earned surplus
4 ~~[in computing reportable federal taxable income]~~.

5 SECTION 52. Section 183.053(b), Tax Code, is amended to
6 read as follows:

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

15 SECTION 53. Section 201.102, Tax Code, is amended to read as
16 follows:

17 Sec. 201.102. CASH SALES. If gas is sold for cash only, the
18 tax shall be computed on the producer's gross cash receipts.
19 Payments from a purchaser of gas to a producer for the purpose of
20 reimbursing the producer for taxes due under this chapter are not
21 part of the gross cash receipts ~~[unless the reimbursement amount~~
22 ~~for taxes due under this chapter is separately stated in the sales~~
23 ~~contract]~~.

24 SECTION 54. Section 201.352, Tax Code, is amended to read as
25 follows:

26 Sec. 201.352. UNLAWFUL PRODUCTION OR PURCHASE ~~[REMOVAL]~~ OF
27 GAS. On notice from the comptroller, no person may produce or make

1 payment for [~~remove~~] natural or casinghead gas from a lease in this
2 state if the owner or operator of the lease has failed to file a
3 report or pay a tax as required by this chapter. The comptroller
4 may request the railroad commission to place a seal on the well or
5 to otherwise disconnect the lease from any pipeline, metering or
6 custody transfer facility after notice to the operator of the
7 facility, and the operator shall not reopen or otherwise reconnect
8 the facility until authorized to do so by the railroad commission.

9 SECTION 55. Section 321.203, Tax Code, is amended by
10 amending Subsections (b)-(e) and adding Subsection (n) to read as
11 follows:

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

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

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

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

26 (d) If neither the possession of a taxable item [~~tangible~~
27 ~~personal property~~] is taken at nor shipment or delivery of the item

1 ~~[property]~~ is made from the retailer's place of business in this
2 state, the sale is consummated at:

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

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

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

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

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

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

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

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

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

6 SECTION 56. Section 321.302(c), Tax Code, is amended to
7 read as follows:

8 (c) If a municipality determines that a person doing
9 business in the municipality is not included in a comptroller's
10 report, the municipality shall report to the comptroller the name
11 and address of the person. Within 90 days after receiving the
12 report from a municipality, the comptroller shall send to the
13 municipality:

14 (1) an explanation as to why the person is not
15 obligated for the municipal tax;

16 (2) a statement that the person is obligated for the
17 municipal tax and the tax is delinquent; or

18 (3) a certification that the person is obligated for
19 the municipal tax and that the full amount of the tax due has been
20 credited to the municipality's account.

21 In this subsection, "full amount of the tax due" means the
22 amount of municipal tax to be allocated that can be determined
23 without a comptroller's audit of the person's records.

24 SECTION 57. Section 321.503, Tax Code, is amended to read as
25 follows:

26 Sec. 321.503. STATE'S SHARE. Before sending any money to a
27 municipality under this subchapter the comptroller shall deduct two

1 percent of the amount of the taxes collected within the
2 municipality during the period for which a distribution is made as
3 the state's charge for its services under this chapter and shall[
4 ~~subject to premiums payments under Section 321.501(c),~~] credit the
5 money deducted to the general revenue fund.

6 SECTION 58. Section 323.102(c), Tax Code, is amended to
7 read as follows:

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

14 SECTION 59. Section 323.203, Tax Code, is amended by
15 amending Subsections (b)-(e) and adding Subsection (m) to read as
16 follows:

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

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

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

27 (2) where the purchaser or lessee takes possession of

1 and removes the item [~~property~~], if the purchaser or lessee takes
2 possession of and removes the item [~~property~~] from a place of
3 business of the retailer.

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

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

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

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

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

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

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

1 (m) A sale of a service described in Section 151.0047 to
2 remodel, repair, or restore nonresidential real property is
3 consummated at the location of the job site. However, if the job
4 site includes areas in multiple municipalities, then the sale is
5 consummated at:

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

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

11 SECTION 60. Section 323.503, Tax Code, is amended to read as
12 follows:

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

20 SECTION 61. The heading to Section 16.001, Utilities Code,
21 is amended to read as follows:

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

24 SECTION 62. Sections 16.001(a) and (b), Utilities Code, are
25 amended to read as follows:

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

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

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

10 SECTION 63. Section 16.002(b), Utilities Code, is amended
11 to read as follows:

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

16 SECTION 64. The following sections of the Tax Code are
17 repealed:

- 18 (1) Section 151.103(d);
19 (2) Section 151.202(c);
20 (3) Section 321.203(1), Tax Code, as added by Chapter
21 1310, Acts of the 78th Legislature, Regular Session, 2003; and
22 (4) Section 323.203(1).

23 SECTION 65. The changes made by this Act to Section 201.102,
24 Tax Code, apply to a refund claim or determination under Chapter
25 111, Tax Code, without regard to whether the taxes that are the
26 subject of the refund claim or determination were due before, on, or
27 after the effective date of this Act.

1 SECTION 66. The changes made by this Act to Section 111.009,
2 Tax Code, apply only to a petition for redetermination filed on or
3 after the effective date of this Act.

4 SECTION 67. This Act takes effect October 1, 2005.