

By: Ogden

S.B. No. 1863

Substitute the following for S.B. No. 1863:

By: Pitts

C.S.S.B. No. 1863

A BILL TO BE ENTITLED

AN ACT

relating to certain fiscal matters affecting governmental entities.

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

ARTICLE 1. REGISTRATION FEE FOR CERTAIN LOBBYISTS

SECTION 1.01. Subsection (c), Section 305.005, Government Code, is amended to read as follows:

(c) The registration fee and registration renewal fee are:

(1) \$100 for a registrant employed by an organization exempt from federal income tax under Section 501(c)(3) or 501(c)(4), Internal Revenue Code of 1986; or

(2) \$1,000 [~~\$300~~] for any other registrant.

SECTION 1.02. This article takes effect December 1, 2005.

ARTICLE 2. FEES FOR CERTAIN INSPECTIONS CONDUCTED

BY THE COMMISSION ON JAIL STANDARDS

SECTION 2.01. Section 511.0091, Government Code, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

(c-1) In addition to the other fees authorized by this section, the commission may set and collect a reasonable fee to cover the cost of performing any reinspection of a municipal or county jail that is conducted by the commission:

(1) following a determination by the commission that the jail is not in compliance with minimum standards;

1 (2) in response to a request by the operator of the
2 jail; and

3 (3) before the operator of the jail has taken actions
4 as necessary to ensure that the jail is in compliance with minimum
5 standards.

6 (d) All money paid to the commission under this chapter is
7 subject to Subchapter F, Chapter 404. Fees collected under
8 Subsection (c-1) shall be deposited to the credit of a special
9 account in the general revenue fund to be appropriated only to pay
10 costs incurred by the commission in performing services under this
11 section.

12 SECTION 2.02. This article takes effect September 1, 2005.

13 ARTICLE 3. CERTAIN AUDITS OF STATE AGENCY EXPENDITURES

14 SECTION 3.01. Subtitle C, Title 10, Government Code, is
15 amended by adding Chapter 2115 to read as follows:

16 CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

17 Sec. 2115.001. DEFINITIONS. In this chapter:

18 (1) "Overpayment" includes a duplicate payment made to
19 a vendor for a single invoice and a payment made to a vendor:

20 (A) when an available discount from the vendor
21 was not applied;

22 (B) for a late payment penalty that was
23 improperly applied by the vendor;

24 (C) for shipping costs that were computed
25 incorrectly or incorrectly included in an invoice;

26 (D) for state sales tax; or

27 (E) for a good or service the vendor did not

1 provide.

2 (2) "State agency" means a department, commission,
3 board, office, or other agency, including a university system or an
4 institution of higher education other than a public junior college,
5 that:

6 (A) is in the executive branch of state
7 government;

8 (B) is created by statute; and

9 (C) does not have statutory geographical
10 boundaries limited to a part of the state.

11 Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR
12 CERTAIN OVERPAYMENTS. (a) The comptroller shall contract with one
13 or more consultants to conduct recovery audits of payments made by
14 state agencies to vendors. The audits must be designed to detect
15 and recover overpayments to the vendors and to recommend improved
16 state agency accounting operations.

17 (b) A contract under this section:

18 (1) may provide for reasonable compensation for
19 services provided under the contract, including compensation
20 determined by the application of a specified percentage of the
21 total amount recovered because of the consultant's audit activities
22 or recommendations as a fee for services;

23 (2) may permit or require the consultant to pursue a
24 judicial action in a court inside or outside this state to recover
25 an overpaid amount; and

26 (3) to allow time for the performance of existing
27 state payment auditing procedures, may not allow a recovery audit

1 of a payment during the 180-day period after the date the payment
2 was made.

3 (c) The comptroller or a state agency whose payments are
4 being audited may provide a person acting under a contract
5 authorized by this section with any confidential information in the
6 custody of the comptroller or state agency that is necessary for the
7 performance of the audit or the recovery of an overpayment, to the
8 extent the comptroller and state agency are not prohibited from
9 sharing the information under an agreement with another state or
10 the federal government. A person acting under a contract
11 authorized by this section, and each employee or agent of the
12 person, is subject to all prohibitions against the disclosure of
13 confidential information obtained from the state in connection with
14 the contract that apply to the comptroller or applicable state
15 agency or an employee of the comptroller or applicable state
16 agency. A person acting under a contract authorized by this section
17 or an employee or agent of the person who discloses confidential
18 information in violation of a prohibition made applicable to the
19 person under this subsection is subject to the same sanctions and
20 penalties that would apply to the comptroller or applicable state
21 agency or an employee of the comptroller or applicable state agency
22 for that disclosure.

23 Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY
24 AUDITS. (a) The comptroller shall require that recovery audits be
25 performed on the payments to vendors made by each state agency that
26 has total expenditures during a state fiscal biennium in an amount
27 that exceeds \$100 million. Each state agency described by this

1 subsection shall provide the recovery audit consultant with all
2 information necessary for the audit.

3 (b) The comptroller may exempt from the mandatory recovery
4 audit process a state agency that has a low proportion of its
5 expenditures made to vendors, according to criteria the comptroller
6 adopts by rule after consideration of the likely costs and benefits
7 of performing recovery audits for agencies that make relatively few
8 or small payments to vendors.

9 Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) A state agency
10 shall pay, from recovered money appropriated for the purpose, the
11 recovery audit consultant responsible for obtaining for the agency
12 a reimbursement from a vendor.

13 (b) A state agency shall expend or return to the federal
14 government any federal money that is recovered through a recovery
15 audit conducted under this chapter. The state agency shall expend
16 or return the federal money in accordance with the rules of the
17 federal program through which the agency received the federal
18 money.

19 Sec. 2115.005. FORWARDING REPORTS. (a) The comptroller
20 shall provide copies, including electronic form copies, of any
21 reports received from a consultant contracting under Section
22 2115.002 to:

- 23 (1) the governor;
24 (2) the state auditor's office; and
25 (3) the Legislative Budget Board.

26 (b) The comptroller shall provide the copies required by
27 Subsection (a) not later than the seventh day after the date the

1 comptroller receives the consultant's report.

2 (c) Not later than January 1 of each odd-numbered year, the
3 comptroller shall issue a report to the legislature summarizing the
4 contents of all reports received under this chapter during the
5 state fiscal biennium ending August 31 of the previous year.

6 SECTION 3.02. The comptroller of public accounts shall
7 adopt rules under Chapter 2115, Government Code, as added by this
8 article, in a timely manner so that the comptroller may begin
9 contracting with a consultant under that chapter not later than
10 January 1, 2006.

11 ARTICLE 4. COLLECTION OF MOTOR FUELS TAXES

12 SECTION 4.01. Subdivisions (20) and (43), Section 162.001,
13 Tax Code, are amended to read as follows:

14 (20) "Distributor" means a person who acquires motor
15 fuel from a licensed supplier, permissive supplier, or another
16 licensed distributor and who makes sales at wholesale and whose
17 activities may also include sales at retail. The term includes a
18 person engaged in the tax-free sale of dyed diesel fuel to marine
19 vessels.

20 (43) "Motor fuel transporter" means a person who
21 transports gasoline, diesel fuel, or gasoline blended fuel for hire
22 outside the bulk transfer/terminal system by means of a transport
23 vehicle, a railroad tank car, or a marine vessel.

24 SECTION 4.02. Subsection (b), Section 162.004, Tax Code, is
25 amended to read as follows:

26 (b) The shipping document issued by the terminal operator or
27 operator of a bulk plant shall contain the following information

1 and any other information required by the comptroller:

2 (1) the terminal control number of the terminal or
3 physical address of the bulk plant from which the motor fuel was
4 received;

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

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

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

9 (5) the destination state of the motor fuel, as
10 represented by the purchaser of the motor fuel or the purchaser's
11 agent; and

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

13 SECTION 4.03. Subsection (a), Section 162.016, Tax Code, is
14 amended to read as follows:

15 (a) A person may not import motor fuel to a destination in
16 this state or export motor fuel to a destination outside this state
17 by any means unless the person possesses a shipping document for
18 that fuel created by the terminal or bulk plant at which the fuel
19 was received. The shipping document must include:

20 (1) the name and physical address of the terminal or
21 bulk plant from which the motor fuel was received for import or
22 export;

23 (2) the name [~~and federal employer identification
24 number, or the social security number if the employer
25 identification number is not available,~~] of the carrier
26 transporting the motor fuel;

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

1 (4) the type of motor fuel;

2 (5) the number of gallons:

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

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

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

10 (7) the name [~~, federal employer identification~~
11 ~~number, license number, and physical address~~] of the purchaser of
12 the motor fuel;

13 (8) the name of the person responsible for paying the
14 tax imposed by this chapter, as given to the terminal by the
15 purchaser if different from the licensed supplier or distributor;
16 and

17 (9) any other information that, in the opinion of the
18 comptroller, is necessary for the proper administration of this
19 chapter.

20 SECTION 4.04. Subsection (d), Section 162.113, Tax Code, is
21 amended to read as follows:

22 (d) The supplier or permissive supplier shall [~~has the~~
23 ~~right~~], after notifying the comptroller of the licensed
24 distributor's or licensed importer's failure to remit taxes under
25 this section, [~~to~~] terminate the ability of the licensed
26 distributor or licensed importer to defer the payment of gasoline
27 tax. The supplier or permissive supplier shall reinstate without

1 delay the right of the licensed distributor or licensed importer to
2 defer the payment of gasoline tax after the comptroller provides to
3 the supplier or permissive supplier notice that the licensed
4 distributor or licensed importer is in good standing with the
5 comptroller for the purposes of the gasoline tax imposed under this
6 subchapter.

7 SECTION 4.05. Section 162.115, Tax Code, is amended by
8 adding Subsection (m-1) to read as follows:

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

12 SECTION 4.06. Subsections (a) and (d), Section 162.116, Tax
13 Code, are amended to read as follows:

14 (a) The monthly return and supplements of each supplier and
15 permissive supplier shall contain for the period covered by the
16 return:

17 (1) [~~the number of net gallons of gasoline received by~~
18 ~~the supplier or permissive supplier during the month, sorted by~~
19 ~~product code, seller, point of origin, destination state, carrier,~~
20 ~~and receipt date,~~

21 [~~2~~] the number of net gallons of gasoline removed at
22 a terminal rack during the month from the account of the supplier,
23 sorted by product code, person receiving the gasoline, terminal
24 code, and carrier;

25 (2) [~~3~~] the number of net gallons of gasoline
26 removed during the month for export, sorted by product code, person
27 receiving the gasoline, terminal code, destination state, and

1 carrier;

2 (3) [~~(4)~~] the number of net gallons of gasoline
3 removed during the month from a terminal located in another state
4 for conveyance to this state, as indicated on the shipping document
5 for the gasoline, sorted by product code, person receiving the
6 gasoline, terminal code, and carrier;

7 (4) [~~(5)~~] the number of net gallons of gasoline the
8 supplier or permissive supplier sold during the month in
9 transactions exempt under Section 162.104, sorted by [~~product code,~~
10 ~~carrier,~~] purchaser[, ~~and terminal code,~~

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

14 (5) [~~(7)~~] any other information required by the
15 comptroller.

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

24 SECTION 4.07. Section 162.118, Tax Code, is amended to read
25 as follows:

26 Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S
27 RETURN. The monthly return and supplements of each distributor

1 shall contain for the period covered by the return:

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

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

9 (3) the number of net gallons of gasoline removed by
10 the distributor during the month for export, sorted by product
11 code, terminal code, bulk plant address, destination state, and
12 carrier;

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

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

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

22 SECTION 4.08. Section 162.123, Tax Code, is amended to read
23 as follows:

24 Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN.
25 The monthly return and supplements of each blender shall contain
26 for the period covered by the return:

27 (1) ~~[the number of net gallons of gasoline received by~~

1 ~~the blender during the month, sorted by product code, seller, point~~
2 ~~of origin, carrier, and receipt date;~~

3 ~~[(2)]~~ the number of net gallons of product blended
4 with gasoline during the month, sorted by product code, type of
5 blending agent if no product code exists, seller, and carrier;

6 ~~[(3) the number of net gallons of blended gasoline~~
7 ~~sold during the month and the license number or name and address of~~
8 ~~the entity receiving the blended gasoline;]~~ and

9 (2) ~~[(4)]~~ any other information required by the
10 comptroller.

11 SECTION 4.09. Section 162.127, Tax Code, is amended by
12 adding Subsection (g) to read as follows:

13 (g) The comptroller shall issue a refund warrant to a
14 distributor not later than the 60th day after the date the
15 comptroller receives a valid refund claim from the distributor. If
16 the comptroller does not issue the refund warrant by that date, the
17 amount of the refund draws interest at the rate provided by Section
18 111.060 beginning on the 61st day after the date the comptroller
19 receives the valid refund claim and ending on the date the
20 comptroller issues the refund warrant.

21 SECTION 4.10. Section 162.206, Tax Code, is amended by
22 amending Subsection (c) and adding Subsections (c-1) and (h-1) to
23 read as follows:

24 (c) A person may not make a tax-free purchase and a licensed
25 supplier or distributor may not make a tax-free sale to a purchaser
26 of any dyed diesel fuel under this section using a signed
27 statement[+]

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

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

6 (1) ~~[(A)]~~ 10,000 gallons of dyed diesel fuel;

7 (2) ~~[(B)]~~ 25,000 gallons of dyed diesel fuel if the
8 purchaser stipulates in the signed statement that all of the fuel
9 will be consumed by the purchaser in the original production of, or
10 to increase the production of, oil or gas and furnishes the supplier
11 with a letter of exception issued by the comptroller; or

12 (3) ~~[(C)]~~ 25,000 gallons of dyed diesel fuel if the
13 purchaser stipulates in the signed statement that all of the fuel
14 will be consumed by the purchaser in agricultural off-highway
15 equipment.

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

20 (h-1) For purposes of this section, the purchaser is
21 considered to have furnished the signed statement to the licensed
22 supplier or distributor if the supplier or distributor verifies
23 that the purchaser has an end user number issued by the comptroller.
24 The licensed supplier or distributor shall use the comptroller's
25 Internet website or other materials provided or produced by the
26 comptroller to verify this information.

27 SECTION 4.11. Subsection (d), Section 162.214, Tax Code, is

1 amended to read as follows:

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

14 SECTION 4.12. Section 162.216, Tax Code, is amended by
15 adding Subsection (m-1) to read as follows:

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

19 SECTION 4.13. Subsections (a) and (d), Section 162.217, Tax
20 Code, are amended to read as follows:

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

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

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

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

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

14 (4) ~~[(5)]~~ the number of net gallons of diesel fuel the
15 supplier or permissive supplier sold during the month in
16 transactions exempt under Section 162.204, sorted by ~~[product code,~~
17 ~~carrier,~~] purchaser~~[, and terminal code,~~

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

21 (5) ~~[(7)]~~ any other information required by the
22 comptroller.

23 (d) For the purpose of Subsection (c), all payments or
24 credits in reduction of a customer's account must be applied
25 ratably between motor fuels and other goods sold to the customer,
26 and the credit allowed will be the tax on the number of gallons
27 represented by the motor fuel portion of the credit. The

1 comptroller may not require a supplier or permissive supplier to
2 remit from a payment or credit in reduction of a customer's account
3 any tax for which the supplier or permissive supplier was allowed to
4 take a credit.

5 SECTION 4.14. Section 162.219, Tax Code, is amended to read
6 as follows:

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

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

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

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

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

26 (5) the number of net gallons of diesel fuel the
27 distributor sold during the month in transactions exempt under

1 Section 162.204, sorted by product code and by the entity receiving
2 the diesel fuel;

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

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

9 SECTION 4.15. Section 162.224, Tax Code, is amended to read
10 as follows:

11 Sec. 162.224. INFORMATION REQUIRED ON BLENDER'S RETURN.
12 The monthly return and supplements of each blender shall contain
13 for the period covered by the return:

14 ~~(1) [the number of net gallons of diesel fuel received~~
15 ~~by the blender during the month, sorted by product code, seller,~~
16 ~~point of origin, carrier, and receipt date,~~

17 [~~2~~] the number of net gallons of product blended
18 with diesel fuel during the month, sorted by product code, type of
19 blending agent if no product code exists, seller, and carrier;

20 [~~3~~ the number of net gallons of blended diesel fuel
21 sold during the month and the license number or name and address of
22 the entity receiving the blended diesel fuel,] and

23 (2) [~~4~~] any other information required by the
24 comptroller.

25 SECTION 4.16. Section 162.227, Tax Code, is amended by
26 adding Subsection (c-1) to read as follows:

27 (c-1) A license holder may take a credit on a return for the

1 period in which the purchase occurred, and a person who does not
2 hold a license may file a refund claim with the comptroller, if the
3 license holder or person paid tax on diesel fuel and the diesel fuel
4 is used in this state:

5 (1) as a feedstock or other component in the further
6 manufacturing of tangible personal property for resale not as a
7 motor fuel; or

8 (2) in the original production of oil or gas or to
9 increase the production of oil or gas.

10 SECTION 4.17. Section 162.229, Tax Code, is amended by
11 adding Subsection (g) to read as follows:

12 (g) The comptroller shall issue a refund warrant to a
13 distributor not later than the 60th day after the date the
14 comptroller receives a valid refund claim from the distributor. If
15 the comptroller does not issue the refund warrant by that date, the
16 amount of the refund draws interest at the rate provided by Section
17 111.060 beginning on the 61st day after the date the comptroller
18 receives the valid refund claim and ending on the date the
19 comptroller issues the refund warrant.

20 SECTION 4.18. Subsection (d), Section 162.230, Tax Code, is
21 amended to read as follows:

22 (d) A supplier, ~~or~~ permissive supplier, or distributor
23 that determines taxes were erroneously reported and remitted or
24 that paid more taxes than were due to this state because of a
25 mistake of fact or law may take a credit on the monthly tax report on
26 which the error has occurred and tax payment made to the
27 comptroller. The credit must be taken before the expiration of the

1 applicable period of limitation as provided by Chapter 111.

2 SECTION 4.19. Subsections (c) and (d), Section 162.404, Tax
3 Code, are amended to read as follows:

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

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

10 SECTION 4.20. Subsection (h), Section 162.016, Tax Code, is
11 repealed.

12 SECTION 4.21. This article applies only to taxes imposed on
13 or after the effective date of this article. Taxes imposed before
14 the effective date of this article are governed by the law in effect
15 on the date the taxes were imposed, and that law is continued in
16 effect for that purpose.

17 SECTION 4.22. This article takes effect September 1, 2005.

18 ARTICLE 5. COLLECTION OF CERTAIN STATE TAXES

19 PART A. MOTOR VEHICLE SALES AND USE TAX

20 SECTION 5A.01. Section 152.002, Tax Code, is amended by
21 adding Subsection (f) to read as follows:

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

25 SECTION 5A.02. Subsection (a), Section 152.041, Tax Code,
26 is amended to read as follows:

27 (a) The tax assessor-collector of the county in which an

1 application for registration or for a Texas certificate of title is
2 made shall collect taxes imposed by this chapter, subject to
3 Section 152.0412, unless another person is required by this chapter
4 to collect the taxes.

5 SECTION 5A.03. Subchapter C, Chapter 152, Tax Code, is
6 amended by adding Section 152.0412 to read as follows:

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

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

16 (c) If the amount paid for a motor vehicle subject to the tax
17 imposed by this chapter is less than the standard presumptive value
18 of the vehicle, a county tax assessor-collector shall compute the
19 tax on the standard presumptive value unless the purchaser
20 establishes the retail value of the vehicle as provided by
21 Subsection (d).

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

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

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

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

5 (e) On request, a motor vehicle dealer operating under
6 Subchapter B, Chapter 503, Transportation Code, shall provide a
7 certified appraisal of the retail value of a motor vehicle. The
8 comptroller by rule shall establish a fee that a dealer may charge
9 for providing the certified appraisal. The county tax
10 assessor-collector shall retain a copy of a certified appraisal
11 received under this section for a period prescribed by the
12 comptroller.

13 (f) The Texas Department of Transportation shall maintain
14 information on the standard presumptive values of motor vehicles as
15 part of the department's registration and title system. The
16 department shall update the information at least quarterly each
17 calendar year.

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

20 SECTION 5A.04. Not later than October 1, 2005, the Texas
21 Department of Transportation shall:

22 (1) establish standard presumptive values for motor
23 vehicles as provided by Section 152.0412, Tax Code, as added by this
24 part;

25 (2) modify the department's registration and title
26 system as needed to include that information and administer that
27 section; and

1 district highway fund all the remaining tax receipts until a total
2 of \$7,300,000 has been credited to the fund each fiscal year; and

3 (B) after the amount required to be deposited to
4 the county and road district highway fund has been deposited,
5 deposit to the credit of the state highway fund the remainder of the
6 one-fourth of the tax, the amount to be provided on the basis of
7 allocations made each month of the fiscal year, which sum shall be
8 used by the Texas Department of Transportation for the
9 construction, improvement, and maintenance of farm-to-market
10 roads.

11 (b) During the months of June, July, and August of each
12 odd-numbered year, the comptroller may not make the allocations to
13 the state highway fund and county and road district highway fund
14 otherwise required by Subsections (a)(2) and (3). After September
15 5 and before September 11 of that year, the comptroller shall
16 allocate and deposit to the state highway fund the total amount of
17 revenue that would have been otherwise allocated and deposited to
18 that fund during those months.

19 SECTION 5B.02. Section 162.504, Tax Code, is amended to
20 read as follows:

21 Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) Except as
22 provided by Subsection (b), on [~~on~~] or before the fifth workday
23 after the end of each month, the comptroller, after making
24 deductions for refund purposes, for the administration and
25 enforcement of this chapter, and for the amounts allocated under
26 Section 162.5025, shall allocate the remainder of the taxes
27 collected under Subchapter C as follows:

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

3 (2) three-fourths of the taxes shall be deposited to
4 the credit of the state highway fund.

5 (b) During the months of June, July, and August of each
6 odd-numbered year, the comptroller may not make the allocation to
7 the state highway fund otherwise required by Subsection (a)(2).
8 After September 5 and before September 11 of that year, the
9 comptroller shall allocate and deposit to the state highway fund
10 the total amount of revenue that would have been otherwise
11 allocated to that fund during those months.

12 SECTION 5B.03. Section 162.505, Tax Code, is amended to
13 read as follows:

14 Sec. 162.505. ALLOCATION OF LIQUEFIED GAS TAX. (a) Except
15 as provided by Subsection (b), on [On] or before the fifth workday
16 after the end of each month, the comptroller, after making
17 deductions for refund purposes and for the administration and
18 enforcement of this chapter, shall allocate the remainder of the
19 taxes collected under Subchapter D as follows:

20 (1) one-fourth of the taxes shall be deposited to the
21 credit of the available school fund; and

22 (2) three-fourths of the taxes shall be deposited to
23 the credit of the state highway fund.

24 (b) During the months of June, July, and August of each
25 odd-numbered year, the comptroller may not make the allocation to
26 the state highway fund otherwise required by Subsection (a)(2).
27 After September 5 and before September 11 of that year, the

1 comptroller shall allocate and deposit to the state highway fund
2 the total amount of revenue that would have been otherwise
3 allocated to that fund during those months.

4 SECTION 5B.04. This part takes effect July 1, 2005, if this
5 Act receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for effect on that
8 date, this part takes effect September 1, 2005.

9 PART C. HOTEL OCCUPANCY TAXES

10 SECTION 5C.01. Section 156.001, Tax Code, is amended to
11 read as follows:

12 Sec. 156.001. DEFINITION. In this chapter, "hotel" means a
13 building in which members of the public obtain sleeping
14 accommodations for consideration. The term includes a hotel,
15 motel, tourist home, tourist house, tourist court, lodging house,
16 inn, rooming house, or bed and breakfast. The term does not
17 include:

18 (1) a hospital, sanitarium, or nursing home; ~~or~~

19 (2) a dormitory or other housing facility owned or
20 leased and operated by an institution of higher education or a
21 private or independent institution of higher education as those
22 terms are defined by Section 61.003, Education Code, used by the
23 institution for the purpose of providing sleeping accommodations
24 for persons engaged in an educational program or activity at the
25 institution; or

26 (3) that part of an apartment or condominium building
27 that consists of unfurnished dwelling units that are leased to

1 tenants, as defined by Section 92.001, Property Code.

2 SECTION 5C.02. Subsection (c), Section 351.002, Tax Code,
3 is amended to read as follows:

4 (c) The tax does not apply to a person who has the right to
5 use or possess a room in a hotel for at least 30 consecutive days, so
6 long as there is no interruption of payment for that period [~~is a~~
7 ~~permanent resident under Section 156.101 of this code~~].

8 SECTION 5C.03. Subdivision (1), Section 352.001, Tax Code,
9 is amended to read as follows:

10 (1) "Hotel" has the meaning assigned by Section
11 156.001 [~~156.001(1)~~].

12 SECTION 5C.04. Subsection (c), Section 352.002, Tax Code,
13 is amended to read as follows:

14 (c) The tax does not apply to a person who has the right to
15 use or possess a room in a hotel for at least 30 consecutive days, so
16 long as there is no interruption of payment for that period [~~is a~~
17 ~~permanent resident under Section 156.101 of this code~~].

18 SECTION 5C.05. Section 156.101, Tax Code, is repealed.

19 SECTION 5C.06. This part takes effect July 1, 2005, if this
20 Act receives a vote of two-thirds of all the members elected to each
21 house, as provided by Section 39, Article III, Texas Constitution.
22 If this Act does not receive the vote necessary for effect on that
23 date, this part takes effect October 1, 2005.

24 ARTICLE 6. ELIGIBILITY FOR MEDICAL ASSISTANCE

25 AND CHILDREN'S HEALTH INSURANCE PROGRAMS

26 SECTION 6.01. Section 62.102, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 62.102. CONTINUOUS COVERAGE. [~~(a)~~] The commission
2 shall provide that an individual who is determined to be eligible
3 for coverage under the child health plan remains eligible for those
4 benefits until the earlier of:

5 (1) the end of the six-month [a] period [~~, not to exceed~~
6 ~~12 months,~~] following the date of the eligibility determination; or

7 (2) the individual's 19th birthday.

8 ~~[(b) The period of continuous eligibility may be established~~
9 ~~at an interval of 6 months beginning immediately upon passage of~~
10 ~~this Act and ending September 1, 2005, at which time an interval of~~
11 ~~12 months of continuous eligibility will be re-established.]~~

12 SECTION 6.02. Section 32.0261, Human Resources Code, is
13 amended to read as follows:

14 Sec. 32.0261. CONTINUOUS ELIGIBILITY. The department shall
15 adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as
16 amended, to provide for a period of continuous eligibility for a
17 child under 19 years of age who is determined to be eligible for
18 medical assistance under this chapter. The rules shall provide
19 that the child remains eligible for medical assistance, without
20 additional review by the department and regardless of changes in
21 the child's resources or income, until the earlier of:

22 (1) the end of the six-month period following [~~first~~
23 ~~anniversary of~~] the date on which the child's eligibility was
24 determined; or

25 (2) the child's 19th birthday.

26 SECTION 6.03. If before implementing any provision of this
27 article a state agency determines that a waiver or authorization

1 from a federal agency is necessary for implementation of that
2 provision, the agency affected by the provision shall request the
3 waiver or authorization and may delay implementing that provision
4 until the waiver or authorization is granted.

5 ARTICLE 7. MEDICAL ASSISTANCE PROGRAM

6 SECTION 7.01. Subchapter A, Chapter 531, Government Code,
7 is amended by adding Section 531.0081 to read as follows:

8 Sec. 531.0081. OFFICE OF MEDICAL TECHNOLOGY. (a) In this
9 section, "office" means the office of medical technology.

10 (b) The commission shall establish the office of medical
11 technology within the commission. The office shall explore and
12 evaluate new developments in medical technology and propose
13 implementing the technology in the medical assistance program under
14 Chapter 32, Human Resources Code, if appropriate and
15 cost-effective.

16 (c) Office staff must have skills and experience in research
17 regarding health care technology.

18 SECTION 7.02. Section 531.021, Government Code, is amended
19 by adding Subsections (f) and (g) to read as follows:

20 (f) In adopting rates for medical assistance payments under
21 Subsection (b)(2), the executive commissioner may adopt
22 reimbursement rates for appropriate nursing services provided to
23 recipients with certain health conditions if those services are
24 determined to provide a cost-effective alternative to
25 hospitalization. A physician must certify that the nursing
26 services are medically appropriate for the recipient for those
27 services to qualify for reimbursement under this subsection.

1 (g) In adopting rates for medical assistance payments under
2 Subsection (b)(2), the executive commissioner may adopt
3 cost-effective reimbursement rates for group appointments with
4 medical assistance providers for certain diseases and medical
5 conditions specified by rules of the executive commissioner.

6 SECTION 7.03. Subchapter B, Chapter 531, Government Code,
7 is amended by adding Section 531.02175 to read as follows:

8 Sec. 531.02175. REIMBURSEMENT FOR ONLINE MEDICAL
9 CONSULTATIONS. (a) In this section, "physician" means a person
10 licensed to practice medicine in this state under Subtitle B, Title
11 3, Occupations Code.

12 (b) Subject to the requirements of this subsection, the
13 executive commissioner by rule may require the commission and each
14 health and human services agency that administers a part of the
15 Medicaid program to provide Medicaid reimbursement for a medical
16 consultation that is provided by a physician or other health care
17 professional using the Internet as a cost-effective alternative to
18 an in-person consultation. The executive commissioner may require
19 the commission or a health and human services agency to provide the
20 reimbursement described by this subsection only if the Centers for
21 Medicare and Medicaid Services develop an appropriate Current
22 Procedural Terminology code for medical services provided using the
23 Internet.

24 (c) The executive commissioner may develop and implement a
25 pilot program in one or more sites chosen by the executive
26 commissioner under which Medicaid reimbursements are paid for
27 medical consultations provided by physicians or other health care

1 professionals using the Internet. The pilot program must be
2 designed to test whether an Internet medical consultation is a
3 cost-effective alternative to an in-person consultation under the
4 Medicaid program. The executive commissioner may modify the pilot
5 program as necessary throughout its implementation to maximize the
6 potential cost-effectiveness of Internet medical consultations.
7 If the executive commissioner determines from the pilot program
8 that Internet medical consultations are cost-effective, the
9 executive commissioner may expand the pilot program to additional
10 sites or may implement Medicaid reimbursements for Internet medical
11 consultations statewide.

12 (d) The executive commissioner is not required to implement
13 the pilot program authorized under Subsection (c) as a prerequisite
14 to providing Medicaid reimbursement authorized by Subsection (b) on
15 a statewide basis.

16 SECTION 7.04. (a) Subchapter B, Chapter 531, Government
17 Code, is amended by adding Section 531.083 to read as follows:

18 Sec. 531.083. HOSPITAL EMERGENCY ROOM USE REDUCTION
19 INITIATIVES. The commission shall develop and implement a
20 comprehensive plan to reduce the use of hospital emergency room
21 services by recipients under the medical assistance program. The
22 plan may include:

23 (1) a pilot program designed to facilitate program
24 participants in accessing an appropriate level of health care,
25 which may include as components:

26 (A) providing program participants access to
27 bilingual health services providers; and

1 (B) giving program participants information on
2 how to access primary care physicians, advanced practice nurses,
3 and local health clinics;

4 (2) a pilot program under which health care providers,
5 other than hospitals, are given financial incentives for treating
6 recipients outside of normal business hours to divert those
7 recipients from hospital emergency rooms;

8 (3) payment of a nominal referral fee to hospital
9 emergency rooms that perform an initial medical evaluation of a
10 recipient and subsequently refer the recipient, if medically
11 stable, to an appropriate level of health care, such as care
12 provided by a primary care physician, advanced practice nurse, or
13 local clinic;

14 (4) a program under which the commission or a managed
15 care organization that enters into a contract with the commission
16 under Chapter 533 contacts, by telephone or mail, a recipient who
17 accesses a hospital emergency room three times during a six-month
18 period and provides the recipient with information on ways the
19 recipient may secure a medical home to avoid unnecessary treatment
20 at hospital emergency rooms;

21 (5) a health care literacy program under which the
22 commission develops partnerships with other state agencies and
23 private entities to:

24 (A) assist the commission in developing
25 materials that:

26 (i) contain basic health care information
27 for parents of young children who are recipients under the medical

1 assistance program and who are participating in public or private
2 child-care or prekindergarten programs, including federal Head
3 Start programs; and

4 (ii) are written in a language
5 understandable to those parents and specifically tailored to be
6 applicable to the needs of those parents;

7 (B) distribute the materials developed under
8 Paragraph (A) to those parents; and

9 (C) otherwise teach those parents about the
10 health care needs of their children and ways to address those needs;
11 and

12 (6) other initiatives developed and implemented in
13 other states that have shown success in reducing the incidence of
14 unnecessary treatment in hospital emergency rooms.

15 (b) The Health and Human Services Commission may develop the
16 health care literacy component of the comprehensive plan to reduce
17 the use of hospital emergency room services required by Section
18 531.083(5), Government Code, as added by this section, so that the
19 health care literacy component operates in a manner similar to the
20 manner in which the Johnson & Johnson/UCLA Health Care Institute
21 operates its health care training program that is designed to teach
22 parents to better address the health care needs of their children.

23 SECTION 7.05. Subchapter B, Chapter 531, Government Code,
24 is amended by adding Section 531.084 to read as follows:

25 Sec. 531.084. PERFORMANCE BONUS PILOT PROGRAM. (a) The
26 commission shall develop a proposal for providing higher
27 reimbursement rates to primary care case management providers under

1 the Medicaid program who treat program recipients with chronic
2 health conditions in accordance with evidence-based, nationally
3 accepted best practices and standards of care.

4 (b) The commission shall define the parameters of the
5 proposed program, including:

6 (1) the types of chronic health conditions the program
7 would target;

8 (2) the best practices and standards of care that must
9 be followed for a provider to obtain a higher reimbursement rate
10 under the proposed program; and

11 (3) the types of providers to whom the higher
12 reimbursement rate would be offered under the proposed program.

13 (c) Not later than December 1, 2006, the Health and Human
14 Services Commission shall report to the standing committees of the
15 senate and the house of representatives having primary jurisdiction
16 over welfare programs regarding the proposed program under this
17 section. The report must include:

18 (1) the anticipated effect of the higher reimbursement
19 rates to be offered under the program on the quality of care
20 provided and the health outcomes for program recipients;

21 (2) a determination of whether the program would be
22 cost-effective; and

23 (3) a recommendation regarding implementation of the
24 program.

25 (d) This section expires September 1, 2007.

26 SECTION 7.06. Section 562.1085, Occupations Code, is
27 amended by amending Subsection (a) and adding Subsection (f) to

1 read as follows:

2 (a) A pharmacist who practices in or serves as a consultant
3 for a health care facility in this state may return to a pharmacy
4 certain unused drugs, other than a controlled substance as defined
5 by Chapter 481, Health and Safety Code, purchased from the pharmacy
6 as provided by board rule. The unused drugs must:

7 (1) be approved by the federal Food and Drug
8 Administration and be:

9 (A) sealed in [~~the manufacturer's original~~]
10 unopened tamper-evident packaging and either individually packaged
11 or packaged in unit-dose packaging;

12 (B) oral or parenteral medication in sealed
13 single-dose containers approved by the federal Food and Drug
14 Administration;

15 (C) topical or inhalant drugs in sealed
16 units-of-use containers approved by the federal Food and Drug
17 Administration; or

18 (D) parenteral medications in sealed
19 multiple-dose containers approved by the federal Food and Drug
20 Administration from which doses have not been withdrawn; and

21 (2) not be the subject of a mandatory recall by a state
22 or federal agency or a voluntary recall by a drug seller or
23 manufacturer.

24 (f) The tamper-evident packaging required under Subsection
25 (a)(1) for the return of unused drugs is not required to be the
26 manufacturer's original packaging unless that packaging is
27 required by federal law.

1 SECTION 7.07. MEDICAID COVERAGE FOR HEALTH INSURANCE
2 PREMIUMS AND LONG-TERM CARE NEEDS. (a) The Health and Human
3 Services Commission shall explore the commission's authority under
4 federal law to offer, and the cost and feasibility of offering:

5 (1) a stipend paid by the Medicaid program to a person
6 to cover the cost of a private health insurance plan as an
7 alternative to providing traditional Medicaid services for the
8 person;

9 (2) premium payment assistance through the Medicaid
10 program for long-term care insurance for a person with a health
11 condition that increases the likelihood that the person will need
12 long-term care in the future; and

13 (3) a long-term care partnership between the Medicaid
14 program and a person under which the person pays the premiums for
15 long-term care insurance and the Medicaid program provides
16 continued coverage after benefits under that insurance are
17 exhausted.

18 (b) In exploring the feasibility of the options described by
19 Subsection (a) of this section, the Health and Human Services
20 Commission shall consider whether other state incentives that could
21 encourage persons to purchase health insurance plans or long-term
22 care insurance are feasible. The incentives may include offering
23 tax credits to businesses to increase the availability of
24 affordable insurance.

25 (c) If the Health and Human Services Commission determines
26 that any of the options described by Subsection (a) of this section
27 are feasible and cost-effective, the commission shall make efforts

1 to implement those options to the extent they are authorized by
2 federal law. The commission shall request any necessary waivers
3 from the Centers for Medicare and Medicaid Services as soon as
4 possible after determining that an option is feasible and
5 cost-effective. If the commission determines that legislative
6 changes are necessary to implement an option, the commission shall
7 report to the 80th Legislature and specify the changes that are
8 needed.

9 SECTION 7.08. If before implementing any provision of this
10 article a state agency determines that a waiver or authorization
11 from a federal agency is necessary for implementation of that
12 provision, the agency affected by the provision shall request the
13 waiver or authorization and may delay implementing that provision
14 until the waiver or authorization is granted.

15 ARTICLE 8. QUALITY ASSURANCE FEES

16 SECTION 8.01. Chapter 242, Health and Safety Code, is
17 amended by adding Subchapter P to read as follows:

18 SUBCHAPTER P. QUALITY ASSURANCE FEE

19 Sec. 242.801. DEFINITIONS. In this subchapter:

20 (1) "Commission" means the Health and Human Services
21 Commission.

22 (2) "Department" means the Department of Aging and
23 Disability Services.

24 (3) "Executive commissioner" means the executive
25 commissioner of the Health and Human Services Commission.

26 (4) "Gross receipts" means money paid as compensation
27 for services provided to residents, including client

1 participation. The term does not include charitable contributions
2 to an institution.

3 Sec. 242.802. APPLICABILITY. This subchapter does not
4 apply to:

- 5 (1) a state-owned veterans' nursing facility; or
6 (2) an entity that provides on a single campus a
7 continuum of services, including independent living services,
8 licensed assisted living services, and licensed nursing facility
9 care services, and that:

10 (A) operates under a continuing care retirement
11 community certificate of authority issued by the Texas Department
12 of Insurance; or

13 (B) over a 12-month period, provides a greater
14 number of combined patient days of service to independent living
15 and assisted living residents, not including services provided to
16 persons in licensed nursing facility beds, than the patient days of
17 service provided to nursing facility residents.

18 Sec. 242.803. COMPUTING QUALITY ASSURANCE FEE. (a) A
19 quality assurance fee is imposed on each institution subject to
20 this subchapter for which a license fee must be paid under Section
21 242.034. The quality assurance fee payment:

22 (1) is an amount established under Subsection (b)
23 multiplied by the number of patient days as determined in
24 accordance with Section 242.804;

25 (2) is payable monthly; and

26 (3) is in addition to other fees imposed under this
27 chapter.

1 (b) The commission shall establish a quality assurance fee
2 for each patient day so that the fee does not produce annual
3 revenues greater than six percent of the total annual gross
4 receipts in this state. The fee is subject to adjustment as
5 necessary. The amount of the quality assurance fee may vary
6 according to the number of patient days provided by an institution
7 as necessary to obtain a waiver under federal regulations at 42
8 C.F.R. Section 433.68(e).

9 (c) The amount of the quality assurance fee must be
10 determined using patient days and gross receipts:

11 (1) reported to the commission or to the department at
12 the direction of the commission; and

13 (2) covering a period of at least six months.

14 (d) The quality assurance fee is an allowable cost for
15 reimbursement under the state Medicaid program.

16 (e) A nursing facility may not list the quality assurance
17 fee as a separate charge on a patient's or resident's billing
18 statement or otherwise directly or indirectly attempt to charge the
19 quality assurance fee to a patient or resident.

20 Sec. 242.804. PATIENT DAYS. For each calendar day, an
21 institution shall determine the number of patient days by adding
22 the following:

23 (1) the number of patients occupying an institution
24 bed immediately before midnight of that day plus the number of
25 patients admitted that day less the number of patients discharged
26 that day, except that a patient is included in the count under this
27 subdivision if:

1 (A) the patient is admitted and discharged on the
2 same day; or

3 (B) the patient is discharged that day because of
4 the patient's death; and

5 (2) the number of beds that are on hold that day and
6 that have been placed on hold for a period not to exceed three
7 consecutive calendar days during which a patient is:

8 (A) in the hospital; or

9 (B) on therapeutic home leave.

10 Sec. 242.805. REPORTING AND COLLECTION. (a) The
11 commission or the department as directed by the executive
12 commissioner shall collect the quality assurance fee.

13 (b) Each institution shall, not later than the 25th day
14 after the last day of a month:

15 (1) file with the commission a report stating the
16 total patient days for the month; and

17 (2) pay the quality assurance fee.

18 Sec. 242.806. RULES; ADMINISTRATIVE PENALTY. (a) The
19 executive commissioner shall adopt rules for the administration of
20 this subchapter, including rules related to the imposition and
21 collection of the quality assurance fee.

22 (b) The executive commissioner may adopt rules granting
23 exceptions from the quality assurance fee, including an exception
24 for units of service reimbursed through Medicare Part A, if the
25 commission obtains all waivers necessary under federal law,
26 including 42 C.F.R. Section 433.68(e).

27 (c) An administrative penalty assessed under this

1 subchapter in accordance with Section 242.066 may not exceed
2 one-half of the amount of the outstanding quality assurance fee or
3 \$20,000, whichever is greater.

4 Sec. 242.807. NURSING HOME QUALITY ASSURANCE FEE ACCOUNT.

5 (a) The nursing home quality assurance fee account is a dedicated
6 account in the general revenue fund. Interest earned on money in
7 the account shall be credited to the account.

8 (b) The comptroller shall deposit money collected under
9 this subchapter to the credit of the account.

10 (c) Subject to legislative appropriation and this
11 subchapter, money in the account together with federal matching
12 money shall be used to support or maintain an increase in Medicaid
13 reimbursement for institutions.

14 Sec. 242.808. REIMBURSEMENT OF INSTITUTIONS. (a) Subject
15 to legislative appropriation, the commission may use money in the
16 nursing home quality assurance fee account, together with any
17 federal money available to match that money, to:

18 (1) offset allowable expenses under the state Medicaid
19 program; or

20 (2) increase reimbursement rates paid under the
21 Medicaid program to institutions.

22 (b) The commission shall devise the formula by which amounts
23 received under this subchapter increase the reimbursement rates
24 paid to institutions under the state Medicaid program.

25 Sec. 242.809. INVALIDITY; FEDERAL FUNDS. If any portion of
26 this subchapter is held invalid by a final order of a court that is
27 not subject to appeal, or if the commission determines that the

1 imposition of the fee and the expenditure as prescribed by this
2 subchapter of amounts collected will not entitle the state to
3 receive additional federal funds under the Medicaid program, the
4 commission shall stop collection of the quality assurance fee and,
5 not later than the 30th day after the date collection is stopped,
6 shall return to the institutions that paid the fees, in proportion
7 to the total amount paid by those institutions, any money deposited
8 to the credit of the nursing home quality assurance fee account but
9 not spent.

10 Sec. 242.810. REVISION IN CASE OF DISAPPROVAL. If the
11 Centers for Medicare and Medicaid Services disapproves the quality
12 assurance fee plan established under this subchapter, the
13 commission shall revise the associated state plan amendments and
14 waiver requests as necessary to comply with federal regulations
15 provided by 42 C.F.R. Section 433.68(e). The revisions must be
16 completed as soon as practicable after the date the commission
17 receives notice of the disapproval.

18 Sec. 242.811. AUTHORITY TO ACCOMPLISH PURPOSES OF
19 SUBCHAPTER. The executive commissioner by rule may adopt a
20 definition, a method of computation, or a rate that differs from
21 those expressly provided by or expressly authorized by this
22 subchapter to the extent the difference is necessary to accomplish
23 the purposes of this subchapter.

24 SECTION 8.02. Subchapter B, Chapter 531, Government Code,
25 is amended by adding Sections 531.078 through 531.081 to read as
26 follows:

27 Sec. 531.078. QUALITY ASSURANCE FEES ON CERTAIN WAIVER

1 PROGRAM SERVICES. (a) In this section, "gross receipts" means
2 money received as compensation for services under a home and
3 community services waiver or a community living assistance and
4 support services waiver. The term does not include a charitable
5 contribution, revenues received for services or goods other than
6 waivers, or any money received from consumers or their families as
7 reimbursement for services or goods normally not covered by the
8 waivers.

9 (b) The executive commissioner by rule shall establish a
10 quality assurance fee program as provided by this section and
11 impose a quality assurance fee on persons providing services under
12 a home and community services waiver or a community living
13 assistance and support services waiver.

14 (c) The executive commissioner shall establish the fee at an
15 amount that will produce annual revenues of not more than six
16 percent of the gross receipts of a person from services the person
17 provides under the waiver.

18 (d) The executive commissioner shall adopt rules governing:
19 (1) the reporting required to compute and collect the
20 fee and the manner and times of collecting the fee; and
21 (2) the administration of the fee, including the
22 imposition of penalties for a violation of the rules.

23 (e) Fees collected under this section shall be deposited in
24 the waiver program quality assurance fee account.

25 Sec. 531.079. WAIVER PROGRAM QUALITY ASSURANCE FEE ACCOUNT.

26 (a) The waiver program quality assurance fee account is a dedicated
27 account in the general revenue fund. The account is exempt from the

1 application of Section 403.095. Interest earned on money in the
2 account shall be credited to the account.

3 (b) The account consists of fees collected under Section
4 531.078 and interest earned on money in the account.

5 (c) Subject to legislative appropriation and state and
6 federal law, money in the account may be appropriated only to the
7 commission to increase reimbursement rates paid under the home and
8 community services waiver program or the community living
9 assistance and support services waiver program or to offset
10 allowable expenses under the state Medicaid program.

11 Sec. 531.080. REIMBURSEMENT OF WAIVER PROGRAMS. Subject to
12 legislative appropriation and state and federal law, the commission
13 shall use money from the waiver program quality assurance fee
14 account, together with any federal money available to match money
15 from the account, to increase reimbursement rates paid under the
16 home and community services waiver program or the community living
17 assistance and support services waiver program.

18 Sec. 531.081. INVALIDITY; FEDERAL FUNDS. If any portion of
19 Sections 531.078-531.080 is held invalid by a final order of a court
20 that is not subject to appeal, or if the commission determines that
21 the imposition of the quality assurance fee and the expenditure of
22 the money collected as provided by those sections will not entitle
23 this state to receive additional federal money under the Medicaid
24 program, the commission shall:

- 25 (1) stop collection of the quality assurance fee; and
26 (2) not later than the 30th day after the date the
27 collection of the quality assurance fee is stopped, return any

1 money collected under Section 531.078, but not spent under Section
2 531.080, to the persons who paid the fees in proportion to the total
3 amount paid by those persons.

4 SECTION 8.03. Subsection (b), Section 252.202, Health and
5 Safety Code, is amended to read as follows:

6 (b) The Health and Human Services Commission or the
7 department at the direction of the commission shall set the quality
8 assurance fee for each day in an ~~the~~ amount that will produce
9 ~~[necessary to produce]~~ annual revenues of ~~[equal to an amount that~~
10 ~~is]~~ not more than six percent of the ~~[facility's]~~ total annual gross
11 receipts in this state. The fee is subject to a prospective
12 adjustment as necessary.

13 SECTION 8.04. Section 252.209, Health and Safety Code, is
14 repealed.

15 SECTION 8.05. (a) Notwithstanding Section 242.803, Health
16 and Safety Code, as added by this article, the executive
17 commissioner of the Health and Human Services Commission shall
18 establish the initial quality assurance fee imposed under
19 Subchapter P, Chapter 242, Health and Safety Code, as added by this
20 article, based on available revenue and patient day information.
21 The initial quality assurance fee established under this section
22 remains in effect until the Health and Human Services Commission
23 obtains the information necessary to set the fee under Section
24 242.803, Health and Safety Code, as added by this article.

25 (b) As soon as practicable after the effective date of this
26 Act, the executive commissioner of the Health and Human Services
27 Commission shall adopt rules as necessary to implement Subchapter

1 P, Chapter 242, Health and Safety Code, and Section 531.078,
2 Government Code, as added by this article.

3 (c) If before implementing any provision of this article a
4 state agency determines a waiver or authorization from a federal
5 agency is necessary for implementation of that provision, the
6 agency affected by the provision shall request the waiver or
7 authorization and may delay implementing that provision until the
8 waiver or authorization is granted.

9 ARTICLE 9. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE
10 FOR STATE EMPLOYEES

11 SECTION 9.01. Subsection (a), Section 1551.104, Insurance
12 Code, is amended to read as follows:

13 (a) Subject to Sections 1551.101 and 1551.102, each
14 full-time employee is covered automatically by the basic coverage
15 plan for employees and each annuitant is covered by the basic
16 coverage plan for annuitants unless:

17 (1) participation is specifically waived as provided
18 by Section 1551.1045;

19 (2) the employee or annuitant is expelled from the
20 program under Section 1551.351; or

21 (3) eligibility is otherwise limited by this chapter.

22 SECTION 9.02. Subchapter C, Chapter 1551, Insurance Code,
23 is amended by adding Section 1551.1045 to read as follows:

24 Sec. 1551.1045. WAIVER. (a) Subject to Subsections (b) and
25 (c), an employee or annuitant may waive in writing any coverage
26 provided under this chapter.

27 (b) To waive coverage under the basic coverage plan for

1 employees, a full-time employee must demonstrate, in the manner
2 required by the board of trustees, that the employee is:

3 (1) covered by another health benefit plan that
4 provides substantially equivalent coverage, as determined by the
5 board of trustees, to the coverage provided to employees by the
6 basic coverage plan; or

7 (2) eligible for benefits under the TRICARE Military
8 Health System.

9 (c) To waive coverage under the basic coverage plan for
10 annuitants for the purpose of eligibility for an incentive payment
11 under Section 1551.222, an annuitant must demonstrate, in the
12 manner required by the board of trustees, that the annuitant is:

13 (1) covered by another health benefit plan that
14 provides substantially equivalent coverage, as determined by the
15 board of trustees, to the coverage provided to annuitants by the
16 basic coverage plan; or

17 (2) eligible for benefits under the TRICARE Military
18 Health System.

19 SECTION 9.03. Subchapter E, Chapter 1551, Insurance Code,
20 is amended by adding Sections 1551.221 and 1551.222 to read as
21 follows:

22 Sec. 1551.221. OPTIONAL SUPPLEMENTAL HEALTH COVERAGE FOR
23 INDIVIDUALS ELIGIBLE UNDER TRICARE MILITARY HEALTH SYSTEM. (a)
24 The board of trustees shall offer, as an optional coverage under the
25 group benefits program, a supplemental health coverage program.

26 (b) Under the supplemental health coverage program, an
27 employee or annuitant who is eligible to participate in the group

1 benefits program and who is also eligible for benefits under the
2 TRICARE Military Health System may elect to receive primary
3 coverage under the TRICARE Military Health System. An employee or
4 annuitant participating in the supplemental health coverage
5 program must waive basic coverage through the group benefits
6 program, but receives supplemental health coverage under this
7 section.

8 (c) The cost of supplemental health coverage provided under
9 this section may be paid in the same manner as the cost of other
10 optional coverage is paid under Subchapter G.

11 (d) The board of trustees shall contract to purchase the
12 supplemental health coverage in accordance with Sections
13 1551.213-1551.216.

14 (e) The board of trustees may adopt rules to implement this
15 section.

16 Sec. 1551.222. INCENTIVE PAYMENTS. (a) The board of
17 trustees may allow an incentive payment under this section to an
18 employee or annuitant who elects to waive coverage under the basic
19 coverage plan for employees or annuitants as provided by Section
20 1551.1045(b) or (c).

21 (b) The incentive payment authorized by this section is in
22 the amount authorized by the General Appropriations Act and may be
23 used by the employee or annuitant, in the manner prescribed by the
24 board of trustees, only to pay for other group coverage plans
25 provided under the group benefits program, including the
26 supplemental health coverage offered under Section 1551.221.

27 (c) The board of trustees, at the time of initial enrollment

1 in the group benefits program and during subsequent open-enrollment
2 periods, shall inform employees and annuitants that they may make
3 an election described by Subsection (a), if eligible, and receive
4 any authorized incentive payment.

5 SECTION 9.04. Subchapter G, Chapter 1551, Insurance Code,
6 is amended by adding Section 1551.324 to read as follows:

7 Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE
8 EMPLOYEES AND ANNUITANTS; INCENTIVE PAYMENTS. (a) Notwithstanding
9 any other provision of this subchapter, the state contribution for
10 an employee's coverage or an annuitant's coverage under this
11 chapter may be reduced, as provided in the General Appropriations
12 Act, to reflect the reduced cost of coverage for an employee or
13 annuitant who elects to waive basic coverage as provided by Section
14 1551.1045(b) or (c).

15 (b) Instead of the full state contribution for an employee
16 or annuitant who makes an election described by Subsection (a), the
17 state may contribute, as specified by the General Appropriations
18 Act, an amount for the incentive payment authorized by Section
19 1551.222.

20 ARTICLE 10. MISCELLANEOUS FEES AND FUNDS

21 PART A. TEXAS MOBILITY FUND

22 SECTION 10A.01. Subchapter M, Chapter 201, Transportation
23 Code, is amended by adding Section 201.9471 to read as follows:

24 Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO
25 FUND. (a) Notwithstanding Sections 521.058, 521.313, 521.3466,
26 521.427, 522.029, 524.051, and 724.046, to the extent that those
27 sections allocate money to the Texas mobility fund, in state fiscal

1 year 2006 the comptroller shall deposit that money to the credit of
2 the general revenue fund instead of to the credit of the Texas
3 mobility fund.

4 (b) Notwithstanding Sections 521.313, 521.3466, 521.427,
5 522.029, 524.051, and 724.046, to the extent that those sections
6 allocate money to the Texas mobility fund, in state fiscal year 2007
7 the comptroller shall deposit that money to the credit of the
8 general revenue fund instead of to the credit of the Texas mobility
9 fund.

10 (c) This section expires January 1, 2008.

11 SECTION 10A.02. This part takes effect September 1, 2005.

12 PART B. TELECOMMUNICATIONS INFRASTRUCTURE FUND

13 SECTION 10B.01. Section 57.048, Utilities Code, is amended
14 by adding Subsections (f) through (i) to read as follows:

15 (f) Notwithstanding any other provision of this title, a
16 certificated telecommunications utility may recover from the
17 utility's customers an assessment imposed on the utility under this
18 subchapter after the total amount deposited to the credit of the
19 fund, excluding interest and loan repayments, is equal to \$1.5
20 billion, as determined by the comptroller. A certificated
21 telecommunications utility may recover only the amount of the
22 assessment imposed after the total amount deposited to the credit
23 of the fund, excluding interest and loan repayments, is equal to
24 \$1.5 billion, as determined by the comptroller. The utility may
25 recover the assessment through a monthly billing process.

26 (g) The comptroller shall publish in the Texas Register the
27 date on which the total amount deposited to the credit of the fund,

1 excluding interest and loan repayments, is equal to \$1.5 billion.

2 (h) Not later than February 15 of each year, a certificated
3 telecommunications utility that wants to recover the assessment
4 under Subsection (f) shall file with the commission an affidavit or
5 affirmation stating the amount that the utility paid to the
6 comptroller under this section during the previous calendar year
7 and the amount the utility recovered from its customers in
8 cumulative payments during that year.

9 (i) The commission shall maintain the confidentiality of
10 information the commission receives under this section that is
11 claimed to be confidential for competitive purposes. The
12 confidential information is exempt from disclosure under Chapter
13 552, Government Code.

14 SECTION 10B.02. Section 57.0485, Utilities Code, is amended
15 to read as follows:

16 Sec. 57.0485. ALLOCATION OF REVENUE [ACCOUNTS]. [~~(a)~~] The
17 comptroller shall deposit [~~50 percent of~~] the money collected by
18 the comptroller under Section 57.048 to the credit of the general
19 revenue fund [~~public schools account in the fund. The comptroller~~
20 ~~shall deposit the remainder of the money collected by the~~
21 ~~comptroller under Section 57.048 to the credit of the qualifying~~
22 ~~entities account in the fund.~~

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

25 SECTION 10B.03. Section 57.051, Utilities Code, is amended
26 to read as follows:

27 Sec. 57.051. SUNSET PROVISION. The Telecommunications

1 Infrastructure Fund [~~Board~~] is subject to Chapter 325, Government
2 Code (Texas Sunset Act). Unless continued in existence as provided
3 by that chapter, [~~the board is abolished and~~] this subchapter
4 expires September 1, 2011 [~~2005~~].

5 SECTION 10B.04. Section 57.043 and Subsections (c) and (d),
6 Section 57.048, Utilities Code, are repealed.

7 SECTION 10B.05. If, on the day before the effective date of
8 this part, the assessment prescribed by Section 57.048, Utilities
9 Code, is imposed at a rate of less than 1.25 percent, the
10 comptroller shall, on the effective date of this part, reset the
11 rate of the assessment to 1.25 percent.

12 SECTION 10B.06. This part takes effect July 1, 2005, if this
13 Act receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for effect on that
16 date, this part takes effect September 1, 2005.

17 ARTICLE 11. POWERS AND DUTIES OF COMPTROLLER AND PROVISIONS
18 RELATED TO TAXES COLLECTED BY COMPTROLLER OR LOCAL ENTITIES

19 SECTION 11.01. Section 442.015, Government Code, is amended
20 by adding Subsection (h) to read as follows:

21 (h) The comptroller may manage the assets of the Texas
22 preservation trust fund account in the same manner as the
23 comptroller may manage the assets of certain permanent funds under
24 Section 403.1068.

25 SECTION 11.02. Section 552.025(c), Government Code, is
26 amended to read as follows:

27 (c) Subchapter C does not authorize withholding from the

1 public or limiting the availability to the public of a written
2 determination letter, technical advice memorandum, or ruling that
3 concerns a tax matter and that is issued by a governmental body with
4 taxing authority, provided that, to preserve taxpayer
5 confidentiality, a governmental body with taxing authority shall
6 remove any information that identifies a taxpayer from the letter,
7 memorandum, or ruling.

8 SECTION 11.03. Section 285.063, Health and Safety Code, is
9 amended by adding Subsection (b-1) to read as follows:

10 (b-1) The district shall 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 the district submits the results of the election held under this
14 subchapter.

15 SECTION 11.04. Section 775.0753, Health and Safety Code, is
16 amended by adding Subsection (d) to read as follows:

17 (d) The district shall 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 the district submits the results of the election held under this
21 subchapter.

22 SECTION 11.05. Section 776.0753, Health and Safety Code, is
23 amended by adding Subsection (d) to read as follows:

24 (d) The district shall 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 the district submits the results of the election held as provided by

1 this subchapter.

2 SECTION 11.06. Article 1.16(b), Insurance Code, is amended
3 to read as follows:

4 (b) Assessments for the expenses of such domestic
5 examination which shall be sufficient to meet all the expenses and
6 disbursements necessary to comply with the provisions of the laws
7 of Texas relating to the examination of insurance companies and to
8 comply with the provisions of this Article and Articles 1.17 and
9 1.18 of this Code, shall be made by the State Board of Insurance
10 upon the corporations or associations to be examined taking into
11 consideration annual premium receipts, and/or admitted assets that
12 are not attributable to 90 percent of pension plan contracts as
13 defined in Section 818(a) of the Internal Revenue Code of 1986 (26
14 U.S.C. Section 818(a)), and/or insurance in force; provided such
15 assessments shall be made and collected as follows: (1) expenses
16 attributable directly to a specific examination including
17 employees' salaries and expenses and expenses provided by Section
18 803.007 [~~Article 1.28~~] of this Code shall be collected at the time
19 of examination; (2) assessments calculated annually for each
20 corporation or association which take into consideration annual
21 premium receipts, and/or admitted assets that are not attributable
22 to 90 percent of pension plan contracts as defined in Section 818(a)
23 of the Internal Revenue Code of 1986 (26 U.S.C. Section 818(a)),
24 and/or insurance in force shall be assessed annually for each such
25 corporation or association. In computing the assessments, the
26 board may not consider insurance premiums for insurance contracted
27 for by a state or federal governmental entity to provide welfare

1 benefits to designated welfare recipients or contracted for in
2 accordance with or in furtherance of Title 2, Human Resources Code,
3 or the federal Social Security Act (42 U.S.C. Section 301 et seq.).
4 The amount of all examination and evaluation fees paid in each
5 taxable year to the State of Texas by an insurance carrier shall be
6 allowed as a credit on the amount of premium taxes due [~~under this~~
7 ~~article~~]. The limitations provided by Sections 803.007(1) and
8 (2)(B) of this code for domestic insurance companies apply to
9 foreign insurance companies.

10 SECTION 11.07. Section 222.002(b), Insurance Code, is
11 amended to read as follows:

12 (b) Except as otherwise provided by this section, in
13 determining an insurer's taxable gross premiums or a health
14 maintenance organization's taxable gross revenues, the insurer or
15 health maintenance organization shall include the total gross
16 amounts of premiums, membership fees, assessments, dues, revenues,
17 and other considerations received by the insurer or health
18 maintenance organization in a calendar year from any kind of health
19 maintenance organization certificate or contract or insurance
20 policy or contract covering risks on individuals or groups [~~a~~
21 ~~person~~] located in this state and arising from the business of a
22 health maintenance organization or the business of life insurance,
23 accident insurance, health insurance, life and accident insurance,
24 life and health insurance, health and accident insurance, life,
25 health, and accident insurance, including variable life insurance,
26 credit life insurance, and credit accident and health insurance for
27 profit or otherwise or for mutual benefit or protection.

1 SECTION 11.08. Section 223.003(a), Insurance Code, is
2 amended to read as follows:

3 (a) An annual tax is imposed on all [~~each title insurance~~
4 ~~company that receives~~] premiums from the business of title
5 insurance. The rate of the tax is 1.35 percent of [~~the~~] title
6 insurance [~~company's~~] taxable premiums for a calendar year,
7 including any premiums retained by a title insurance agent as
8 provided by Section 223.005. For purposes of this chapter, a person
9 engages in the business of title insurance if the person engages in
10 an activity described by Section 2501.005.

11 SECTION 11.09. Section 252.003, Insurance Code, is amended
12 to read as follows:

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

- 17 (1) bombardment;
- 18 (2) civil war or commotion;
- 19 (3) cyclone;
- 20 (4) earthquake;
- 21 (5) excess or deficiency of moisture;
- 22 (6) explosion as defined by Article 5.52;
- 23 (7) fire;
- 24 (8) flood;
- 25 (9) frost and freeze;
- 26 (10) hail;
- 27 (11) insurrection;

- 1 (12) invasion;
- 2 (13) lightning;
- 3 (14) military or usurped power;
- 4 (15) an order of a civil authority made to prevent the
- 5 spread of a conflagration, epidemic, or catastrophe;
- 6 (16) rain;
- 7 (17) riot;
- 8 (18) the rising of the waters of the ocean or its
- 9 tributaries;
- 10 (19) smoke or smudge;
- 11 (20) strike or lockout;
- 12 (21) tornado;
- 13 (22) vandalism or malicious mischief;
- 14 (23) volcanic eruption;
- 15 (24) water or other fluid or substance resulting from
- 16 the breakage or leakage of sprinklers, pumps, or other apparatus
- 17 erected for extinguishing fires, water pipes, or other conduits or
- 18 containers;
- 19 (25) weather or climatic conditions; [~~ex~~]
- 20 (26) windstorm;
- 21 (27) an event covered under a home warranty insurance
- 22 policy; or
- 23 (28) an event covered under an inland marine insurance
- 24 policy.

25 SECTION 11.10. Section 271.002(a), Insurance Code, is
26 amended to read as follows:

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

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

2 SECTION 11.11. Section 1502.053, Insurance Code, is amended
3 to read as follows:

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

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

12 SECTION 11.12. Section 383.101, Local Government Code, is
13 amended by adding Subsection (d) to read as follows:

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

19 SECTION 11.13. Section 387.012, Local Government Code, is
20 amended to read as follows:

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

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

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

5 SECTION 11.14. Section 111.009, Tax Code, is amended by
6 amending Subsection (a) and adding Subsections (e) and (f) to read
7 as follows:

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

11 (e) The person filing the petition may assert credits or
12 claim a refund for the same tax type and same period. The assertion
13 for the credits or the claim for the refund must be included in the
14 petition or must be filed within the applicable limitations period,
15 except as otherwise provided by this section. The comptroller
16 shall adopt procedural rules that ensure that redetermination
17 proceedings are expeditiously finalized and that provide that all
18 parties receive equal time to prepare and submit their positions
19 before the hearing.

20 (f) A credit or refund for the same tax type and same period
21 may be asserted or claimed in the redetermination proceeding for
22 all issues if the credit is asserted or the refund is claimed not
23 later than the second anniversary of the date the petition for
24 redetermination is filed. This subsection does not authorize a
25 filing for a separate credit or refund that is not authorized under
26 Section 111.107(b).

27 SECTION 11.15. Section 111.016, Tax Code, is amended by

1 adding Subsections (e) and (f) to read as follows:

2 (e) The comptroller may assess the responsible individual
3 liable under Subsection (b) at any time before the first
4 anniversary of the later of:

5 (1) the date the tax liability of the corporation,
6 association, limited liability company, limited partnership, or
7 other legal entity becomes final; or

8 (2) the date the bankruptcy proceeding is closed or
9 dismissed.

10 (f) An individual that the comptroller asserts is liable for
11 the payment of tax or other money under this section as a
12 responsible individual is entitled to:

13 (1) reasonable notice from the comptroller that
14 specifies the basis for that assertion and the amount of tax or
15 money for which the comptroller asserts the individual is liable;
16 and

17 (2) contest that assertion in a manner consistent with
18 the remedies available to taxpayers under this title.

19 SECTION 11.16. Subchapter B, Chapter 111, Tax Code, is
20 amended by adding Section 111.0515 to read as follows:

21 Sec. 111.0515. RESTRICTED OR CONDITIONAL PAYMENTS OF TAXES,
22 PENALTIES, AND INTEREST PROHIBITED. Unless the restriction or
23 condition is authorized by this title, a restriction or condition
24 placed on a check in payment of taxes by the maker of the check that
25 purports to limit the amount of taxes owed to an amount less than
26 that stated in the comptroller's records, or a restriction or
27 condition placed on a check in payment of penalties and interest on

1 delinquent taxes by the maker that purports to limit the amount of
2 the penalties and interest to an amount less than the amount of
3 penalties and interest accrued on the delinquent taxes, is void.

4 SECTION 11.17. Subchapter B, Chapter 111, Tax Code, is
5 amended by adding Section 111.065 to read as follows:

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

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

10 (2) correct any erroneous assessment.

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

14 SECTION 11.18. Section 111.107, Tax Code, is amended to
15 read as follows:

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

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

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

1 (3) under Chapter 162 [~~153~~], except Section
2 162.126(f), 162.128(d), 162.228(f), or 162.230(d) [~~153.1195(e),~~
3 ~~153.121(d), 153.2225(e), or 153.224(d)~~].

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

7 SECTION 11.19. Section 151.006, Tax Code, is amended to
8 read as follows:

9 Sec. 151.006. "SALE FOR RESALE". "Sale for resale" means a
10 sale of:

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

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

24 (3) tangible personal property to a purchaser who
25 acquires the property for the purpose of transferring it in the
26 United States of America or a possession or territory of the United
27 States of America or in the United Mexican States as an integral

1 part of a taxable service; or

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

5 SECTION 11.20. Section 151.011(a), Tax Code, is amended to
6 read as follows:

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

18 SECTION 11.21. Section 151.3111(b), Tax Code, is amended to
19 read as follows:

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

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

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

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

1 (4) a taxable boat or motor as defined by Section
2 160.001;

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

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

8 SECTION 11.22. Sections 151.3162(d) and (e), Tax Code, are
9 amended to read as follows:

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

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

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

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

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

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

11 SECTION 11.23. Section 151.419(b), Tax Code, is amended to
12 read as follows:

13 (b) The application must be accompanied with:

14 (1) an agreement that is signed by the applicant or a
15 responsible officer of an applicant corporation, that is in a form
16 prescribed by the comptroller, and that provides that the applicant
17 agrees to:

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

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

25 [~~(C) waive the discount permitted by Section~~
26 ~~151.423 of this code on the payment of all taxes under the direct~~
27 ~~payment permit only;~~]

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

5 (3) records establishing that the applicant is a
6 responsible person who annually purchases taxable items that have a
7 value when purchased of \$800,000 or more excluding the value of
8 taxable items for which resale certificates were or could have been
9 given.

10 SECTION 11.24. Sections 151.424(a) and (c), Tax Code, are
11 amended to read as follows:

12 (a) A taxpayer who prepays the taxpayer's tax liability on
13 the basis of a reasonable estimate of the tax liability for a
14 quarter in which a prepayment is made or for a month in which a
15 prepayment is made may deduct and withhold 1.25 percent of the
16 amount of the prepayment [~~in addition to the amount permitted to be~~
17 ~~deducted and withheld under Section 151.423 of this code~~]. A
18 reasonable estimate of the tax liability must be at least 90 percent
19 of the tax ultimately due or the amount of tax paid in the same
20 quarter, or month, if a monthly prepayer, in the last preceding
21 year. Failure to prepay a reasonable estimate of the tax will
22 result in the loss of the entire prepayment discount.

23 (c) A taxpayer who prepays the tax liability as permitted by
24 this section must file a report when due as provided by this
25 chapter. The amount of a prepayment made by a taxpayer under this
26 section shall be credited against the amount of actual tax
27 liability of the taxpayer as shown on the tax report of the

1 taxpayer. If there is a tax liability owed by the taxpayer in
2 excess of the prepayment credit, the taxpayer shall send to the
3 comptroller the remaining tax liability at the time of filing the
4 quarterly or monthly report. [~~The taxpayer is entitled to the~~
5 ~~deduction permitted under Section 151.423 of this code on the~~
6 ~~amount of the remaining tax liability.~~]

7 SECTION 11.25. Section 151.425, Tax Code, is amended to
8 read as follows:

9 Sec. 151.425. FORFEITURE OF DISCOUNT OR REIMBURSEMENT. If
10 a taxpayer fails to file a report required by this chapter when due
11 or to pay the tax when due, the taxpayer forfeits any claim to a
12 [~~deduction or~~] discount allowed under [~~Section 151.423 or~~] Section
13 151.424 [~~of this code~~].

14 SECTION 11.26. Section 151.428(c), Tax Code, is amended to
15 read as follows:

16 (c) The reporting, collection, refund, and penalty
17 provisions of this chapter and Subtitle B [~~of this title~~] apply to
18 the payments required by this section, except that Section
19 [~~Sections 151.423 and~~] 151.424 does [~~of this code do~~] not apply to
20 this section.

21 SECTION 11.27. Section 152.047(a), Tax Code, is amended to
22 read as follows:

23 (a) Except as inconsistent with this chapter and rules
24 adopted under this chapter, the seller of a motor vehicle shall
25 report and pay the tax imposed on a seller-financed sale to the
26 comptroller on the seller's receipts from seller-financed sales in
27 the same manner as the sales tax is reported and paid by a retailer

1 under Sections 151.401, 151.402, 151.405, 151.406, 151.409,
2 [~~151.423,~~] 151.424, and 151.425.

3 SECTION 11.28. Section 152.123(b), Tax Code, is amended to
4 read as follows:

5 (b) The county shall retain the following percentage of the
6 amounts calculated under Subsection (a) during each of the
7 following fiscal years:

- 8 (1) [~~in fiscal year 2006, 10 percent,~~
9 [~~(2) in fiscal year 2007, 20 percent,~~
10 [~~(3)] in fiscal year 2008, 30 percent;~~
11 (2) [~~(4)] in fiscal year 2009, 40 percent;~~
12 (3) [~~(5)] in fiscal year 2010, 50 percent;~~
13 (4) [~~(6)] in fiscal year 2011, 60 percent;~~
14 (5) [~~(7)] in fiscal year 2012, 70 percent;~~
15 (6) [~~(8)] in fiscal year 2013, 80 percent;~~
16 (7) [~~(9)] in fiscal year 2014, 90 percent; and~~
17 (8) [~~(10)] in fiscal year 2015 and succeeding years,~~
18 100 percent.

19 SECTION 11.29. Section 171.109(g), Tax Code, as amended by
20 Chapters 801 and 1198, Acts of the 71st Legislature, Regular
21 Session, 1989, is reenacted and amended to read as follows:

22 (g) All oil and gas exploration and production activities by
23 a corporation which is required to or elects to use generally
24 accepted accounting principles to compute surplus must be reported
25 according to the successful efforts or the full cost method of
26 accounting. Notwithstanding the method of accounting, the
27 corporation may elect to depreciate the corporation's oil and gas

1 properties using any alternative method of depreciation recognized
2 under generally accepted accounting principles. The useful lives
3 of intangible assets shall be similar to the useful lives of
4 tangible assets.

5 SECTION 11.30. Section 171.110, Tax Code, is amended by
6 adding Subsection (m) to read as follows:

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

11 SECTION 11.31. Section 171.1121(b), Tax Code, is amended to
12 read as follows:

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

17 SECTION 11.32. Section 171.801(2), Tax Code, is amended to
18 read as follows:

19 (2) "Qualified capital investment" means tangible
20 personal property, as defined by 26 C.F.R. Section 1.1245-3(b)(1),
21 that is first placed in service in a strategic investment area, or
22 first placed in service in a county with a population of less than
23 50,000 by a corporation primarily engaged in agricultural
24 processing, and that is described as Section 1245 property by [~~in~~]
25 Section 1245(a), Internal Revenue Code, such as engines, machinery,
26 tools, and implements used in a trade or business or held for
27 investment and subject to an allowance for depreciation, cost

1 recovery under the accelerated cost recovery system, or
2 amortization. The term does not include land [~~real property~~] or
3 buildings and their structural components. Property that is leased
4 under a capitalized lease is considered a "qualified capital
5 investment," but property that is leased under an operating lease
6 is not considered a "qualified capital investment." Property
7 expensed under Section 179, Internal Revenue Code, is not
8 considered a "qualified capital investment."

9 SECTION 11.33. Section 183.053(b), Tax Code, is amended to
10 read as follows:

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

19 SECTION 11.34. Section 201.058(b), Tax Code, is amended to
20 read as follows:

21 (b) Operators increasing production by marketing gas from a
22 well [~~an oil well or lease~~] that has been released into the air for
23 six [~~12~~] months or more pursuant to the rules of the Railroad
24 Commission of Texas [~~commission~~] shall be entitled to an exemption
25 from the tax imposed by this chapter on the production resulting
26 from the marketing of such gas for the life of the well [~~or lease~~].

27 SECTION 11.35. Section 201.102, Tax Code, is amended to

1 read as follows:

2 Sec. 201.102. CASH SALES. If gas is sold for cash only, the
3 tax shall be computed on the producer's gross cash receipts.
4 Payments from a purchaser of gas to a producer for the purpose of
5 reimbursing the producer for taxes due under this chapter are not
6 part of the gross cash receipts [~~unless the reimbursement amount~~
7 ~~for taxes due under this chapter is separately stated in the sales~~
8 ~~contract~~].

9 SECTION 11.36. Subchapter B, Chapter 202, Tax Code, is
10 amended by adding Section 202.060 to read as follows:

11 Sec. 202.060. TAX CREDIT FOR ENHANCED EFFICIENCY EQUIPMENT.

12 (a) In this section, "enhanced efficiency equipment" means
13 equipment used in the production of oil that reduces the energy used
14 to produce a barrel of fluid by 10 percent or more when compared to
15 commonly available alternative equipment. The term does not
16 include a motor or downhole pump. Equipment does not qualify as
17 enhanced efficiency equipment unless an institution of higher
18 education approved by the comptroller that is located in this state
19 and that has an accredited petroleum engineering program evaluated
20 the equipment and determined that the equipment does produce the
21 required energy reduction.

22 (b) The taxpayer responsible for the payment of severance
23 taxes on the production from a well in this state on which enhanced
24 efficiency equipment is installed and used is entitled to a credit
25 in an amount equal to 20 percent of the cost of the equipment,
26 provided that:

27 (1) the cumulative total of all severance tax credits

1 authorized by this section may not exceed \$2,000 for any well;

2 (2) the enhanced efficiency equipment installed in a
3 qualifying well must have been purchased and installed not earlier
4 than September 1, 2005, or later than September 1, 2009;

5 (3) the taxpayer must file an application with the
6 comptroller for the credit and must demonstrate to the comptroller
7 that the enhanced efficiency equipment has been purchased and
8 installed in the well within the period prescribed by Subdivision
9 (2);

10 (4) the number of applications the comptroller may
11 approve each state fiscal year may not exceed a number equal to two
12 percent of the producing wells in this state on September 1 of that
13 state fiscal year, as determined by the comptroller; and

14 (5) the manufacturer of the enhanced efficiency
15 equipment must obtain an evaluation of the product under Subsection
16 (a).

17 (c) The taxpayer may carry any unused credit forward until
18 the credit is used.

19 SECTION 11.37. Sections 313.021(1) and (2), Tax Code, are
20 amended to read as follows:

21 (1) "Qualified investment" means:

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

27 (B) tangible personal property that is first

1 placed in service in this state during the applicable qualifying
2 time period that begins on or after January 1, 2002, without regard
3 to whether the property is affixed to or incorporated into real
4 property, and that is used in connection with the manufacturing,
5 processing, or fabrication in a cleanroom environment of a
6 semiconductor product, without regard to whether the property is
7 actually located in the cleanroom environment, including:

8 (i) integrated systems, fixtures, and
9 piping;

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

14 (iii) production equipment and machinery,
15 moveable cleanroom partitions, and cleanroom lighting; or

16 (C) a building or a permanent, nonremovable
17 component of a building that is built or constructed during the
18 applicable qualifying time period that begins on or after January
19 1, 2002, and that houses tangible personal property described by
20 Paragraph (A) or (B).

21 (2) "Qualified property" means:

22 (A) land:

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

26 (ii) on which a person proposes to
27 construct a new building or erect or affix a new improvement that

1 does not exist before the date the owner applies for a limitation on
2 appraised value under this subchapter;

3 (iii) that is not subject to a tax abatement
4 agreement entered into by a school district under Chapter 312; and

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

9 (a) make a qualified investment in an
10 amount equal to at least the minimum amount required by Section
11 313.023; and

12 (b) create at least 25 new jobs;

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

15 (C) tangible personal property that:

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

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

25 SECTION 11.38. Section 321.203, Tax Code, is amended by
26 amending Subsections (b)-(e) and adding Subsection (n) to read as
27 follows:

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

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

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

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

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

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

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

24 (e) A sale of a taxable item [~~tangible personal property~~] is
25 consummated at the location in this state to which the item
26 [~~property~~] is shipped or delivered or at which possession is taken
27 by the customer if transfer of possession of the item [~~property~~]

1 occurs at, or shipment or delivery of the item [~~property~~]
2 originates from, a location in this state other than a place of
3 business of the retailer and if:

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

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

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

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

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

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

22 SECTION 11.39. Section 321.302, Tax Code, is amended by
23 adding Subsection (c-1) to read as follows:

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

1 SECTION 11.40. Section 321.503, Tax Code, is amended to
2 read as follows:

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

10 SECTION 11.41. Section 323.102(c), Tax Code, is amended to
11 read as follows:

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

18 SECTION 11.42. Section 323.203, Tax Code, is amended by
19 amending Subsections (b)-(e) and adding Subsection (m) to read as
20 follows:

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

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

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

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

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

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

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

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

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

26 (2) the retailer's place of business where the
27 purchase order is initially received or from which the retailer's

1 salesman who took the order operates is outside this state; or

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

5 (m) A sale of a service described by Section 151.0047 to
6 remodel, repair, or restore nonresidential real property is
7 consummated at the location of the job site. However, if the job
8 site includes areas in multiple municipalities, the sale is
9 consummated at:

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

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

15 SECTION 11.43. Section 323.503, Tax Code, is amended to
16 read as follows:

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

24 SECTION 11.44. Section 502.1025(b), Transportation Code,
25 is amended to read as follows:

26 (b) A county tax assessor-collector shall retain under
27 Section 502.102(b) fees based on the following percentage of the

1 amounts calculated under Subsection [~~subsection~~] (a) during each of
2 the following fiscal years:

- 3 (1) in fiscal year 2006, 100 [~~90~~] percent;
- 4 (2) in fiscal year 2007, 100 [~~80~~] percent;
- 5 (3) in fiscal year 2008, 70 percent;
- 6 (4) in fiscal year 2009, 60 percent;
- 7 (5) in fiscal year 2010, 50 percent;
- 8 (6) in fiscal year 2011, 40 percent;
- 9 (7) in fiscal year 2012, 30 percent;
- 10 (8) in fiscal year 2013, 20 percent;
- 11 (9) in fiscal year 2014, 10 percent; and
- 12 (10) in fiscal year 2015 and succeeding years, 0
13 percent.

14 SECTION 11.45. The heading to Subchapter A, Chapter 16,
15 Utilities Code, is amended to read as follows:

16 SUBCHAPTER A. ASSESSMENT ON UTILITY GROSS RECEIPTS [~~PUBLIC~~
17 ~~UTILITIES~~]

18 SECTION 11.46. The heading to Section 16.001, Utilities
19 Code, is amended to read as follows:

20 Sec. 16.001. ASSESSMENT ON UTILITY GROSS RECEIPTS [~~PUBLIC~~
21 ~~UTILITIES~~].

22 SECTION 11.47. Sections 16.001(a) and (b), Utilities Code,
23 are amended to read as follows:

24 (a) To defray the expenses incurred in the administration of
25 this title, an assessment is imposed on each telecommunications
26 utility, electric [~~public~~] utility, retail electric provider, and
27 electric cooperative within the jurisdiction of the commission that

1 serves the ultimate consumer, including each interexchange
2 telecommunications carrier.

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

8 SECTION 11.48. Section 16.002(b), Utilities Code, is
9 amended to read as follows:

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

14 SECTION 11.49. The following sections of the Tax Code are
15 repealed:

- 16 (1) Section 151.103(d);
17 (2) Section 151.202(c);
18 (3) Section 151.423;
19 (4) Section 321.203(1), as added by Chapter 1310, Acts
20 of the 78th Legislature, Regular Session, 2003; and
21 (5) Section 323.203(1).

22 SECTION 11.50. The changes in law made by this article to
23 Section 201.102, Tax Code, apply to a refund claim or determination
24 under Chapter 111, Tax Code, made in relation to a tax that is due on
25 or after the effective date of this article. A refund claim or
26 determination that is made in relation to a tax that is due before
27 the effective date of this article is governed by the law in effect

1 on the date the tax is due, and that law is continued in effect for
2 that purpose.

3 SECTION 11.51. The changes in law made by this article to
4 Section 111.009, Tax Code, apply to a petition for redetermination
5 for which the comptroller has not issued a final order or decision
6 on or before the effective date of this article, regardless of the
7 date on which the petition is filed.

8 SECTION 11.52. The changes in law made by this article to
9 Section 151.006, Tax Code, do not affect any matter that is the
10 subject of litigation pending on the effective date of this
11 article.

12 SECTION 11.53. The change in law made to Section
13 171.109(g), Tax Code, by this article is a clarification of
14 existing law and does not imply that existing law may be construed
15 as inconsistent with the law as amended by this article.

16 SECTION 11.54. If a change in law made to Section 16.001 or
17 16.002, Utilities Code, by this article conflicts with another bill
18 enacted by the 79th Legislature, Regular Session, 2005, that amends
19 Section 16.001 or 16.002, Utilities Code, including H.B. No. 1779,
20 that other bill controls.

21 SECTION 11.55. This article takes effect October 1, 2005.

22 ARTICLE 12. SALE OF CIGARETTES AND TOBACCO PRODUCTS

23 SECTION 12.01. Subchapter H, Chapter 161, Health and Safety
24 Code, is amended by adding Section 161.0821 to read as follows:

25 Sec. 161.0821. PURCHASE OF CIGARETTES OR TOBACCO PRODUCTS
26 BY PERSONS YOUNGER THAN 18 YEARS OF AGE PROHIBITED. (a) A person
27 who is younger than 18 years of age commits an offense if the person

1 purchases or attempts to purchase cigarettes or tobacco products.

2 (b) It is an exception to the application of this section
3 that the person younger than 18 years of age is participating in an
4 investigation or compliance inspection in accordance with Section
5 161.088 on behalf of the comptroller or a local law enforcement
6 agency.

7 (c) If conduct constituting an offense under this section
8 also constitutes an offense under another section of this code or
9 another provision of law, the actor may be prosecuted under either
10 this section or the other section or provision.

11 (d) For purposes of this section, a person attempts to
12 purchase cigarettes or tobacco products if the person commits an
13 act amounting to more than mere preparation that tends, but fails,
14 to effect the purchase.

15 (e) An offense under this section is a Class C misdemeanor.

16 SECTION 12.02. (a) Chapter 161, Health and Safety Code, is
17 amended by adding Subchapter V to read as follows:

18 SUBCHAPTER V. INTERNET OR MAIL-ORDER SALES OF

19 CIGARETTES AND TOBACCO PRODUCTS

20 Sec. 161.651. DEFINITIONS. (a) In this subchapter:

21 (1) "Cigarette" has the meaning assigned by Section
22 154.001, Tax Code.

23 (2) "Tobacco product" has the meaning assigned by
24 Sections 155.001(15)(C)-(E), Tax Code.

25 (b) In this subchapter, "common carrier," "consumer,"
26 "distributor," "importer," "manufacturer," "permit holder,"
27 "retailer," and "wholesaler" have the meanings assigned by Section

1 154.001 or 155.001, Tax Code, as applicable.

2 Sec. 161.652. APPLICABILITY OF SUBCHAPTER TO INDIAN TRIBES.

3 This subchapter does not apply to cigarette or tobacco product
4 sales by an Indian tribe, as defined by 25 U.S.C. Section 450b(e),
5 or by members of the Indian tribe, to a consumer in this state if the
6 consumer is a verified adult member of that Indian tribe and the
7 buyer and seller are each located on land over which the tribe
8 exercises governmental power and that is owned or occupied by that
9 tribe.

10 Sec. 161.653. CERTAIN DELIVERIES OF CIGARETTES AND TOBACCO

11 PRODUCTS PROHIBITED. (a) A distributor, importer, manufacturer,
12 retailer, wholesaler, or other person engaged in the business of
13 manufacturing, distributing, or selling cigarettes or tobacco
14 products, including selling cigarettes or tobacco products over the
15 Internet or through mail-order sales, may not sell, offer for sale,
16 deliver, or cause to be delivered any cigarettes or tobacco
17 products to a person in this state except in a face-to-face
18 transaction at the time of purchase unless the cigarettes or
19 tobacco products are in a container or wrapping plainly and visibly
20 marked on the exterior in a manner that indicates that there are
21 cigarettes or tobacco products inside and the sale or delivery is
22 made to one of the following persons for purposes other than
23 personal consumption by the recipient:

24 (1) a permit holder, including the holder's employees
25 or agents;

26 (2) a manufacturer or importer of tobacco products or
27 an export warehouse proprietor with a federal permit under 26

1 U.S.C. Section 5712 or an operator of a federally designated
2 customs bonded warehouse under 19 U.S.C. Section 1311 or 1555; or

3 (3) a person who is an officer, employee, or agent of
4 the United States government, this state, or a department, agency,
5 instrumentality, or political subdivision of the United States or
6 this state acting within the scope of the person's official duties.

7 (b) A person within the jurisdiction of this state's laws,
8 including a common carrier or commercial delivery service, may not
9 knowingly transport cigarettes or tobacco products on behalf of
10 another person for commercial or business purposes for delivery to
11 a person in this state other than a person described by Subsection
12 (a)(1), (2), or (3).

13 (c) Except as specifically provided by Subsection (b), this
14 section does not apply to a common carrier or other delivery service
15 operating within the scope of its business as a common carrier or
16 delivery service.

17 Sec. 161.654. PERMIT HOLDER LIST. The comptroller shall
18 compile and make available on the comptroller's Internet website
19 and by other means a list of all persons who hold a permit under
20 Subchapter D, Chapter 154, or Subchapter C, Chapter 155, Tax Code.
21 The comptroller shall periodically update the list of persons
22 holding a permit under those subchapters.

23 Sec. 161.655. VIOLATOR'S LIST. (a) The comptroller shall
24 maintain a list of persons the comptroller determines have violated
25 Section 161.653(a) or are violating or offering to violate that
26 subsection.

27 (b) The comptroller shall provide to the United States

1 Postal Service, each common carrier and commercial delivery service
2 operating in this state, and any other person who delivers
3 cigarettes or tobacco products into or within this state a copy of
4 this subchapter and the list maintained under Subsection (a). The
5 comptroller shall provide updated copies of the list as the
6 comptroller determines is appropriate.

7 (c) Before adding a person to the list maintained under
8 Subsection (a), the comptroller shall provide 10 days' written
9 notice and an opportunity to be heard to that person. The notice
10 must include the text of this subchapter. The notice may be made by
11 an electronic communication.

12 (d) The list maintained under Subsection (a) is
13 confidential and not subject to disclosure under Chapter 552,
14 Government Code. The comptroller and each person who receives a
15 copy of the list from the comptroller under this section must
16 maintain the list as confidential and may use the list only to
17 comply with this subchapter.

18 Sec. 161.656. CARRIER AND DELIVERY SERVICE
19 RESPONSIBILITIES. (a) A person who is a common carrier or
20 commercial delivery service within the jurisdiction of this state's
21 laws who receives a copy of a list maintained under Section 161.655
22 may not make any deliveries in this state on behalf of a person
23 identified in the list unless:

24 (1) the person making the delivery knows or
25 affirmatively believes in good faith that the package does not
26 contain cigarettes or tobacco products; or

27 (2) the delivery is made to a person described by

1 Section 161.653(a)(1), (2), or (3).

2 (b) A person who delivers cigarettes or tobacco products and
3 receives a copy of a list maintained under Section 161.155:

4 (1) is not required to:

5 (A) inspect a package being delivered to
6 determine whether the package contains cigarettes or tobacco
7 products;

8 (B) determine whether the list is complete,
9 accurate, and up to date; or

10 (C) determine whether any person ordering or
11 requesting a delivery is in compliance with this subchapter;

12 (2) is not subject to any penalty for:

13 (A) failing to make a specific delivery on behalf
14 of a person on the list; or

15 (B) establishing and following a policy of not
16 making deliveries:

17 (i) in this state on behalf of a person on
18 the list;

19 (ii) of cigarettes or tobacco products in
20 this state; or

21 (iii) of cigarettes or tobacco products in
22 this state for any person that is not a distributor, manufacturer,
23 retailer, or wholesaler;

24 (3) is not subject to criminal penalties for a
25 violation of this subchapter unless the person knowingly violates
26 this subchapter for the specific purpose of:

27 (A) assisting a person engaged in the business of

1 manufacturing, distributing, or selling cigarettes or tobacco
2 products to violate this subchapter; or

3 (B) profiting from the violation of this
4 subchapter by another person; and

5 (4) may collect an additional fee from the person's
6 customers who order deliveries of cigarettes or tobacco products to
7 recover any costs incurred by the person related to complying with
8 this subchapter.

9 (c) An employee of a common carrier or commercial delivery
10 service or of any other person making deliveries for a carrier or
11 delivery service is not subject to criminal or civil penalties for
12 violating this subchapter unless the employee knowingly violates
13 this subchapter for the specific purpose of assisting a person
14 engaged in the business of manufacturing, distributing, or selling
15 cigarettes or tobacco products in violation of this subchapter.

16 Sec. 161.657. CIVIL PENALTIES. (a) Except as provided in
17 Section 161.656(c), a person who violates this subchapter is
18 subject to a civil penalty for each violation in an amount:

19 (1) of at least \$500 and not more than the greater of
20 \$5,000 or five times the value of the cigarettes or tobacco products
21 at issue; and

22 (2) equal to any profits, gain, gross receipts, or
23 other benefits received from the violation.

24 (b) A person who violates Section 161.653(a) must reimburse
25 this state and the applicable political subdivisions of this state
26 for all unpaid taxes that would otherwise have been imposed by this
27 state and those political subdivisions on the cigarettes and

1 tobacco products in question, plus interest, and for any other
2 damages incurred by the state or the political subdivision as a
3 result of the violation.

4 Sec. 161.658. CRIMINAL PENALTIES. Except as provided by
5 Sections 161.656(b)(3) and (c), a person who knowingly violates
6 Section 161.653 or 161.656(a) commits an offense. An offense under
7 this subsection is a Class A misdemeanor, except that if it is shown
8 on the trial of the offense that the person has a previous
9 conviction under this subsection, the offense is a state jail
10 felony.

11 Sec. 161.659. COSTS. (a) The comptroller shall deposit an
12 amount equal to 50 percent of the civil penalties recovered by this
13 state under this subchapter to be appropriated only to the
14 comptroller, department, attorney general, and other state
15 agencies to enforce this subchapter or make related investigations
16 or to enforce other state laws relating to contraband cigarettes
17 and tobacco products, the collection of taxes on cigarettes and
18 tobacco products, and the prohibition of cigarette and tobacco
19 product sales to minors.

20 (b) In a civil action brought to enforce this subchapter,
21 the state is entitled to recover the costs of investigation, costs
22 of the action, and reasonable attorney's fees, plus interest.

23 Sec. 161.660. ENFORCEMENT. (a) The attorney general may
24 bring an action in the appropriate court in this state to enforce
25 this subchapter, seek civil penalties and related damages, and
26 equitable relief, or to prevent or restrain actions by a person or a
27 person controlling the person that violate this subchapter or

1 assist or encourage a violation of this subchapter.

2 (b) On providing at least 15 days' notice to the attorney
3 general, enforcement officials of a political subdivision of this
4 state may bring an action in the appropriate court in this state, or
5 join an action being brought by the attorney general, to seek
6 damages and equitable relief or to prevent or restrain actions by a
7 person or a person controlling the person that violate this
8 subchapter or assist or encourage a violation of this subchapter.

9 (c) On providing at least 15 days' notice to the attorney
10 general, a person who holds a valid permit under 26 U.S.C. Section
11 5712 may bring an action in the appropriate court in this state, or
12 join an action being brought by the attorney general, to prevent or
13 restrain actions by a person or a person controlling the person that
14 violate this subchapter or assist or encourage a violation of this
15 subchapter.

16 (d) On receiving notice from another person of the person's
17 intent to bring an action under this subchapter in the appropriate
18 court in this state, the attorney general may choose to join in the
19 other person's action or bring an action by this state in its stead
20 and shall inform the person providing notice of how the attorney
21 general will proceed not later than the 15th day after receiving the
22 notice.

23 (e) The attorney general shall make public, by posting on
24 the Internet and other means, a list of all actions taken to enforce
25 this subchapter and a list of all persons found to have violated
26 this subchapter, including the persons' names, addresses, and any
27 other information the attorney general believes may be useful to

1 other jurisdictions enforcing laws prohibiting or restricting
2 cigarette or tobacco product sales for personal consumption in
3 which the seller and buyer do not initiate and complete the entire
4 transaction in each other's physical presence.

5 (b) Effective September 1, 2006, Subchapter R, Chapter 161,
6 Health and Safety Code, as added by Chapter 730, Acts of the 78th
7 Legislature, Regular Session, 2003, is repealed.

8 (c) Not later than January 1, 2006, the comptroller shall
9 post the list of persons who hold permits under Subchapter D,
10 Chapter 154, Tax Code, or Subchapter C, Chapter 155, Tax Code, as
11 required by Section 161.654, Health and Safety Code, as added by
12 this section.

13 (d) Not later than June 1, 2006, the comptroller shall
14 create and distribute the list as required by Section 161.655,
15 Health and Safety Code, as added by this section.

16 (e) Notwithstanding Subchapter V, Chapter 161, Health and
17 Safety Code, as added by this section, a person is not subject to a
18 penalty for a violation of that subchapter before September 1,
19 2006.

20 (f) The change in law made by this section applies only to an
21 offense committed on or after September 1, 2006. An offense
22 committed before September 1, 2006, is covered by the law in effect
23 when the offense was committed, and the former law is continued in
24 effect for that purpose. For purposes of this subsection, an
25 offense was committed before September 1, 2006, if any element of
26 the offense was committed before that date.

27 (g) This section takes effect September 1, 2005, except that

1 Sections 161.657-161.660, Health and Safety Code, as added by this
2 section, take effect September 1, 2006.

3 SECTION 12.03. (a) Article 59.01(2), Code of Criminal
4 Procedure, as amended by Section 2.141, Chapter 198, Section 17,
5 Chapter 257, and Section 3, Chapter 649, Acts of the 78th
6 Legislature, Regular Session, 2003, is reenacted and amended to
7 read as follows:

8 (2) "Contraband" means property of any nature,
9 including real, personal, tangible, or intangible, that is:

10 (A) used in the commission of:

11 (i) any first or second degree felony under
12 the Penal Code;

13 (ii) any felony under Section 15.031(b),
14 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32,
15 33, 33A, or 35, Penal Code; or

16 (iii) any felony under The Securities Act
17 (Article 581-1 et seq., Vernon's Texas Civil Statutes);

18 (B) used or intended to be used in the commission
19 of:

20 (i) any felony under Chapter 481, Health
21 and Safety Code (Texas Controlled Substances Act);

22 (ii) any felony under Chapter 483, Health
23 and Safety Code;

24 (iii) a felony under Chapter 153, Finance
25 Code;

26 (iv) any felony under Chapter 34, Penal
27 Code;

1 (v) a Class A misdemeanor under Subchapter
2 B, Chapter 365, Health and Safety Code, if the defendant has been
3 previously convicted twice of an offense under that subchapter;

4 (vi) any felony under Chapter 152, Finance
5 Code; ~~[or]~~

6 (vii) any felony under Chapter 31, 32, or
7 37, Penal Code, that involves the state Medicaid program, or any
8 felony under Chapter 36, Human Resources Code;

9 (viii) a Class A misdemeanor or state jail
10 felony under Subchapter U, Chapter 161, Health and Safety Code; or

11 (ix) [~~(vii)~~] a Class B misdemeanor under
12 Section 35.58, Business & Commerce Code;

13 (C) the proceeds gained from the commission of a
14 felony listed in Paragraph (A) or (B) of this subdivision, a
15 misdemeanor listed in Paragraph (B)(ix) [~~(B)(vii)~~] of this
16 subdivision, or a crime of violence; or

17 (D) acquired with proceeds gained from the
18 commission of a felony listed in Paragraph (A) or (B) of this
19 subdivision, a misdemeanor listed in Paragraph (B)(ix) [~~(B)(vii)~~]
20 of this subdivision, or a crime of violence.

21 (b) The change in law made by this section applies only to an
22 offense committed on or after September 1, 2006. An offense
23 committed before September 1, 2006, is covered by the law in effect
24 when the offense was committed, and the former law is continued in
25 effect for that purpose. For purposes of this subsection, an
26 offense was committed before September 1, 2006, if any element of
27 the offense was committed before that date.

1 (c) This section takes effect September 1, 2006.

2 ARTICLE 13. COMMERCIAL DRIVER'S LICENSES

3 SECTION 13.01. Section 522.021(a), Transportation Code, is
4 amended to read as follows:

5 (a) An application for a commercial driver's license or
6 commercial driver learner's permit must include:

7 (1) the full name and current residence and mailing
8 address of the applicant;

9 (2) a physical description of the applicant, including
10 sex, height, and eye color;

11 (3) the applicant's date of birth;

12 (4) the applicant's social security number, unless the
13 application is for a nonresident commercial driver's license and
14 the applicant is a resident of a foreign jurisdiction;

15 (5) certifications, including those required by 49
16 C.F.R. Section 383.71(a); ~~and~~

17 (6) if the application is for a nonresident commercial
18 driver's license and the applicant is a resident of a foreign
19 jurisdiction, a copy of:

20 (A) a social security card; or

21 (B) a passport issued to the applicant by the
22 country of which the applicant is a resident and a visa, each
23 containing an identification number and an expiration date; and

24 (7) any other information required by the department.

25 SECTION 13.02. Section 522.029, Transportation Code, is
26 amended by amending Subsection (a) and adding Subsection (j) to
27 read as follows:

1 (a) The fee for a commercial driver's license or commercial
2 driver learner's permit issued by the department is \$60, except as
3 provided by Subsections (f), ~~[and]~~ (h), and (j).

4 (j) The fee for a nonresident commercial driver's license is
5 \$100.

6 SECTION 13.03. Section 522.051, Transportation Code, is
7 amended by amending Subsection (a) and adding Subsection (f) to
8 read as follows:

9 (a) Except as provided by Subsection (f) and Section
10 522.033, an original commercial driver's license or commercial
11 driver learner's permit expires six years after the applicant's
12 next birthday.

13 (f) A nonresident commercial driver's license issued to an
14 applicant described by Section 522.021(a)(6)(B) who submitted a
15 copy of a visa expires on the date the person's visa expires.

16 ARTICLE 14. EFFECTIVE DATE

17 SECTION 14.01. Except as otherwise provided by this Act,
18 this Act takes effect immediately if it receives a vote of
19 two-thirds of all the members elected to each house, as provided by
20 Section 39, Article III, Texas Constitution. If this Act does not
21 receive the vote necessary for immediate effect, except as
22 otherwise provided by this Act, this Act takes effect on the 91st
23 day after the last day of the legislative session.