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SECTION 1. Section 151.0048, Tax Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) "Real property service" does not include a service listed under Subsection (a) if the service is performed by a landman and is necessary to negotiate or secure land or mineral rights for acquisition or trade, including:

(1) determining ownership;

(2) negotiating a trade or agreement regarding land or mineral rights;

(3) drafting and administering contractual agreements;

(4) ensuring that all governmental regulations are complied with; and

(5) any other action necessary to complete the transaction related to a service described by this subsection, other than an information service described by Section 151.0038.

Same as House version.

SECTION 2. Section 151.006, Tax Code, is amended to read as follows:

Sec. 151.006. "SALE FOR RESALE." (a) "Sale for resale" means a sale of:

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

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

(3) tangible personal property to a purchaser who acquires the property for the purpose of transferring it in the United States of America or a possession or territory of the United States of America or in the United Mexican States as an integral part of a taxable service; or

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

(b) Subsection (a)(3) applies to a transfer of a wireless voice communication device as an integral part of a taxable service, regardless of whether there is a separate charge for the wireless voice communication device or whether the purchaser is the provider of the taxable service, if payment for the service is a condition for receiving the wireless voice communication device.

No equivalent provision.

SECTION __. Section 151.056, Tax Code, is amended by adding Subsection (g) to read as follows:

(g)In this subsection, "ready mix concrete contractor" means a person who manufactures or produces ready mixed concrete for construction purposes and incorporates the ready mixed concrete in the property

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improved. A ready mix concrete contractor performing a contract must separate and individually invoice the customer for each yard of ready mixed concrete produced and consumed for the improvement of real property, and collect and remit the tax imposed under this chapter on the ready mixed concrete produced and consumed. The tax rate is applied to the price of the materials determined by the greater of the invoice price or fair market value of ready mixed concrete incorporated into the project. This subsection does not apply to an invoice submitted by a ready mix concrete contractor for a public works project.

SECTION 3. Sections 151.313(a) and (c), Tax Code, are amended to read as follows:

(a) The following items are exempted from the taxes imposed by this chapter:

(1) a drug or medicine, other than insulin, if prescribed or dispensed for a human or animal by a licensed practitioner of the healing arts;

(2) insulin;

(3) ~~[subject to Subsection (c),]~~ a drug or medicine that is required to be labeled with a "Drug Facts" panel in accordance with regulations of the federal Food and Drug Administration, without regard to whether it is prescribed or dispensed by a licensed practitioner of the healing arts;

(4) a hypodermic syringe or needle;

(5) a brace; hearing aid or audio loop; orthopedic,

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dental, or prosthetic device; ileostomy, colostomy, or ileal bladder appliance; or supplies or replacement parts for the listed items;

(6) a therapeutic appliance, device, and any related supplies specifically designed for those products, if dispensed or prescribed by a licensed practitioner of the healing arts, when those items are purchased and used by an individual for whom the items listed in this subdivision were dispensed or prescribed;

(7) corrective lens and necessary and related supplies, if dispensed or prescribed by an ophthalmologist or optometrist;

(8) specialized printing or signalling equipment used by the deaf for the purpose of enabling the deaf to communicate through the use of an ordinary telephone and all materials, paper, and printing ribbons used in that equipment;

(9) a braille wristwatch, braille writer, braille paper and braille electronic equipment that connects to computer equipment, and the necessary adaptive devices and adaptive computer software;

(10) each of the following items if purchased for use by the blind to enable them to function more independently: a slate and stylus, print enlarger, light probe, magnifier, white cane, talking clock, large print terminal, talking terminal, or harness for guide dog;

(11) hospital beds;

(12) blood glucose monitoring test strips;

(13) an adjustable eating utensil used to facilitate independent eating if purchased for use by a person,

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including a person who is elderly or physically disabled, has had a stroke, or is a burn victim, who does not have full use or control of the person's hands or arms;

(14) subject to Subsection (d), a dietary supplement; and
(15) intravenous systems, supplies, and replacement parts used in the treatment of humans.

(c) A product is a drug or medicine for purposes of this section if[:

~~(1)~~ the product:

(1) ~~(A)~~ is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, illness, injury, or pain;

(2) ~~(B)~~ is applied to the human body or is a product that a human ingests or inhales;

(3) ~~(C)~~ is not an appliance or device; and

(4) ~~(D)~~ is not food[; or

~~(2) the product is labeled or required to be labeled with a "Drug Facts" panel in accordance with regulations of the federal Food and Drug Administration].~~

SECTION 4. Section 151.3162(b), Tax Code, is amended to read as follows:

(b) The following items are exempted from the tax imposed by this chapter:

(1) seedlings of trees ~~commonly~~ grown for commercial timber;

(2) defoliants, desiccants, equipment, fertilizers, fungicides, herbicides, insecticides, and machinery exclusively used in the production of timber to be sold in

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the regular course of business;

(3) machinery and equipment used in, and pollution control equipment required as a result of, the processing, packing, or marketing of timber products by an original producer if:

(A) the processing, packing, or marketing occurs at or from a location operated by the original producer;

(B) at least 50 percent of the value of the timber products processed, packed, or marketed at or from the location is attributable to products produced by the original producer and not purchased or acquired from others; and

(C) the original producer does not process, pack, or market for consideration timber products that belong to another person with a value greater than five percent of the total value of the timber products processed, packed, or marketed by the producer; and

(4) tangible personal property sold or used to be installed as a component of an underground irrigation system exclusively used in the production of timber to be sold in the regular course of business.

SECTION 5. (a) Section 151.318(b), Tax Code, is amended to read as follows:

(b) The exemption includes:

(1) chemicals, catalysts, and other materials that are used during a manufacturing, processing, or fabrication operation to produce or induce a chemical or physical change, to remove impurities, or to make the product

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more marketable;

(2) semiconductor fabrication cleanrooms and equipment; and

(3) pharmaceutical biotechnology cleanrooms and equipment that are installed as part of the construction of a new facility [~~with a value of at least \$150 million and~~] on which construction began after July 1, 2003[~~and before August 31, 2004~~].

(b) Notwithstanding any other provision of this Act, this section takes effect July 1, 2007, if this Act receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this section takes effect September 1, 2007.

SECTION 6. Section 151.326, Tax Code, is amended to read as follows:

Sec. 151.326. CLOTHING AND FOOTWEAR FOR LIMITED PERIOD. (a) The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than \$100; and
(2) the sale takes place during a period beginning at 12:01 a.m. on the third [~~first~~] Friday in August and ending at 12 midnight on the following Sunday.

(b) This section does not apply to:

(1) any special clothing or footwear that is primarily

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SECTION 6. Section 151.326, Tax Code, is amended to read as follows:

Sec. 151.326. CLOTHING AND FOOTWEAR FOR LIMITED PERIOD. (a) The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than \$100; and
(2) the sale takes place during a period beginning at 12:01 a.m. on the third [~~first~~] Friday in August and ending at 12 midnight on the following Sunday.

(b) This section does not apply to:

(1) any special clothing or footwear that is primarily

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designed for athletic activity or protective use and that is not normally worn except when used for the athletic activity or protective use for which it is designed;

(2) accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing; and

(3) the rental of clothing or footwear.

SECTION 7. Sections 151.328(a) and (c), Tax Code, are amended to read as follows:

(a) Aircraft are exempted from the taxes imposed by this chapter if:

(1) sold to a person using the aircraft as a certificated or licensed carrier of persons or property;

(2) sold to a person who:

(A) has a sales tax permit issued under this chapter; and

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designed for athletic activity or protective use and that is not normally worn except when used for the athletic activity or protective use for which it is designed;

(2) accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing; and

(3) the rental of clothing or footwear.

(c) The sale of a school backpack made for a sales price less than \$100 during the period described in this Section is exempted from the taxes imposed by this chapter if the backpack is purchased for use by a student in a public or private elementary or secondary school. A retailer is not required to obtain an exemption certificate stating that school backpacks are purchased for use by students in a public or private elementary or secondary school unless the backpacks are purchased in a quantity that indicates that the backpacks are not purchased for use by students in a public or private elementary or secondary school.

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(B) uses the aircraft for the purpose of providing flight instruction that is:

- (i) recognized by the Federal Aviation Administration;
- (ii) under the direct or general supervision of a flight instructor certified by the Federal Aviation Administration; and
- (iii) designed to lead to a pilot certificate or rating issued by the Federal Aviation Administration or otherwise required by a rule or regulation of the Federal Aviation Administration;

(3) sold to a foreign government; or

(4) sold in this state to a person for use and registration in another state or nation before any use in this state other than flight training in the aircraft and the transportation of the aircraft out of this state.

(c) In this section, "aircraft" does not include a rocket or missile, but does include:

(1) a fixed wing, heavier-than-air craft that is driven by propeller or jet and supported by the dynamic reaction of the air against its wings;

(2) a helicopter; and

(3) an airplane flight simulation training device ~~simulator~~ approved by the Federal Aviation Administration ~~for use as a Phase II or higher flight simulator~~ under Appendices A and B ~~[Appendix H]~~, 14 C.F.R. Part 60 ~~[42]~~.

No equivalent provision.

SECTION __. Subchapter E, Chapter 152, Tax Code, is amended by adding Section 152.090 and 152.091 to read

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as follows:

Sec. 152.090. CERTAIN HYDROGEN-POWERED MOTOR VEHICLES. (a) In this section, "hydrogen-powered motor vehicle" means a vehicle that meets the Phase II standards established by the California Air Resources Board as of September 1, 2007, for an ultra low-emission vehicle II or stricter Phase II emission standards established by that board and:

(1)is hydrogen power capable and has a fuel economy rating of at least 45 miles per gallon; or

(2)is fully hydrogen-powered.

(b)The taxes imposed by this chapter do not apply to the sale or use of a hydrogen-powered motor vehicle.

No equivalent provision.

SECTION __. Section 403.014 Government Code is amended to read as follows:

403.014. REPORT ON EFFECT OF CERTAIN TAX PROVISIONS. (a) Before each regular session of the legislature, the comptroller shall report to the legislature and the governor on the effect, if it is possible to assess, of exemptions, discounts, exclusions, special valuations, special accounting treatments, special rates, and special methods of reporting relating to:

(1)sales, excise, and use tax under Chapter 151, Tax Code; and Section 152.090 Tax Code

(2)franchise tax under Chapter 171, Tax Code;

(3)school district property taxes under Title 1, Tax Code; and

(4)any other tax generating more than five percent of

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state tax revenue in the prior fiscal year.

No equivalent provision.

SECTION __. SECTION __ and SECTION __ take effect September 1, 2007.

SECTION 8. Section 321.203, Tax Code, is amended by amending Subsections (b), (c), (d), and (e) and adding Subsection (n) to read as follows:

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

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

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

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

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

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- (1) the retailer's place of business in this state where the order is received; or
- (2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent or employee [~~salesman~~] who took the order operates.
- (e) A sale of a taxable item [~~tangible personal property~~] is consummated at the location in this state to which the item [~~property~~] is shipped or delivered or at which possession is taken by the customer if transfer of possession of the item [~~property~~] occurs at, or shipment or delivery of the item [~~property~~] originates from, a location in this state other than a place of business of the retailer and if:
- (1) the retailer is an itinerant vendor who has no place of business in this state;
- (2) the retailer's place of business where the purchase order is initially received or from which the retailer's agent or employee [~~salesman~~] who took the order operates is outside this state; or
- (3) the purchaser places the order directly with the retailer's supplier and the item [~~property~~] is shipped or delivered directly to the purchaser by the supplier.
- (n) A sale of a service described by Section 151.0047 to remodel, repair, or restore nonresidential real property is consummated at the location of the job site.

SECTION 9. Section 323.102(c), Tax Code, is amended to read as follows:

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

SECTION 10. Section 323.203, Tax Code, is amended by amending Subsections (b), (c), (d), and (e) and adding Subsection (m) to read as follows:

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

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

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

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

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

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

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

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent or employee [~~salesman~~] who took the order operates.

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

(1) the retailer is an itinerant vendor who has no place of business in this state;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's agent or employee [~~salesman~~] who took the order operates is outside this state; or

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

(m) A sale of a service described by Section 151.0047 to remodel, repair, or restore nonresidential real property is consummated at the location of the job site.

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No equivalent provision.

SECTION __. (a) Subtitle C, Title 3, Tax Code, is amended by adding Chapter 326 to read as follows:
CHAPTER 326. MUNICIPAL AND COUNTY SALES AND USE TAX FOR PROPERTY TAX RELIEF
SUBCHAPTER A. GENERAL PROVISIONS
Sec. 326.001. APPLICABLE LAW. Except as otherwise provided by this chapter:
(1) Chapter 321 applies to the municipal tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter; and
(2) Chapter 323 applies to the county tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter.
Sec. 326.002. EFFECT ON COMBINED LOCAL TAX RATE. (a) Sections 321.101 and 323.101 do not apply to the municipal or county tax authorized by this chapter.
(b) The rate of a municipal or county sales and use tax imposed under this chapter may not be considered in determining the combined or overlapping rate of local sales and use taxes in any area under this subtitle or another law, including:
(1) the Health and Safety Code;
(2) the Local Government Code;
(3) the Special District Local Laws Code;
(4) the Transportation Code; or
(5) the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).
[Sections 326.003-326.050 reserved for expansion]
SUBCHAPTER B. IMPOSITION OF TAX
Sec. 326.051. TAX AUTHORIZED. (a) A

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municipality or a county may adopt or abolish the sales and use tax authorized by this chapter at an election held in the municipality or county.

(b) The adoption of the tax authorized by this chapter by one political subdivision does not affect the authority of another political subdivision that has overlapping boundaries to also adopt the tax authorized by this chapter.

Sec. 326.052. TAX RATE. The rate of the tax authorized by this chapter is one-fourth of one percent.

Sec. 326.053. SALES AND USE TAX EFFECTIVE DATE. (a) The adoption or abolition of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election from the municipality or county.

(b) If the comptroller determines that an effective date provided by Subsection (a) will occur before the comptroller can reasonably take the action required to begin collecting the tax or to implement the abolition of the tax, the effective date may be extended by the comptroller until the first day of the next succeeding calendar quarter.

[Sections 326.054-326.100 reserved for expansion]

SUBCHAPTER C. TAX ELECTION PROCEDURES

Sec. 326.101. CALLING ELECTION. (a) An election authorized by this chapter in a municipality is called by the adoption of an ordinance by the governing body of the municipality.

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(b) An election authorized by this chapter in a county is called by the adoption of an order by the commissioners court of the county.

(c) The governing body of a municipality or the commissioners court may call an election on its own motion or shall call an election if a number of qualified voters of the municipality or county equal to at least five percent of the number of registered voters in the municipality or county petition the governing body or commissioners court to call the election.

Sec. 326.102. ELECTION DATE. An election under this chapter must be held on the next uniform election date that occurs after the date of the election order and that allows sufficient time to comply with the requirements of other law.

Sec. 326.103. BALLOT. (a) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of municipality or county) at the rate of one-fourth of one percent to reduce the (municipal or county) property tax rate."

(b) At an election to abolish the tax, the ballot shall be prepared to permit voting for or against the proposition: "The abolition of the one-fourth of one percent sales and use tax in (name of municipality or county) used to reduce the (municipal or county) property tax rate."

[Sections 326.104-326.150 reserved for expansion]

SUBCHAPTER D. USE OF TAX REVENUE

Sec. 326.151. USE OF REVENUE. Any amount derived by a municipality or county from the sales and

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use tax under this chapter is additional sales and use tax revenue for purposes of Section 26.041.

Sec. 326.152. CALCULATION OF MUNICIPAL OR COUNTY ROLLBACK TAX RATE. For a municipality or county in which the voters have approved the imposition of the sales and use tax under this chapter, for an ad valorem tax year that begins on or after the date the sales and use tax takes effect, in the formula for calculating the rollback tax rate of the municipality or county, the officer or employee designated by the governing body of the municipality or the commissioners court of the county to make the calculation shall substitute 1.05 for 1.08.

(b) Subdivision (1), Section 26.012, Tax Code, is amended to read as follows:

(1) "Additional sales and use tax" means an additional sales and use tax imposed by:

(A) a municipality [~~city~~] under Section 321.101(b) or Chapter 326;

(B) a county under Chapter 323 or 326; or

(C) a hospital district, other than a hospital district created on or after September 1, 2001, that:

(i) imposes the sales and use tax under Subchapter I, Chapter 286, Health and Safety Code; or

(ii) imposes the sales and use tax under Subchapter L, Chapter 285, Health and Safety Code.

(c) Subsection (i), Section 31.01, Tax Code, is amended to read as follows:

(i) For a municipality [~~city or town~~] that imposes an additional sales and use tax under Section 321.101(b) or

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Chapter 326 [~~of this code~~], or a county that imposes a sales and use tax under Chapter 323 or 326 [~~of this code~~], the tax bill shall indicate the amount of additional ad valorem taxes, if any, that would have been imposed on the property if additional ad valorem taxes had been imposed in an amount equal to the amount of revenue estimated to be collected from the additional municipal [~~city~~] sales and use tax or from the county sales and use tax, as applicable, for the year determined as provided by Section 26.041 [~~of this code~~].

(d) Subsections (b) and (c) of this section apply only to ad valorem taxes that are imposed for an ad valorem tax year that begins on or after January 1, 2008.

(e) Notwithstanding any other law, a county that has a population of more than 280,000 and less than 300,000, or a municipality located wholly or partly in such a county, may not hold an election to adopt a tax under Chapter 326, Tax Code, as added by Subsection (a) of this section, before January 1, 2008.

(f)(1) Except as provided by Subdivision (2) of this subsection, this section takes effect September 1, 2007.

(2) Subsections (b) and (c) of this section take effect January 1, 2008.

SECTION 11. The following sections of the Tax Code are repealed:

- (1) Section 151.0232;
- (2) Section 151.103(d);
- (3) Section 151.202(c);

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- (4) Section 321.203(1); and
- (5) Section 323.203(1).

SECTION 12. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

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SECTION 13. This Act takes effect September 1, 2007.

SECTION 13. This Act takes effect September 1, 2007, except that Section 6 of this Act takes effect immediately if the Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and, if not, Section 6 takes effect on September 1, 2007.