

BILL ANALYSIS

Senate Research Center

H.B. 4
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Tax Reform & Public School Finance
4-28-97
Engrossed

DIGEST

The Governor established the Citizen's Committee on Property Tax Relief in order to gather public input on the impact of school property taxes around the state. A proposal was submitted by the Governor to the 75th Legislature which provided for a 20 cent reduction in property taxes and created a new business activity tax. The Select Committee on Revenue and Public Education Funding was created to evaluate this plan and, as a result, began an extensive examination of the Texas tax and education systems.

The Select Committee found that there were a number of inconsistencies in the current tax structure that, when eliminated, could provide a substantial source of revenue to the state and provide even larger tax cuts than the original proposal. In addition, the committee agreed that the public education system must have a reliable and growing source of revenue in order to meet Texas' future needs.

H.B. 4 provides significant reductions in property taxes while ensuring a stable source of revenue for public education funding. This is accomplished by eliminating loopholes and exemptions in the sales tax, franchise tax and other various taxes; removing commercial property from local tax rolls; keeping residential tax rates for maintenance and operations at the local level and providing mechanisms to prevent tax increases.

These changes allow the state to increase its share of the cost of public education to approximately 80 percent and to eliminate the "Robin Hood" provision in current law. In addition, H.B. 4 provides state matching funds for local enrichment, old debt service and new school facilities.

PURPOSE

As proposed, H.B. 4 outlines provisions and provides for a cost control committee and penalties regarding funding public elementary and secondary schools and providing property tax relief and equity and to the impositions, administration, enforcement, and collection of, and allocation of the revenue from, various state and local taxes.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Commissioner of Education in SECTIONS 1.02 and 1.03(Sections 42.004, 42.102, 42.151(c), (d), and (e), 42.152(b), 42.153(a), 42.154, 42.155, 46.002(a)-(b), 46.003(g), and 46.008, Education Code), to the Comptroller of Public Accounts in SECTIONS 1.02, 1.03, 2.01, 2.03, 2.07, 2.28, 2.41, 3.10, 3.11, 3.21, 8.13, 8.29, 8.33, 13.01, 21.01, and 25.05 (Sections 42.258(a) and 46.010(a), Education Code; Sections 501.004, 501.005(b), 1.16(e), 6.038(b), 23.176(j), 171.103(c), 171.1032(c), 171.113(c), 153.2055(h), Tax Code; Section 153.5025(c), Government Code; Sections 161.004(a) and (c), 161.011, 161.012(b), 161.063(b), 157.205, Tax Code) and to the State Office of Administrative Hearings in SECTION 2.79 (Section 41.92, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. SCHOOL FINANCE

SECTION 1.01. Repealers: Chapter 41 and Sections 7.055(a)(34), 12.107, 31.021(c), and

56.208(d), Education Code (Equalized Wealth Level; Commissioner of Education Powers and Duties; Local Funding; State Textbook Fund; Funding).

SECTION 1.02. Amends Chapter 42, Education Code, as follows:

CHAPTER 42. FOUNDATION SCHOOL PROGRAM
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 42.001. STATE POLICY. Makes no change.

Sec. 42.002. PURPOSES OF FOUNDATION SCHOOL PROGRAM. Provides that the Foundation School Program is supplemented by a facilities component as provided by Chapter 46.

Sec. 42.003. STUDENT ELIGIBILITY. Provides that a student is entitled to the benefits of the Foundation School Program if the student is not an out-of-state resident incarcerated in a private detention facility located in the state.

Sec. 42.004. ADMINISTRATION OF THE PROGRAM. Requires the commissioner of education (commissioner), in accordance with rules adopted by the commissioner, rather than the commissioner of the State Board of Education, to take such action and require reports to be consistent with this chapter.

Sec. 42.005. AVERAGE DAILY ATTENDANCE. Sets forth the formula for determining average daily attendance in this chapter. Deletes Subdivision (a-1) regarding the application of Subsection (a).

Sec. 42.006. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM. Makes no changes.

Sec. 42.007. EQUALIZED FUNDING ELEMENTS. Requires the Legislative Budget Board to adopt rules, subject to appropriate notice and opportunity for public comment, for the calculation for each year of a biennium the qualified funding elements, in accordance with Subsection (c), rather than under Section 42.256(e), necessary to achieve the state policy under Section 42.001. Requires the State Board of Education (board) to report the equalized funding elements to the commissioner and the legislature, rather than the foundation school fund budget committee, before each regular session of the legislature, rather than no later than October 1 preceding each regular session of the legislature. Deletes Section 42.256(a)-(d) regarding the foundation school fund budget committee. Sets forth the composition of the funding elements. Sets forth provisions regarding funding elements and state funds for the operation of public schools.

SUBCHAPTER B. New heading: BASIC PROGRAM

Sec. 42.101. New heading: BASIC PROGRAM. Redesignated from existing Section 42.302. Provides that each school district is guaranteed a specified amount per student, rather than per weighted student in state and local funds for each cent of tax effort up to the maximum level specified in this chapter, rather than for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. Authorizes, except as provided by Subchapter C, funds allocated under this section to be used for any legal purpose. Sets forth the formula for determining the amount of state and local funds for each educational program for which a student multiplier is provided under Subsection (b). Sets forth the student multipliers. Defines "career and technology education program," "full-time equivalent student," and "special education program."

Sec. 42.102. New heading: LIMITATION ON MAINTENANCE AND OPERATIONS TAX RATE. Redesignated from existing Section 42.303. Prohibits the district maintenance and operations tax rate, rather than enrichment and facilities tax rate, under Section 42.101, rather than Section 42.302, from exceeding 75 cents, rather than \$0.64, per \$100 of valuation. Sets

forth provisions regarding a district that grants an additional homestead exemption under Section 11.13(d) or (n), Tax Code. Deletes existing Section 42.101 regarding basic allotment.

Sec. 42.103. COST OF EDUCATION ADJUSTMENT. Redesignated from existing Section 42.102. Provides that the basic program, rather than allotment, for each district is adjusted to reflect the geographic variation in known resource costs and costs of education due to factors beyond the control of the school district. Sets forth the formula for determining the cost of education adjusted. Deletes existing Subsection (c) regarding the recomputation of the cost of education index.

Sec. 42.104. SMALL AND MID-SIZED DISTRICT ADJUSTMENT. Redesignated from existing Section 42.103. Sets forth provisions regarding small and mid-sized district adjustment. Deletes existing Subsection (e). Deletes existing Section 42.104 regarding the use of small or mid-size district adjustment in calculating special allotments. Makes conforming changes.

Sec. 42.105. SPARSITY ADJUSTMENT. Makes conforming changes.

Sec. 42.106. New heading: COMPUTATION OF AID FOR CERTAIN DISTRICTS OR AT STATE SCHOOL. Redesignated from existing Section 42.304. Provides that state assistance under this chapter, rather than subchapter, for certain school districts is computed using the average maintenance and operations tax rate, rather than the average tax rate and property value per student, of school districts in the county, as determined by the commissioner.

SUBCHAPTER C. New heading: CONDITIONS APPLICABLE
TO FUNDING BASED ON SPECIAL STUDENT MULTIPLIERS

Sec. 42.151. New heading: SPECIAL EDUCATION PROGRAMS. Deletes existing Subsections (a) and (b) regarding average daily attendance in a special education program and students with disabilities. Sets forth provisions and requirements regarding special education programs. Prohibits, for funding purposes, the number of contact hours credited per day for each student in the resource room; self-contained, mild and moderate; self-contained, severe, instructional arrangements from exceeding the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992-19993 school year. Requires the commissioner, rather than the State Board of Education, by rule, to prescribe the qualifications an instructional arrangement must meet in order to be funded as a particular instructional arrangement under this chapter, rather than under this section. Deletes existing Subsection (f). Requires funds allocated under this chapter for special education programs, rather than this section, other than an indirect cost allotment established under rules adopted by the commissioner to be used in the special education program under Subchapter A, Chapter 29. Authorizes the commissioner to reduce the guaranteed yield amounts for special education, rather than reduce the special education allotment the district receives, to the level to which the district would be entitled if the district's ratio was not more than 25 percent higher than the statewide average ratio. Sets forth provisions regarding a school district that provides an extended year program required by federal law for special education students who may regress. Deletes existing Subsection (l). Makes conforming changes.

Sec. 42.152. New heading: COMPENSATORY EDUCATION PROGRAMS. Deletes existing Subsection (a). Sets forth provisions regarding fund allocated under this chapter for compensatory education programs, other than an indirect cost allotment establish under rules adopted by the commissioner, which may not exceed 15 percent. Sets forth additional provisions regarding a district's compensatory education allotment. Sets forth requirements for the commissioner, with the assistance of the state auditor and the comptroller, during the 1997-1998 school year, regarding an annual reporting and auditing system of district and campus compensatory education funds. Requires the commissioner, in the year following an audit, to withhold a certain amount from a district's foundation school fund payment. Deletes a requirement regarding the use of funds allocated under this section to improve and enhance

certain programs and services. Deletes existing Subsections (e)-(p). Makes conforming changes.

Sec. 42.153. New heading: BILINGUAL EDUCATION PROGRAMS. Deletes existing Subsection (a) and sets forth requirements regarding bilingual education programs. Makes conforming changes.

Sec. 42.154. New heading: CAREER AND TECHNOLOGY EDUCATION. Deletes existing Subsections (a)-(b). Sets forth provisions regarding career and technology education. Deletes Subsections (d)-(e). Makes conforming changes.

Sec. 42.155. New heading: GIFTED AND TALENTED STUDENT PROGRAMS. Deletes existing Subsection (a). Sets forth provisions regarding gifted and talented student programs. Deletes existing Subsections (d)-(f). Makes conforming changes.

SUBCHAPTER D. New heading: TRANSPORTATION ALLOTMENT

Sec. 42.201. TRANSPORTATION ALLOTMENT. Redesignated from existing Section 42.155. Provides that each district or county operating a transportation system is entitled to allotments for transportation costs as provided by this subchapter.

Sec. 42.202. New heading: DEFINITIONS. Makes conforming and nonsubstantive changes.

Sec. 42.203. New heading: REGULAR TRANSPORTATION ALLOTMENT. Deletes a reference to the foundation school fund budget committee. Makes conforming changes.

Sec. 42.204. New heading: HAZARDOUS CONDITIONS TRANSPORTATION ALLOTMENT. Makes conforming changes.

Sec. 42.205. New heading: COMMERCIAL TRANSPORTATION ALLOTMENT. Makes conforming changes.

Sec. 42.206. New heading: TRANSPORTATION OF CAREER AND TECHNOLOGY EDUCATION STUDENTS. Makes a conforming change.

Sec. 42.207. New heading: TRANSPORTATION OF SPECIAL EDUCATION STUDENTS. Makes conforming changes.

Sec. 42.208. New heading: USE OF TRANSPORTATION ALLOTMENTS. Makes conforming changes.

Sec. 42.209. New heading DETERMINATION OF TRANSPORTATION ALLOTMENTS OF DISTRICT BELONGING TO COUNTY TRANSPORTATION SYSTEM. Makes a conforming change.

Sec. 42.210. New heading: TRANSPORTATION ALLOTMENT FOR THE TEXAS SCHOOL FOR THE DEAF. Makes conforming changes.

SUBCHAPTER E. FINANCING THE PROGRAM

Sec. 42.251. FINANCING; GENERAL RULE. Provides that the sum of the adjusted basic program, rather than sum of the basic allotment, under Subchapter B and the transportation allotment, rather than special allotments, under Subchapter D, rather than under Subchapter C, computed in accordance with this chapter constitute the total cost of the Foundation School Program. Deletes text regarding the the sum of the tier one allotments. Deletes Subsection (b)(2) regarding ad valorem tax revenue generated by local school district effort in excess of the equalized uniform school district effort. Deletes Subsection (c) regarding certain computations. Makes conforming changes.

Sec. 42.252. New heading: LOCAL SHARE OF PROGRAM COST. Sets forth the formula for determining each school district's share of the Foundation School Program. Provides that a certain adjustment does not affect the local share, rather than local fund assignment, of any other school district. Deletes Subsections (d) and (e).

Sec. 42.253. DISTRIBUTION OF FOUNDATION SCHOOL FUND. Requires the commissioner, for each school year, to make certain determinations regarding the distribution of the Foundation School Fund. Requires, except as provided by this subsection, the commissioner to base the determinations under Subsection (a) on the estimates provided to the legislature under Section 42.254, or if the General Appropriations Act provides estimates for that purpose, on the estimates provided under this Act, for each school district for each school year. Sets forth additional provisions regarding the foundation school fund. Sets forth prohibitions regarding the amount to which a district is entitled under this section for the 1997-1998 and 1998-1999 school years, and for the 1999-2000 and 2000-2001 school years. Sets forth certain requirements for the Legislative Budget Board. Sets forth provisions applicable if the legislature fails during the regular session to enact the transfer and appropriation proposed under Subsection (f) and there are not funds available under Subsection (j).

Sec. 42.2531. ADDITIONAL STATE AID FOR CERTAIN SCHOOL DISTRICTS. (a) Provides that notwithstanding any other provision of this chapter, a school district that imposes a tax for purposes of maintenance and operations at a tax rate of at least 75 cents on the \$100 valuation of property is entitled, for the 1997-1998, 1998-1999, 1999-2000, and 2000-2001 school years, to an amount of state and local funding per student, using the student multipliers under Section 42.101(b), that is equal to the state and local funding per weighted student for maintenance and operations to which the district would have been entitled for each of those years at the district would have been entitled for each of those years at the district's tax rate for the 1996 tax year under certain provisions.

(b) Provides that for the purposes of Subsection (a), for the 1998-1999, 1999-2000, and 2000-2001 school years, the amount of state and local funding to which a school district would have been entitled includes any amount to which the district would have been entitled for that year if former Section 41.002(e) had been in effect for that year.

(c) Provides that notwithstanding (a), a school district is not entitled to additional state aid based on the computation of average daily attendance under Section 42.005(a) as that subsection would have been in effect on September 1, 1997, before amendment of this chapter by H.B. No. 4, Acts of the 75th Legislature, Regular Session, 1997.

(d) Sets forth a requirement for the commissioner.

(e) Provides that a determination by the commissioner under this section is final and not appealable

(f) Provides that this section expires September 1, 2001.

Sec. 42.2532. EXPERIENCED TEACHER ALLOTMENT. Sets forth provisions regarding an additional allotment for certain districts. Deletes Subsection (l).

Sec. 42.254. ESTIMATES REQUIRED. Requires the agency, not later than October 1 of each even-numbered year to submit to the legislature, rather than to the foundation school fund budget committee and the legislature, a certain estimate. Requires each school district, not later than September 1 of each year, to submit a certain estimate to the Legislative Budget Board. Makes conforming changes.

Sec. 42.255. FALSIFICATION OF RECORDS; REPORT. Makes no changes.

Sec. 42.256. EFFECT OF APPRAISAL APPEAL. Redesignated from Section 42.257. Sets forth provisions regarding the effect of appraisal appeal.

Sec. 42.257. RECOVERY OF OVERALLOCATED FUNDS. Makes no changes.

Sec. 42.258. PENALTY FOR FAILURE TO FULLY COLLECT TAXES. Requires, as provided by comptroller's rule, the comptroller to determine for each school district the amount of taxes for purposes of maintenance and operations that the district would have collected during the preceding tax year under certain conditions. Requires the comptroller to make certain certifications to the commissioner. Requires the commissioner to reduce a district's state aid under this chapter for the current year by any amount certified under Subsection (b). Authorizes a school district to appeal to the comptroller the comptroller's determination under Subsection (a) under certain conditions. Requires the commissioner to reduce state aid under this chapter in a certain amount as a result of recognition of tax abatements entered into by school districts under Chapter 312, Tax Code, on or after May 31, 1993.

Sec. 42.259. FOUNDATION SCHOOL FUND TRANSFERS. Deletes Subsection (a). Requires payments from the foundation school fund to each school district, rather than to each category 1 school district, to be made according to certain provisions. Deletes existing Subsections (b)(3)-(c).

SUBCHAPTER F. ADMINISTRATIVE COSTS

Sec. 42.301. LIMIT ON ADMINISTRATIVE COSTS. Redesignated from Section 42.201. Requires the commissioner to deduct from a school district's foundation school program allocations, rather than tier one allotments, an amount equal to the amount by which the district's administrative costs exceed the amount permitted by its administrative cost ratio, unless the commissioner has granted a waiver in response to the district's request if a district fails to reduce administrative costs to the level required by this section. Makes a conforming change.

SUBCHAPTER G. ENRICHMENT GUARANTEED YIELD

Sec. 42.351. PURPOSE. Sets forth the purpose of the enrichment guaranteed yield component of the Foundation School Program.

Sec. 42.352. ALLOTMENT. Provides that each school district is guaranteed a specified amount per student in state and local funds for each out of tax effort up to the maximum level specified in this subchapter. Sets forth the formula used to determine the amount of state support.

Sec. 42.353. DISTRIBUTION OF SUPPLEMENTAL GUARANTEED YIELD. Requires the commissioner for each school year to determine the guaranteed yield amount of state funds to which a school district is entitled under Section 45.352. Requires the commissioner to base the determination on the estimates provided to the legislature under Section 42.254 for each school district for each school year. Sets forth guidelines relating to reduction of the entitlement. Sets forth the ceiling on the amount to which a district is entitled under this section. Requires the commissioner to approve warrants to each school district equaling the amount of the district's entitlement as determined under Subsection (a). Sets forth the guidelines relating to warrants approved by the commissioner. Sets forth the required actions of the commissioner in regard to allocation of state funds if the total amount of state funds allocated to districts under this subchapter for a fiscal year exceeds the amount appropriated for that year and there are not funds available under Subsection (g). Requires the commissioner to determine the actual amount of state funds to which each school district is entitled for the school year and to compare that amount with the amount of the warrants issued to the district under this section for that year by March 1 of each year. Requires the commissioner to adjust the district's entitlement for the next fiscal year if the amount of the warrant differs from the amount to which a district is entitled. Authorizes the legislature to appropriate funds necessary for increases under Subsection (f). Provides that Section 42.258 applies to district educational enrichment taxes in the same manner as it applies to

maintenance and operations taxes.

Sec. 42.354. ALLOTMENT FOR EXISTING DEBT. Provides that each school district is guaranteed a specified amount in state and local funds for each cent of tax effort levied for purposes of debt service on bonds authorized before September 1, 1997, up to the maximum level specified by the section. Sets forth the formula used to determine the amount of state support. Provides that Sections 46.003(b) and (c) apply to taxes for which a district receives state assistance under this section. Requires the commissioner to perform certain actions if the amount appropriated for purposes of this section for a year is less than the total amount to which each school district is entitled under Subsection (a) for that year. Sets forth the uses of state funds received by a district under this section. Sets forth the guidelines relating to the distribution by the commissioner to each school district the amount of state assistance the district is entitled to for the school year.

Sec. 42.355. LIMITATION ON TAX RATE. Prohibits the sum of the district enrollment tax rate under Section 42.352 and the existing debt tax rate under Section 42.354 from exceeding \$0.10 per \$100 of valuation. Deletes Subchapter G, regarding the inventory of school facilities and standards. Deletes Subchapter H, regarding the school facilities assistance program.

SECTION 1.03. Amends Title 2, Education Code, by adding Chapter 46, as follows:

CHAPTER 46. INSTRUCTIONAL FACILITIES ALLOTMENT

Sec. 46.001. DEFINITION. Defines "instructional facility."

Sec. 46.002. RULES. Authorizes the commissioner to adopt rules for the administration of this chapter. Authorizes the commissioner's rules to limit the amount of an allotment under this chapter that is to be used for certain purposes.

Sec. 46.003. SCHOOL FACILITIES ALLOTMENT. Sets forth provisions for school allotments to be used for certain purposes. Sets forth the formula for determining the allotment amount. Prohibits the bond tax rate under Subsection (a) from exceeding a determined amount if certain conditions apply. Authorizes a district to levy a bond tax in order to enable the district to collect local funds sufficient to pay the district's share of the debt service. Provides that bonds are eligible to be paid with state and local funds if the bonds meet certain conditions. Authorizes a district to use state funds received under this section only to pay the principal of and interest on the bonds for which the district received the funds. Requires the board of trustees and voters of a school district to determine district needs for certain facilities. Requires a district to apply to the commissioner in order to receive state assistance under this chapter. Requires certain conditions to be met until bonds are fully paid or the instructional facility is sold.

Sec. 46.004. LEASE-PURCHASE AGREEMENTS. Authorizes a district to receive state assistance in connection with a lease purchase agreement concerning an instructional facility. Sets forth provisions regarding taxes levied and payments regarding lease-purchase agreements for purposes of this chapter. Requires a lease purchase agreement to be for a term of at least eight years to be eligible to be paid with state and local funds under this chapter.

Sec. 46.005. LIMITATION ON GUARANTEED AMOUNT. Sets forth provisions regarding the ceiling on the guaranteed amount of funds that are allowed for a new project.

Sec. 46.006. SHORTAGE OR EXCESS OF FUNDS APPROPRIATED FOR NEW PROJECTS. Requires the commissioner to establish a ranking system for each school district by wealth, if the amount of funds applied for exceed the amount of funds available. Sets forth provisions for the awarding of funds by the commissioner. Defines "wealth per student."

Sec. 46.007. REFUNDING BONDS. Authorizes a school district to use state funds

received under this chapter to pay the principal of and interest on certain refunding bonds.

Sec. 46.008. **STANDARDS.** Requires the commissioner to establish standards for adequacy of school facilities. Requires all facilities constructed after September 1, 1998, to meet the standards to be eligible to be financed with state or local tax funds.

Sec. 46.009. **PAYMENT OF SCHOOL FACILITIES ALLOTMENTS.** Requires the commissioner to determine the amount of money to which each school district is entitled under this chapter. Sets forth requirements of the commissioner if the amount appropriated for purposes of Section 46.003 for a year is less than the total amount determined under Subsection (a) for that year. Requires warrants for payments under this chapter to be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 42. Sets forth a provision for the distribution of funds to each school district by the commissioner. Provides that Section 42.257 applies to payments under this chapter. Sets forth requirements for the commissioner, if a school district would have received a greater amount under this chapter.

Sec. 46.010. **PENALTY FOR FAILURE TO FULLY COLLECT TAXES.** Requires the comptroller to determine the amount of taxes that each school district would have collected if certain conditions apply. Requires the comptroller to certify to the commissioner any difference between the amount determined under Subsection (a) and the amount of taxes for purposes of debt service the district actually collected in the preceding year. Requires the commissioner to reduce a district's state aid under Chapter 42 for the current year by any amount certified under Subsection (b). Authorizes a school district to appeal to the comptroller certain determinations made by the comptroller beyond the control of the district.

Sec. 46.011. **PROJECTS BY MORE THAN ONE DISTRICT.** Provides that if two districts apply for state assistance in connection with a joint project at a single location, each district is entitled to a certain guaranteed facilities yield amount.

Sec. 46.012. **SALE OF INSTRUCTIONAL FACILITY FINANCED WITH INSTRUCTIONAL FACILITIES ALLOTMENT.** Requires the school district to send to the comptroller a certain amount of funds if an instructional facility financed by bonds paid with state and local funds under this chapter is sold before the bonds are fully paid. Defines "net proceeds."

SECTION 1.04. Amends Section 7.024(a), Education Code, to provide that the investment capital fund consists of money appropriated, rather than transferred, to the fund. Deletes a provision that transferred funds are provided by Section 42.152(1).

SECTION 1.05. Amends Section 12.013(b), Education Code, to provide that a home-rule school district is subject to equalized wealth under Chapter 41.

SECTION 1.06. Amends Section 12.016, Education Code, to provide that the charter of home-rule school districts include certain requirements, among which describe the process by which the district will adopt an annual budget, including a description of the use of funds, rather than program weight funds, for programs under Subchapters A-D and F, Chapter 29.

SECTION 1.07. Amends Section 12.029(b), Education Code, to provide that if, rather than except as provided by Subchapter H, Chapter 41, two or more school districts consolidate, the consolidation petition must state the status for the consolidated district.

SECTION 1.08. Amends Section 12.106, Education Code, as follows:

Sec. 12.106. New heading: **FUNDING.** Provides that an open-enrollment charter school is entitled to funding under Chapter 42 as if the open-enrollment charter school were a school district to which Section 42.106 applies. Provides that adjustments under Sections 42.103, 42.104, and 42.105 are based on the average adjustment for the county in which the open-enrollment charter school is located, in determining funding for an open-enrollment charter

school. Deletes existing text regarding eligibility for open-enrollment charter schools.

SECTION 1.09. Amends Section 12.108, Education Code, as follows:

Sec. 12.108. TUTION RESTRICTED. Authorizes an open-enrollment charter school to charge tuition. Deletes a provision authorizing tuition to be charged, except as provided by Section 12.106.

SECTION 1.10. Amends Section 13.054(f), Education Code, to set forth provisions regarding the adjustment of the local share, rather than the fund assignment, of a district by the commissioner. Makes a conforming change.

SECTION 1.11. Amends Section 13.285, Education Code, as follows:

Sec. 13.285. COST. Requires the cost of incentive aid payments authorized by this subchapter to be paid from the foundation school fund. Deletes a provision requiring the costs to be considered and included by the foundation school fund budget committee.

SECTION 1.12. Amends 19.007(b), Education Code, to make a conforming change.

SECTION 1.13. Amends Section 21.401, Education Code, as follows:

Sec. 21.401. MINIMUM SERVICE REQUIRED. Requires a contract between a school district for the 1997-1998 and 1998-1999 school years, rather than the 1995-1996 school year, to provide a minimum of 185, rather than 183 days of service. Provides that this subsection expires September 1, 1999, rather than 1997. Deletes provisions regarding the 1996-1997 school year. Sets forth a new formula for the minimum days of service. Defines "GL1" and "GL2", rather than "R1" and "R2." Provides that Subsection (b) applies beginning with the 1999-2000, rather than the 1997-1998, school year. Provides that this subsection expires January 1, 2000, rather than 1998.

SECTION 1.14. Amends Chapter 21I, Education Code, by adding Section 21.4011, as follows:

Sec. 21.4011. MINIMUM SALARY SCHEDULE FOR CLASSROOM TEACHERS AND FULL-TIME LIBRARIANS FOR 1997-1998 AND 1998-1999 SCHOOL YEARS. Provides that this section applies only to the 1997-1998 and 1998-1999 school years. Requires a school district to pay each classroom teacher or full-time librarian not less than the minimum monthly salary, based on the employee's level of experience, as established in a certain formula. Provides that placement of a classroom teacher or full-time librarian on the minimum salary schedule provided by this section is determined in accordance with Section 21.403. Provides that a teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994-1995 school year as long as the teacher or librarian is employed by the same district, notwithstanding Subsection (b). Defines "gross monthly salary." Provides that this section expires September 1, 1999.

SECTION 1.15. Amends Section 21.402, Education Code, to provide minimum salary requirements for classroom teachers and full-time librarians, except as provided by Subsection (c) or (d). Deletes a provision requiring the salary requirements to apply to Subsection (e). Sets forth the schedule for the salary requirements. Redefines "GL." Deletes provisions defining "FSP" and "ADA." Deletes a provision regarding determinations to be made by the commissioner. Sets forth new step amounts for the salary factors per step. Provides that this section applies beginning with the 1999-2000 school year. Provides that this subsection expires January 1, 2000.

SECTION 1.16. Amends Section 29.002, Education Code, to provide that "special services," applies to special instruction as described by Sections 42.101(b)(2)-(13), rather than Section 42.151.

SECTION 1.17. Amends Section 29.008, Education Code, to provide that the local share under this section of the total contract cost for each student is that portion of the local tax effort that exceeds

the districts local share, rather than fund assignment under Section 42.252, divided by the average daily attendance in the district. Makes a conforming change.

SECTION 1.18. Amends Section 29.014, Education Code, by amending Subsection (d) and adding Subsection (e), to provide that the guaranteed level of state and local funds per student, rather than the basic allotment, is adjusted by the cost of education adjustment under Section 42.103, rather than 42.102, and the student multiplier, rather than weight, for a home-bound student under Section 42.101(b)(3), rather than 42.151(a). Sets forth provisions for the distribution of school district funds by the commissioner.

SECTION 1.19. Amends Section 29.081, Education Code, by adding Subsection (g), to require the commissioner to distribute funds appropriated for purposes of this subsection to school districts in a certain manner.

SECTION 1.20. Amends Section 29.082(a), Education Code, to authorize a school district to set aside an amount from the district's allotment for compensatory education under Chapter 42, rather than Section 42.152. Authorizes the commissioner, rather than the agency, to extend funding. Sets forth methods for distributing funds by the commissioner.

SECTION 1.21. Amends Section 29.085, Education Code, by adding Subsections (e) and (f), to require the commissioner, each fiscal year, to distribute funds appropriated to school districts in a certain manner. Requires the commissioner to coordinate the funds distributed under Subsection (e) with any other funds available for the program. Requires a school district to apply to the commissioner to receive funds.

SECTION 1.22. Amends Chapter 29D, Education Code by adding Section 29.124, as follows:

Sec. 29.124. FUNDING OF ADDITIONAL PROGRAMS. Requires the commissioner to distribute to school districts funds appropriated for certain programs. Requires a program to be determined by the board to provide services that are effective and consistent with the state plan for gifted and talented education.

SECTION 1.23. Amends Section 29.203(b), Education Code, to provide that total funding from state and local sources includes funding based on student multipliers under Section 42.101(b), rather than special allotments under Chapter 42C.

SECTION 1.24. Amends Section 29.256(c), Education Code, to delete text requiring the foundation school fund budget committee to consider that cost in estimating the funds needed for Foundation School Program purposes.

SECTION 1.25. Amends Section 29.257(a), Education Code, to delete a provision requiring the foundation school fund budget committee to consider the cost of community education development projects in estimating the money needed for foundation school fund purposes.

SECTION 1.26. Amends Section 30.087(b), Education Code, to require the commissioner to allocate certain funds based on the number of full-time equivalent students, rather than weighted full-time equivalent students, adjusted by the appropriate student multiplier under Section 42.101(b), served.

SECTION 1.27. Amends Section 31.021(b), Education Code, to require the board to determine the amount of the available school fund to set aside for the state textbook fund based an allotment to be distributed to each district equal to \$30 per student in average daily attendance, or a greater amount for any year provided by appropriation, rather than an amount as determined under Subsection (c), to be used for certain purposes.

SECTION 1.28. Amends Section 33.001, Education Code, as follows:

Sec. 33.001. New heading: APPLICABILITY OF SUBCHAPTER; FUNDING. Provides that this subchapter applies only to a school district that receives funds under this section,

rather than as provided by Section 42.152(i). Sets forth requirements for the distribution of funds by the commissioner.

SECTION 1.29. Amends Section 34.002(c), Education Code, to make a conforming change.

SECTION 1.30. Amends Section 39.024(c), Education Code, to require the commissioner to use funds appropriated for the purpose of financing the development and distribution of study guides. Deletes a provision requiring the commissioner to retain a portion of the total amount of funds allotted under Section 42.152(a) that the commissioner considers appropriate and to reduce each district's allotment proportionately.

SECTION 1.31. Amends Section 39.031, Education Code, as follows:

Sec. 39.031. COST. Provides that the cost of preparing, administering, or grading the assessment instruments and the cost of releasing the question and answer keys under Section 39.023(d) is to be paid from amount appropriated to the Texas Education Agency (agency) for those purposes. Deletes existing text relating to payment of the cost of preparing, administering, or grading the assessment instruments.

SECTION 1.32. Amends Section 39.182(a), Education Code, to make a conforming change.

SECTION 1.33. Amends Section 43.002, Education Code, to delete a provision requiring certain funds to be transferred to category school districts, as defined by Section 42.259. Deletes a provision requiring 3 1/2 percent of certain funds to be transferred to category 2 school districts, as defined by Section 42.259.

SECTION 1.34. Amends Section 45.002, Education Code, as follows:

Sec. 45.002. New heading: MAINTENANCE AND OPERATIONS TAXES. Authorizes certain taxes to be levied on all residential property in the district for the maintenance and operations of public schools in the district, subject to Sections 45.003 and 45.0041. Defines "residential property."

SECTION 1.35. Amends Sections 45.003(d) and (e), Education Code, to delete a provision affecting certain taxes which may not be more than \$1.50 on the \$100 valuation of taxable property in the district. Provides that a district that demonstrates to the attorney general that the district's ability to comply with this subsection is contingent on receiving state assistance may not adopt a tax rate for a year for certain purposes.

SECTION 1.36. Amends Chapter 45A, Education Code, by adding Section 45.0031, as follows:

Sec. 45.0031. RATE LIMIT. Prohibits a school district from levying a tax for purposes of maintenance and operations at a rate that exceeds 75 cents on the \$100 valuation of taxable property. Authorizes a school district to levy a tax for purposes of maintenance and operations at a rate that exceeds 75 cents but does not exceed 85 cents on the \$100 valuation of taxable property if the rate is approved by the voters of the district at an election conducted after September 1, 1997. Authorizes a district to levy a tax at a rate greater than 75 cents but not to exceed 85 cents without holding the election required by Subsection (b) under certain conditions. Provides that this authorization expires September 1, 1998. Authorizes a school district to levy a tax at a rate that exceeds 75cents but not to exceed 83 cents to the extent necessary to set a rate equal to the rate allowed under Section 26.08(g)(2)(A), Tax Code, without holding the election required under Subsection (b) for the 1997 and 1998 tax years. Provides that this authorization expires September 1, 1999. Sets forth the use for revenue received under Subsection (b). Sets forth the language for the ballot for an election under Subsection (b). Provides that a school district is not subject to Section 26.08, Tax Code, in connection with an increase in the district's tax rate for which the district conducts an election under Subsection (b).

SECTION 1.37. Amends Section 45.105(c), Education Code, to authorize certain local school funds

to be used, among other items, for other purposes necessary in the conduct of the public schools determined by the board of trustees, rather than for paying for other goods and services necessary in the conduct of the public schools determined by the board of trustees.

SECTION 1.38. Amends Sections 74.066(a) and (b), Education Code, to make conforming changes.

SECTION 1.39. Amends Section 96.707, Education Code, by adding Subsection (k), to provide that the academy is entitled to allotments from the Foundation School Program under Chapter 42, for each student enrolled in the academy, except that the academy has a local share applied that is equivalent to the local share of the Beaumont Independent School District.

SECTION 1.40. Amends Section 105.95(e), Education Code, to make a conforming change.

SECTION 1.41. Amends Section 316.002(a), Government Code, to set forth requirements of the Legislative Budget Board (LBB), before it submits the budget as prescribed by Section 322.008, rather than 322.008(b).

SECTION 1.42. Amends Section 317.005(f), Government Code, to prohibit the governor or LBB to adopt an order if it would result in an allocation of money between particular programs or statutory allotments under the foundation school program contrary to the statutory proration formula provided by Section 42.253(h), rather than 16.254(h), Education Code. Authorizes the governor or LBB to make allocations for student, rather than pupil enrollments. Makes a conforming change.

SECTION 1.43. Amends Section 322.008(b), Government Code, to authorize the general appropriations bill to include for purposes of information the funding elements computed by LBB under Section 42.007, Education Code, excluding the values for each school district calculated under Section 42.007(c)(2), Education Code. Deletes a provision authorizing the general appropriations bill to include for purposes of information the funding elements adopted by the foundation school fund budget committee under Section 16.256(e), Education Code, excluding the values for each school district calculated under Subdivision (2) of that subsection. Provides that if the funding elements are included, the funding elements under Section 42.007(c)(3), rather than 16.256(e)(3), Education Code, are to be reported in dollar amounts per student. Makes conforming changes.

SECTION 1.44. Amends Section 403.302, Government Code, as follows:

Sec. 403.302. DETERMINATION OF SCHOOL DISTRICT PROPERTY VALUES. Sets forth provisions for purposes of maintenance and operations taxes and the total value of all taxable property in each school district for purposes of debt service taxes. Deletes a provision requiring the comptroller to make appropriate adjustments in the study to account for actions taken under Chapter 41, Education Code. Defines "taxable value." Provides that "taxable value" means market value less certain amounts, including the amount by which the market value of a residence homestead to which Section 23.21 or 23.22, Tax Code, applies exceeds the appraised value of that property as calculated under that section. Defines "residential property." Makes conforming changes.

SECTION 1.45. Amends Sections 825.405, (b) (h), and (i), Government Code, to set forth a provision regarding a school district's tax rate, rather than the effective tax rate. Requires the comptroller to certify to the retirement system, rather than the Teacher Retirement System, certain tax rates, by the 75th day after the final date the comptroller certifies to the commissioner changes to the property value study conducted under Chapter 403M, rather than Section 11.86, Education Code. Makes conforming and nonsubstantive changes.

SECTION 1.46. Abolishes the foundation school fund budget committee.

SECTION 1.47. Provides that this article applies beginning with the 1997-1998 school year.

SECTION 1.48. Provides that an obligation or entitlement of a school district in connection with state funding for the 1996-1997 or an earlier school year under Chapters 41 and 42, Education Code, is not affected by this Act.

SECTION 1.49. (a) Prohibits a school district from adopting and levying certain taxes.

(b) Provides that this Act does not affect the validity of a tax imposed by a school district for the 1996 tax year or an earlier tax year.

ARTICLE 2. STATE PROPERTY TAX

SECTION 2.01. Amends Section 1.12, Tax Code, by adding Subsection (d), to provide that the appraisal ratio of a homestead to which Section 23.21 or 23.22 applies is the ratio of the property's market value as determined by the appraisal district or appraisal review board, as applicable, to the market value of the property according to law. Provides that the appraisal ratio is not calculated according to the appraised value of the property as limited by Section 23.21.

SECTION 2.02. Provides that the Tax Code is amended by adding Title 4, as follows:

TITLE 4. STATE AD VALOREM TAX CHAPTER 501. STATE AD VALOREM TAX

Sec. 501.001. STATE AD VALOREM TAX. Sets forth provisions regarding a state ad valorem tax for elementary and secondary public schools.

Sec. 501.002. APPRAISAL OF PROPERTY. Requires property subject to the state ad valorem tax to be appraised by the appraisal district for the county in which the property is located. Requires the property to be appraised in a certain manner.

Sec. 501.003. TAX COLLECTION. Requires the assessor-collector for the county to assess and collect state ad valorem taxes imposed on property. Provides that if the commissioners court of a county contracts with an official entity of this state, the entity is responsible for collecting taxes imposed. Authorizes the assessor-collector to be reimbursed for certain expenses. Sets forth the responsibilities of the comptroller

Sec. 501.004. DUTIES AND POWERS OF COMPTROLLER. Sets forth the duties and powers of the comptroller.

Sec. 501.005. IDENTIFICATION OF PROPERTY SUBJECT TO TAX. Requires the chief appraiser to identify property that is subject to the state ad valorem tax. Requires the comptroller, by rule, to establish guidelines to assist in identifying property to be taxed.

Sec. 501.006. ADMINISTRATION AND REFUND ACCOUNTS. Requires the comptroller to deposit to the credit of the general revenue fund certain revenue collected from state ad valorem taxes.

Sec. 501.007. NONAPPLICABILITY OF CERTAIN OTHER TAX LAWS. Provides that Title 2 does not apply to the state ad valorem tax imposed under this chapter.

Sec. 501.008. TAX INCREMENT FINANCING. Sets forth provisions regarding the payment of funds by the state into the tax increment fund for a reinvestment zone designated under Chapter 311.

SECTION 2.03. Amends Chapter 1, Tax Code, by adding Section 1.16, as follows:

Sec. 1.16. ALTERNATIVE TAX. Sets forth guidelines relating to the owner of an interest in property consisting of a separate interest in oil or gas and from which oil or gas is produced electing to pay the gross receipts tax imposed under Chapter 205 in lieu of ad valorem taxes imposed by the state or a taxing unit on that oil or gas interest.

SECTION 2.04. Amends Section 5.05(a), Tax Code, to delete provisions that require the comptroller to prepare a general appraisal manual and a special appraisal manual. Makes conforming changes.

SECTION 2.05. Amends Section 6.03, Tax Code, by amending Subsections (a)-(c) and (l), and adding Subsection (n), to require the appraisal district to be governed by a board of six, rather than five, directors. Provides that five directors are appointed by the taxing units that participate in the district as provided by this section. Provides that the county assessor-collector is an ex officio director. Provides that a person eligible to serve on the board, other than the county assessor-collector, is a resident. Deletes provisions regarding eligibility requirements. Sets forth provisions for filling of vacancies, except for a vacancy in the position held by the county assessor-collector. Sets forth the manner for the calculation of the voting entitlement. Makes conforming changes.

SECTION 2.06. Amends Section 6.034(a), Tax Code, to make a conforming change.

SECTION 2.07. Amends Chapter 6A, Tax Code, by adding Section 6.038, as follows:

Sec. 6.038. STATE PARTICIPATION. Provide that the comptroller and the state do not participate in the election of the board of directors of an appraisal district, the governance or management of the district, or the determination of the district's finances and budget. Requires the comptroller, by rule, to establish guidelines and criteria under which, if the comptroller finds that generally accepted appraisal standards and practices were not used by the appraisal district appraising property subject to the state ad valorem tax or that the appraised values assigned to property subject to that tax are invalid, the comptroller may withhold payment of a portion of the amount of the budget for the appraisal district that is allocated to the state; or direct that a portion of the amount of the budget of the district allocated to the state be applied to remedying those deficiencies.

SECTION 2.08. Amends Section 6.04(a), Tax Code, to provide that the county assessor-collector is the chairman of the board. Requires the board to elect a secretary, rather than a chairman and a secretary.

SECTION 2.09. Amends Section 6.06, Tax Code, by amending Subsection (d) and adding Subsection (l), to set forth provisions regarding the state and each taxing unit, rather than each taxing unit. Provides that only state ad valorem taxes imposed in the county for which the district is established are considered as state ad valorem taxes imposed in the district, for purposes of this subsection. Provides that the state is not required to contribute to the budget of a district for the 1997 budget of an appraisal district. Requires the allocation of the 1997 budget to be made as provided by Subsection (d). Provides that this subsection expires January 1, 1998. Makes conforming changes.

SECTION 2.10. Amends Section 6.41(c), Tax Code, to provide that certain persons, including a former officer or employee of a taxing unit, are ineligible to serve on an appraisal review board.

SECTION 2.11. Amends Section 6.411, Tax Code, as follows:

Sec. 6.411. New heading: AUXILIARY MEMBERS IN CERTAIN COUNTIES. Deletes a provision authorizing the appointment of members to the appraisal review to hear taxpayer protests. Provides that the number of auxiliary members that may be appointed is not more than 66, rather than 30, for a county with a population with 1,000,000 or more. Authorizes the appointment of not more than 45, rather than 20, auxiliary members for a county with a population of at least 500,000. Authorizes the appointment of not more than 25, rather than 10, auxiliary members for a county with a population of at least 250,000. Authorizes the appointment of not more than 10, rather than 6, auxiliary members for a county with a population of less than 250,000. Provides that Section 6.41(c)-(e) and Section 6.412 and 6.413 apply to auxiliary members, rather than board members appointed under this section. Makes conforming changes.

SECTION 2.12. Amends Section 11.13(h), Tax Code, to prohibit a person from receiving an exemption under this section for more than one residence homestead in the same year.

SECTION 2.13. Amends Section 11.13(g), Tax Code, to provide that the surviving spouse of an

individual who qualifies for, rather than received, an exemption is entitled to an exemption for the same property for which the deceased spouse qualified, if certain conditions apply.

SECTION 2.14. Amends Section 11.14, Tax Code, by adding Subsection (f), to provide that Subsection (c) does not apply to the comptroller or to the state ad valorem tax.

SECTION 2.15. Amends Section 11.251(i), Tax Code, to provide that exemption provided by Subsection (b) does not apply to taxation by a taxing unit that took action to tax the property which has not been subsequently rescinded, or property described in Subsection (b) which is located in certain school districts.

SECTION 2.16. Amends Section 11.26, Tax Code, by amending Subsection (b), and adding Subsections (g)-(i), to set forth the individuals to which this subsection applies. Establishes the maximum amount of tax that a school district is authorized to impose on the residence homestead of the individual or the surviving spouse, with certain exceptions. Sets forth the terms by which a school district is prohibited from imposing ad valorem taxes on a subsequently qualified homestead in a certain amount. Provides that an individual who receives a limitation on tax increases and subsequently qualifies a different residence homestead for an exemption under Section 11.13, or an agent of an individual, is entitled to receive a written certificate providing certain information from the chief appraiser of a certain appraisal district.

SECTION 2.17. Amends Section 11.26, Tax Code, by adding Subsections (j)-(l), to set forth the terms by which the surviving spouse of an individual who qualified for certain exemptions is entitled to the limitation applicable to the residence homestead of the individual. Provides the amount to which a surviving spouse's school district taxes are limited if the individual who qualifies for certain exemptions dies in the year in which the person turned 65 years of age, with certain exceptions. Provides that a surviving spouse's school district taxes are limited in that first tax year after the individual died to the taxes imposed by the district in that first tax year, if certain conditions exist.

SECTION 2.18. Amends Section 11.28, Tax Code, as follows:

Sec. 11.28. New heading: **PROPERTY EXEMPTED FROM CITY TAXATION BY TAX ABATEMENT AGREEMENT.** Establishes the conditions under which, in each tax year after 1996 in which the school district taxes are abated on property covered by this subsection, the owner of the property is entitled to certain exemptions. Sets forth the conditions under which this abatement does not apply.

SECTION 2.19. Amends Section 11.41, Tax Code, to set forth the exemption for a person who qualifies for an exemption and is not the sole owner of the applicable property. Deletes existing text regarding persons who qualify for an exemption as provided by Sections 11.13 and 11.22 and are not the sole owners of the applicable property.

SECTION 2.20. Amends Section 11.43, Tax Code, by amending Subsection (f), and adding Subsection (j), to require the application form for exemptions to require an applicant to provide certain information. Defines "driver's license" and "personal identification certificate." Requires the application to state certain information.

SECTION 2.21. Amends Section 11.42(b), Tax Code, to provide that an exemption authorized by Section 11.13(c) or (d) for certain individuals is effective immediately on qualification for the exemption.

SECTION 2.22. Amends Section 11.43, Tax Code, by amending Subsection (d), and adding Subsection (j), to require a person who qualifies for the exemption authorized by Section 11.13(c) or (d) for certain individuals to notify the chief appraiser of the person's qualifications for the exemption by a certain date. Makes conforming changes.

SECTION 2.23. Amends Section 21.03(a), Tax Code, to make conforming changes.

SECTION 2.24. Amends Section 21.031(a), Tax Code, to make conforming changes.

SECTION 2.25. Amends Section 23.01(b), Tax Code, to require the market value of property to be determined by the application of generally accepted appraisal methods and techniques. Makes conforming changes.

SECTION 2.26. Amends Chapter 23A, Tax Code, by adding Sections 23.011-23.013, as follows:

Sec. 23.011. COST METHOD OF APPRAISAL. Requires the chief appraiser to follow certain procedures in using the cost method of appraisal.

Sec. 23.012. INCOME METHOD OF APPRAISAL. Requires the chief appraiser to follow certain procedures in using the income method of appraisal.

Sec. 23.013. MARKET DATA COMPARISON METHOD OF APPRAISAL. Requires the chief appraiser to use comparable sales date, if possible, if using the market data comparison method of appraisal to determine the market value of real property.

SECTION 2.27. Amends Section 23.02, Tax Code, by adding Subsection (e), to provide that this section does not apply to the state ad valorem tax imposed under Chapter 501.

SECTION 2.28. Amends Chapter 23B, Tax Code, by adding Section 23.176, as follows:

Sec. 23.176. APPRAISAL METHOD USED TO CALCULATE VALUE OF OIL OR GAS PRODUCING PROPERTY. Provides that this section applies only to property consisting of a separate interest in oil or gas and from which oil or gas is produced. Sets forth the appraisal method used to calculate the value of oil or gas producing property. Requires the comptroller to adopt rules and forms to implement this section, including a definition of each appraisal method, and provide sufficient copies to each appraisal office in this state. Requires an appraisal office to provide, without charge, a copy of the definitions to a person requesting them.

SECTION 2.29. Amends Chapter 23B, Tax Code, by adding Section 23.21, as follows:

Sec. 23.21. LIMITATIONS ON APPRAISED VALUE OF RESIDENCE HOMESTEADS. Prohibits the appraised value of a residence homestead for a tax year from exceeding a certain amount. Requires the chief appraiser, when appraising a residence homestead, to appraise the property at its market value and include certain information in its appraisal records. Sets forth the date on which the limitation provided by Subsection (a) takes effect and expires. Provides that this section does not apply to property appraised under Subchapters C-G. Defines "new improvement."

SECTION 2.30. Amends Chapter 23B, Tax Code, by adding Section 23.22, as follows:

Sec. 23.22. LIMITATIONS ON FREQUENCY OF APPRAISAL RESIDENCE HOMESTEAD. Prohibits the appraiser from recognizing an increase in the appraised value of residential property more than once every three years, with certain exceptions. Sets forth the terms by which the chief appraiser is required to recognize an increase in the appraised value of residential property. Provides that an application is not required for an owner of residential property to receive a benefit. Requires the chief appraiser to include in the records both the market and appraised value of the property. Provides that this section does not apply to property appraised under Subchapters C-G.

SECTION 2.31. [Blank.]

SECTION 2.32. [Blank.]

SECTION 2.33. Amends Section 23.46(d), Tax Code, to make conforming changes.

SECTION 2.34. Amends Section 23.55(b), Tax Code, to make a conforming change.

SECTION 2.35. Amends Section 23.76(b), Tax Code, to make a conforming change.

SECTION 2.36. Amends Section 23.86(b), Tax Code, to make a conforming change.

SECTION 2.37. Amends Section 23.96(b), Tax Code, to make a conforming change.

SECTION 2.38. Amends Section 24.39, Tax Code, to require the county assessor-collector to add each owner's rolling stock and the value apportioned to the county and to the appraisal roll for state ad valorem taxes, and to calculate the county and state taxes due on the rolling stock as provided by Section 26.09. Makes conforming changes.

SECTION 2.39. Amends Section 25.19, Tax Code, by amending Subsections (b) and (i), and adding Subsections (j) and (k), to require the chief appraiser to include certain information in the notices for real and personal property. Provides that delivery with a notice of a copy of the pamphlet published by the comptroller is sufficient to comply with the requirement that the notice include certain information. Establishes that a chief appraiser is not required to include information relating to taxation of property by the state in certain cases. Provides that this subsection expires January 1, 1999.

SECTION 2.40. Amends Section 25.24, Tax Code, to provide that the appraisal roll for the district for the purpose of a school district includes for each property a value for the levy of district maintenance and operations taxes, and a value for the levy of debt service taxes.

SECTION 2.41. Amends Section 26.01(b), Tax Code, to require the chief appraiser, when submitting an appraisal roll to a county assessor-collector, to certify that roll in the prescribed manner, and to identify the property on that roll that is subject to the state ad valorem tax. Deletes existing text authorizing the comptroller, by rule, to provide for submission of only a summary of the roll.

SECTION 2.42. Amends Chapter 26, Tax Code, by adding Section 26.011, as follows:

Sec. 26.011. PROVISIONS EXCLUDED FOR STATE TAX. Provides that Sections 26.04, 26.041, 26.05, 26.051, 26.06, 26.07, and 26.08 do not apply to the state ad valorem tax or to the comptroller.

SECTION 2.43. Amends Sections 26.04(a) and (b), Tax Code, to require the assessor for a taxing unit to determine, on receipt of the roll, the total taxable value for each tax rate imposed by the district for a school district. Deletes the provision requiring the assessor to determine the total assessed value of property taxable by the unit. Requires the taxing unit's collector to certify an estimate of the collection rate for the current year to the governing body by August 1 or as soon thereafter as practicable.

SECTION 2.44. Amends Chapter 26, Tax Code, by adding Section 26.046, as follows:

Sec. 26.046. EFFECTIVE TAX RATES; SCHOOL DISTRICTS. Sets forth the terms by which the officer or employee designated to make the calculations for a school district, notwithstanding Section 26.04, is required to determine an effective tax rate for maintenance, operations, and debt service according to formulas prescribed by the comptroller.

SECTION 2.45. Amends Section 26.05(a), Tax Code, to make conforming changes.

SECTION 2.46. Amends Section 26.05(d), Tax Code, to prohibit the governing body from adopting a tax rate that if applied to the total taxable value would impose an amount of taxes that exceeds last year's levy until it has held a public hearing and has otherwise complied with Section 26.06. Deletes existing text regarding adoption of a tax rate by the governing body.

SECTION 2.47. Amends Section 26.06(b), Tax Code, to require the notice of public hearing on a tax increase, rather than tax rate increase, to contain certain statements.

SECTION 2.48. Amends Sections 26.06(d), (e), and (g), Tax Code, to require the notice of vote on tax increase, rather than tax rate, to contain certain statements. Makes conforming changes.

SECTION 2.49. Amends Section 26.08, Tax Code, to set forth the terms by which the registered voters of the district at an election are required to determine whether to limit the maintenance and operations tax rate the governing body may adopt for the current year to the tax rate calculated by adding the district's maintenance and operations tax rate for the preceding year and the rate of \$0.025 per \$100 of taxable value. Deletes existing text regarding the school district rollback tax rate, and the provisions regarding a school district certified to have been subject to a reduction in total revenue for the school year. Provides that Subsection (a) does not apply to the 1997 and 1998 tax years. Prohibits a school district, for the 1997 or 1998 tax year, from adopting a tax rate for maintenance and operations purposes that exceeds the lesser of certain amounts. Provides that Subsection (a) does not apply to the 1999 tax year, during which a school district is prohibited from adopting a tax rate for maintenance and operations purposes that exceeds the lesser of certain amounts. Sets forth the amount of state and local funding to which a school district would have been entitled for the 1998-1999 school year, for purposes of Subsection (g). Provides that Subsections (g)-(j) expire January 1, 2001. Makes conforming changes.

SECTION 2.50. Amends Sections 26.09(b) and (c), Tax Code, to require the county assessor-collector to add the properties and their values certified to that official to the appraisal roll for county tax purposes and to the appraisal roll for state ad valorem taxes. Sets forth the method by which the tax is calculated. Deletes existing text regarding calculation of county taxes. Makes conforming changes.

SECTION 2.51. Amends Section 26.10, Tax Code, to set forth the method for calculating the tax due against property for which the appraisal roll shows eligibility for taxation at its full appraised value for only part of a year.

SECTION 2.52. Amends Chapter 26, Tax Code, by adding Section 26.112, as follows:

Sec. 26.112. PRORATING TAXES-QUALIFICATION BY ELDERLY PERSON FOR 65 OR OVER RESIDENCE HOMESTEAD EXEMPTION. Sets forth the method for calculating the tax due on a residence homestead for which an individual qualifies for the exemption under Section 11.13(c) or (d) for an individual 65 years of age or older after the beginning of a tax year.

SECTION 2.53. Amends Section 26.12, Tax Code, by adding Subsection (e), to provide that the state is not a taxing unit for the purposes of this section.

SECTION 2.54. Amends Section 26.15(c), Tax Code, to authorize the comptroller to order changes on the state tax roll to correct errors in the mathematical computation of the state tax.

SECTION 2.55. Amends Section 31.01(c), Tax Code, to make conforming changes.

SECTION 2.56. Amends Section 31.01, Tax Code, by adding Subsection (k), to require a tax bill for 1997 school district taxes or the separate statement accompanying such a tax bill to include certain information regarding the changes in tax rates and in taxes on property caused by H.B. 4, Acts of the 75th Legislature, Regular Session, 1997. Sets forth the terms under which a mortgagee is required to mail a copy of a tax bill or accompanying statement to the owner of the property by a certain date. Provides that this subsection expires January 1, 1999.

SECTION 2.57. Amends Section 31.01, Tax Code, by adding Subsection (l), to provide that this subsection applies only to a taxing unit in which the voters of the unit, at an election on the question of the use of revenue from an expanded sales tax base, required the expanded sales tax base to be used to reduce ad valorem taxes of the taxing unit. Requires a tax bill for the 1997 or 1998 taxes of a taxing unit or the separate accompanying statement to include certain information in addition to that specified by Subsection (c). Sets forth the terms by which a mortgagee is required to mail a copy of a tax bill or accompanying statement to the owner of the property by a certain date. Provides that this subsection expires January 1, 1999.

SECTION 2.58. Amends Section 31.11(a), Tax Code, to make conforming changes.

SECTION 2.59. Amends Sections 32.01(a) and (c), Tax Code, to provide that the lien to secure the payment of state ad valorem taxes and applicable penalties and interest exists in favor of the state, and the lien to secure the payment of taxes imposed by a taxing unit and applicable penalties and interest exists in favor of the taxing unit. Makes conforming changes.

SECTION 2.60. Amends Section 33.01, Tax Code, by amending Subsection (a), and adding Subsections (d) and (e), to set forth the terms under which in lieu of the penalty imposed under Subsection (a), a delinquent tax incurs a certain penalty because the property owner received an exemption under certain provisions of law. Provides that a penalty imposed under Subsection (d) does not apply under certain circumstances. Makes conforming changes.

SECTION 2.61. Amends the heading of Section 33.06, Tax Code, as follows:

Sec. 33.06. New heading: DEFERRED COLLECTION OF TAXES ON RESIDENCE HOMESTEAD OF ELDERLY PERSON.

SECTION 2.62. Amends Chapter 33A, Tax Code, by adding Sections 33.065 and 33.08, as follows:

Sec. 33.065. DEFERRED COLLECTION OF TAXES ON APPRECIATING RESIDENCE HOMESTEAD. Sets forth the terms by which an individual is entitled to defer or abate a suit to collect a delinquent tax imposed on the portion of the appraised value of property the individual owns and occupies as the individual's residence homestead that exceeds a certain amount. Establishes the procedure for obtaining a deferral and an abatement. Establishes the conditions under which a tax lien remains on the property and interest begins to accrue during the period collection of delinquent taxes is deferred. Requires the chief appraiser for each district to publicize each year the method by which eligible persons may obtain a deferral. Defines "new improvement" and "residence homestead." Sets forth other provisions regarding deferred collection of taxes on appreciating residence homestead.

Sec. 33.08. COLLECTION OF DELINQUENT STATE AD VALOREM TAXES; PENALTY. Requires the attorney general to represent the state to enforce the collection of delinquent state ad valorem taxes, except as provided by Subsection (b). Sets forth the terms under which the attorney general is authorized to delegate his or her duties. Establishes that if the commissioners court of a county contracts with certain persons for the collection of delinquent ad valorem taxes, the contract applies to the collection of delinquent state ad valorem taxes on property taxable in that county without further action. Sets forth the terms under which state ad valorem taxes that remain delinquent after a certain date incur an additional penalty. Provides that a tax lien attaches in favor of the state to the property on which the tax is imposed to secure payment of the penalty. Requires the attorney general or certain other persons to deliver a notice of delinquency and of the penalty to the property owner by a certain date. Provides that Sections 6.30 and 33.07 do not apply to the state ad valorem tax.

SECTION 2.63. Amends Sections 33.21(a) and (b), Tax Code, to make conforming changes.

SECTION 2.64. Amends Section 33.23(b), Tax Code, to make a conforming change.

SECTION 2.65. Amends Section 33.44(b), Tax Code, to require citation to be served on the comptroller for purposes of joining the state. Makes a conforming change.

SECTION 2.66. Amends Section 34.04(b), Tax Code, to make a conforming change.

SECTION 2.67. Amends the heading to Chapter 41, Tax Code, as follows:

CHAPTER 41. New heading: ADMINISTRATIVE REVIEW

SECTION 2.68. Amends Section 41.03, Tax Code, as follows:

Sec. 41.03. New heading; CHALLENGE BY STATE OR TAXING UNIT. Makes a conforming change.

SECTION 2.69. Amends Chapter 41A, Tax Code, by adding Sections 41.031 and 41.032, as follows:

Sec. 41.031. CHALLENGE BY SCHOOL DISTRICT. Provides that a school district is entitled to challenge the exclusion of property from the appraisal roll for the maintenance and operations taxes or debt service taxes of the district.

Sec. 41.032. CHALLENGE BY COMPTROLLER. Provides that the comptroller is entitled to challenge the exclusion of property from the appraisal roll for state ad valorem taxes.

SECTION 2.70. Amends Section 41.06(a), Tax Code, to require the secretary of the appraisal review board to deliver to the comptroller and the presiding officer of the governing body of each taxing unit entitled to appear at a challenge hearing written notice regarding certain information.

SECTION 2.71. Amends Section 41.07(d), Tax Code, to set forth the terms under which the appraisal review board is required to also deliver notice of issuance and a copy of the order to the comptroller.

SECTION 2.72. Amends Section 41.12, Tax Code, by adding Subsection (c), to provide that a protest upon which a determination is pending is not considered to be an undetermined protest for the purposes of Subsection (b).

SECTION 2.73. Amends Section 41.47(d), Tax Code, to make conforming changes.

SECTION 2.74. Amends Section 41.41, Tax Code, to provide that a property owner is entitled to protest the inclusion or exclusion of property from the appraisal roll for the maintenance and operations or debt service taxes of a school district, or for state ad valorem taxes. Makes conforming changes.

SECTION 2.75. Amends Section 41.43, Tax Code, as follows:

Sec. 41.43. New heading: PROTEST OF DETERMINATION OF VALUE OR INEQUALITY OF APPRAISAL. Provides that in a protest authorized by Section 41.41(1) or (2), the appraisal district has the burden of establishing the value of the property by a preponderance of the evidence. Makes conforming changes.

SECTION 2.76. Amends Section 41.46(a), Tax Code, to require the appraisal review board to deliver certain written notice to the property owner before a protest hearing is scheduled, unless the property owner waives in written notice of the hearing.

SECTION 2.77. Amends Chapter 41D, Tax Code, by adding Section 41.71, as follows:

Sec. 41.71. EVENING AND WEEKEND HEARINGS. Requires an appraisal review board to schedule a hearing on a protest at certain times upon request by the property owner.

SECTION 2.78. Amends Chapter 41D, Tax Code, by adding Section 41.72, as follows:

Sec. 41.72. TIME OF HEARINGS. Requires the appraisal review board to schedule a hearing on the protest in the evening at the property owner's request.

SECTION 2.79. Amends Chapter 41, Tax Code, by adding Subchapter E, as follows:

SUBCHAPTER E. DETERMINATION OF PROTEST BY STATE
OFFICE OF ADMINISTRATIVE HEARINGS

Sec. 41.91. DEFINITION. Defines "office."

Sec. 41.92. RULES. Requires the State Office of Administrative Hearings (office) to adopt rules of practice and procedure for protest proceedings.

Sec. 41.93. ELECTION OF REMEDIES. Sets forth the conditions under which a property owner is entitled to have the office conduct a hearing and determine a protest. Establishes the terms under which a property owner waives the right to a hearing and determination by the appraisal review board, and the right to a determination by the office.

Sec. 41.94. FORWARDING OF NOTICE OF PROTEST AND FILING FEE TO OFFICE. Sets forth the terms under which the appraisal review board is required to forward the notice and filing fee to the office.

Sec. 41.95. CONTESTED CASE. Provides that the provisions of Chapter 2001, Government Code, apply to the determination of a protest, with certain exceptions.

Sec. 41.96. BURDEN OF PROOF. Provides that Section 41.43 applies to the determination of a protest.

Sec. 41.97. HEARING ON AND DETERMINATION OF PROTEST. Requires the administrative law judge to whom the protest is assigned to conduct a hearing on the protest. Requires the hearing to be held at certain locations. Sets forth the terms by which the judge is required to issue a final order determining the protest.

Sec. 41.98. NOTIFICATION OF DETERMINATION; CORRECTION OF APPRAISAL RECORDS. Sets forth the terms by which the office is required to notify certain persons of the final order. Requires the appraisal district to determine the protest in accordance with the final order and correct the record to conform to the order.

Sec. 41.99. COSTS OF HEARING. Requires the appraisal district to reimburse the office for the costs of conducting hearings.

Sec. 41.100. SANCTIONS. Sets forth the terms by which the judge is authorized to impose sanctions.

Sec. 41.101. APPEAL. Provides that an order of the appraisal review board is considered to have been issued under Subchapter C for purposes of appeal under Chapter 42, with certain exceptions.

SECTION 2.80. Amends Chapter 42A, Tax Code, by adding Section 42.032, as follows:

Sec. 42.032. RIGHT OF APPEAL BY COMPTROLLER. Provides that the comptroller is entitled to appeal an order excluding property from the appraisal roll for state and ad valorem taxes. Requires the attorney general to represent the comptroller in an appeal.

SECTION 2.81. Amends Sections 42.06(a) and (d), Tax Code, to make conforming changes.

SECTION 2.82. Amends Section 42.43, Tax Code, to make conforming changes.

SECTION 2.83. Amends Sections 43.01 and 43.04, Tax Code, to make conforming changes.

SECTION 2.84. Amends Section 23.56, Tax Code, to provide that land is not eligible for appraisal if the land consists of certain real property. Provides that a parcel is not ineligible for appraisal because one of the contiguous parcels is the residence homestead of the person. Defines "same person."

SECTION 2.85. Amends Title IIE, Article 1446c-0, V.T.C.S. (Public Utility Regulatory Act of 1995), by adding Section 2.2125, as follows:

Sec. 2.2125. ADJUSTMENT FOR CHANGES IN STATE AND LOCAL TAX LIABILITY. Sets forth the terms by which the Public Utility Commission of Texas (commission) is required to provide for the adjustment of the utility's billing to reflect a net increase or decrease in the utility's state and local tax liability, including reductions to ad valorem taxes. Sets forth the terms by which the commission is required to apportion pro rata to each type and class of service provided by the utility any billing adjustment under this section. Requires the commission to review the utility's increase or decrease of tax liability and alter the adjustment as necessary each year after an original adjustment. Provides that a proceeding is not a rate case under Section 2.212. Provides that this section does not require an electric utility that is under an order issued by a federal bankruptcy court to adjust its billings to reflect a decrease in its tax liability.

SECTION 2.86. Repealer: Section 26.052, Tax Code (Simplified Tax Rate Notice for Small Taxing Units).

SECTION 2.87. Requires the comptroller to conduct a certain study and submit a report to the 76th Legislature by a certain date.

SECTION 2.88. Requires a person controlling an escrow account which is required to be maintained in connection with a loan secured by a mortgage or other security interest in real property consisting of a residence homestead from which ad valorem taxes are paid, to take certain actions before March 31, 1998. Sets forth the application of this section.

SECTION 2.89. (a) Provides that this section takes effect September 1, 1997.

(b) Makes application of this Act prospective to January 1, 1997 regarding each tax year.

(c) Makes application of this Act prospective regarding Section 6.41, Tax Code.

(d) Makes application of this Act prospective regarding Section 11.43, Tax Code.

(e) Makes application of this Act prospective regarding Section 33.01(d).

SECTION 2.90. Makes application of this Act prospective regarding Sections 2.67, 2.72, 2.75, 2.78, and 2.79.

ARTICLE 3. FRANCHISE TAX

SECTION 3.01. Amends Sections 171.001(a) and (b), Tax Code, to provide that a franchise tax is imposed on each taxable entity, rather than corporation, that does business in this state or that is chartered, organized, or authorized to do business in this state. Delete a provision imposing the franchise tax on limited liability corporations. Defines "business trust," "compensation," "owner," "passive income," "passive income asset," "passive income capital," "passive income ration," "small business entity," and "taxable entity." Redefines "banking corporation," "beginning date," "charter," "Internal Revenue Code," "officer," and "director." Delete the definition of "corporation."

SECTION 3.02. Amends Sections 171.0011(a)-(c), Tax Code, to make conforming changes.

SECTION 3.03. Amends Sections 171.002(b) and (d), Tax Code, to make conforming changes.

SECTION 3.04. Amends Chapter 171A, Tax Code, by adding Section 171.003, as follows:

Sec. 171.003. TERMINATION, MERGER, AND DIVISION OF PARTNERSHIP. Sets forth regulations regarding the termination, merger, and division of a partnership.

SECTION 3.05. Amends Chapter 171B, Tax Code, by adding Section 171.0515, as follows:

Sec. 171.0515. UNRELATED BUSINESS TAXABLE INCOME OF AN EXEMPT TAXABLE ENTITY. Provides that a taxable entity, otherwise exempt from the tax imposed

by this chapter, is subject to the net taxable earned surplus component of the franchise tax to the extent of its unrelated business taxable income, as defined by the Internal Revenue Code.

SECTION 3.06. Amends Chapter 171B, Tax Code, by adding Section 171.054, as follows:

Sec. 171.054. EXEMPTION--NONCORPORATE TAXABLE ENTITY ELIGIBLE FOR CERTAIN EXEMPTIONS. Provides that a taxable entity that is not a corporation but that, because of its activities, would qualify for a specific exemption under this subchapter if it were a corporation, qualifies for the exemption and is exempt from the tax in the same manner and under the same conditions as a corporation.

SECTION 3.07. Amends Section 171.063(a), Tax Code, to delete a provision that a nonprofit corporation exempted for the federal income tax under Section 501(c)(5), (6), or (7), Internal Revenue Code, is exempt from the franchise tax.

SECTION 3.08. Amends Section 171.101, Tax Code, by adding Subsections (d) and (e), to set forth the method for computing the net taxable capital of a taxable entity other than a corporation, a limited liability company, and a savings and loan association. Provides that, for purposes of Subsection (d)(1), an amount that belongs to the taxable entity's capital accounts, undistributed profits, or surplus is excluded if the amount has been added once under that subsection in determining the entity's taxable capital.

SECTION 3.09. Amends Sections 171.1015(a), (b), and (e), Tax Code, to make conforming changes.

SECTION 3.10. Amends Section 171.103, Tax Code, to provide that the gross receipts of a taxable entity is the sum of the taxable entity's receipts from each use of a trademark, franchise, or license in this state and each sale of real property located in this state, including royalties from oil, gas, or other mineral interest, among others. Provides that, if a taxable entity sells an investment or capital asset, the taxable entity's gross receipts from business done in this state include only the gain from the sale. Requires the comptroller, in apportioning taxable capital of a telephone company or a transportation company, to adopt rules to apportion to this state receipts from this state's portion of a transaction within and without this state.

SECTION 3.11. Amends Section 171.1032, Tax Code, to provide that, if a taxable entity sells an investment or capital asset, the taxable entity's gross receipts from business done in this state include only the gain from the sale. Deletes existing text regarding the deduction of certain amounts from gross receipts. Makes conforming changes.

SECTION 3.12. Amends Section 171.105, Tax Code, to make conforming changes.

SECTION 3.13. Amends Section 171.1051, Tax Code, to make conforming changes.

SECTION 3.14. Amends Section 171.106, Tax Code, to delete existing text regarding a corporation's taxable capital or earned surplus derived from certain sources. Makes conforming changes.

SECTION 3.15. Amends Section 171.1061, Tax Code, to make conforming changes.

SECTION 3.16. Amends Section 171.109, Tax Code, to make conforming and nonsubstantive changes.

SECTION 3.17. Amends Section 171.110, Tax Code, to provide that, except as provided by Section 171.1101, the net taxable earned surplus of a taxable entity is computed by determining the taxable entity's reportable federal taxable income and adding or subtracting certain amounts related to income or deductions under the Internal Revenue Code, compensation of certain persons, and compensation paid to each owner. Provides that for purposes of Subsection (a)(1), amounts may not be subtracted from or added to reportable federal taxable income more than once, and husband and wife are treated as one owner for certain ownership interests. Deletes existing text regarding compensation for

officers and directors of a corporation. Requires reportable federal taxable income to be determined before adjustment for distributions to owners and provides that reportable federal taxable income includes all income taxable to the entity or the owners for federal income tax purposes. Prohibits a business loss incurred before January 1, 1997, from being used to reduce the net taxable earned surplus of a taxable entity not subject to this chapter before January 1, 1998. Makes conforming and nonsubstantive changes.

SECTION 3.18. Amends Chapter 171C, Tax Code, by adding Section 171.1101, as follows:

Sec. 171.1101. DETERMINATION OF NET TAXABLE EARNED SURPLUS OF PARTNERSHIPS. Provides that the net taxable earned surplus of a partnership is computed by determining the partnership's reportable federal taxable income and making certain adjustments, apportioning the partnership's taxable earned surplus to this state as provided by Section 171.106(b) to determine the partnership's apportioned taxable earned surplus; adding the partnership's taxable earned surplus allocated to this state as provided by Section 171.1061; and subtracting from the amount any allowable deductions and any business loss that is carried forward to the tax reporting period and deductible under Subsection (d). Provides that a partnership's reportable federal taxable income is the amount of the income reportable to the Internal Revenue Service as taxable to the partners, except for guaranteed payments, if taxed as a partnership for federal income tax purposes. Sets forth provisions for carrying forward a business loss to successive tax years. Prohibits, notwithstanding the preceding sentence, a business loss incurred before January 1, 1997, from being used to reduce net taxable earned surplus. Makes conforming changes.

SECTION 3.181. Amends Chapter 171C, Tax Code, by adding Section 171.1102, as follows:

Sec. 171.1102. ADDITIONAL ADJUSTMENT OF NET TAXABLE EARNED SURPLUS FOR PASSIVE INCOME OF CERTAIN TAXABLE ENTITIES. Provides that, in addition to the applicable adjustments to a taxable entity's reportable federal taxable income provided by certain sections, the net taxable earned surplus of a taxable entity to which this section applies is computed by subtracting any amount of passive income included in reportable federal taxable income. Provides that this section applies to a taxable entity other than a corporation, including a banking corporation, a limited liability company, a state or federal savings and loan association, or a lending institution. Defines "lending institution."

SECTION 3.19. Amends Sections 171.112(b)-(f) and (h), Tax Code, to make conforming changes.

SECTION 3.20. Amends Section 171.1121, Tax Code, to make conforming changes.

SECTION 3.21. Amends Section 171.113, Tax Code, as follows:

Sec. 171.113. New heading: ALTERNATE METHOD OF DETERMINING TAXABLE CAPITAL AND GROSS RECEIPTS FOR SMALL BUSINESS ENTITIES. Provides that this section applies only to a small business entity. Deletes existing text which provides that this section applies to a corporation organized under Part 12, Texas Business Corporation Act, that has not more than 35 shareholders, a foreign corporation under the close corporation law of another state that has not more than 35 shareholders, and an S corporation as that term is defined by Section 1361, Internal Revenue Code. Makes conforming changes.

SECTION 3.22. Amends Section 171.151, Tax Code, to make a conforming change.

SECTION 3.23. Amends Section 171.152(c), Tax Code, to make a conforming change.

SECTION 3.24. Amends Sections 171.153(a) and (c), Tax Code, to make conforming changes.

SECTION 3.25. Amends Section 171.1532, Tax Code, to make conforming changes.

SECTION 3.26. Amends Section 171.154, Tax Code, to make a conforming change.

SECTION 3.27. Amends Section 171.201, Tax Code, to make conforming changes.

SECTION 3.28. Amends Sections 171.202(a)-(c), (e), and (f), Tax Code, to make conforming changes.

SECTION 3.29. Amends Section 171.2022, Tax Code, to make a conforming change.

SECTION 3.30. Amends Section 171.204, Tax Code, to delete a reference to an officer of a taxable entity. Makes conforming changes.

SECTION 3.31. Amends Section 171.205, Tax Code, to make conforming changes.

SECTION 3.32. Amends Section 171.206, Tax Code, to make conforming changes.

SECTION 3.33. Amends Section 171.208, Tax Code, to make conforming changes.

SECTION 3.34. Amends Section 171.209, Tax Code, as follows:

Sec. 171.209. New heading: RIGHT OF OWNER TO EXAMINE OR RECEIVE REPORTS. Makes conforming changes.

SECTION 3.35. Amends Section 171.211, Tax Code, as follows:

Sec. 171.211. New heading: EXAMINATION OF RECORDS. Makes conforming changes.

SECTION 3.36. Amends the heading to Chapter 171F, Tax Code, as follows:

SUBCHAPTER F. New heading: FORFEITURE OF CORPORATE
AND BUSINESS PRIVILEGES

SECTION 3.37. Amends Chapter 171F, Tax Code, by adding Sections 171.260-171.275, as follows:

Sec. 171.260. FORFEITURE OF RIGHT TO TRANSACT BUSINESS: LIMITED PARTNERSHIPS. Requires the comptroller to forfeit the right of a domestic or foreign limited partnership subject to the tax imposed by this chapter to transact business in this state if the limited partnership does not file, in accordance with this chapter and within a certain time period, a report required by this chapter; does not pay, within a certain time period, a tax imposed by this chapter or a penalty imposed by this chapter relating to that tax; or does not permit the comptroller to investigate or examine the records of the limited partnership to determine the limited partnership's liability under this chapter.

Sec. 171.261. EFFECTS OF FORFEITURE: LIMITED PARTNERSHIPS. Provides that, if the limited partnership's right to transact business is forfeited under this subchapter, the limited partnership is denied the right to sue in a court of this state and each partner, whether a limited or general partner, of the limited partnership is liable for a department of the limited partnership as provided by Section 171.264.

Sec. 171.262. SUIT ON CAUSE OF ACTION ARISING BEFORE FORFEITURE: LIMITED PARTNERSHIPS. Prohibits a court, in a suit against a limited partnership on a cause of action arising before the forfeiture of the limited partnership's right to transact business, from granting affirmative relief to the limited partnership unless its right to transact business is revived under this chapter.

Sec. 171.263. EXCEPTION TO FORFEITURE: LIMITED PARTNERSHIPS. Provides that the forfeiture of a limited partnership's right to transact business does not apply to the privilege to defend in a suit to forfeit the limited partnership's certificate of limited partnership or registration of foreign limited partnership.

Sec. 171.264. LIABILITY OF PARTNERS: LIMITED PARTNERSHIPS. (a) Provides

that, if the right to transact business of a limited partnership is forfeited for the failure to file a report or pay a tax or penalty, each partner of the limited partnership is liable for each debt of the limited partnership that is created or incurred in this state after the date on which the report, tax, or penalty is due and before the right to transact business is revived. Provides that the liability includes liability for any tax or penalty imposed by this chapter on the limited partnership that becomes due and payable after the date of the forfeiture.

(b) Provides that all partners are liable jointly and severally for the liability imposed under this subchapter.

(c) Provides that, if a limited partnership's certificate of limited partnership or registration of foreign limited partnership and its right to transact business are forfeited and revived under this chapter, the liability under this section of a partner of the limited partnership is not affected by the revival of the certificate or registration and the right to transact business.

Sec. 171.265. NOTICE OF FORFEITURE: LIMITED PARTNERSHIPS. (a) Requires the comptroller, in order to forfeit the right to transact business of a limited partnership, to notify the limited partnership that the forfeiture will occur without a judicial proceeding unless the limited partnership files, within a certain time, the report to which that section refers or pays, within a certain time, the delinquent tax and penalty to which that section refers.

(b) Requires the notice to be written or printed and be verified by the seal of the comptroller's office.

(c) Requires the comptroller to mail the notice to the limited partnership at least 45 days before the forfeiture of the right to transact business. Requires the comptroller to address the notice to the limited partnership and mail it to the registered office of the limited partnership, the last known address of the limited partnership, or to any place of business of the limited partnership.

(d) Requires the comptroller to keep at the comptroller's office a record of the date on which the notice is mailed. Provides that, for the purposes of this chapter, the notice and record of the mailing date constitute legal and sufficient notice of the forfeiture.

Sec. 171.266. JUDICIAL PROCEEDING NOT REQUIRED FOR FORFEITURE: LIMITED PARTNERSHIPS. Provides that the forfeiture of the right to transact business of a limited partnership is effected by the comptroller without judicial proceeding.

Sec. 171.267. REVIVAL OF RIGHT TO TRANSACT BUSINESS: LIMITED PARTNERSHIPS. Requires the comptroller to revive the right to transact business of a limited partnership if the limited partnership, before the forfeiture of its certificate of limited partnership or registration of foreign limited partnership, pays any tax, penalty, or interest due under this chapter.

Sec. 171.268. REVOCATION OF REGISTRATION: LIMITED LIABILITY PARTNERSHIPS. Makes a conforming change.

Sec. 171.269. EFFECTS OF REVOCATION: LIMITED LIABILITY PARTNERSHIPS. Makes a conforming change.

Sec. 171.270. SUIT ON CAUSE OF ACTION ARISING BEFORE REVOCATION: LIMITED LIABILITY PARTNERSHIP. Makes a conforming change.

Sec. 171.271. EXCEPTION TO REVOCATION: LIMITED LIABILITY PARTNERSHIP. Provides that the revocation of a limited liability partnership's registration does not apply to the privilege to defend in a suit to revoke the limited liability partnership's registration.

Sec. 171.272. LIABILITY OF PARTNERS: LIMITED LIABILITY PARTNERSHIP.

Makes a conforming change.

Sec. 171.273. NOTICE OF REVOCATION: LIMITED LIABILITY PARTNERSHIPS. Makes a conforming change.

Sec. 171.274. JUDICIAL PROCEEDING NOT REQUIRED FOR REVOCATION: LIMITED LIABILITY PARTNERSHIPS. Makes a conforming change.

Sec. 171.275. REVIVAL OF REGISTRATION: LIMITED LIABILITY PARTNERSHIPS. Makes a conforming change.

SECTION 3.38. Amends Chapter 171G, Tax Code, by adding Sections 171.318-171.326, as follows:

Sec. 171.318. GROUNDS FOR FORFEITURE OF CERTIFICATE OF LIMITED PARTNERSHIPS OR REGISTRATION OF FOREIGN LIMITED PARTNERSHIPS. Provides that it is a ground for the forfeiture of a limited partnership's certificate or registration if the right to transact business of the limited partnership is forfeited under this chapter and the limited partnership does not pay, within a certain time period, the amount necessary for the limited partnership to revive under this chapter its right to transact business; or the limited partnership does not permit the comptroller to investigate or examine the records of the limited partnership to determine the limited partnership's liability under this chapter.

Sec. 171.319. CERTIFICATION BY COMPTROLLER: LIMITED PARTNERSHIPS. Requires the comptroller, after the 120th day after the date that the right to transact business of a limited partnership is forfeited under this chapter, to certify the name of the limited partnership to the secretary of state.

Sec. 171.320. FORFEITURE BY SECRETARY OF STATE: LIMITED PARTNERSHIPS. Requires the secretary of state to forfeit the certificate or registration of a limited partnership if the secretary of state receives the comptroller's certification under Section 171.319; the limited partnership does not revive its forfeited right to transact business before the 120th day after the date that the right to transact business was forfeited; and the limited partnership does not have assets from which a judgment for any tax, penalty, or court costs imposed by this chapter may be satisfied.

Sec. 171.321. JUDICIAL PROCEEDING NOT REQUIRED FOR FORFEITURE BY SECRETARY OF STATE: LIMITED PARTNERSHIPS. Makes a conforming change.

Sec. 171.322. RECORD OF FORFEITURE BY SECRETARY OF STATE: LIMITED PARTNERSHIPS. Requires the secretary of state to effect a forfeiture of a limited partnership's certificate or registration under this chapter by inscribing on the limited partnership's record in the secretary of state's office the words "Certificate Forfeited" or "Registration Forfeited," the date on which this inscription is made, and a citation to this chapter as authority for the forfeiture.

Sec. 171.323. REVIVAL OF CERTIFICATE OF LIMITED PARTNERSHIPS OR REGISTRATION OF FOREIGN LIMITED PARTNERSHIPS AFTER FORFEITURE BY SECRETARY OF STATE. Provides that a limited partnership whose certificate or registration is forfeited under this chapter by the secretary of state is entitled to have its certificate or registration revived and to have its right to transact business revived if the limited partnership files each report that is required by this chapter and that is delinquent; the limited partnership pays the tax, penalty, and interest that is imposed by this chapter and that is due at the time the request under Section 171.324 to set aside forfeiture is made; and the forfeiture of the limited partnership's certificate or registration is set aside in a proceeding under Section 171.324, Tax Code.

Sec. 171.324. PROCEEDING TO SET ASIDE FORFEITURE BY SECRETARY OF

STATE: LIMITED PARTNERSHIPS. Authorizes a partner of a limited partnership at the time of forfeiture of a certificate or registration or of the right to transact business of the limited partnership to request in the name of the limited partnership that the secretary of state set aside the forfeiture of the certificate or registration. Requires the secretary of state, if a request is made, to determine if each delinquent report has been filed and any delinquent tax, penalty, or interest has been paid. Requires the secretary of state, if each report has been filed and the tax, penalty, or interest has been paid, to set aside the forfeiture of the limited partnership's certificate or registration.

Sec. 171.325. RIGHT TO TRANSACT BUSINESS AFTER FORFEITURE BY SECRETARY OF STATE IS SET ASIDE: LIMITED PARTNERSHIPS. Requires the comptroller, if the secretary of state sets aside under this chapter the forfeiture of a limited partnership's certificate or registration, to revive the right to transact business of the limited partnership.

Sec. 171.326. USE OF LIMITED PARTNERSHIP NAME AFTER REVIVAL OF CERTIFICATE OR REGISTRATION. Requires a limited partnership, if a limited partnership's certificate or registration is forfeited by the secretary of state and if the limited partnership requests the secretary of state to set aside the forfeiture, to determine from the secretary of state whether the limited partnership's name is available for use. Requires the limited partnership, if the name is not available, to file an amendment to its certificate or application or adopt a new name for use in this state as a precondition to reinstatement.

SECTION 3.39. Amends Section 171.351, Tax Code, to make conforming changes.

SECTION 3.40. Amends Section 171.353, Tax Code, to make conforming changes.

SECTION 3.41. Amends Section 171.354, Tax Code, to make conforming changes.

SECTION 3.42. Amends Sections 171.362(a), (d), and (e), Tax Code, to make conforming changes.

SECTION 3.43. Amends Sections 171.363(a) and (b), Tax Code, to make conforming changes.

SECTION 3.44. Amends Section 171.401, Tax Code, to make a conforming change.

SECTION 3.45. Amends Section 171.501(a), Tax Code, to make a conforming change.

SECTION 3.46. Amends Section 171.652, Tax Code, to make a conforming change.

SECTION 3.47. Amends Section 171.653, Tax Code, to make conforming changes.

SECTION 3.48. Amends Section 171.654, Tax Code, to make conforming changes.

SECTION 3.49. Amends Section 171.656, Tax Code, to make conforming changes.

SECTION 3.50. Amends Section 171.657, Tax Code, to make a conforming change.

SECTION 3.51. Amends Section 171.682, Tax Code, to make a conforming change.

SECTION 3.52. Amends Section 171.683, Tax Code, to make conforming changes.

SECTION 3.53. Amends Section 171.684, Tax Code, to make conforming changes.

SECTION 3.54. Amends Section 171.686, Tax Code, to make conforming changes.

SECTION 3.55. Amends Section 171.687, Tax Code, to make a conforming change.

SECTION 3.56. Amends Section 3.03(a), Article 6132a-1, V.T.C.S., to provide that, except as provided by Subsection (d) of this section and Subtitle F, Title 2, Tax Code, a limited partner is not

liable for the obligations of a limited partnership unless the limited partner is also a general partner or, in addition to the exercise of the limited partner's rights and powers as a limited partner, the limited partner participates in the control of the business.

SECTION 3.57. Amends Section 9.01(a), Article 6132a-1, V.T.C.S., to provide that, except as provided by Subtitles F and G, Title 2, Tax Code, the laws of the state under which a foreign limited partnership is formed govern its organization and internal affairs and the liability of its partners.

SECTION 3.58. Amends Chapter 13, Article 6132a-1, V.T.C.S. (Revised Limited Partnership Act), by adding Section 13.10, as follows:

Sec. 13.10. FORFEITURE OF RIGHT TO TRANSACT BUSINESS OR CANCELLATION OF CERTIFICATE OR REGISTRATION. Provides that a limited partnership that does not comply with Subtitle F, Title 2, Tax Code, forfeits the right to transact business and is subject to cancellation of its certificate or registration. Authorizes the comptroller to specify procedures for effecting the forfeiture or cancellation and providing for relief from the forfeiture and cancellation.

SECTION 3.59. Amends Section 15(2), Article 6132b, V.T.C.S. (Texas Uniform Partnership Act), to make conforming changes.

SECTION 3.60. Amends Section 45-A, Article 6132b, V.T.C.S., by adding Subsection (7), to require the secretary of state to revoke registration on notice from the comptroller that a registered limited liability partnership has not complied with Title 2F, Tax Code.

SECTION 3.61. Amends Section 3.08(a)(1), Article 6132b, V.T.C.S., to make conforming changes.

SECTION 3.62. Amends Section 3.08(b), Article 6132b, V.T.C.S., by adding Subdivision (16), to make a conforming change.

SECTION 3.63. Repealers: Sections 171.056, 171.074, 171.079, 171.080, 171.085, 171.104, 171.107, and 171.111, Tax Code (Exemption-Corporation with Business Interest in Solar Energy Devices; Exemption-Development Corporation; Exemption-Electric Cooperative Corporation; Exemption-Telephone Cooperative Corporations; Exemption, Recycling Operation; Gross Receipts from Business Done in Texas, Deduction for Food and Medical Receipts; Deduction of Cost of Solar Energy Device from Taxable Capital Apportioned to this State; and Temporary Credit on Net Taxable Earned Surplus).

SECTION 3.64. Sets forth the effective dates for Article 3 of the Act. Sets forth the application of this article in regard to entities becoming subject to the franchise tax. Requires an existing partnership to be considered as continued if it is not terminated. Requires a partnership to be considered terminated under certain conditions. Sets forth the application of this article in regard to a partnership that results from a merger or consolidation of two or more partnerships. Sets forth the application of this article in regard to partnerships that result from the division of a partnership.

ARTICLE 4. SALES TAX

SECTION 4.01. Section 151.0028, Tax Code, by adding Subsection (c), to define "amusement services."

SECTION 4.02. Chapter 151A, Tax Code, by adding Section 151.0029, to define "appraisal services."

SECTION 4.03. Chapter 151A, Tax Code, by adding Section 151.00295, to define "boat dock services."

SECTION 4.04. Amends Section 151.0031, Tax Code, to redefine "computer program."

SECTION 4.05. Amends Chapter 151A, Tax Code, by adding Sections 151.00335 and 151.00336,

as follows:

Sec. 151.00335. "COMMERCIAL RESEARCH, DEVELOPMENT, OR TESTING SERVICES." Sets forth what is included and what is not included in the term "commercial research, development, or testing services."

Sec. 151.00336. "CUSTOMIZING OF VEHICLE." Defines "customizing of vehicle."

SECTION 4.06. Amends Chapter 151A, Tax Code, by adding Section 151.00365, to set forth what is included and what is not included in the term "diving services."

SECTION 4.07. Amends Chapter 151A, Tax Code, by adding Section 151.0037, to define "employment agency services."

SECTION 4.08. Amends Chapter 151A, Tax Code, by adding Sections 151.0041, 151.0042, 151.0043, 151.0044, 151.00442, and 151.00443, as follows:

Sec. 151.0041. "LOW-LEVEL RADIOACTIVE WASTE DISPOSAL SERVICES." Defines "low-level radioactive waste disposal services."

Sec. 151.0042. "MANAGEMENT, CONSULTING, OR PUBLIC RELATIONS SERVICES." Sets forth what is included and what is not included in the term "management, consulting, or public relations services."

Sec. 151.0043. "MOTOR VEHICLE REPAIR SERVICES." Sets forth what is included and what is not included in the term "motor vehicle repair services."

Sec. 151.0044. "MOTOR VEHICLE WASH OR DETAIL SERVICES." Sets forth what is included and what is not included in the term "motor vehicle wash or detail services."

Sec. 151.00442. "OIL WELL SERVICE." Sets forth what is included and what is not included in the term "oil well service."

Sec. 151.00443. "PATENT BROKERAGE." Defines "patent brokerage."

SECTION 4.09. Amends Section 151.0045, Tax Code, to redefine "personal services."

SECTION 4.09A. Amends Section 151.0048(a), Tax Code, to redefine "real property services."

SECTION 4.10. Amends Sections 151.005 and 151.006, Tax Code, to redefine "sale" or "purchase" and "sale for resale"

SECTION 4.11. Amends Chapter 151A, Tax Code, by adding Sections 151.0073 and 151.0074, as follows:

Sec. 151.0073. "SANITIZING, STERILIZING, OR DISINFECTION SERVICES." Defines "sanitizing, sterilizing, or disinfection services."

Sec. 151.0074. "SECRETARIAL OR MAILING SERVICES." Defines "secretarial or mailing services."

SECTION 4.12. Amends Chapter 151A, Tax Code, by adding Section 151.0082, to define "sludge disposal services."

SECTION 4.13. Amends Section 151.009, Tax Code, to redefine "tangible personal property."

SECTION 4.14. Amends Section 151.0101(a), Tax Code, to redefine "taxable services."

SECTION 4.15. Amends Section 151.0103, Tax Code, to redefine "telecommunications services."

SECTION 4.16. Amends Chapter 151A, Tax Code, by adding Section 151.01032, to define "telephone prepaid calling card."

SECTION 4.17. Amends Chapter 151A, Tax Code, by adding Section 151.01034, to set forth what is included and what is not included within the term, "traffic or crowd control services."

SECTION 4.18. Amends Chapter 151A, Tax Code, by adding Section 151.0106, to define "transportation services."

SECTION 4.19. Amends Chapter 151A, Tax Code, by adding Section 151.014, to define "warehouse or storage services."

SECTION 4.20. Amends Section 151.051(b), Tax Code, to provide that the sales tax rate is 6-1/4 percent of the sales price of the taxable item sold, except as provided by Section 151.0511.

SECTION 4.21. Amends Chapter 151C, Tax Code, by adding Section 151.0511, as follows:

Sec. 151.0511. RATE FOR GAS AND ELECTRICITY. Sets forth a sales tax rate of 3.25 percent for certain gas and electricity.

SECTION 4.22. Amends Section 151.101(b), Tax Code, to make a conforming change.

SECTION 4.23. Amends Section 151.301, Tax Code, to make conforming and nonsubstantive changes.

SECTION 4.24. Amends Section 151.302, Tax Code, by adding Subsections (e) and (f), to set forth the conditions under which an appraisal service or a transportation service or warehouse or storage service may be purchased for resale.

SECTION 4.25. Amends Section 151.304, Tax Code, by adding Subsection (h), to provide that this section does not apply to the sale or the storage, use, or consumption of an aircraft, as that term is defined by Section 151.328.

SECTION 4.26. Amends Section 151.307, Tax Code, by amending Subsections (b), (c), and (d), and by adding Subsection (e) and (f), as follows:

(b) Authorizes proof of export, when an exemption is claimed because tangible personal property is irrevocably committed to the stream of export or exported by the seller, or exported by a United States Customs Broker licensed by the comptroller under Section 151.157, beyond the territorial limits of the U.S., to be shown only by, among other items, documentation provided to a seller by a U.S. Customs Broker licensed by the comptroller under Section 151.157 that show certain information and items. Deletes existing Subsections (b)(2)(B) and (C). Authorizes proof of export to be shown only by, among other items, export documents showing a delivery point outside the U.S. certified by an employee of a local government that maintains toll booths on an international bridge and confirming that the property has been exported into a country other than the U.S. Makes conforming changes.

(c) Provides that a U.S. Customs Broker may not rely on the type of evidence described by Subsection (b)(2) to establish that the tangible personal property was delivered to a point outside the territorial limits of the U.S. but instead must maintain evidence of the type described by Subsections (b)(1), (b)(3), (b)(4), and (b)(5).

(d) Provides that a customs broker, under certain conditions, is liable for the tax on the original purchase price of the tangible personal property; and not eligible for the exemption authorized by this section.

(e) Provides that under certain conditions a purchaser who takes possession in this state of

tangible personal property to which this section otherwise applies is applicable for sales tax on the original purchase price of the tangible personal property and is not eligible for the exemption provided by this section. Deletes existing Subsection (c).

(f) Makes a conforming change.

SECTION 4.27. Amends Section 151.308(a), Tax Code, to provide that mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Chapter 183, rather than Chapter 202, Alcoholic Beverage Code; aviation fuel as defined, taxed, or exempted by Chapter 161; and coal as taxed by Chapter 162; among other items, are exempted from the taxes imposed by this chapter. Deletes text providing that oil well service as taxed by Subchapter E, Chapter 191, is exempted from the taxes imposed by this chapter. Makes conforming changes.

SECTION 4.28. Amends Section 151.3101, Tax Code, by adding Subsection (c), to provide that this section does not exempt certain sports or athletic events and certain musical concert performances or other amusements.

SECTION 4.29. Amends Section 151.3111, Tax Code, by adding Subsection (d), to provide that this section does not apply to transportation services; appraisal services; or sanitizing, sterilizing, or disinfection services.

SECTION 4.30. Amends Section 151.316, Tax Code, by amending Subsection (a) and by adding Subsection (e), to delete text providing that ice exclusively used by commercial fishing boats in the storing of aquatic species including but not limited to shrimp, other crustaceans, finfish, mollusks, and other similar creatures, is exempted from the taxes imposed by this chapter. Provides that a transportation service is exempt from the taxes imposed by this chapter if the service is for the transportation of agricultural products. Makes conforming changes.

SECTION 4.31. Amends Section 151.317, Tax Code, by providing that the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption in this state of, gas and electricity, except when sold for residential or commercial use, are exempted from the taxes imposed by a city under Chapter 321, rather than the Local Sales and Use Tax Act, unless sales for residential use are further exempted by the city as provided by Chapter 321. Provides that the sale, production, distribution, lease or rental of, or the use, storage, or other consumption in this state of, gas and electricity, except when sold for commercial use, are exempted from the taxes imposed by any other entity under Title 3 or another law that authorizes the imposition of a local sales and use tax. Defines "commercial use." Redefines "commercial use." Makes conforming changes.

SECTION 4.32. Amends Section 151.318, Tax Code, by amending Subsections (a) and (c) and by adding Subsections (r), (s), and (t), as follows:

(a) Provides that, among other items, the tangible personal property directly used or consumed in or during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale, if the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication operation and directly makes or causes a chemical or physical change to certain products, is exempted from the taxes imposed by this chapter. Provides that, among other items, certain actuators, steam production equipment and its fuel, in-process flow through tanks, cooling towers, generators, heat exchanges, electronic control room equipment, and computerized control units that are used to power, supply, support, or control equipment are exempted from the taxes imposed by this chapter. Makes conforming changes.

(c) Provides that the exemption does not include, among other items, intraplant transportation equipment, including intraplant transportation equipment used to move a product or raw material in connection with the manufacturing process and specifically including all piping and conveyer systems, certain ice or machinery and equipment used to maintain or store tangible personal property. Makes conforming changes.

(r) Provides that a taxpayer claiming an exemption under this section has the burden of proof

that the exemption is applicable and that no exclusion under Subsection (c) applies.

(s) Provides that transportation services are exempted from the taxes imposed by this chapter under certain conditions.

(t) Provides that certain subsections do not apply to the semiconductor fabrication cleanrooms and equipment in Subsection (q).

SECTION 4.33. Amends Sections 151.319(c), (d), and (f), Tax Code, to provide that a transaction involving the sale of a handbill, circular, flyer, advertising supplement, or similar item that is printed to the special order of a customer is exempted from the taxes imposed by this chapter only if the item is printed or purchased by a newspaper for the exclusive purpose of distributing it as part of the newspaper. Deletes text relating newspaper distribution. Makes conforming changes.

SECTION 4.34. Amends Section 151.328(a), Tax Code, by deleting Subsection (a)(4). Makes conforming changes.

SECTION 4.35. Amends Section 151.330, Tax Code, by adding Subsections (j)-(m), as follows:

(j) Provides that the benefit of certain services is derived solely at the location at which the services are provided.

(k) Provides that the benefit of employment agency services is derived solely at the physical location where the employment position is filled.

(l) Provides that the benefit of certain services is derived at the location of the property that is the subject of the services.

(m) Provides that the benefit of secretarial or mailing services is derived at the location of the individual receiving the property or other outcome of the service.

SECTION 4.36. Amends Section 151.338, Tax Code, by providing that this subsection does not apply to a service that was not taxable under this chapter on September 30, 1997. Makes a conforming change.

SECTION 4.37. Amends Section 151.346(c), Tax Code, to provide that an exemption authorized by this section does not apply to a service that would have been taxable under this chapter as it existed on September 1, 1987.

SECTION 4.38. Amends Section 151.410, Tax Code, to require a seller to compute a sales tax imposed by Subchapter C of this chapter to be paid to the comptroller by multiplying the applicable percentage rate of the sales tax times the total receipts of the seller from all sales of taxable tangible personal property and of taxable services.

SECTION 4.39. Amends Section 151.416, Tax Code, to make a conforming change.

SECTION 4.40. Amends Sections 151.712(a) and (b), Tax Code, as follows:

(a) Prohibits a person from signing or certifying documentation, rather than proof of export documentation, for the purpose of showing an exemption under Section 151.307(b)(2) unless, among other conditions, the tangible personal property was delivered by the seller to the customs broker for export as described by Section 151.307(b)(2), rather than the tangible personal property the export of which the person certifies is exported on the date and to the place shown on the export documentation signed by the person.

(b) Prohibits a person who provides documentation for the purpose of claiming the exemption under Section 151.307(b)(2), rather than that tangible personal property has been exported outside the U.S., among other persons, from selling or buying the documentation. Deletes text prohibiting an authorized independent contractor from selling or buying the

documentation. Makes conforming changes.

SECTION 4.41. Amends Section 321.002(a), Tax Code, by adding Subdivision (4), to define "expanded tax base."

SECTION 4.42. Amends Chapter 321C, Tax Code, by adding Sections 321.211 and 321.2111, as follows:

Sec. 321.211. **USE OF EXPANDED TAX BASE REVENUE: GENERAL PURPOSE TAX.** Requires a municipality that has adopted the tax authorized by Section 321.101(a) to use revenue from the expanded tax base to reduce municipal governing taxes. Authorizes the governing body of a municipality that has adopted the tax authorized by Section 321.101(a) to call and hold an election on November 4, 1997, on the question of using revenue from the expanded tax base collected under that provision for a purpose other than or in addition to reducing municipal property taxes. Sets forth the guidelines relating to such an election and, under certain conditions, subsequent elections relating to use of the expanded tax base revenue. Sets forth the conditions in which an election is not required. Sets forth the use of the expanded tax base revenue if an election is not held. Requires an election to be conducted in the manner required by this section.

Sec. 321.2111. **USE OF EXPANDED TAX BASE REVENUE: TAX LEVIED FOR BENEFIT OF ANOTHER ENTITY.** Sets forth the application of this section. Requires a municipality to which this section applies to use revenue from the expanded tax base to reduce municipal property taxes. Authorizes the governing body of a municipality to which this section applies to call and hold an election on November 4, 1997, on the question of using revenue from the expanded tax base collected under the law authorizing the imposition of the tax for a purpose other than or in addition to reducing municipal property taxes. Sets forth the guidelines relating to such an election and, under certain conditions, subsequent elections relating to use of the expanded tax base revenue. Sets forth the conditions in which an election is not required. Sets forth the uses of the expanded tax base revenue if an election is not held. Requires an election to be conducted in the manner required by this section.

SECTION 4.43. Amends Chapter 321C, Tax Code, by adding Section 321.2112, as follows:

Sec. 321.2112. **ELECTION FOR USE OF EXPANDED TAX BASE REVENUE: GENERAL PURPOSE TAX IN CERTAIN MUNICIPALITIES.** Sets forth the application of this section. Requires the governing body of each municipality to which this section applies that has adopted the tax authorized by Section 321.101(a) to call and hold an election on November 4, 1997, on the question of the use of revenue from the expanded tax base collected under that provision. Sets forth the guidelines relating to such an election. Authorizes a municipality to use revenue from the expanded sales tax base to provide funding for the construction or renovation of one or more sports facilities under certain conditions. Sets forth guidelines relating to the ballot and advertisements in regard to the election. Sets forth the use of revenue from the expanded tax base. Sets forth the guidelines relating to a subsequent election under certain conditions. Sets forth the use of the expanded tax base. Defines "sports facility."

SECTION 4.44. Amends Chapter 321F, Tax Code, by adding Section 321.508, as follows:

Sec. 321.508. **USE OF TAX REVENUE FROM EXPANDED TAX BASE.** Authorizes a municipality that imposes a tax under this chapter or an entity for whom the municipality levies a sales and use tax to use revenue from the expanded tax base only to reduce municipal property taxes. Authorizes the municipality to use the revenue only for the purpose or purposes authorized by the voters under the applicable provisions of this chapter if the municipality holds an election under this chapter on the question of how to use the expanded tax base revenue. Sets forth the use of expanded tax base revenue when the municipality imposes an additional sales and use tax under Section 321.101(b) and when the municipality does not impose an additional sales and use tax under Section 321.101(b).

SECTION 4.45. (a) Amends Chapter 322, Tax Code, by adding Subchapter E, as follows:

SUBCHAPTER E. EXPANDED TAX BASE

Sec. 322.401. COMPUTATION OF EXPANDED TAX BASE INDEX. Sets forth the guidelines for the required computation by the comptroller of an expanded tax base index for each taxing entity that imposes a sales and use tax on January 1, 1997.

Sec. 322.402. TAX RATE ADJUSTMENT. Sets forth the guidelines relating to the required reduction of the rate at which the taxing entity is imposing the sales and use tax rate.

Sec. 322.403. RECOMPUTATION. Sets forth the guidelines relating to the required recomputation by the comptroller of each taxing entity's expanded tax base index.

Sec. 322.404. EXEMPTION ELECTION. Sets forth the guidelines relating to exemption of a taxing entity from the application of this subchapter upon approval for such an exemption by the voters.

Sec. 322.405. EFFECTIVE DATE OF RATE INCREASE. Sets forth the effective date of a rate increase authorized by Section 322.404(b).

(b) Provides that this section takes effect on the earliest date on which it may take effect under Section 39, Article III, Texas Constitution.

(c) Prohibits an election under Section 322.404, Tax Code, as added by this section, from being held before September 1, 1997, but the ordering of an election before that date is not invalid.

SECTION 4.46. Amends Section 323.002, Tax Code, by defining "expanded tax base." Makes a conforming change.

SECTION 4.47. Amends Chapter 323C, Tax Code, by adding Sections 323.210 and 323.2101, as follows:

Sec. 323.310. USE OF EXPANDED TAX BASE REVENUE; GENERAL COUNTY TAX. Sets forth the guidelines relating to use of expanded tax base revenue by a county that has adopted the county sales and use tax authorized by this chapter at an election held held before September 1, 1997.

Sec. 323.2101. USE OF EXPANDED TAX BASE: TAX LEVIED FOR SPECIAL PURPOSE. Sets forth the guidelines relating to use of expanded tax base revenue by a county in which a sales and use tax has been adopted by an election held before September 1, 1997, and, in which use of the revenue from that tax is authorized only for a special purpose such as to provide funding for health services or for the operation of a county landfill and a criminal defense center.

SECTION 4.48. Amends Chapter 323F, Tax Code, by adding Section 323.506, as follows:

Sec. 323.506. USE OF TAX REVENUE FROM EXPANDED TAX BASE. Sets forth provisions regarding the use of tax revenue from the expanded tax base for a county.

SECTION 4.49. Amends Title 3C, Tax Code, by adding Chapter 326, as follows:

CHAPTER 326. EXPANDED TAX BASE FOR CERTAIN POLITICAL SUBDIVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 326.001. DEFINITIONS. Defines "expanded tax base" and "political subdivision."

SUBCHAPTER B. POLITICAL SUBDIVISION THAT IMPOSES
AN AD VALOREM TAX

Sec. 326.021. APPLICATION OF SUBCHAPTER. Provides that this subchapter applies to a political subdivision that imposes an ad valorem tax and voted to impose a sales and use tax governed by Chapter 321 or 323 before September 1, 1997.

Sec. 326.022. USE OF EXPANDED TAX BASE. Requires a political subdivision to use revenue from the expanded tax base to reduce the political subdivision's property taxes.

Sec. 326.023. ELECTION FOR USE OF EXPANDED TAX BASE. Establishes provisions for an election called by the governing body of a political subdivision on the question of using revenue from the expanded tax base for a purpose other than or in addition to reducing property taxes.

Sec. 326.024. USE OF TAX REVENUE. Authorizes a political subdivision to use the revenue from the expanded tax base in a certain manner as prescribed by the results of an election under this subchapter.

SUBCHAPTER C. POLITICAL SUBDIVISION THAT DOES NOT IMPOSE
AN AD VALOREM TAX.

Sec. 326.051. APPLICATION OF SUBCHAPTER. Provides that this subchapter applies to a political subdivision that does not impose an ad valorem tax and voted to impose a sales and use tax governed by Chapter 321 or 323 before September 1, 1997.

Sec. 326.052. COMPUTATION OF EXPANDED TAX BASE INDEX. Requires the comptroller to compute an expanded tax base index for each political subdivision to which this subchapter applies under certain conditions. Requires the comptroller to recompute the expanded tax base index for each political subdivision in accordance with Section 322.403 by a certain date. Requires the comptroller to use the procedures prescribed by Chapter 322E. Defines "entity area" and "taxing entity" for the purposes of that computation.

Sec. 326.053. REDUCTION OF TAX BASE. Requires the political subdivision to reduce the actual and maximum tax rate in accordance with the requirements of Chapter 322E.

Sec. 326.054. EXEMPTION ELECTION. Authorizes the voter of a political subdivision to exempt the political subdivision from the application of this subchapter under certain conditions and in accordance with certain other provisions.

SECTION 4.50. Repealers: Section 151.007(d), 151.157(g), 151.158, 151.159, 151.3071, 151.320, 151.328(f) and (g), and Chapter 191E, Tax Code ("Sales Price" or "Receipt;" Custom Brokers; Export Stamps; Refunds and Identification Cards; Installation of Certain Equipment for Export; Magazine; Aircraft; and Oil Well Service).

SECTION 4.51. Provides that certain consumption records in this state of items or services that became subject to certain taxation are exempted from the taxes imposed by Chapter 151, Tax Code. Provides that this exemption expires January 1, 2000.

SECTION 4.52. Effective date of this article: October 1, 1997.

ARTICLE 5. INSURANCE PREMIUM TAXES

SECTION 5.01. Amends Section 11(a), Article 1.14-1, Insurance Code, to require every unauthorized insurer to pay to the comptroller a premium receipts tax of 5.85 percent, rather than 4.85 percent, of certain gross premiums under certain conditions.

SECTION 5.02. Amends Section 12(a), Article 1.14-1, Insurance Code, to require every insured

who procures insurance in accordance with Section 2(b)(4) of this article, rather than Section 2(b)4 of this article, to file a report with the comptroller and pay an independently procured insurance tax of 5.85 percent, rather than 4.85 percent.

SECTION 5.03. Amends Section 12(a), Article 1.14-2, Insurance Code, to make conforming changes.

SECTION 5.04. Amends Article 1.16(b), Insurance Code, to require certain assessments made under this section to be made by the Texas Department of Insurance in a certain manner, rather than the State Board of Insurance. Prohibits the amount of the assessments made in each taxable year to or for the use of the State of Texas by any insurance corporation or association hereby affected from being allowed as a credit on the amount of premium taxes to be paid by any such insurance corporation or association and deletes an exception to this provision. Makes a conforming change.

SECTION 5.05. Amends Section 2, Article 1.28, Insurance Code, to provide that the amount of the examination expenses paid to the state, rather than incurred by certain persons under certain conditions, is not allowed as a credit on or offset to the amount of premium taxes to be paid by the domestic insurance company to the state, and this article prevails over any conflicting provisions in any other law of this state, rather than any conflicting provision in Articles 1.16, 4.10, and 4.11 of this code.

SECTION 5.06. Amends Section 1, Article 4.10, Insurance Code, to require every insurance carrier including interinsurance exchanges, among others, to pay to the comptroller a tax upon such gross premium receipts as provided in this article. Deletes a provision requiring the taxes paid to the comptroller to be transmitted to the state treasurer for certain purposes.

SECTION 5.07. Amends Section 6(b), Article 4.10, Insurance Code, to require the semiannual payment under this section to equal the tax which would be owed on the aggregate of the gross premium receipts for the two previous calendar quarters at the tax rate specified by law, rather than at the minimum tax rate specified by law. Deletes a provision authorizing the comptroller to certify for refund to the state treasurer any overpayment of premium taxes that results for the semiannual prepayment system herein established.

SECTION 5.08. Amends Article 4.10, Insurance Code, by adding Section 6A and by amending Section 10, as follows:

Sec. 6A. PREPAYMENTS FOR 1998 TAX YEAR. Establishes provisions relating to a semiannual prepayment of premium taxes by certain insurers. Provides that this section expires September 1, 1999.

Sec. 10. RATE OF TAX. Provides that there is imposed on each such insurance carrier an annual tax equal to 2.25 percent, rather than 3.5 percent, of its premium receipts. Deletes a provision authorizing any insurance carrier to qualify in a certain manner for a tax rate lower than the 3.5 percent imposed by this article.

SECTION 5.09. Amends Section 2(c), Article 4.11, Insurance Code, to redefine "gross premiums."

SECTION 5.10. Amends Section 4.11, Insurance Code, by amending Section 5F and adding Section 5I, as follows:

Sec. 5F. New heading: TAX RATE--1995 THROUGH 1997. Makes conforming changes.

Sec. 5I. TAX RATE--1998 AND AFTERWARDS. Provide that a tax equal to 2.25 percent of its gross premiums or revenues collected for issuance of certificate or contract is imposed on certain insurance carriers and health maintenance organizations beginning with the tax year 1998.

SECTION 5.11. Amends Section 13(a), Article 4.11, Insurance Code, to make conforming changes.

SECTION 5.12. Amends Article 4.11, Insurance Code, by adding Section 13A, as follows:

Sec. 13A. PREPAYMENT FOR 1998 TAX YEAR. Makes conforming changes.

SECTION 5.13. Amends Section 3(b), Article 9.59, Insurance Code, to make conforming changes.

SECTION 5.14. Amends Article 9.59, Insurance Code, by adding Section 3A and by amending Section 4, as follows:

Sec. 3A. PREPAYMENTS FOR 1998 TAX YEAR. Makes conforming changes.

Sec. 4. RATE OF TAX. Provides that there is imposed on all premiums on title insurance an annual tax equal to 1.8 percent, rather than 2 percent. Deletes provisions for certain other title insurance companies.

SECTION 5.15. Amends Sections 32(b)(3)-(5), Article 20A.32, V.T.C.S. (Texas Health Maintenance Organization Act), to prohibit certain amounts paid by a health maintenance organization from being allowed as a credit on the amount of premium taxes to be paid by the health maintenance organization. Deletes a provision regarding certain amounts attributable to certain services of a health maintenance organization.

SECTION 5.16. Repealers: Sections 7, 8, 9, and 13, Article 4.10, Section 8, Article 4.11, Article 4.11B, Article 4.11C, and Sections 7, 13, and 14, Article 9.59, Insurance Code (Amount of Tax; Texas Investment Defined; Similar Investment Defined; and Examination and Evaluation Fee Credits, Examination and Evaluation Fees Allowed as Credits; Reciprocal of Interinsurance Exchange; Determination of Tax Applicable to Reciprocal Exchange; Election, Examination and Evaluations Fee Credit;, Texas Insurance Defines; and Similar Investments Defined).

SECTION 5.17. Effective date for this article: January 1, 1998.

ARTICLE 6. LOTTERY REVENUE

SECTION 6.01. Amends Section 466.015, Government Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Authorizes the Texas Lottery Commission (TLC) to adopt rules governing the establishment and operation of the lottery, including rules governing the number of winning tickets and the total amount of prizes paid on each winning ticket, except that the total amount of the prizes awarded under this chapter may not exceed the amount described in Subsection (d).

(d) Sets forth provisions regarding the total amount of lottery prizes that TLC may award in certain situations.

SECTION 6.02. Amends Section 466.355(b), Government Code, to authorize the money in the state lottery allotted to the balance, after creation of a reserve sufficient to pay the amount needed or estimated to be needed as provided under Subdivisions (1)-(3), to be transferred to the foundation school fund, rather than unobligated portion of the general revenue fund, before a certain date.

SECTION 6.03. Effective date of this article: September 1, 1997.

SECTION 6.04. (a) Makes application of this Act prospective.

(b) Prohibits the total amount of lottery prizes that TLC may award from exceeding a certain amount in fiscal year 1998.

SECTION 6.05. Makes application of Section 466.355, Government Code, prospective.

ARTICLE 7. ALCOHOLIC BEVERAGE TAXES

SECTION 7.01. Amends Sections 201.03, 201.04, and 201.09, Alcoholic Beverage Code, as follows:

Sec. 201.03. TAX ON DISTILLED SPIRITS. Provides that a tax imposed on the first sale of distilled spirits at the rate of \$2.64 per gallon, rather than \$2.40 per gallon. Provides that the minimum tax impose on packages of distilled spirits containing two ounces or less is 5.5 cents, rather than five cents, per package. Provides that the minimum tax imposed on each of these packages is \$0.134, rather than \$0.122, under certain conditions.

Sec. 201.04. TAX ON VINOUS LIQUOR. Provides that a tax imposed on the first sale of vinous liquor that does not contain over a certain percentage of alcohol by volume at the rate of 22.44 cents, rather than 20.4 cents per gallon. Provides that a tax is imposed on a vinous liquor that contains more than 14 percent of alcohol by volume at the rate of 44.88 cents, rather then 40.8 cents, per gallon. Provides that a tax is imposed on artificially carbonated and natural sparkling vinous liquor at the rate of 56.79 cents, rather than 51.6 cents, per gallon.

Sec. 201.09. REFUND DUE ON DISPOSITION OUTSIDE OF STATE. Provides that this section does not apply to the holder of an airline beverage permit or passenger train permit.

SECTION 7.02. Amends Section 201.42, Alcoholic Beverage Code, to provide that a tax is imposed on the first sale of ale and malt liquor at the rate of \$0.2178 per gallon, rather than \$0.198 per gallon.

SECTION 7.03. Amends Section 203.01, Alcoholic Beverage Code to provide that a tax is imposed on the first sale of beer manufactured in this state or imported into this state at the rate of \$6.60, rather than six dollars, per barrel.

SECTION 7.04. (a) Effective date for this article: September 1, 1997.

(b) Provides that the provision of this article applies to the holders of a food and beverage certificate issued by the Texas Alcoholic Beverage Commission.

ARTICLE 8. MOTOR FUEL AND AVIATION FUEL TAXES

SECTION 8.01. Amends Section 153.001, Tax Code, by amending Subdivisions (1), (4), (8), (16), (18), (19), (15) and (27) and adding Subdivisions (28), (29), and (30), to redefine "aviation fuel," "dealer," "diesel tax prepaid user," "liquified gas," "motorboat," "motor fuel," "supplies," and "user" and defines "agricultural use," "bonded limited tax-paid user," and "commercial vessel."

SECTION 8.02. Amends Section 153.013, Tax Code, by adding Subsection (c), as follows:

(c) Provides that any product capable of being used as the propellant of a gasoline-powered engine or diesel engine is presumed to be motor fuel subject to the provisions of this chapter under certain conditions. Provides that a cargo manifest identifying fuel as aviation fuel is sufficient enough to establish the fuel as an aviation fuel and subject to the the provisions of Chapter 161. Provides that an enforcement officer is not required to state or determine whether the action is taken under this chapter to Chapter 161 in certain instances.

SECTION 8.03. Amends Section 153.102, Tax Code, by adding Subsection (c), as follows:

(c) Sets forth the tax rate of gasoline used in this state for a nonhighway use other than commercial vessel or agricultural use.

SECTION 8.04. Amends Section 153.104, Tax Code, to provide that the tax imposed by this subchapter does not apply to gasoline brought into this state in the fuel supply tank having a capacity of 60 gallons or less of a motor or engine not used for highway purposes and not removed from the tank; that is aviation fuel and is taxed under Chapter 161; or sold to a commercial transportation company that provides public school transportation services to a school district under Section 434.008, Education Code, rather than Section 21.181, Education Code, and used by the company

exclusively to provide those services. Deletes exemptions for the tax imposed by this subchapter relating to aviation fuel.

SECTION 8.05. Amends Section 153.114, Tax Code, as follows:

Sec. 153.114. New heading: LIST OF DISTRIBUTORS AND GASOLINE JOBBERS. Deletes aviation fuel dealers from the provisions of this section. Makes a conforming change.

SECTION 8.06. Amends Section 153.117(f), Tax Code, to make a conforming change.

SECTION 8.07. Amends Sections 153.119(a), (b), and (d), to provide that a person who exports or sells to certain entities without having added the amount of the tax imposed by this chapter to certain uses of gasoline for the purpose of operating or propelling a commercial vehicle or for agricultural use is entitled to reimbursement of the tax paid under Section 153.105(e), rather than 153.105(c) of this code. Set forth provisions for an entitlement for a person who uses gasoline for certain purposes under this subchapter. Authorizes the person to file a refund claim under this subsection for a portion of the tax paid on the gasoline. Makes conforming changes.

SECTION 8.08. Amends Section 153.1195(d), Tax Code, to provide that this section does not apply to the sale of gasoline that is delivered into the fuel supply tank of a commercial vessel for which payment is made through the use and acceptance of a credit card.

SECTION 8.09. Amends Section 153.120(a), Tax Code, to require a refund claim to be filed which contains the type of vehicle or equipment, such as a commercial vehicle, farm machine, or distinguishing agricultural and other user, into which the fuel is delivered.

SECTION 8.10. Amends Section 153.202, Tax Code, by adding Subsections (c)-(f), to set forth certain provisions relating to the taxation of diesel fuel. Provides that this subsection and Subsections (d) and (e) expire January 1, 1999.

SECTION 8.11. Amends Section 153.203, Tax Code, to provide that the tax imposed by this subchapter does not apply to diesel fuel sold or delivered by a permitted supplier to another permitted supplier or bonded tax-free user; a diesel fuel that is aviation fuel and that is taxed under Chapter 161, rather than is diesel fuel that is sold or delivered in a certain manner; a diesel fuel sold or delivered by a permitted supplier into fuel supply tanks of commercial vessels, rather than railway engines, motorboats, or refrigeration units for agricultural use, or for other stationary equipment use or agricultural use powered in a certain manner; kerosene when delivered by a permitted supplier into a storage facility at a retail business and used in a non-motor or non-engine related task; or diesel fuel brought into the state in a fuel supply tank for use for certain purposes and not removed from the tank. Deletes existing Subsection (7). Makes conforming changes.

SECTION 8.12. Amends Section 153.205(a), Tax Code, to provide that the first sale for use of diesel fuel in this state is taxable except if the purchaser furnishes to a permitted supplier a signed statement that stipulates that the purchase does not operate any diesel-powered motors or engines, other than a commercial vessel or other than agricultural use, rather than motor vehicles on the public highway, and that none of the diesel fuel purchase in this state will be used to power any motor or engine other than a commercial vessel or other than for an agricultural use.

SECTION 8.13. Amends Chapter 153C, Tax Code, by adding Section 153.2055, as follows:

Sec. 153.2055. STATEMENT FOR PURCHASE OF CERTAIN DIESEL FUEL. Sets forth provisions regarding a signed statement by the purchaser and furnished to the permitted supplier relating to certain diesel fuels which provides certain stipulations for the use of the diesel fuel after purchase.

SECTION 8.14. Amends Sections 153.206(a), (c), and (i), Tax Code, to require certain suppliers to collect a tax at the rate provided by Section 153.202(c). Requires the user to pay the difference between the tax imposed under Section 153.202(a) and the tax imposed under Section 153.202(c),

otherwise the amount shall be the amount of tax imposed under Section 153.202(a), under certain conditions. Sets forth entitlements for a bonded limited tax-paid user.

SECTION 8.15. Amends Section 153.207(a), Tax Code, to require a bonded limited tax-paid user and a bonded tax-free user to file an application with the comptroller for one of the nonassignable permits provided for in this subchapter. Deletes an aviation fuel dealer from the requirement to file an application under this section.

SECTION 8.16. Amends Section 153.208, Tax Code, by amending Subsections (b)-(d) and by adding Subsection (e), to provide that a supplier's permit authorizes a person to sell tax-free diesel to a bonded tax-free user, an agricultural operator, rather than an aviation fuel dealer; and a person issued a signed statement under Section 153.205. Deletes Subsection (b)(4). Provides that a supplier's permit authorizes a person to supply diesel fuel on which the tax under Section 153.202(c) had been paid for to certain persons. Prohibits a supplier from making a tax-free sale or delivery of diesel fuel into the fuel supply tanks of a diesel motor or engine, other than a commercial vessel or other than for an agricultural use. Makes conforming and nonsubstantive changes.

SECTION 8.17. Amends Section 153.209, Tax Code, as follows:

Sec. 153.209. New heading: **BONDED TAX-FREE USER PERMIT**. Provides that a bonded tax-free user permit authorizes a user whose purchases of diesel fuel are exclusively for commercial vessel or agricultural use to purchase diesel fuel tax free from permitted suppliers.

SECTION 8.18. Amends Chapter 153C, Tax Code, by adding Sections 153.2095 and 153.2096, as follows:

Sec. 153.2095. **BONDED LIMITED TAX-PAID USER PERMIT**. Sets forth guidelines for use of a bonded limited tax-paid user permit in regard to purchase of diesel fuel.

Sec. 153.2096. **AGRICULTURAL OPERATOR'S PERMIT**. Set forth guidelines for use of an agricultural operator's permit in regard to purchase of diesel fuel.

SECTION 8.19. Amends Sections 153.210(a) and (b), Tax Code, to provide that a diesel tax prepaid user permit authorizes a person whose use of diesel fuel, other than commercial vessel or agricultural use, to elect to prepay certain taxes rather than obtain a bonded limited tax-paid user permit. Sets forth the vehicle classes and amounts of taxes.

SECTION 8.20. Amends Section 153.214, Tax Code, to delete a provision authorizing a supplier to operate under the supplier's permit as an aviation fuel dealer.

SECTION 8.21. Amends Section 153.215(a), Tax Code, to provide that an agricultural operator's, bonded tax-free user's, and bonded limited tax-paid user's permit is permanent and valid under certain conditions. Makes conforming changes.

SECTION 8.22. Amends Section 153.217, Tax Code, as follows:

Sec. 153.217. New heading: **LIST OF SUPPLIERS, BONDED TAX-FREE USERS, BONDED LIMITED TAX-PAID USERS, AGRICULTURAL OPERATORS, AND DIESEL FUEL JOBBERS**. Provides that a bonded limited tax-paid user on the list is entitled to purchase diesel fuel on which the tax imposed under Section 153.202(c) has been paid. Makes conforming changes.

SECTION 8.23. Amends Sections 153.218(a)-(c) and (j), Tax Code, to make conforming changes.

SECTION 8.24. Amends Sections 153.219(c)-(i), Tax Code, to delete the provisions of existing Subsection (d), relating to aviation fuel dealers. Requires each person required to keep a record under this section for each record relating to the activities regarding diesel fuel to identify the diesel fuel in a certain manner. Makes conforming and nonsubstantive changes.

SECTION 8.25. Amends Sections 153.220(a), (d) and (e), Tax Code, to require certain deliveries of diesel fuel to be evidenced by an invoice issued in duplicate by a dealer report and invoice or a distribution log issued by an agricultural operator or a bonded limited tax-paid uses or other users. Requires the invoice or log to contain a statement that the diesel fuel tax is included in the selling price and the rate of the tax and spaces for providing the type of vehicle equipment such as a commercial vessel, farm machine, distinguishing agricultural and other user. Makes a conforming change,

SECTION 8.26. Amends Sections 153.221(b) and (c), Tax Code, to make conforming changes.

SECTION 8.27. Amends Sections 153.222(a), (b), and (d), Tax Code, to authorize a dealer or diesel fuel jobber who has paid tax on diesel fuel that has been used or sold for use by the dealer or diesel fuel jobber for powering a commercial vessel or for an agricultural use to file a claim for a refund of certain taxes. Sets forth regulations relating to a dealer or diesel fuel jobber who has paid certain taxes. Makes conforming and nonsubstantive changes.

SECTION 8.28. Amends Section 153.403, Tax Code, to provide that a person commits an offense if the person transports gasoline or diesel fuel that is not aviation fuel or holds a supplier's permit and performs certain functions relating to this permit. Makes conforming change nonsubstantive changes.

SECTION 8.29. Amends Section 153.5025, Tax Code, as follows:

Sec. 153.5025. New heading: ALLOCATION OF OTHER NONDEDICATED TAXES. Requires the comptroller, by rule, to devise a method of determining certain information as accurately as possible. Requires the comptroller to allocate to the general revenue fund the amount determined under Subsection (a)(2). Requires the determination and allocation to be made periodically by rule.

SECTION 8.30. Amends Title 2E, Tax Code, by adding Chapter 161, as follows:

CHAPTER 161. AVIATION FUELS TAX

SUBCHAPTER 1. GENERAL PROVISIONS

Sec. 161.001. DEFINITIONS. Defines "aircraft," "aviation fuel," "aviation fuel dealer," "aviation fuel distributor," "cargo tank," "motor vehicle," "public highway," and "sale."

Sec. 161.002. CARGO CARRIER RECORDS. Requires all common and contract carriers operating in this state to keep for four years, open to inspection by the comptroller, a complete record of each intrastate and interstate transportation of aviation fuel. Sets forth requirements for the records.

Sec. 161.003. AVIATION FUEL TRANSPORTING DOCUMENT. Sets forth provisions regarding a person who transports aviation fuel on public highways.

Sec. 161.004. CANCELLATION OF PERMITS. Authorizes the comptroller to cancel or refuse to issue or reissue an aviation fuel distributor permit to any person who violates or fails to comply with this chapter or a rule of the comptroller for the administration of this chapter. Sets forth provisions regarding the cancellation or the refusal of a permit. Authorizes the comptroller to prescribe rules of procedure and evidence for hearings in accordance with Chapter 2001, Government Code.

Sec. 161.005. SUMMARY SUSPENSION OF PERMIT. Authorizes the comptroller to suspend a person's permit without notice or a hearing for the person's failure to comply with this chapter or a rule adopted under this chapter under certain conditions. Sets forth provisions applicable if the comptroller summarily suspends a person's permit. Sets forth provisions regarding hearings and notice.

Sec. 161.006. ENFORCEMENT OF PERMIT CANCELLATION, SUSPENSION, OR

REFUSAL. Authorizes the comptroller to examine any books and records incident to the conduct of the business of a person whose permit has been canceled or suspended on the person's failure to file the reports required by this chapter or to remit all taxes due. Sets forth additional provisions regarding enforcement of permit cancellation, suspension, or refusal.

Sec. 161.007. INSPECTION OF PREMISES AND RECORDS. Authorizes the comptroller to take certain actions for the purpose of determining the amount of tax collected and payable to the state, the amount of tax accruing and due, and whether a tax liability has been incurred under this chapter.

Sec. 161.008. AUTHORITY TO STOP AND EXAMINE. Authorizes the comptroller, a law enforcement officer of the Department of Public Safety, or any other peace officer, in order to enforce this chapter, to stop a motor vehicle that appears to be transporting aviation fuel in order to examine the cargo manifest required to be carried, examine a permit or copy of a permit that may be required to be carried, take samples from the fuel supply or cargo tanks, or make any other investigation that could reasonably be made to determine whether the required taxes have been paid or accounted for by a dealer or any person required to be permitted under this chapter.

Sec. 161.009. IMPOUNDMENT AND SEIZURE. Sets forth provisions applicable if after examination or other investigation the comptroller or a peace officer has reasonable cause to believe that the owner or operator of any motor vehicle or cargo tanks, or any person receiving or possessing, delivering, or selling aviation fuel, has not paid all aviation fuel taxes due or does not have a valid permit entitling that person to possess or transport tax-free aviation fuel. Sets forth provisions applicable if the owner or operator does not produce the required documentation or required permit or does not pay the taxes, penalties, interest, and costs due within three working days after the beginning of the impoundment. Authorizes the comptroller to make certain seizures.

Sec. 161.010. SALE OF SEIZED PROPERTY. Authorizes the comptroller to sell property seized under Section 161.009. Sets forth provisions regarding the sale of seized property. Sets forth requirements regarding the allocation of the proceeds of a sale of such seized property.

Sec. 161.011. PRESUMPTIONS. Provides that an aviation fuel distributor who fails to keep the records, issue the invoices, or file the reports required by this chapter is presumed to have sold or used for taxable purposes all aviation fuel shown by an audit by the comptroller to have been sold to the distributor. Provides that any aviation fuel unaccounted for is presumed to have been sold or used for taxable purposes. Authorizes the comptroller to establish the amount of taxes, penalties, and interest due from the records of deliveries or from any records or information available to the comptroller. Sets forth provisions applicable if a tax claim developed through this procedure is not paid.

Sec. 161.012. ADDITIONAL TAX APPLIES TO AVIATION FUEL DEALER INVENTORIES. Requires, on the effective date of an increase in the rates of the taxes imposed by this chapter, a dealer that possesses for the purpose of sale 2,000 or more gallons of aviation fuel at each business location on which the taxes imposed by this chapter at a previous rate have been paid to report to the comptroller the volume of that aviation fuel and, at the time of the report, to pay a tax on that aviation fuel at a rate equal to the rate of the tax increase. Sets forth provisions applicable on the effective date of a reduction of the rates of tax imposed by this chapter regarding a refund for certain aviation fuel dealers.

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

Sec. 161.051. TAX IMPOSED; RATE. Provides that a tax is imposed on the sale or delivery of aviation fuel in this state. Provides that the aviation fuel tax rate is four cents for each gallon or fractional part delivered to an aviation fuel dealer or other person.

Sec. 161.052. COMPUTATION OF TAX. Requires the amount of the tax to be computed

and paid to the state on the temperature-adjusted volume of gallons of taxable aviation fuel sold to an aviation fuel dealer or other persons purchasing aviation fuel for the person's own use or for resale if the sale is made in a single delivery of 5,000 gallons or more or in a lesser quantity if required by municipal ordinance. Authorizes the comptroller to publish and distribute a table to be used for converting the measurement of gross gallons of aviation fuel to temperature-adjusted gallons. Sets forth additional provisions regarding the computation and payment of the tax. Sets forth provisions regarding a permitted aviation fuel distributor whose fuel deliveries are made to retail outlets operated by the distributor on consignment. Sets forth provisions applicable if the comptroller is not satisfied with a tax return or the amount of tax required to be paid to the state by any aviation fuel distributor who elects to report on the basis of actual sales.

Sec. 161.053. EXCEPTIONS. Provides that the tax imposed by Section 161.051 does not apply to certain aviation fuel.

Sec. 161.054. COLLECTION OF TAX. Requires certain permitted aviation fuel distributors to report and pay the tax in the manner provided by this chapter. Provides that aviation fuels are considered to be used when withdrawn from storage for delivery into a fuel supply tank. Requires an aviation fuel distributor to pay the tax at the rate imposed on each gallon of aviation fuel delivered to an aviation fuel dealer or used in an aircraft by the distributor. Sets forth provisions regarding allocation of the tax.

Sec. 161.055. PERMITS. Requires a person acting as an aviation fuel distributor to obtain from the comptroller an aviation fuel distributor permit.

Sec. 161.056. PERMIT APPLICATION FORMS. Requires the comptroller to promulgate the application form for a permit, which must contain certain information.

Sec. 161.057. PERMITS; PERIOD OF VALIDITY. Provides that a permit is valid so long as the permit holder has in force and effect the required bond or security and furnishes timely reports as required or until the permit is surrendered by the holder or canceled by the comptroller.

Sec. 161.058. DISPLAY OF PERMIT. Sets forth provisions regarding the display of a permit.

Sec. 161.059. LIST OF PERMIT HOLDERS. Requires the comptroller, on or before December 20 of each year, to prepare and deliver to each aviation fuel distributor a printed alphabetical list of permitted aviation fuel distributors who are qualified to purchase aviation fuel tax free during the following calendar year. Requires a supplemental list of additions and deletions to be delivered to each aviation fuel distributor each succeeding month.

Sec. 161.060. BONDS AND OTHER SECURITY FOR TAXES. (a) Requires the comptroller to determine the amount of security required of an aviation fuel distributor taking into consideration the amount of tax that has or is expected to become due from the person, any history of the person as a permit holder under Chapter 153, and the necessity to protect the state against the failure to pay the tax as it becomes due.

(b) Sets forth provisions applicable if it is determined that the post of security is necessary to protect the state.

(c) Sets forth provisions regarding an aviation fuel distributor who has filed a bond or other security under this subchapter.

(d) Sets forth requirements regarding a bond under this chapter.

(e) Authorizes an applicant for a permit, in lieu of filing a surety bond, to substitute certain other securities.

(f) Sets forth provisions applicable if the amount of an existing bond becomes insufficient or a security becomes unsatisfactory or unacceptable.

(g) Prohibits a surety bond or other form of security from being released until it is determined by examination or audit that no tax, penalty, or interest liability exists. Requires the cash or securities to be released within 60 days after the comptroller determines that no liability exists.

(h) Authorizes the comptroller to use the cash or certificate of deposit to satisfy a final determination or delinquent liability or a judgment secured in any action by this state to recover fuel taxes, costs, penalties, and interest found to be due this state by a person in whose behalf the cash or certificate security was deposited.

(i) Sets forth provisions regarding a surety on a bond furnished by a permittee.

(j) Requires the comptroller to notify immediately the issuer of a letter of credit of a final determination of the distributor's delinquent liability or a judgment secured in any action by this state to recover certain taxes, costs, penalties, and interest. Sets forth additional provisions regarding a letter of credit.

(k) Authorizes a permit holder to request an examination or audit to obtain release of the security when the permit holder relinquishes the permit or when the permit holder desires to substitute one form of security for an existing one.

Sec. 161.061. RECORDS. Requires a permitted aviation fuel distributor to keep a complete and separate record of the number of gallons of fuel according to certain provisions. Sets forth additional provisions regarding the keeping of records.

Sec. 161.062. REPORTS AND PAYMENTS. Requires an aviation fuel distributor, on or before the 25th day of each month, to file a report of aviation fuel transactions and remit the amount of tax required to be collected during the preceding month. Sets forth provisions regarding the filing of the report. Authorizes the comptroller to require selective schedules from an aviation fuel distributor or common or contract cargo carrier for a purchase, sale, delivery, or transportation of aviation fuel if the schedules are not inconsistent with the requirements of this chapter. Requires the records to be kept for four years and provides that the records are open to inspection at all times by the comptroller, the attorney general, or their authorized representatives.

Sec. 161.063. TAX ON INITIAL INVENTORY. Provides that a tax is imposed on aviation fuel held by an aviation fuel dealer on January 1, 1998, other than for the excepted uses under Section 161.053. Provides that the rate of the tax is four cents for each volumetric gallon or fractional part of a gallon of aviation fuel held on that date. Requires each aviation fuel dealer to gauge or meter each storage tank containing aviation fuel at the end of December 31, 1997. Requires each aviation fuel dealer to report on the volume of aviation fuel so measured and remit the taxes imposed by this section not later than February 21, 1998, on forms and according to procedures adopted by the comptroller for that purpose. Provides that this section expires January 1, 1999.

SUBCHAPTER C. REFUNDS

Sec. 161.101. REFUNDS ON TAXES PAID. Provides that a person who qualifies for a tax refund under Subsection (b) or (c) and who fully complies with the invoice and filing provisions of this chapter and the rules of the comptroller is entitled to reimbursement of the tax paid by the person, less a filing fee and any amount allowed permitted aviation fuel distributors. Sets forth provisions regarding a refund for a person who exports as cargo or loses by fire or other accident 100 gallons or more of aviation fuel that meets certain qualifications. Sets forth provisions regarding the right to receive a refund under this section. Sets forth provisions applicable if a distributor has secured an assignment and the proof of export as cargo required by the comptroller. Authorizes certain aviation fuel dealers or users

to request a refund of the amount by which the motor fuel tax paid exceeds the amount of the tax imposed by this chapter on the fuel.

Sec. 161.102. CREDITS FOR BAD DEBTS. Authorizes a permitted aviation fuel distributor to take a credit on the monthly report to be filed with the comptroller under certain conditions. Sets forth additional provisions regarding credits for bad debts.

Sec. 161.103. REFUND PROCEDURE. Requires a refund claim to be filed with the comptroller on a form provided by the comptroller and to show the date of filing, the period covered in the claim, the number of gallons of aviation fuel subject to refund, and other information required by the comptroller. Requires a claim to be supported by one or more original invoices issued to the claimant or such other information as the comptroller considers necessary.

Sec. 161.104. LIMITATIONS ON REFUNDS. Requires a refund claim to be filed with the comptroller within one year after the first day of the calendar month following the purchase, export, or loss by fire, theft, or other accident of the aviation fuel on which the claim is based. Sets forth applicable provisions if on the audit of an aviation fuel distributor the comptroller determines that a tax-free sale was made to an unauthorized purchaser. Sets forth provisions regarding a person who files a refund claim on any aviation fuel used for a purpose for which a tax refund is not authorized.

Sec. 161.105. REFUND PAYMENTS AND FILING FEE. Requires the comptroller, after examination and approval of a refund claim, and before issuance of a refund warrant, to deduct a certain amount from the amount of the refund payment. Requires the filing fees to be set aside for use by the comptroller in the administration and enforcement of this chapter and for payment of expenses in furnishing the claim forms and other forms. Requires all filing fees to be paid into the state treasury and to be paid out on vouchers and warrants in the manner prescribed by law.

SUBCHAPTER D. PENALTIES AND OFFENSES

Sec. 161.151. CIVIL PENALTY AND INTEREST; FAILURE TO PAY OR REPORT. Sets forth provisions applicable if a person having a permit as an aviation fuel distributor fails to file a report as required by this chapter or fails to pay a tax imposed by this chapter when due. Sets forth provisions applicable if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due. Sets forth provisions regarding the minimum penalty and additions to the penalty.

Sec. 161.152. VENUE OF COLLECTION SUITS. Authorizes a suit, injunction, or other proceeding at law available for the establishment or collection of any claim for delinquent taxes, penalties, or interest due under this chapter and the enforcement of this chapter to be brought in Travis County or any other county in which venue lies under other law.

Sec. 161.153. PROHIBITED ACTS; CIVIL PENALTIES. Sets forth the conditions under which a person forfeits to the state a civil penalty of not less than \$25 or more than \$200.

Sec. 161.154. CRIMINAL OFFENSES. Sets forth the conditions under which a person, except as provided by Section 161.155, commits an offense.

Sec. 161.155. CRIMINAL OFFENSES; CONTINUING VIOLATION. Provides that each day that a refusal prohibited by Section 161.154(3), (4), or (5), continues is a separate offense.

Sec. 161.156. CRIMINAL PENALTIES. Sets forth criminal penalties relating to Section 161.154.

Sec. 161.157. CRIMINAL PENALTIES: CORPORATIONS AND ASSOCIATIONS. Provides that except as provided by Subsection (b), Chapter 12E, applies to offenses under

this chapter committed by a corporation or association. Prohibits the court from fining a corporation or association under Section 12.51(c), Penal Code, unless the amount of the fine under that subsection is greater than the amount that could be fixed by the court under Section 12.51(b), Penal Code. Requires the court, in addition to a sentence imposed by a corporation, to give notice of the conviction to the attorney general as required by Article 17A.09, Code of Criminal Procedure.

Sec. 161.158. CRIMINAL PROSECUTIONS: VENUE. Requires an offense under this chapter to be prosecuted in Travis County or in the county in which the offense occurred.

Sec. 161.159. REMEDIES CUMULATIVE. Provides that the remedies provided by this chapter for the state are cumulative. Provides that an action taken by the comptroller or the attorney general does not constitute an election to pursue a remedy to the exclusion of any other remedy provided by this chapter or other law.

SUBCHAPTER E. ALLOCATION OF REVENUE; OTHER TAXES.

Sec. 161.201. TAX ADMINISTRATION ACCOUNT. Requires, before any other allocation of the taxes collected under this chapter is made, one percent of the gross amount of taxes to be deposited in a special account, subject to the use of the comptroller in the administration and enforcement of this chapter. Sets forth a provision regarding the unexpended portion of the special account.

Sec. 161.202. ALLOCATION OF REVENUE. Requires the comptroller each month, after making deductions for refund purposes and setting aside other amounts as provided by this chapter, to allocate the taxes collected under this chapter to the general revenue fund.

Sec. 161.203. OTHER TAXES. Prohibits a political subdivision from imposing a tax, other than property taxes, on aviation fuel.

SECTION 8.31. Repealers: Sections 153.110, 153.111, 153.112(b), 153.117(d) and (e), 153.118(d); 153.213, 153.215(b), Title 2, Tax Code (Aviation Fuel Dealer's Permit; Distributor May Perform Other Functions; Aviation Fuel Dealer's Permit - Permanent; Records of an Aviation Fuel Dealer; Reports and Payments; Aviation Fuel Dealer's Permit; Aviation Fuel Dealer's Permit - Permanent).

SECTION 8.32. (a)-(b) Makes application of this article prospective.

(c) Provides that there is exempted from the taxes imposed by Chapter 153, Tax Code, the sale or use in this state of gasoline or diesel fuel that became under Section 153.102(c) or 153.202(c) or (d), as added by this article, subject to the taxes because of the terms of this article and that is consumed in the performance of a fixed price contract with a governmental entity entered into on or before March 1, 1997. Provides that the exemption provided by this subsection expires January 1, 2000.

SECTION 8.33. (a) Provides that this article takes effect January 1, 1998.

(b) Authorizes the comptroller, effective September 1, 1997, to adopt rules in anticipation of the effective date of Chapter 161, Tax Code, as added by this article, and to prescribe, print, and distribute forms and other information that will be needed on the effective date of that chapter.

ARTICLE 9. HOTEL OCCUPANCY TAX

SECTION 9.01. Amends Sections 156.052 and 156.101, Tax Code, to provide that the rate of tax imposed by this chapter is 6.25, rather than 6, percent of the price paid for a room in a hotel. Provides that this chapter does not impose a tax on the occupancy or right to occupancy by the same individual of a room in a hotel for at least 30 consecutive days, rather than a tax on a person who has the right to use or possess a room in a hotel for at least 30 consecutive days.

SECTION 9.02. Effective date for this article: September 1, 1997.

ARTICLE 10. CIGARETTE AND TOBACCO PRODUCTS TAX

SECTION 10.01. Amends Section 154.021(b), Tax Code, to provide that the tax rates are \$33.00, rather than \$20.50, per thousand on cigarettes weighing three pounds or less per thousand.

SECTION 10.02. Amends Section 155.021(b), Tax Code, to provide that the tax rates are 1.5 cents per 10 or fraction of 10 on certain cigars; \$11.25, rather than \$7.50, per thousand on other cigars; \$16.50, rather than \$11 per thousand on other cigars; and \$22.50, rather than \$15, per thousand on other cigars.

SECTION 10.03. Amends Section 155.0211(b), Tax Code, to provide that the tax rate for tobacco products other than cigars is 52.820 percent, rather than 35.213 percent, of the manufacturer's list price, exclusive of any trade discount, special discount, or deal.

SECTION 10.04. Provides that this article takes effect September 1, 1997.

ARTICLE 11. MANUFACTURED HOUSING SALES AND USE TAX

SECTION 11.01. Amends Section 158.051, Tax Code, to provide that a tax is imposed on the initial sale in this state of every new manufactured home at the rate of 6.25, rather than five, percent of the amount of the sales price determined as provided by Section 158.052 of this code. Provides that this section takes effect October 1, 1997.

ARTICLE 12. GAS, ELECTRIC, AND WATER SERVICE TAX

SECTION 12.01. Amends the heading to Chapter 182B, Tax Code, as follows:

SUBCHAPTER B. New heading: GAS AND ELECTRIC SERVICE COMPANIES

SECTION 12.02. Amends Section 182.021, Tax Code, to define "service company," "selling," and "resale."

SECTION 12.03. Amends Section 182.022, Tax Code, to set forth the tax rate on each service company doing business in this state.

SECTION 12.04. Amends Sections 182.023 and 182.024, Tax Code, to make conforming changes.

SECTION 12.05. Amends Section 182.026, Tax Code, as follows:

Sec. 182.026. New heading: EFFECT AND APPLICABILITY OF SUBCHAPTER. Provides that this subchapter does not apply to the retail sale of a natural gas to an electric utility company.

SECTION 12.06. Repealer: Article 6060, V.T.C.S., (Utility Tax - Natural Gas).

SECTION 12.07. Effective date for this article: January 1, 1998.
Makes application of this article prospective.

ARTICLE 13. INTERSTATE MOTOR CARRIER SALES AND USE TAX

SECTION 13.01. Amends Title 2E, Tax Code by adding Chapter 157, as follows:

CHAPTER 157. INTERSTATE MOTOR CARRIER SALES AND USE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 157.001. DEFINITIONS. Defines "person," "motor carrier," "interstate motor vehicle,"

"truck-tractor," "commercial motor vehicle," "trailer," "semitrailer," "trip-lease equipment," "purchase," "preceding year," and "lease."

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 157.101. TAXES IMPOSED. Provides that sales and use taxes are imposed on certain interstate motor vehicles, trailers, and semitrailers.

Sec. 157.102. TAX RATE. (a) Provides that except as provided in Subsections (c), (d), and (e) of this section, the payment of the tax is the responsibility of the motor carrier operating the motor vehicle and requires the tax rate on an interstate motor vehicle to be calculated according to certain provisions.

(b) Requires a motor carrier, if it has not operated in Texas during the preceding year, to estimate the miles it will drive during this year and use the estimate in the calculations set forth in Subsection (a) of this section. Requires the carrier to make certain adjustments.

(c) Provides that the payment of the tax is the responsibility of the motor carriers operating the motor vehicle. Requires the tax rate on an interstate trailer or semitrailer being purchased or first brought into Texas during a reporting period to be calculated according to certain provisions.

(d) Provides that if a motor carrier contracts to hire an interstate motor vehicle with a driver to transport persons or property over the carrier's routes and under the authority of the carrier's permits, the tax rate is \$25 per truck-trailer per contract and \$25 per trailer or semitrailer per contract and is the responsibility of the motor carrier operating the motor vehicle. Provides that, however, if a sales and use tax of at least 6-1/4 percent of the purchase price of the motor vehicle has been paid or if tax under Subsection (a), (b), or (c) of this section has been paid, no tax is due on the vehicle under this subsection. Prohibits this subsection from being utilized by a motor carrier contracting with a person being controlled or having controlling interest in the motor carrier. Provides that controlling interest is defined as 50 percent of ownership.

(e) Provides that if a motor carrier contracts to use trip-leased equipment, the tax rate is \$5 per motor vehicle per contract and is the responsibility of the motor carrier operating the motor vehicle. Provides that, however, if a sales and use tax of at least 6-1/4 percent of the purchase price of the motor vehicle has been paid or if tax under Subsection (a) of this section has been paid, no tax is due on the vehicle under this subsection. Prohibits this subsection from being utilized by a motor carrier contracting with a person being controlled or having controlling interest in the motor carrier. Provides that a controlling interest is defined as 50 percent of ownership.

SUBCHAPTER C. ENFORCEMENT AND COLLECTION

Sec. 157.201. PERMITS. Requires motor carriers required to pay tax under this chapter to be permitted by the comptroller. Authorizes the permit to be used by the motor carrier to register motor vehicles, trailers, and semitrailers with the county tax assessor-collector without paying the motor vehicle sales and use tax under Chapter 152 of this code, if the motor vehicle is being registered as an apportioned motor vehicle or if the motor vehicle is a bus used in the interstate transportation of chartered parties. Authorizes lessors to title an interstate motor vehicle, trailer, and semitrailer leased for periods in excess of 180 days under this permit authority of the motor carrier operating the vehicle without payment of taxes imposed by Chapter 152 of this code, if the motor vehicle is being registered as an apportioned motor vehicle or if the motor vehicle is a bus used in the interstate transportation of chartered parties.

Sec. 157.202. REPORTS. Requires the motor carriers subject to the provisions of this chapter to report and pay the tax to the comptroller quarterly on or before the last day of the month succeeding each calendar quarter. Authorizes the comptroller, notwithstanding the

provisions of Subsection (a) of this section, to prescribe the date and period for filing reports and payments in order to facilitate the collection of the tax including a longer reporting period for motor carriers owing a minimal amount of tax.

Sec. 157.203. RECORDS. Provides that motor carriers are required to keep records and supporting documents including mileage records regarding the payment of motor carrier sales and use tax in such form as the comptroller may reasonably require. Requires the motor carriers to keep the records for at least three years.

Sec. 157.204. PENALTY AND INTEREST. Provides that any person who fails to timely pay the tax required by this chapter forfeits five percent of the amount due as a penalty, and after the first 30 days, forfeits an additional five percent. Provides that the penalty may never be less than \$1. Requires delinquent taxes to draw interest at the rate provided by Section 111.060, beginning 60 days from the date due.

Sec. 157.205. ENFORCEMENT BY COMPTROLLER; RULES AND REGULATIONS. Requires the comptroller to enforce the provisions of this chapter, and authorizes the comptroller to prescribe, adopt, and enforce rules relating to the administration and enforcement of this chapter. Authorizes the comptroller to promulgate such forms as are necessary for the administration and enforcement of this chapter.

SECTION 13.02. Provides that it is the intent of the legislature that Chapter 157, Tax Code, be reenacted to continue that chapter in effect without interruption as it exists on August 31, 1997, notwithstanding the repeal of that chapter by Section 31(b), Chapter 705, Acts of the 74th Legislature, Regular Session, 1995.

SECTION 13.03. Effective date for this article: September 1, 1997.

ARTICLE 14. CEMENT PRODUCTION TAX

SECTION 14.01. Amends Section 181.002, Tax Code, to provide that the rate of the tax imposed by this chapter is \$0.05, rather than \$0.0275, for each 100 pounds or fraction of 100 pounds of taxable cement.

SECTION 14.02. Effective date for this article: September 1, 1997.
Makes application of this article prospective.

ARTICLE 15. COAL USE TAX

SECTION 15.01. Amends Title E, Tax Code, by adding Chapter 162, as follows:

CHAPTER 162. COAL TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 162.001. DEFINITIONS. Defines "coal" and "use."

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

Sec. 162.021. TAX IMPOSED. Provides that a tax is imposed on the purchase in this state of coal for use in this state. Provides that a tax is imposed on the use of coal in this state.

Sec. 162.022. TAX RATE. Sets forth the rate of tax imposed on coal.

Sec. 162.023. USE OF TAX DEDUCTION. Authorizes a person to deduct a certain amount from an amount of tax imposed by Section 162.021(b).

Sec. 162.024. PAYMENT OF TAX. Sets forth the date a person is to remit taxes imposed on this section.

Sec. 162.025. REPORTS. Sets forth the date for submitting a report regarding tax imposed on coal. Sets forth the requirements of the report.

Sec. 162.026. RECORDS. Requires a person on whom a tax is imposed by this chapter to keep certain records.

SUBCHAPTER C. PENALTIES AND OFFENSES

Sec. 162.051. INTEREST ON DELINQUENT TAX. Provides that a delinquent tax draws interest.

Sec. 162.052. PENALTY. Sets forth penalties and offenses for failing to file a report or paying taxes under this subchapter.

Sec. 162.053. CRIMINAL PENALTY. Sets forth criminal penalties for a person who violated this chapter.

SUBCHAPTER D. ALLOCATION AND USE

Sec. 162.071. ALLOCATION OF TAX REVENUE. Requires all of the revenue from taxes imposed by this chapter to be deposited to the general revenue fund.

SECTION 15.02. Effective date: December 1, 1997.
Makes application of this Act prospective.

SECTION 16.01. Amends Section 6.091(a), Article 179e, V.T.C.S. (Texas Racing Act), to require an association to distribute from a certain amount an amount equal to 2.2, rather than one, percent of each pool as the amount set aside for the state.

SECTION 16.02. Effective date of this article: September 1, 1997.

ARTICLE 17. GAS TARIFFS

SECTION 17.01. Amends Article IV, Article 1446e, V.T.C.S. (Gas Utility Regulatory Act), by adding Section 4.065, as follows:

Sec. 4.065. TAX ADJUSTMENT. Sets forth requirements for tax adjustments by a gas utility for the utility's rates.

SECTION 17.02. Effective date of this article: January 1, 1998.

ARTICLE 18. INTERIOR DESIGN PROFESSIONAL FEE

SECTION 18.01. Amends Article 249e, V.T.C.S., by adding Section 6A, as follows:

Sec. 6A. INCREASE IN FEES. Sets forth an increase in certain fees imposed by Section 6 of this article.

SECTION 18.02. Effective date: September 1, 1997.
Makes application of this Act prospective.

ARTICLE 19. TAXICAB PERMITS

SECTION 19.01. Amends Title 2H, Tax Code, by adding Chapter 192, as follows:

CHAPTER 192. TAXICABS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 192.001. DEFINITIONS. Defines "tax," "tax year," "taxicab," and "taxpayer."

Sec. 192.002. LIMOUSINES EXCLUDED. Provides that this chapter does not apply to limousines.

SUBCHAPTER B. IMPOSITION AND PAYMENT OF TAX

Sec. 192.051. TAX IMPOSED. Sets forth the tax imposed on taxicabs in this state.

Sec. 192.052. PAYMENT OF TAX. Requires the owner of a taxicab to pay the tax before January 1 of the tax year.

Sec. 192.053. OPERATIONS BEGINNING AFTER TAX YEAR STARTS. Requires a taxpayer to pay the full amount of a taxicab that begins operating in this state after the beginning of the tax year but before July 1. Requires a taxpayer to pay \$50 for a taxicab that begins operating in this state on or after July 1 for that tax year.

Sec. 192.054. CESSATION OF OPERATIONS. Sets forth conditions in which a taxicab operation ceases to exist.

Sec. 192.055. NO CREDIT OR REBATE. Provides that a taxpayer is not entitled to a rebate of the tax paid.

Sec. 192.056. DUE DATE OF PAYMENT. Sets forth the due date for the tax.

SUBCHAPTER C. PERMIT AND INSIGNIA.

Sec. 192.101. APPLICATION FOR TAXICAB OPERATION PERMIT. Sets forth requirements and provisions regarding an application for a taxicab operation permit.

Sec. 192.102. ISSUANCE OF TAXICAB OPERATION PERMIT AND INSIGNIA. Sets forth requirements and procedures for the issuance of a taxicab operation permit and insignia.

Sec. 192.103. DESIGN AND PLACEMENT OF TAXICAB OPERATION PERMIT INSIGNIA. Sets forth the design and placement of the taxicab operation permit insignia.

SUBCHAPTER D. ENFORCEMENT

Sec. 192.151. PENALTY AND INTEREST. Provides that the penalty and interest provisions of Chapter 111B, apply to the tax.

Sec. 192.152. OFFENSE: FAILURE TO DISPLAY INSIGNIA. Provides that a person commits a Class C misdemeanor if the person operates a taxicab without displaying a taxicab operating permit insignia.

Sec. 192.153. OFFENSE: DISPLAY OF FICTITIOUS INSIGNIA. Provides that a person commits a Class C misdemeanor if the person takes certain action relating to the display of fictitious insignia.

SUBCHAPTER E. REVENUE

Sec. 192.201. DISTRIBUTION OF REVENUE FROM TAX. Sets forth where the revenue from the tax will be deposited.

SECTION 19.02. Amends Chapter 548C, Transportation Code, by adding Section 548.1055, as follows:

Sec. 548.1055. DISPLAY OF TAXICAB OPERATING PERMIT INSIGNIA AS PREREQUISITE TO ISSUANCE OF INSPECTION CERTIFICATE. Sets forth

requirements for a taxicab to receive an inspection certificate and related provisions.

SECTION 19.03. (a) Effective date: September 1, 1997, except as provided by Subsections (b) and (c).

(b) Provides that no taxicab permit is required before January 1, 1998.

(c) Provides that SECTION 19.02 of this article takes effect January 1, 1998.

ARTICLE 20. COIN-OPERATED MACHINES

SECTION 20.01. Amends Article 8801, V.T.C.S., to redefine "coin-operated machine," and "service coin-operated machine." Defines "cash-dispensing machine."

SECTION 20.02. Amends Article 8802(1), V.T.C.S., to provide that in lieu of a \$60 occupation tax, an annual occupation tax of \$30 is imposed on each coin operated locker and a \$100 tax is imposed on "cash-dispensing machines."

SECTION 20.03. Amends Article 8803, V.T.C.S., to set forth machines exempt from the tax under this chapter. Deletes existing Article 8803, V.T.C.S.

SECTION 20.04. Effective date of this article: October 1, 1997.

ARTICLE 21. RESIDENTIAL TENANT'S TAX RELIEF

SECTION 21.01. Amends Title 1, Tax Code, by adding Chapter 51, as follows:

CHAPTER 51. PROPERTY TAX RELIEF FOR RESIDENTIAL TENANTS

Sec. 51.001. TAX SAVINGS FOR RESIDENTIAL TENANTS. Sets forth an option to ensure that residential rental tenants receive direct and immediate benefit from the reduction in local ad valorem school taxes.

Sec. 51.002. DEFINITIONS. Defines "landlord," "lease," "multifamily rental dwelling project," "rent," "rental dwelling unit," and "tenant."

Sec. 51.003. CREDIT OR REBATE TO TENANT OF LANDLORD'S PROPERTY TAX SAVINGS. Provides that a landlord is obligated to provide a tenant with a monthly credit or rebate on rent to reflect certain tax savings.

Sec. 51.004. APPLICATION. Sets forth the application of this chapter.

Sec. 51.005. NOTICE BY CENTRAL APPRAISAL DISTRICTS. Sets forth language to be included in a notice by central appraisal districts to all residential property owners. Sets forth notice requirements.

Sec. 51.006. TECHNICAL ASSISTANCE BY COMPTROLLER OF PUBLIC ACCOUNTS. Requires the comptroller to develop and provide materials to assist landlords to comply with this chapter. Sets forth requirements regarding such materials.

Sec. 51.007. TAX SAVINGS CALCULATIONS BY LANDLORDS. Sets forth calculations for monthly local ad valorem tax savings due to a tenant.

Sec. 51.008. DATE OF REQUIRED CREDIT OR REBATE. Sets forth the date of a credit due to a tenant.

Sec. 51.009. NOTICE TO TENANTS. Sets forth language of a notice to tenants on tax savings on rent.

Sec. 51.010. CREDIT OR REBATE FOR MULTIPLE TENANTS. Sets forth requirements for crediting or rebating multiple tenants.

Sec. 51.011. PENALTIES. Sets forth penalties for failing to comply with this chapter.

Sec. 51.012. TAX APPRAISALS. Prohibits a state or local taxing authority from considering the reduction of certain taxes.

Sec. 51.013. COMPTROLLER STUDY. Sets forth requirements of a comptroller study regarding certain tax matters.

Sec. 51.014 EXPIRATION DATE. Provides that this chapter expires January 1, 2001.

ARTICLE 22. ALTERNATIVE TAXATION OF OIL OR GAS PROPERTY INTERESTS

SECTION 22.01. Amends Title 2I, Tax Code, by adding Chapter 205, as follows:

CHAPTER 205. ALTERNATIVE TAXATION OF OIL OR GAS PROPERTY INTERESTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 205.001. CHAPTERS 205 AND 201 APPLICABLE. Provides that Chapters 201 and 202 apply to taxes imposed by this chapter.

Sec. 205.002. APPLICATION OF CHAPTER. Sets forth the application of this chapter.

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAXES

Sec. 205.021. GAS TAX IMPOSED. Sets forth the rate of a gas tax imposed on each producer of gas. Provides that Section 201.052 applies to the tax imposed by this section.

Sec. 205.022. OIL TAX IMPOSED. Provides that a tax is imposed on the production of oil subject to this chapter. Sets forth the rate of the tax.

Sec. 205.023. TAX IN ADDITION TO OTHER TAX. Provides that taxes imposed by this chapter are in addition to other taxes imposed by Chapter 201 or 202. Provides that certain exemptions do not apply.

Sec. 205.024. REPORTS. Authorizes the comptroller to require a person subject to a tax imposed by this chapter to keep a record and report any additional information necessary to administer this chapter.

SUBCHAPTER C. ALLOCATION AND USE OF TAX

Sec. 205.051. DEPOSIT AND ALLOCATION. Sets forth requirements for depositing and allocating the tax imposed under this chapter.

SECTION 23.01. Amends Chapter 182, Tax Code, by adding Subchapter A, as follows:

Sec. 182.001. DEFINITION. Defines "sexually oriented business."

Sec. 182.002. EXEMPTION. Provides that a business exempt under Chapter 243, Local Government Code, is exempt from a tax imposed under this subchapter.

Sec. 182.003. IMPOSITION AND RATE OF TAX. Provides for an occupation tax and a 10 percent tax rate of gross receipts on sexually oriented businesses.

SECTION 23.02. Provides that this article takes effect on the effective date on this Act.

ARTICLE 24. COMMITTEE ON COST CONTROL

SECTION 24.01. Amends Title 10B, Government Code, by adding Chapter 2059, as follows:

CHAPTER 2059. COMMITTEE ON COST CONTROL

Sec. 2059.001. DEFINITION. Defines "state agency."

Sec. 2059.002. COMMITTEE COMPOSITION. Sets forth the constituency and terms regarding members of the Private Sector Committee on Cost Control in State Government.

Sec. 2059.003. OFFICERS; COMPENSATION; MEETINGS. Sets forth the requirements regarding officers, compensation, and meetings.

Sec. 2059.004. DUTIES. Sets forth the duties of the members of the Private Sector Committee on Cost Control in State Government.

Sec. 2059.005. AGENCY COOPERATION. Requires a state agency to provide to the Private Sector Committee on Cost Control in State Government certain information.

Sec. 2059.006. GIFTS AND GRANTS; STAFF; RESOURCES. Authorizes the governor's office to accept gifts and grants on behalf of the Private Sector Committee on Cost Control in State Government. Authorizes the governor's office to provide staff upon request.

Sec. 2059.007. APPLICABILITY OF ADVISORY COMMITTEE LAW. Provides that Article 6252-33, V.T.C.S., does not apply to the Private Sector Committee on Cost Control in State Government, except for Section 4 of that law.

Sec. 2059.008. FINAL REPORT; ABOLITION OF COMMITTEE. Sets forth the requirements of a report to be submitted not later than November 1, 1998, to the governor and to the presiding officer of each house of the legislature. Provides that the Private Sector Committee on Cost Control in State Government is abolished upon submission of its final report.

ARTICLE 25. EFFECTIVE DATE; CONTINGENCY; EMERGENCY

SECTION 25.01. (a) Provides that this Act takes effect September 1, 1997, but only if the constitutional amendment proposed by H.J.R. 4, 75th Legislature, Regular Session, 1997 is approved by the voters. Provides that this Act has no effect if that amendment is not approved by the voters.

(b) Makes application of this Act prospective.

SECTION 25.02. Requires the comptroller to adopt emergency rules to implement each provision of this Act but not relating to education or the Texas Education Agency. Defines "rule."

SECTION 25.03. Emergency clause.