

## **BILL ANALYSIS**

Senate Research Center  
79R16629 E

C.S.H.B. 3  
By: Keffer, Jim (Ogden)  
Finance  
5/7/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The property tax costs Texans more than any other state or local tax. In tax year 2003, 3,702 local taxing units levied almost \$29 billion in property taxes, of which school districts accounted for more than 60 percent, according to the comptroller of public accounts. From 1985-2003, the school district property tax levy increased by approximately 260 percent. Currently, Texas ranks 45th among the states in terms of homeownership levels. The high property tax burden impairs Texans' ability to own their own homes.

C.S.H.B. 3 raises state revenue to fund a significant property tax reduction for Texas taxpayers.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 3.03 (Section 6.038, Tax Code), SECTION 4.19 (Section 171.110, Tax Code), SECTION 4.46 (Section 171.904, Tax Code), SECTION 5A.02 (Section 151.327, Tax Code), SECTION 5A.03 (Section 151.433, Tax Code), and SECTION 5B.07 (Section 152.0412, Tax Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 5A.03 (Section 151.433, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. PUBLIC SCHOOL FINANCE

##### PART A. EDUCATION FUNDING AND SCHOOL PROPERTY TAX RELIEF

SECTION 1A.01. Amends Section 41.002(e), Education Code, to prohibit the wealth per student that a school district may have after exercising an option under Section 41.003(2) (detachment of territory) or (3) (purchase of average daily attendance credit) from being less than the amount needed to maintain state and local revenue in an amount equal to state and local revenue per weighted student for maintenance and operation of the district for the 1992-1993 school year less the district's current year distribution per weighted student from the available school fund, other than amounts distributed under Chapter 31 (Textbooks), if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or the maximum maintenance tax rate permitted by Section 45.003 (Bond and Tax Elections), rather than \$1.50 on the \$100 valuation of taxable property.

SECTION 1A.02. Amends Section 41.157(d), Education Code, to authorize the consolidated taxing district to levy, assess, and collect a maintenance tax for the benefit of the component districts at a rate that exceeds the maximum maintenance tax permitted under Section 45.003, rather than \$1.50 per \$100 valuation of taxable property, to the extent necessary to pay contracted obligations on the lease purchase of permanent improvements to the real property entered into on or before May 12, 1993.

SECTION 1A.03. Amends Section 42.252(a), Education Code, to change the value of "TR" from \$0.86 to \$0.76 in the formula  $LFA = TR \times DPV$  used to calculate each school district's share of the Foundation School Program.

SECTION 1A.04. Amends Section 42.253, Education Code, by adding Subsection (e-2) to provide that for the 2005-2006 and 2006-2007 school years, the limit [on the amount of funding

from the foundation school fund to which a district is entitled] authorized by Subsection (e) is reduced by \$0.20. Provides that Subsection (e-2) expires September 1, 2007.

SECTION 1A.05. Amends Section 42.303, Education Code, as follows:

Sec. 42.303. New heading: LIMITATION ON TAX RATE. (a) Creates this subsection from existing text. Prohibits the district tax rate, rather than the district enrichment tax rate, under Section 42.302 from exceeding \$0.69, rather than \$0.64, per \$100 of valuation, or a greater amount for any year provided by appropriation.

(b) Prohibits the district tax rate, notwithstanding Subsection (a), from exceeding \$0.54 per \$100 of valuation for the 2005 tax year. Provides that this subsection expires September 1, 2006.

SECTION 1A.06. Amends Section 45.003, Education Code, by amending Subsection (d) and adding Subsections (e) and (f), as follows:

(d) Requires a proposition submitted to authorize the levy of maintenance taxes to include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate, which may not be more than \$1.45, rather than \$1.50, on the \$100 valuation of taxable property in the district, stated in the proposition.

(e) Prohibits a school district, notwithstanding Subsection (d), from imposing a maintenance tax at a rate that exceeds \$1.30 per \$100 of valuation for the 2005 and 2006 tax years. Prohibits a district from exceeding the rate described by this subsection in a subsequent school year unless authorized by a majority of the qualified voters of the district voting at an election held for that purpose.

(f) Provides that an election held before January 1, 2005, authorizing a maintenance tax of at least \$1.30 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.30 or less for the 2005 tax year or a subsequent tax year.

SECTION 1A.07. Amends Sections 45.006(b) and (f), Education Code, as follows:

(b) Authorizes a school district to levy, assess, and collect maintenance taxes at a rate that exceeds the maximum maintenance tax rate permitted under Section 45.003, rather than \$1.50 per \$100 valuation of taxable property, under certain circumstances.

(f) Authorizes a governing body of a school district that adopts a tax rate that exceeds the maximum maintenance tax rate permitted under Section 45.003, rather than \$1.50 per \$100 valuation of taxable property, to set the amount of the exemption from taxation at a certain time.

SECTION 1A.08. (a) Effective date of this part: September 1, 2005.

(b) Makes application of this part prospective to the 2005-2006 school year.

#### PART B. [RESERVED]

#### PART C. REPEALER; TRANSITION; EFFECTIVE DATE

SECTION 1C.01. Repealer, effective September 1, 2005: Sections 1-3 and 57 (relating to fiscal matters involving certain governmental educational entities), Chapter 201, Acts of the 78th Legislature, Regular Session, 2003, and Section 42.253(e-1) (Distribution of Foundation School Fund), Education Code.

### ARTICLE 2. RESTRICTIONS ON PROPERTY VALUATION AND STATE AID TO SCHOOL DISTRICTS

SECTION 2.01. Amends Section 11.431(a), Tax Code, to require the chief appraiser to accept and approve or deny an application for a residence homestead exemption after the deadline for filing the application has passed if the application is filed not later than the delinquency date for the taxes on the homestead, rather than one year after the delinquency date for the taxes on the homestead. Makes nonsubstantive changes.

SECTION 2.02. Amends Section 25.25, Tax Code, by amending Subsections (c), (e), (l), and (m), and adding Subsection (c-1), as follows:

(c) Amends Subdivision (1) to authorize the appraisal review board to direct, by written order, changes in the appraisal roll for any of the five preceding years to correct clerical errors relating to the qualification of property for an exemption under Section 11.13 (Residence Homestead), rather than simply clerical errors, that affect a property owner's liability for a tax imposed in that tax year.

(c-1) Requires the appraisal review board, on motion of the chief appraiser or of a property owner, to direct, by written order, changes in the appraisal roll to correct clerical errors that affect a property owner's liability for a tax imposed on the owner's residence homestead other than clerical errors described by Subsection (c)(1). Requires a motion under this subsection to be filed before the first anniversary of the deadline under Section 41.12(a) (Approval of Appraisal Records by Board) for approval by the appraisal review board of the appraisal records for the year in which the tax is imposed.

(e) Entitles a party bringing a motion under Subsections (c), (c-1), or (d) if the chief appraiser and the property owner do not agree to the correction before the 15th day after the date the motion is filed, to request a hearing on and a determination of the motion by the appraisal review board.

(l) Authorizes a motion to be filed under Subsections (c) or (c-1) regardless of whether, for a tax year to which the motion relates, the owner of the property protested under Chapter 41 (Local Review) an action relating to the value of the property that is the subject of the motion.

(m) Requires the hearing on a motion under Subsections (c), (c-1), or (d) to be conducted in the manner provided by Subchapter C (Taxpayer Protest), Chapter 41.

SECTION 2.03. Amends Section 42.253(i), Education Code, to create an exception, as provided by Section 42.257(b), to the requirement that the district's entitlement for the next fiscal year be adjusted if the amount of the warrants for the year differs from the amount to which the district is entitled because of variations in the district's tax rate.

SECTION 2.04. Amends Section 42.257(b), Education Code, to require the commissioner of education, if the final determination (relating to increased funding from the foundation school fund) is made after the last day of the state fiscal year corresponding to the tax year for which the determination is made, to add one-fifth of the difference to the September payment to the district of the current year entitlement from the foundation school fund for each of the next five years.

SECTION 2.05. Amends Section 42.259(f), Education Code, to create an exception, as provided by Section 42.257(b) or by Subsection (c)(8) or (d)(3) of this section, to the requirement that any previously unpaid educational funds from prior years owed to a district be paid to the district together with the September payment of the current year entitlement.

SECTION 2.06. Amends Section 403.302(h), Government Code, to require the request for an audit [of the total taxable value of the property in a school district] to be filed with the comptroller of public accounts (comptroller) not later than the first, rather than third, anniversary of the date of the final certification of the annual study findings. Deletes existing text requiring the request to be filed not later than the first anniversary of the date the chief appraiser certifies a change to the appraisal roll.

SECTION 2.07. (a) Makes application of Section 11.431, Tax Code, as amended by this article, prospective to an application for a residence homestead exemption for the 2005 and subsequent tax years.

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

SECTION 2.08. Effective date of this article: July 1, 2005, if this Act receives a vote of two-thirds of all members elected to each house, or September 1, 2005.

### ARTICLE 3. STATE PROPERTY TAX.

SECTION 3.01. Amends Chapter 45, Education Code, by adding Subchapter I, as follows:

#### SUBCHAPTER I. STATE AD VALOREM TAX

Sec. 45.251. STATE AD VALOREM TAX. (a) Provides that a state ad valorem tax for elementary and secondary school purposes is imposed on all taxable property in this state.

(b) Provides that the tax is imposed at a rate of \$1.10 per \$100 of taxable value of the property subject to the tax.

(c) Requires the state, except as otherwise provided by law, to be treated, for purposes of the state ad valorem tax, as a taxing unit under Title 1 (Property Tax Code), Tax Code.

Sec. 45.252. APPRAISAL OF PROPERTY. (a) Requires property subject to the state ad valorem tax to be appraised by the appraisal district that appraises property for taxation by the school district in which the property has taxable situs under Chapter 21, Tax Code.

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

Sec. 45.253. TAX COLLECTION. (a) Requires the assessor and collector for each school district to assess and collect, as applicable, state ad valorem taxes imposed on property included on the appraisal roll for the state taxation certified to the comptroller and to the assessor for that school district under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code, unless the governing body of the school district contracts with an official, taxing unit, or political subdivision of this state for the assessment or collection of the ad valorem taxes of the district, in which event the official, taxing unit, or political subdivision that assess [sic] or collects taxes for the school district is required to assess or collect, as applicable, the state ad valorem taxes.

(b) Entitles each assessor or collector of state ad valorem taxes to be reimbursed by the comptroller for the actual costs incurred. Provides that an assessor or a collector is not entitled to be reimbursed for any amount that is greater than the additional incremental costs incurred in assessing or collecting the state ad valorem taxes.

(c) Sets forth the required actions of the comptroller relating to state ad valorem taxes.

(d) Authorizes the comptroller to require an assessor or collector of state ad valorem taxes to give a bond to the state, conditioned on the faithful performance of the person's duties, in a certain amount.

Sec. 45.254. DUTIES AND POWERS OF COMPTROLLER. (a) Authorizes a duty imposed on or a power granted to the governing body of a taxing unit by Title 1, Tax Code, for purposes of the state ad valorem tax, to be exercised by the comptroller.

Provides that a reference to the presiding officer of a governing body in Title 1, Tax Code, is a reference to the comptroller for the purposes of the state tax.

(b) Authorizes the comptroller to delegate to the assessor or collector for a school district any function of the comptroller with respect to the assessment or collection of the state ad valorem tax, and to designate a school district assessor or collector as the comptroller's agent for purposes of administration of assessment or collection of the state ad valorem tax.

Sec. 45.255. ADMINISTRATION AND REFUND ACCOUNTS. Requires the comptroller to deposit to the credit of the general revenue fund in appropriately designated accounts an amount of revenue collected from the state ad valorem tax to pay certain expenses.

Sec. 45.256. NONAPPLICABILITY OF CERTAIN OTHER TAX LAWS. Provides that Title 2 (State Taxation), Tax Code, does not apply to the state ad valorem tax.

Sec. 45.257. TAX INCREMENT FINANCING. Prohibits the state, except as otherwise provided by Section 311.0131, Tax Code, from paying any portion of the tax increment produced by the state into the tax increment fund for a reinvestment zone designated under Chapter 311 (Tax Increment Financing Act), Tax Code.

Sec. 45.258. TAX ABATEMENT. (a) Prohibits the state, except as otherwise provided by this section, from participating in tax abatement under Section 311.0125 (Tax Abatement) or 311.013(g) (Collection and Deposit of Tax Increments) or Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code.

(b) Provides that if school district property taxes on property located in the taxing jurisdiction of a school district are abated under a tax abatement agreement entered into by the school district under Chapter 312, Tax Code, the terms of the agreement regarding the portion of the value of the property that is to be exempted from taxation in each year of the agreement apply to the taxation of the property by the state. Provides that a modification of the agreement by the parties to the agreement under Section 312.208 (Modification or Termination of Agreement), Tax Code, that increases the portion of the value of the property that is to be exempted from taxation or that extends the duration of the agreement does not apply to the imposition of the state ad valorem tax unless the modification was entered into before January 1, 2005.

Sec. 45.259. LIMITATION ON APPRAISED VALUE OF CERTAIN PROPERTY FOR STATE TAXATION. Sets forth certain property for which the owner submitted to a school district an application for a limitation on appraised value before April 1, 2005, and the application was subsequently approved, to which this section applies. Provides that in each tax year in which the appraised value of the property is subject to the limitation, the appraised value of the property for purposes of the state ad valorem tax is the same as the appraised value of the property for school district tax purposes.

Sec. 45.260. TAX RELIEF FOR RESIDENCE HOMESTEADS. (a) Defines "residence homestead."

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

(c) Requires the assessor for the school district, if the governing body of the school district takes action under Subsection (b), in a tax bill for a residence homestead sent under Section 31.01, Tax Code, in addition to the information

required by that section, to state the total amount of the state ad valorem taxes due and inform the person that the school district will pay a portion of that amount, specified in the tax bill, if the remaining amount of the state ad valorem taxes is paid before the delinquency date.

(d) Authorizes a school district to use any available funds, including funds received from the state under the Foundation School Program, to make a payment authorized under this section.

SECTION 3.02. Amends Section 6.03(d), Tax Code, to provide that in calculating the voting entitlement of a taxing unit entitled to vote for directors, state taxes imposed in a school district are treated as if those taxes were imposed by the school district.

SECTION 3.03. Amends Subchapter A, Chapter 6, Tax Code, by adding Section 6.038, as follows:

Sec. 6.038. STATE PARTICIPATION. (a) Provides that the comptroller and the state do not participate in certain aspects of an appraisal district.

(b) 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 take certain actions.

SECTION 3.04. Amends Section 6.06(d), Tax Code, to provide that the state and each taxing unit, rather than just each taxing unit, participating in the appraisal district are each allocated a certain portion of the budget in proportion to the property taxes imposed. Provides that for purposes of this subsection, only state ad valorem taxes imposed in a school district or a portion of a school district for which the appraisal district appraises property for taxation are considered as state ad valorem taxes imposed on the district. Makes conforming changes.

SECTION 3.05. Amends Sections 11.13(b) and (c), Tax Code, as follows:

(b) Entitles an adult to exemption from taxation by the state for elementary and secondary public school purposes or by a school district, rather than just by a school district, of a certain amount.

(c) Makes conforming and nonsubstantive changes.

SECTION 3.06. Amends Section 11.14, Tax Code, by adding Subsection (f) to provide that Subsection (c) (authorization of governing body of a taxing unit to tax certain tangible personal property normally exempt) does not apply to the comptroller or to the state ad valorem tax.

SECTION 3.07. Amends Section 11.251, Tax Code, by adding Subsection (l) to provide that the exemption provided by Subsection (b) (for certain tangible personal property) does not apply to the state ad valorem tax unless the property is exempt from that tax under Section 1-j(d), Article VIII, Texas Constitution.

SECTION 3.08. Amends the heading to Section 11.26, Tax Code, to read as follows:

Sec. 11.26. LIMITATION OF SCHOOL TAXES ON HOMESTEADS OF ELDERLY OR DISABLED.

SECTION 3.09. Amends Section 11.26, Tax Code, by amending Subsections (a), (b), (g), (h), (j), and (k) and adding Subsections (a-1) and (g-1), as follows:

(a) Prohibits the state or a school district, rather than just a school district, from increasing the total annual amount of ad valorem tax it imposes on the residence homestead of a person who is 65 year or older or disabled above a certain amount. Makes conforming changes.

(a-1) Creates this subsection from existing text. Sets forth the amount of the limitation on state and school district taxes if the first tax year that the individual qualified the residence homestead for the exemption for individuals 65 years of age or older was a tax year before the 2006, rather than 1997, tax year, except as provided by Subsection (b). Makes conforming changes.

(b) Makes a conforming change.

(g) Makes conforming changes.

(g-1) Provides that Subsection (g) does not apply to a residence homestead to which this subsection applies. Sets forth the maximum amount of tax the state or school district is authorized to impose on certain homesteads, except as provided by Subsection (b), belonging to an individual who receives a limitation on tax increase imposed by this section before the 2006 tax year and subsequently qualifies a different residence homestead for an exemption under Section 11.13(c) (for adults who are disabled or 65 or older) and the first year in which the subsequently qualified homestead qualifies for the exemption is a tax year after the 2005 tax year.

(h) Entitles an individual who receives a limitation on tax increase under this section, and who subsequently qualifies for a different residence homestead exemption under Section 11.13(c), rather than 11.13 (Residence Homestead), to receive from the chief appraiser of the appraisal district a written certificate containing certain information. Makes conforming changes.

(j) Makes conforming changes.

(k) Makes conforming changes.

SECTION 3.10. Amends Section 21.03(a), Tax Code, to require the appraisal office, if personal property that is taxable by this state or a taxing unit of this state, rather than by a taxing unit, is used continually outside this state, to allocate to this state the portion of the total market value of the property that fairly reflects its use in this state.

SECTION 3.11. Amends Section 21.031(a), Tax Code, to require the appraisal office, if a vessel or other watercraft that is taxable by this state or a taxing unit of this state, rather than by a taxing unit, is used continually outside this state, to allocate to this state the portion of the total market value of the property that fairly reflects its use in this state.

SECTION 3.12. Amends Section 22.28, Tax Code, to require the chief appraiser to impose a penalty on a person who fails to timely file a rendition statement or property report required by this chapter in an amount equal to 10 percent of the total amount of taxes imposed on the property for that year by the state, if the property has taxable situs in a school district or a portion of a school district for which the appraisal district appraises property for taxation, and by the other taxing units participating in the appraisal district, rather than just by taxing units participating in the appraisal district. Makes conforming and nonsubstantive changes.

SECTION 3.13. Amends Sections 22.29(a) and (d), Tax Code, to require the chief appraiser, if the court makes certain findings, to impose an additional penalty (for fraud or intent to evade tax) on the person equal to 50 percent of the total amount of taxes imposed on the property for that year by the state, if the property has taxable situs in a school district or a portion of a school district for which the appraisal district appraises property for taxation, and by the other taxing units participating in the appraisal district, rather than just by taxing units participating in the appraisal district. Makes conforming and nonsubstantive changes.

SECTION 3.14. Amends Section 23.46(d), Tax Code, to make conforming and nonsubstantive changes.

SECTION 3.15. Amends Section 23.55(b), Tax Code, to make a conforming change.

SECTION 3.16. Amends Section 23.76(b), Tax Code, to make a conforming change.

SECTION 3.17. Amends Section 23.86(b), Tax Code, to make a conforming change.

SECTION 3.18. Amends Section 23.96(b), Tax Code, to make a conforming change.

SECTION 3.19. Amends Section 23.9807(c), Tax Code, to make a conforming change.

SECTION 3.20. Reenacts and amends Section 25.19(b), Tax Code, as amended by Chapters 1358 and 1517, Acts of the 76th Legislature, Regular Session, 1999, to require the chief appraiser to separate real from personal property and include in the notice for each a list of the taxing units other than the state in which the property is taxable and, if the property is appraised by the appraisal district for state taxation, a statement that the property is subject to state tax for elementary and secondary public school purposes, rather than a list of the taxing units in which the property is taxable. Requires the chief appraiser to include in the notice the taxable value of the property in the preceding year for state taxation for elementary and secondary public school purposes, if the property is appraised by the appraisal district for state taxation. Requires the chief appraiser to include in the notice if the appraised value is greater than it was in the preceding year, the amount of tax that would be imposed on the property on the basis of the tax rate for each taxing unit other than the state for the preceding year, rather than the tax rate for the preceding year. Makes conforming and nonsubstantive changes.

SECTION 3.21. Amends the heading to Section 26.01, Tax Code, to read as follows:

Sec. 26.01. SUBMISSION OF ROLLS TO STATE AND TAXING UNITS.

SECTION 3.22. Amends Sections 26.01(a), (c), and (d), Tax Code, as follows:

(a) Requires the chief appraiser, by July 25, to prepare and certify to the comptroller and the assessor for each school district that participates in the appraisal district that part of the appraisal roll for the appraisal district that lists property for which the appraisal district appraises the property for state taxation. Provides that the part certified to the comptroller and school district assessor is the appraisal roll for state taxes. Requires the chief appraiser to consult with the assessor for each taxing unit and the comptroller, rather than just the assessor, and notify each taxing unit and the comptroller, rather than each unit, in writing by April 1 of the form in which the roll will be provided to each unit and to the comptroller. Makes conforming and nonsubstantive changes.

(c) Makes conforming and nonsubstantive changes.

(d) Makes conforming and nonsubstantive changes.

SECTION 3.23. Amends Chapter 26, Tax Code, by adding Section 26.011, as follows:

Sec. 26.011. PROVISIONS NOT APPLICABLE TO STATE TAX. Provides that Sections 26.04 (Submission of Roll to Governing Body; Effective and Rollback Tax Rates), 26.041 (Tax Rate of Unit Imposing Additional Sales and Use Tax), 26.05 (Tax Rate), 26.051 (Evidence of Unrecorded Tax Rate Adoption), 26.06 (Notice, Hearing, and Vote on Tax Increase), 26.07 (Election to Repeal Increase), and 26.08 (Election to Ratify School Taxes) do not apply to the state ad valorem tax or to the comptroller.

SECTION 3.24 Amends Section 26.05, Tax Code, as follows:

Sec. 26.05. TAX RATE. (a) Requires the tax rate to be the rate that, if applied to the total taxable value, will impose the amount of taxes imposed to fund maintenance and operation expenditures for the unit in the prior year, rather than needed to fund maintenance and operation expenditures of the unit for the next year. Prohibits a unit from imposing taxes that exceed the taxes levied to fund maintenance and operation expenditures for the prior year unless the unit puts forth certain notifications regarding the tax rate increase.

(b) Requires the vote that adopts a rate that exceeds the effective rate to be a record vote.

(c) Makes no changes to this subsection.

(d) Prohibits the governing body of a taxing district other than a school district from adopting a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate, rather than 103 percent of the effective tax rate, calculated as provided by this chapter until the governing body has held two public hearings, rather than a public hearing, on the proposed tax rate.

(e) Makes no changes to this subsection.

(f) Makes no changes to this subsection.

SECTION 3.25. Amends Section 26.06, Tax, Code, as follows:

Sec. 26.06. NOTICE, HEARING, AND VOTE ON TAX INCREASE. (a) Requires the second hearing as required by Section 26.05 to take place no sooner than three days after the first hearing. Makes conforming changes.

(b) Modifies the content of the statement required to be included in the notice of the public hearing. Makes conforming changes.

(c) Requires the notice, if the unit operates an Internet website, to appear on that site from the beginning of the first publication until the second hearing is concluded.

(d) Modifies the content of the statement required to be included in the notice of the meeting at which the governing body will vote on the proposed tax rate. Makes conforming changes.

(e) Requires a motion on the adoption of an order, ordinance, resolution, or any other action that adopts a tax rate that exceeds the effective rate to be made in a certain specified form.

(f) Makes no changes to this subsection.

(g) Makes no changes to this subsection.

SECTION 3.26. Amends Section 26.07(b), Tax Code, to provide that a petition is only valid if it is signed by a number of registered voters of the taxing unit equal to at least seven percent of the number of registered voters of a taxing unit with a maintenance and operations property tax levy equal to or in excess of \$5 million, or 10 percent of the number of registered voters of a taxing unit with a maintenance and operations property tax levy of less than \$5 million, according to the most recent official list of registered voters, rather than 10 percent of the number of registered voters of the taxing unit according to the most recent official list of registered voters.

SECTION 3.27. Amends Section 26.09(c), Tax Code, to change the method of calculating the tax for an appraised property by requiring the determination of the taxable value, rather than the net appraised value, and deleting existing text relating to multiplying the net appraised value by the assessment ratio to determine the assessed value and subtracting from the assessed value the amount of any partial exemption allowed the property owner to determine taxable value. Makes conforming and nonsubstantive changes.

SECTION 3.28. Amends Section 26.12, Tax Code, by adding Subsection (e) to provide that for purposes of this section (Units Created During Tax Year), the state is not a taxing unit.

SECTION 3.29. Amends Section 26.15(c), Tax Code, to authorize the comptroller to order changes in the state tax roll to correct errors in the mathematical computation of the state ad valorem tax.

SECTION 3.30 Amends Section 31.01, Tax Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Adds Subdivisions (11) and (12) to require the tax bill or a separate statement accompanying the tax bill to state certain values and comparisons of those values for real property for the preceding five tax years. Makes nonsubstantive changes.

(c-1) Requires a tax bill or statement, if for any of the preceding tax years any information required by Subsection (c)(11) or (12) to be included in a tax bill or separate statement is unavailable, to state that the information is not available for that year.

SECTION 3.31. Amends Section 31.11(a), Tax Code, to require the comptroller in the case of a state ad valorem tax, if the comptroller determines a payment was erroneous or excessive, to refund the amount of the excessive or erroneous payment from certain funds. Makes conforming and nonsubstantive changes.

SECTION 3.32. Amends Sections 32.01(a) and (d), Tax Code, to provide that the lien to secure the payment of state ad valorem taxes and the applicable penalties and interest exists in favor of the state. Makes conforming changes.

SECTION 3.33. Amends Section 33.01(a), Tax Code, to include a delinquent state ad valorem tax as a delinquent tax that incurs a certain penalty.

SECTION 3.34. Amends Subchapter A, Chapter 33, Tax Code, by adding Section 33.11, as follows:

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

(b) Provides that an attorney who represents a school district to enforce the collection of delinquent school district taxes represents the state to enforce the collection of delinquent state ad valorem taxes imposed on property having taxable situs in the school district. Provides that if the governing body of a school district contracts with a private attorney to enforce the collection of delinquent school district ad valorem taxes, the contract applies to the collection of delinquent state ad valorem taxes on property taxable by that school district without further action. Sets forth the amount of compensation of the private attorney. Provides that if the governing body of a school district contracts with an official, taxing unit, or political subdivision of this state for the collection of the ad valorem taxes of the school district that includes the collection of delinquent school district taxes, the contract applies to the collection of delinquent state ad valorem taxes on property taxable by that school district without further action.

(c) Provides that state ad valorem taxes that remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection if the collection of the delinquent taxes is covered by a contract with a private attorney under Subsection (b). Sets forth the amount of the penalty.

(d) 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.

(e) Requires the person responsible for collecting the delinquent state ad valorem tax to deliver a notice of delinquency and of the penalty to the property owner at least 30 and not more than 60 days before July 1.

(f) Provides that Sections 6.30 (Attorneys Representing Taxing Units), 33.07 (Additional Penalty for Collection Costs for Taxes Due before June 1), and 33.08

(Additional Penalty for Collection Costs for Taxes Due on or after June 1) do not apply to the state ad valorem tax.

SECTION 3.35. Amends Sections 33.21(a) and (b), Tax Code, to make conforming and nonsubstantive changes.

SECTION 3.36. Amends Section 33.23(b), Tax Code, to make a conforming change.

SECTION 3.37. Amends Section 33.44(b), Tax Code, to require, for purposes of joining the state, citation to be served on the school district collector who collects state ad valorem taxes on the property. Makes nonsubstantive changes.

SECTION 3.38. Amends Section 34.04(b), Tax Code, to require the copy of the petition to be served on the state, if the state is a party to the underlying action (for excess proceeds from a seizure and sale), to be served on the school district collector who collects state ad valorem taxes on the subject property. Requires the attorney who represents the state to enforce the collection of delinquent state ad valorem taxes in the school district in which the property is located to represent the state at the hearing.

SECTION 3.39. Amends the heading to Chapter 41, Tax Code, to read as follows:

#### CHAPTER 41. ADMINISTRATIVE REVIEW

SECTION 3.40. Amends Section 41.03, Tax Code, as follows:

Sec. 41.03. New heading: CHALLENGE BY STATE OR TAXING UNIT. Makes conforming changes.

SECTION 3.41. Amends Subchapter A, Chapter 41, Tax Code, by adding Sections 41.031 and 41.032, as follows:

Sec. 41.031. CHALLENGE BY STATE. Entitles the state to challenge before the appraisal review board the exclusion of property from the appraisal roll for state ad valorem taxes.

Sec. 41.032. REPRESENTATION OF STATE. Provides that the comptroller represents the state in a challenge by the state under this subchapter. Authorizes the comptroller to delegate that function to the appropriate school district assessor or collector.

SECTION 3.42. Amends Section 41.06(a), Tax Code, to require the secretary of the appraisal review board to deliver written notice of the challenge hearing to the comptroller on behalf of the state. Makes a conforming change.

SECTION 3.43. Amends Section 41.07(d), Tax Code, to require the appraisal review board, if the order of the board excludes property from the appraisal roll for state ad valorem taxes, to also deliver a notice of issuance and a copy of the order to the comptroller and the appropriate school district assessor in the manner prescribed by the comptroller.

SECTION 3.44. Amends Section 41.47(d), Tax Code, to require the appraisal review board, if the order of the board excludes property from the appraisal roll for state ad valorem taxes, to also deliver a notice of issuance and a copy of the order to the comptroller and the appropriate school district assessor in the manner prescribed by the comptroller.

SECTION 3.45. Amends Subchapter A, Chapter 42, Tax Code, by adding Section 42.032, as follows:

Sec. 42.032. RIGHT OF APPEAL BY COMPTROLLER. (a) Entitles the comptroller to appeal an order of the appraisal review board excluding property from the appraisal roll for state ad valorem taxes.

(b) Requires the attorney general to represent the comptroller in an appeal under this section. Authorizes the attorney general to delegate its duties under this section to a county or district attorney or to contract with a private attorney for the performance of those duties.

SECTION 3.46. Amends Sections 42.06(a) and (c), Tax Code, to make conforming and nonsubstantive changes.

SECTION 3.47. Amends Sections 42.43(a), (b), and (c), Tax Code, to require the comptroller, if the property is subject to the state ad valorem tax, to refund to a property owner the difference if a final determination is made that decreases a property owner's tax liability. Makes conforming changes.

SECTION 3.48. Amends Sections 43.01 and 43.04, Tax Code, as follows:

Sec. 43.01. **AUTHORITY TO BRING SUIT.** Makes conforming changes.

Sec. 43.04. **SUIT TO COMPEL COMPLIANCE WITH DEADLINES.** Authorizes the comptroller, in addition to the governing body of the taxing unit, to sue the chief appraiser or members of the appraisal review board, if applicable, for failure to comply with certain deadlines.

SECTION 3.49. Amends Subchapter A, Chapter 313, Tax Code, as follows:

Sec. 313.008. **REPORT TO LEGISLATURE.** (a) Requires the Legislative Budget Board, not later than December 1, 2006, to submit a report to the legislature that includes recommended changes to this chapter to provide incentives and credits relating to the state ad valorem tax that are consistent with the purposes described by Section 313.003.

(b) Provides that this section expires January 1, 2007.

SECTION 3.50. Amends Chapter 311, Tax Code, by adding Section 311.0131, as follows:

Sec. 311.0131. **SCHOOL DISTRICT ANNUAL OBLIGATION TO TAX INCREMENT FUND; STATE PAYMENT OF PORTION OF OBLIGATION.** (a) Sets forth the reinvestment zones to which this section applies.

(b) Provides that notwithstanding the terms of the agreement regarding the portion of the school district's tax increment required to be paid into the tax increment fund, in each year, the portion of the school district's tax increment the school district is required to pay into the fund is the school district annual obligation for the school district for that year calculated under Subsection (c).

(c) Sets forth the method by which the municipality that created the zone or its designee is required to calculate the school district annual obligation for a school district.

(d) Requires the school district annual obligation for each year to be apportioned between the school district and the state, in proportion to the amount of taxes each of those entities imposes on the captured appraised value for the zone in that year as calculated under this subsection. Sets forth the method of calculating the amount of taxes the state and school district impose on that captured appraised value, and the tax increment base for the state.

(e) Sets forth the method for calculating the school district annual obligation if more than one school district imposes taxes on property in a reinvestment zone.

(f) Requires the comptroller to verify the payments to be made by the state under this section and to retain from state property tax collections sufficient funds to make the calculated payments. Requires the comptroller, from the retained funds,

to pay to the school district or, if required by the agreement, to the municipality the portion of the school district annual obligation apportioned to the state.

(g) Requires the school district, upon receipt of the state's portion of the school district annual obligation by a school district, to promptly pay the state's portion to the municipality. Requires the school district, at the time of payment of the state's portion to the municipality, to pay to the municipality any unpaid balance of the school district's portion of the school district annual obligation.

(h) Requires amounts paid to a municipality under Subsections (f) and (g) to be deposited to the credit of the tax increment fund on behalf of the school district.

(i) Sets forth the date on which this section ceases to apply to reinvestment zone. Provides that if the agreement provides that the termination date may be extended, the state's obligation to pay a portion of the school district annual obligation ceases on the date the school district ceases to be required to pay any tax increment produced by the school district into the tax increment fund for the zone.

SECTION 3.51. Makes application of Chapter 41, Tax Code, as amended by this article, prospective to a challenge or protest under that chapter for which the notice is filed on or after the effective date of this article.

SECTION 3.52. Makes application of this article prospective to each tax year that begins on or after January 1, 2006.

SECTION 3.53. Makes application of this article contingent upon voter approval of the constitutional amendment proposed by \_\_\_ J.R. No. \_\_\_, 79th Legislature, Regular Session, 2005. Effective date of this article: January 1, 2006, except as otherwise specifically provided by this Act. Makes application of this article contingent upon passage of H.B. 2, Acts of the 79th Legislature, Regular Session, 2005.

#### ARTICLE 4. FRANCHISE TAX

SECTION 4.01. Amends Section 171.001(a), Tax Code, to provide that a franchise tax is imposed on a taxable entity, rather than a corporation, that does business in this state or that is chartered or organized in this state. Deletes existing text imposing a franchise tax on a limited liability company that does business in this state or that is organized under the laws of this state. Makes nonsubstantive changes.

SECTION 4.02. Amends Sections 171.001(b)(2), (4), and (5), Tax Code, to redefine "beginning date," "charter," and "Internal Revenue Code."

SECTION 4.03. Amends Section 171.001, Tax Code, by adding Subsection (d), to require the comptroller, on or before November 1 of each even-numbered year, to submit proposed legislation to update the definition of "Internal Revenue Code" to certain public officials.

SECTION 4.04. Amends Sections 171.0011(a), (b), and (c), Tax Code, to provide that the additional tax on a taxable entity is equal to four, rather than 4.5, percent of the taxable entity's net taxable earned surplus computed over a certain period. Makes conforming changes.

SECTION 4.05. Amends Subchapter A, Chapter 171, Tax Code, by adding Section 171.0013, as follows:

Sec. 171.0013. TAXABLE ENTITY. (a) Defines "taxable entity."

(b) Sets forth certain entities not included in the definition of "taxable entity."

(c) Sets forth the conditions under which an entity is a passive entity.

SECTION 4.06. Amends Sections 171.002(a), (b), and (d), Tax Code, as follows:

(a) Provides that the rates of franchise tax include four, rather than 4.5, percent of net taxable earned surplus.

(b) Makes conforming changes.

(d) Provides that a taxable entity is not required to pay any tax and is not considered to owe any tax for a period if the amount of the taxable entity's gross receipts from its entire business under Section 171.105 (Determination of Gross Receipts from Entire Business for Taxable Capital) is less than \$300,000 for a general partnership and \$150,000 for all other taxable entities, and from its entire business under Section 171.1051 (Determination of Gross Receipts from Entire Business for Taxable Earned Surplus) is less than \$300,000 for a general partnership and \$150,000 for all other taxable entities.

SECTION 4.07. Amends Subchapter B, Chapter 171, Tax Code, by adding Section 171.088, as follows:

Sec. 171.088. 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 4.08. Amends Subchapter C, Chapter 171, Tax Code, by adding Section 171.1001, as follows:

Sec. 171.1001. DEFINITIONS. Defines "arm's length," "controlling interest," "interest payment," "management fee," "related party," "royalty payment," and "valid business purpose."

SECTION 4.09. Amends Section 171.101, Tax Code, to modify the formula for determining the net taxable capital of a taxable entity, rather than of a corporation. Deletes the exceptions to the computation of the formula, as provided by Subsections (b) and (c) and deletes existing text of Subsections (b) and (c) relating to computing the net taxable capital of a limited liability company and the net taxable capital of a savings and loan association. Makes conforming and nonsubstantive changes.

SECTION 4.10. Amends Section 171.103, Tax Code, to make conforming changes.

SECTION 4.11. Amends Section 171.1032, Tax Code, to provide that the gross receipts of a taxable entity from its business done in this state is the sum of the taxable entity's receipts from certain goods and services, including each entity that is not a taxable entity, rather than each partnership and joint venture, to the extent provided by Subsection (c). Makes conforming changes.

SECTION 4.12. Amends Section 171.104, Tax Code, to make conforming and nonsubstantive changes.

SECTION 4.13. Amends Section 171.105, Tax Code, to make conforming changes.

SECTION 4.14. Amends Section 171.1051, Tax Code, to make conforming changes.

SECTION 4.15. Amends Sections 171.106(a)-(d), Tax Code, to make conforming changes.

SECTION 4.16. Amends Section 171.1061, Tax Code, to make conforming changes.

SECTION 4.17. Amends Sections 171.107(b), (d), and (e), Tax Code, to make conforming and nonsubstantive changes.

SECTION 4.18. Amends Section 171.109, Tax Code, by amending Subsections (a), (b)-(f), (h), (j), (k), (m), and (n), by reenacting and amending Subsection (g), as amended by Chapters 801

and 1198, Acts of the 71st Legislature, Regular Session, 1989, and by adding Subsection (a-2), as follows:

- (a) Redefines "surplus" and "net assets" and defines "taxable capital."
- (a-2) Defines "distribution."
- (b) Makes a conforming change.
- (c) Makes conforming changes.
- (d) Makes a conforming change.
- (e) Deletes existing text making an exception if the provisions of Section 171.111 (Temporary Credit on Net Taxable Earned Surplus) apply due to an election under that section. Makes a conforming change.
- (f) Requires a taxable entity making a distribution to exclude the distribution from its taxable capital, rather than a corporation declaring dividends to exclude those dividends from its taxable capital, and requires a taxable entity receiving a distribution to include the distribution in its gross receipts and taxable capital as of the earlier of certain dates. Makes conforming and nonsubstantive changes.
- (g) Makes a conforming change.
- (h) Makes conforming changes.
- (j) Makes a conforming change.
- (k) Makes a conforming change.
- (m) Makes a conforming change.
- (n) Requires a taxable entity to use the equity method of accounting when reporting an investment in an entity that is not a taxable entity, rather than a partnership or joint venture.

SECTION 4.19. Amends Section 171.110, Tax Code, by amending Subsections (a), (d), (e), (f), and (h), and adding Subsections (m), (n), and (o), as follows:

- (a) Modifies the formula for determining the reportable taxable income for a corporation. Provides that in determining a taxable entity's reportable federal taxable income to make an adjustment by adding 15 percent of compensation as described by Subsection (m). Deletes existing text adding any compensation of certain officers or directors. Adds a formula for determining the adjustments to be made in calculating the taxable earned surplus of certain partnerships. Makes conforming changes.
- (d) Redefines a corporation's reportable federal taxable income. Sets forth the reportable federal taxable income for a partnership's income and for the income for an entity other than a corporation or a partnership.
- (e) Defines a business loss as any negative amount of earned surplus after apportionment and allocation. Makes conforming changes.
- (f) Makes conforming changes.
- (h) Makes a conforming change.
- (m) Sets forth the amount of compensation for a taxable entity and creates exceptions.

(n) Requires a staff leasing services company to submit to the comptroller a copy of each quarterly report filed with the Texas Workforce Commission under Section 91.044(a), Labor Code, containing certain information about each client company.

(o) Defines "assigned employee," "client company," "license holder," and "staff leasing services company."

SECTION 4.19A. (a) Amends Section 171.110(a), Tax Code, to modify the formula for determining the taxable earned surplus of a taxable entity. Makes conforming changes.

(b) Provides that this section takes effect January 1, 2007, and applies to a report originally due on or after that date. Makes application of this section contingent on voter approval of the constitutional amendment proposed by S.J.R. No. 38, 79th Legislature, Regular Session, 2005.

SECTION 4.20. Amends Subchapter C, Chapter 171, Tax Code, by adding Sections 171.1101-171.1103, as follows:

Sec. 171.1101. ADD-BACK OF PAYMENTS TO RELATED PARTY. (a) Requires a taxable entity to add back to reportable federal taxable income any payments made to a related party that is a passive entity as described by Section 171.0013(c) during the period on which earned surplus is based to the extent deducted in computing reportable federal taxable income. Provides that the safe harbors provided by Section 171.1102 do not apply to payments under this subsection.

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

Sec. 171.1102. SAFE HARBORS FOR CERTAIN PAYMENTS AND FEES. (a) Provides that a taxable entity is not required to add back royalty payments to a related party to a certain extent.

(b) Provides that a taxable entity is not required to add back interest payments to a related party to a certain extent.

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

(d) Provides that a taxable entity is not required to add back a management fee paid to a related party to the extent that the transaction was done for a valid business purpose and the fee was paid at arm's length.

Sec. 171.1103. ADJUSTMENT TO INCOME AND EXPENSES BY COMPTROLLER.

(a) Authorizes the comptroller of public accounts (comptroller) to distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among two or more organizations, trades, businesses, whether or not incorporated, whether or not organized in the United States, and whether or not affiliated if certain conditions are present.

(b) Requires the comptroller to apply the administrative and judicial interpretations of Section 482, Internal Revenue Code, in administering this section.

SECTION 4.21. Amends Sections 171.112(b)-(f) and (h), Tax Code, to make conforming changes.

SECTION 4.22. Amends Sections 171.1121(a)-(d), Tax Code, to make conforming changes.

SECTION 4.23. Amends Section 171.113, Tax Code, as follows:

Sec. 171.113. New heading: ALTERNATE METHOD OF DETERMINING TAXABLE CAPITAL AND GROSS RECEIPTS FOR CERTAIN TAXABLE ENTITIES. Provides that this section also applies to a taxable entity other than a corporation that has 35 or fewer owners. Makes conforming and nonsubstantive changes.

SECTION 4.24. Amends Section 171.151, Tax Code, to make a conforming change.

SECTION 4.25. Amends Section 171.152(c), Tax Code, to make a conforming change.

SECTION 4.26. Amends Sections 171.153(a) and (c), Tax Code, to make conforming changes.

SECTION 4.27. Amends Section 171.1532, Tax Code, to make conforming changes.

SECTION 4.28. Amends Section 171.154, Tax Code, to make a conforming change.

SECTION 4.29. Amends Section 171.201, Tax Code, to make conforming changes.

SECTION 4.30. Amends Sections 171.202(a)-(c), (e), (f), and (i), Tax Code, to make conforming changes.

SECTION 4.31. Amends Section 171.2022, Tax Code, to make conforming changes.

SECTION 4.32. Amends Section 171.204, Tax Code, to make conforming changes.

SECTION 4.33. Amends Section 171.205, Tax Code, to make conforming changes.

SECTION 4.34. Amends Section 171.206, Tax Code, to make conforming changes.

SECTION 4.35. Amends Section 171.208, Tax Code, to make conforming changes.

SECTION 4.36. 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 4.37. Amends Section 171.211, Tax Code, to make conforming changes.

SECTION 4.38. Amends the heading to Subchapter F, Chapter 171, Tax Code, to read as follows:

#### SUBCHAPTER F. FORFEITURE OF CORPORATE AND BUSINESS PRIVILEGES

SECTION 4.39. Amends Subchapter F, Chapter 171, Tax Code, by adding Section 171.2515, as follows:

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

(b) Provides that the provisions of this subchapter, including Section 171.255, that apply to the forfeiture of corporate privileges apply to the forfeiture of a partnership's right to transact business in this state.

SECTION 4.40. Amends Section 171.351, Tax Code, to make conforming changes.

SECTION 4.41. Amends Section 171.353, Tax Code, to make conforming changes.

SECTION 4.42. Amends Section 171.354, Tax Code, to make conforming changes.

SECTION 4.43. Amends Sections 171.362(a), (d), and (e), Tax Code, to make conforming changes.

SECTION 4.44. Amends Sections 171.363(a) and (b), Tax Code, to make conforming changes.

SECTION 4.45. Amends Section 171.401, Tax Code, as follows:

Sec. 171.401. New heading: REVENUE DEPOSITED IN FOUNDATION SCHOOL FUND. Requires the revenue from the tax imposed by this chapter to be deposited to the credit of the foundation school fund, rather than the general revenue fund. Makes conforming changes.

SECTION 4.46. Amends Chapter 171, Tax Code, by adding Subchapter S, as follows:

#### SUBCHAPTER S. TAX CREDIT FOR CERTAIN PHYSICIANS

Sec. 171.901. DEFINITION. Defines "physician."

Sec. 171.902. QUALIFICATION. (a) Entitles a physician that participates in the Medicaid Program or the Children's Health Insurance Program as a provider of health care services to a credit in the amount provided by Subsection (b) against the taxes imposed under this chapter for the calendar quarter.

(b) Sets forth the amount of credit.

Sec. 171.903. LIMITATIONS. (a) Prohibits a physician from receiving a credit in an amount that exceeds the amount of the tax or assessment due after applying any other credits.

(b) Prohibits a physician from conveying, assigning, or transferring the credit allowed under this section to any other physician unless all of the assets of the practice of the physician are conveyed, assigned, or transferred in the same transaction.

Sec. 171.904. RULES. Requires the comptroller to adopt rules to implement this section. Requires the Health and Human Services Commission to assist the comptroller in the formulation and adoption of the rules.

SECTION 4.47. Amends Chapter 171, Tax Code, by adding Subchapter W, as follows:

#### SUBCHAPTER W. APPLICATION OF REFUNDS AND CREDITS TO NONCORPORATE TAXABLE ENTITIES

Sec. 171.921. APPLICATION OF REFUNDS AND CREDITS TO NONCORPORATE TAXABLE ENTITIES. Provides that a taxable entity that is not a corporation but that, because of its activities, would qualify for a specific refund or credit under this chapter if it were a corporation qualifies for the refund or credit in the same manner and under the same conditions as a corporation.

SECTION 4.48. Amends Article 1, Texas Revised Partnership Act (Article 6132b-1.01 et seq.), by adding Section 1.07, as follows:

Sec. 1.07. CERTIFICATE OF FORMATION. (a) Authorizes a general partnership to file a certificate of formation with the secretary of state.

(b) Requires the secretary of state to take certain actions relating to certificates of formation.

SECTION 4.49. Amends Subchapter A, Chapter 152, Business Organizations Code, by adding Section 152.006, as follows:

Sec. 152.006. CERTIFICATE OF FORMATION. (a) Authorizes a general partnership to file a certificate of formation with the secretary of state.

(b) Provides that a general partnership that files a certificate of formation with the secretary of state is not subject to Section 171.110(a)(1)(D), Tax Code.

(c) Requires the secretary of state to take certain actions relating to certificates of formation.

SECTION 4.50. Repealer: Sections 171.110(b) (relating to compensation for officers and directors), (c) (relating to an exclusion for a subsidiary corporation), (g) (relating to an Employee Stock Ownership Plan), (i) (relating to the criteria necessary to be considered to be an officer), and (j) (relating to a corporation's right to rebut a person's claim to be an officer), Tax Code.

SECTION 4.51. (a) Makes application of this article prospective.

(b) Provides that certain provisions apply for an entity becoming subject to the franchise tax under this article.

(c) Provides that, for purposes of this article, an existing partnership is considered as continuing if it is not terminated.

(d) Provides that a partnership is considered terminated only if no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership.

(e) Provides that, for a merger or consolidation of two or more partnerships, the resulting partnership is, for purposes of this article, considered the continuation of any merging or consolidating partnership whose members own an interest of more than 50 percent in the capital and profits of the resulting partnership.

(f) Provides that, for a division of a partnership into two or more partnerships, the resulting partnerships, other than any resulting partnerships the members of which had an interest of 50 percent or less in the capital and profits of the prior partnership, are, for purposes of this article, considered a continuation of the prior partnership.

SECTION 4.52. Provides that if a credit under Chapter 171, Tax Code, as amended by this article, is found by a court in a final judgment upheld on appeal or no longer subject to appeal to be unconstitutional, the credit is disallowed for all entities on or after the date the final judgment was interest by the court and an entity is not entitled to and may not apply for the credit on or after that date for any reporting period beginning before, on, or after that date.

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

(b) Requires the suit to be brought in a district court in Travis County.

(c) Authorizes the judgment of the district court to be reviewed only by direct appeal to the supreme court filed on or before the 15th day after the date the district court enters its

judgment. Requires the district court to try the suit and the supreme court to hear any appeal relating to the suit as expeditiously as possible.

(d) Provides that, if an entity bringing a suit to which this section applies contends, in whole or in part, that the imposition of the tax under Chapter 171, Tax Code, as amended by this article, on the entity is unconstitutional because of the requirements of Section 24 (Personal Income Tax; Dedication of Proceeds), Article VIII (Taxation and Revenue), Texas Constitution, and a court in a final judgment upheld on appeal or no longer subject to appeal finds that it is unconstitutional on that basis, then, notwithstanding Section 171.110(a)(1)(D), Tax Code, as added by this article, all taxable entities, other than a corporation or limited liability company, are required to make certain calculations in determining net taxable earned surplus.

SECTION 4.54. Provides that this article takes effect September 1, 2005, and applies to reports originally due on or after that date.

## ARTICLE 5. SALES AND USE TAXES

### PART A. STATE SALES AND USE TAX

SECTION 5A.01. Amends Section 151.051(b), Tax Code, to provide that the sales tax rate is 6.5, rather than 6 1/4, percent of the sales price of the taxable item sold.

SECTION 5A.01A. (a) Amends Section 151.051(b), Tax Code, to provide that the sales tax rate is 6.75, rather than 6 1/4, percent of the sales price of the taxable item sold.

(b) Provides that this section takes effect on the first anniversary of the date Section 5A.01 of this Act takes effect. Makes application of this section contingent on voter approval of the constitutional amendment proposed by S.J.R. No. 38, 79th Legislature, Regular Session, 2005.

SECTION 5A.02. Amends Subchapter H, Chapter 151, Tax Code, by adding Section 151.327, as follows:

Sec. 151.327. SCHOOL SUPPLIES BEFORE START OF SCHOOL. (a) Sets forth the conditions under which the sale or storage, use, or other consumption of a school supply is exempted from the taxes imposed under this chapter.

(b) Requires the comptroller to adopt rules specifying the school supplies that are exempt from taxation under this section.

(c) Provides that the exemption provided by this section does not apply to the purchase of a textbook.

SECTION 5A.03. (a) Amends Subchapter I, Chapter 151, Tax Code, by adding Section 151.433, as follows:

Sec. 151.433. TAX REIMBURSEMENT FOR FINANCIAL ASSISTANCE AND FOOD STAMP RECIPIENTS. (a) Provides that this section applies to certain persons receiving financial assistance, receiving nutritional assistance, or eligible to receive financial assistance.

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

(c) Requires the comptroller by rule, not later than August 15 of each year and using available statistical data, to estimate the amount of taxes a person to which this section applies will pay under this chapter during the next fiscal year. Requires the comptroller to consider certain factors in estimating that amount.

(d) Requires the comptroller to develop and adopt a table specifying by income bracket and number of dependents certain amounts based on the estimations made under Subsection (c).

(e) Requires the comptroller to provide the table to the executive commissioner as soon as possible after the date the table is adopted. Requires the executive commissioner, using the table, to provide to each person to which this section applies reimbursement in a certain form.

(f) Requires reimbursement provided under Subsection (e) to be made available to the person using the electronic benefits transfer system through which the person is receiving the financial or nutritional assistance. Provides that, except as provided by Subsection (g), the amount of the monthly reimbursement is equal to one-twelfth of the amount determined under Subsection (d)(2).

(g) Prohibits, notwithstanding any other law, the total amount of reimbursements provided under this section from exceeding \$100 million each state fiscal year. Requires the comptroller and the executive commissioner to take certain necessary actions to ensure that this limit is not exceeded.

(h) Entitles certain persons eligible to receive financial assistance, notwithstanding any other law, to reimbursement provided under this section to the same extent as the person would be entitled to that reimbursement if a sanction were not applied against the person.

(b) Amends Subchapter B, Chapter 31, Human Resources Code, by adding Section 31.0321, as follows:

Sec. 31.0321. EXCLUSION OF CERTAIN TAX REIMBURSEMENTS. Prohibits the HHSC from considering any reimbursement of estimated taxes to which a person may be entitled under Section 151.433, Tax Code, in determining whether the person meets household income and resource requirements for financial assistance under this chapter or the amount of financial assistance granted to the person under this chapter for the support of dependent children.

(c) Amends Chapter 33, Human Resources Code, by adding Section 33.028, as follows:

Sec. 33.028. EXCLUSION OF CERTAIN TAX REIMBURSEMENTS. Prohibits HHSC, to the extent permitted by federal law, from considering any reimbursement of estimated taxes to which a person may be entitled under Section 151.433, Tax Code, in determining whether the person meets the household income and resource requirements for eligibility for food stamps.

(d) Authorizes delay of implementation until necessary federal waivers or authorizations are obtained.

SECTION 5A.04. Makes application of this part prospective.

SECTION 5A.05. Effective date for this part: July 1, 2005 or October 1, 2005.

#### PART B. MOTOR VEHICLE SALES AND USE TAX

SECTION 5B.01. Amends Section 152.002, Tax Code, by adding Subsection (f), to provide that the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412, notwithstanding Subsection (a).

SECTION 5B.02. Amends Section 152.021(b), Tax Code, to provide that the sales tax rate is 6.5, rather than 6 1/4, percent of the total consideration.

SECTION 5B.02A. (a) Amends Section 152.021(b), Tax Code, to provide that the sales tax rate is 6.75, rather than 6 1/4, percent of the total consideration.

(b) Provides that this section takes effect on the first anniversary of the date Section 5B.02 of this Act takes effect. Makes application of this section contingent on voter approval of the constitutional amendment proposed by S.J.R. No. 38, 79th Legislature, Regular Session, 2005.

SECTION 5B.03. Amends Section 152.022(b), Tax Code, to provide that the use tax rate is 6.5, rather than 6 1/4, percent of the total consideration.

SECTION 5B.03A. (a) Amends Section 152.022(b), Tax Code, to provide that the use tax rate is 6.75, rather than 6 1/4, percent of the total consideration.

(b) Provides that this section takes effect on the first anniversary of the date Section 5B.03 of this Act takes effect. Makes application of this section contingent on voter approval of the constitutional amendment proposed by S.J.R. No. 38, 79th Legislature, Regular Session, 2005.

SECTION 5B.04. Amends Section 152.026(b), Tax Code, to provide that the tax rate is 6.5, rather than 6 1/4, percent of the gross rental receipts from the rental of a rented motor vehicle for longer than 30 days.

SECTION 5B.04A. (a) Amends Section 152.026(b), Tax Code, to provide that the tax rate is 6.75, rather than 6 1/4, percent of the gross rental receipts from the rental of a rented motor vehicle for longer than 30 days.

(b) Provides that this section takes effect on the first anniversary of the date Section 5B.04 of this Act takes effect. Makes application of this section contingent on voter approval of the constitutional amendment proposed by S.J.R. No. 38, 79th Legislature, Regular Session, 2005.

SECTION 5B.05. Amends Section 152.028(b), Tax Code, to provide that the use tax rate is 6.5, rather than 6 1/4, percent of the total consideration.

SECTION 5B.05A. (a) Amends Section 152.028(b), Tax Code, to provide that the use tax rate is 6.75, rather than 6 1/4, percent of the total consideration.

(b) Provides that this section takes effect on the first anniversary of the date Section 5B.05 of this Act takes effect. Makes application of this section contingent on voter approval of the constitutional amendment proposed by S.J.R. No. 38, 79th Legislature, Regular Session, 2005.

SECTION 5B.06. Amends Section 152.041(a), Tax Code, to make a conforming change.

SECTION 5B.07. Amends Subchapter C, Chapter 152, Tax Code, by adding Section 152.0412, as follows:

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) Defines "standard presumptive value."

(b) Requires a county tax assessor-collector to compute the tax on the amount paid if the amount paid for a motor vehicle subject to the tax imposed by this chapter is equal to or greater than the standard presumptive value of the vehicle.

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

(d) Requires a county tax assessor-collector to compute the tax imposed by this chapter on the retail value of a motor vehicle if certain conditions are present.

(e) Requires, on request, a motor vehicle dealer operating under Subchapter B, Chapter 503 (Dealer's and Manufacturer's Vehicle License Plate), Transportation Code, to provide a certified appraisal of the retail value of a motor vehicle. Requires the comptroller by rule to establish a fee that a dealer may charge for providing the certified appraisal. Requires the county tax assessor-collector to retain a copy of a certified appraisal received under this section for a period described by the comptroller.

(f) Requires the Texas Department of Transportation (TxDOT) to maintain information on the standard presumptive values of motor vehicles as part of TxDOT's registration and title system. Requires TxDOT to update the information at least quarterly each calendar year.

(g) Provides that this section does not apply to a transaction described by Section 152.024 or 152.025.

SECTION 5B.08. Requires TxDOT, not later than October 1, 2005, to take certain actions relative to this chapter.

SECTION 5B.09. (a) Effective date for this part, except as provided by this part and Subsection (b) of this section: July 1, 2005, or September 1, 2005.

(b) Effective date for Section 152.0412, Tax Code, as added by this part: October 1, 2005.

#### PART C. BOAT AND MOTOR BOAT SALES AND USE TAX

SECTION 5C.01. Amends Section 160.021(b), Tax Code, to provide that the sales tax rate is 6.5, rather than 6 1/4, percent of the total consideration.

SECTION 5C.01A. (a) Amends Section 160.021(b), Tax Code, to provide that the sales tax rate is 6.75, rather than 6 1/4, percent of the total consideration.

(b) Provides that this section takes effect on the first anniversary of the date Section 5C.01 of this Act takes effect. Makes application of this section contingent on voter approval of the constitutional amendment proposed by S.J.R. No. 38, 79th Legislature, Regular Session, 2005.

SECTION 5C.02. Amends Section 160.022(b), Tax Code, to provide that the use tax rate is 6.5, rather than 6 1/4, percent of the total consideration.

SECTION 5C.02A. (a) Amends Section 160.022(b), Tax Code, to provide that the use tax rate is 6.75, rather than 6 1/4, percent of the total consideration.

(b) Provides that this section takes effect on the first anniversary of the date Section 5C.02 of this Act takes effect. Makes application of this section contingent on voter approval of the constitutional amendment proposed by S.J.R. No. 38, 79th Legislature, Regular Session, 2005.

SECTION 5C.03. Effective date for this part: July 1, 2005, or September 1, 2005.

#### PART D. MOTOR FUELS TAX

SECTION 5D.01. Amends Section 162.503, Tax Code, as follows:

Sec. 162.503. ALLOCATION OF GASOLINE TAX. (a) Creates an exception to this subsection as provided by Subsection (b).

(b) Prohibits the comptroller, during the months of June, July, and August of each odd-numbered year, from making the allocations to the state highway fund otherwise required by Subsection (a)(2). Requires the comptroller, after September 5 and before September 11 of that year, to allocate and deposit to the state highway fund the total amount of revenue that would have been otherwise allocated and deposited to that fund during those months.

SECTION 5D.02. Amends Section 162.504, Tax Code, as follows:

Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) Creates an exception to this subsection as provided by Subsection (b).

(b) Prohibits the comptroller, during the months of June, July, and August of each odd-numbered year, from making the allocation to the state highway fund otherwise required by Subsection (a)(2). Requires the comptroller, after September 5 and before September 11 of that year, to allocate and deposit to the state highway fund the total amount of revenue that would have been otherwise allocated and deposited to that fund during those months.

SECTION 5D.03. Amends Section 162.505, Tax Code, as follows:

Sec. 162.505. ALLOCATION OF LIQUEFIED GAS TAX. (a) Creates an exception to this subsection as provided by Subsection (b).

(b) Prohibits the comptroller, during the months of June, July, and August of each odd-numbered year, from making the allocation to the state highway fund otherwise required by Subsection (a)(2). Requires the comptroller, after September 5 and before September 11 of that year, to allocate and deposit to the state highway fund the total amount of revenue that would have been otherwise allocated and deposited to that fund during those months.

SECTION 5D.04. Effective date for this part: July 1, 2005, or September 1, 2005.

## PART E. HOTEL OCCUPANCY TAXES

SECTION 5E.01. Amends Section 156.001, Tax Code, to redefine "hotel."

SECTION 5E.02. Amends Section 351.002(c), Tax Code, to provide that the tax does not apply to a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for that period. Makes a conforming change.

SECTION 5E.03. Amends Section 352.001(1), Tax Code, to redefine "hotel" to make a conforming change.

SECTION 5E.04. Amends Section 352.002(c), Tax Code, to make a conforming change.

SECTION 5E.05. Repealer: Section 156.101 (Exception--Permanent Resident), Tax Code.

SECTION 5E.06. Effective date for this part: July 1, 2005, or October 1, 2005.

## ARTICLE 6. TAX ON TOBACCO PRODUCTS AND ALCOHOL

### PART A. CIGARETTE AND TOBACCO PRODUCTS

SECTION 6A.01. Amends Section 154.021(b), Tax Code, to increase the tax rates on cigarettes.

SECTION 6A.02. Amends Section 155.021(b), Tax Code, to increase the tax rates on cigars.

SECTION 6A.03. Amends Section 155.0211(b), Tax Code, to increase the tax rate for tobacco products other than cigars.

SECTION 6A.04. Effective date for this part: July 1, 2005, or September 1, 2005.

## PART B. ALCOHOL TAXES

SECTION 6B.01. Amends Section 201.03, Alcoholic Beverage Code, to increase the taxes on distilled spirits addressed in this section.

SECTION 6B.02. Amends Section 201.04, Alcoholic Beverage Code, to increase the taxes on vinous liquor addressed in this section.

SECTION 6B.03. Amends Section 201.42, Alcoholic Beverage Code, to increase the tax on ale and malt liquor addressed in this section.

SECTION 6B.04. Amends Section 203.01, Alcoholic Beverage Code, to increase the tax on beer addressed in this section.

SECTION 6B.05. Amends Section 183.021, Tax Code, to increase the tax on mixed beverages addressed in this section.

SECTION 6B.06. Effective date for this part: July 1, 2005, or September 1, 2005.

## ARTICLE 7. MISCELLANEOUS FEES AND FUNDS

### PART A. TRANSFERRING CERTAIN TOBACCO SETTLEMENT PROCEEDS INTO DEDICATED GENERAL REVENUE ACCOUNTS

SECTION 7A.01. Amends Subchapter G, Chapter 403, Government Code, by adding Sections 403.108 and 403.1081-403.1083, as follows:

Sec. 403.108. SECONDARY HEALTH ACCOUNT FOR HIGHER EDUCATION. (a) Defines "earnings account" and "secondary account."

(b) Provides that the secondary account and the earnings account are dedicated accounts in the general revenue fund.

(c) Sets forth the composition of the secondary account.

(d) Provides that the earnings account consists of the earnings received from investment of the assets in the secondary account. Requires the comptroller to periodically transfer those earnings from the secondary account to the earnings account.

(e) Authorizes money in the secondary account to be used only for a purpose described by Subsection (d) or (f).

(f) Requires the comptroller to manage and invest assets in the secondary account in authorized investments under Section 404.024. Requires any expenses incurred by the comptroller in managing and investing assets in the secondary account to be paid from the account.

(g) Authorizes money in the earnings account to be appropriated only for a purpose specified in and subject to any conditions and reporting requirements prescribed by Subchapter A (Permanent Health Fund for Higher Education), Chapter 63 (Permanent Funds for Health-Related Institutions of Higher Education), Education Code, for the use of money from the permanent health fund for higher education.

(h) Authorizes an institution of higher education that has accepted a gift under former Subchapter I, Chapter 51 (Provisions Generally Applicable to Higher Education), Education Code, that was conditioned on the institution's receipt of state matching funds from the eminent scholars fund to use money the institution

receives under this section to provide the state matching funds and treat the money as if it were a distribution to the institution from the eminent scholars fund for purposes of the former Subchapter I.

(i) Requires an institution of higher education that receives a distribution from the earnings account to include certain information in the report required by Section 63.004 (Reporting Requirement), Education Code.

(j) Provides that Section 404.071 does not apply to the secondary account or the earnings account.

Sec. 403.1081. SECONDARY ACCOUNTS FOR EACH INSTITUTION OF HIGHER EDUCATION. (a) Defines "earnings account" and "secondary account."

(b) Provides that in addition to the permanent endowment funds created by Section 63.101 (Creation of Funds), Education Code, there is a secondary account for the benefit of each institution of higher education or group of related components of an institution of higher education listed in Section 63.101(a) (relating to the establishment of a separate permanent endowment fund), Education Code.

(c) Provides that each secondary account and earnings account is a dedicated account in the general revenue fund.

(d) Sets forth the composition of a secondary account.

(e) Provides that the earnings account for an institution or group of related components of an institution consists of the earnings received from investment of the assets in the corresponding secondary account for the institution or group of components. Requires the comptroller to periodically transfer those earnings from the secondary account to the earnings account.

(f) Authorizes money in the secondary account to be used only for a purpose described by Subsection (e) or (g).

(g) Requires the comptroller to manage and invest assets in a secondary account in authorized investments under Section 404.024 (Authorized Investments). Requires any expenses incurred by the comptroller in managing and investing assets in a secondary account to be paid from the account.

(h) Authorizes money in the earnings account to be appropriated only for a purpose specified in and subject to any conditions and reporting requirements prescribed by Subchapter B, Chapter 63 (Permanent Funds for Health-Related Institutions of Higher Education), Education Code, for the use of money from the corresponding permanent endowment fund established by that subchapter.

(i) Authorizes an institution of higher education that has accepted a gift under former Subchapter I, Chapter 51 (Provisions Generally Applicable to Higher Education), Education Code, that was conditioned on the institution's receipt of state matching funds from the eminent scholars fund to use money the institution receives under this section to provide the state matching funds and treat the money as if it were a distribution to the institution from the eminent scholars fund for purposes of the former Subchapter I.

(j) Requires an institution of higher education that receives an appropriation from an earnings account to include certain information in the report required by Section 63.103 (Reporting Requirement), Education Code.

(k) Provides that Section 404.071 does not apply to a secondary account or an earnings account.

Sec. 403.1082. SECONDARY ACCOUNT FOR HIGHER EDUCATION NURSING, ALLIED HEALTH, AND OTHER HEALTH-RELATED PROGRAMS. (a) Defines "earnings account" and "secondary account."

(b) Provides that the secondary account and the earnings account are dedicated accounts in the general revenue fund.

(c) Sets forth the composition of the secondary account.

(d) Provides that the earnings account consists of the earnings received from investment of the assets in the secondary account for the institution or group of components. Requires the comptroller to periodically transfer those earnings from the secondary account to the earnings account.

(e) Authorizes money in the secondary account to be used only for a purpose described by Subsection (d) or (f).

(f) Requires the comptroller to manage and invest assets in the secondary account in authorized investments under Section 404.024. Requires any expenses incurred by the comptroller in managing and investing assets in the secondary account to be paid from the account.

(g) Authorizes money in the earnings account to be appropriated only for a purpose specified in and subject to any conditions and reporting requirements prescribed by Subchapter C, Chapter 63 (Permanent Funds for Health-Related Institutions of Higher Education), Education Code, for the use of money from the permanent fund for higher education nursing, allied health, and other health-related programs.

(h) Requires the Texas Higher Education Coordinating Board (THECB) to include certain information in the report required by Section 63.203 (Reporting Requirement), Education Code.

(i) Provides that Section 404.071 does not apply to the secondary account or the earnings account.

Sec. 403.1083. SECONDARY ACCOUNT FOR MINORITY HEALTH RESEARCH AND EDUCATION. (a) Defines "earnings account" and "secondary account."

(b) Provides that the secondary account and the earnings account are dedicated accounts in the general revenue fund.

(c) Sets forth the composition of the secondary account.

(d) Provides that the earnings account consists of the earnings received from investment of the assets in the secondary account. Requires the comptroller to periodically transfer those earnings from the secondary account to the earnings account.

(e) Authorizes money in the secondary account to be used only for a purpose described by Subsection (d) or (f).

(f) Requires the comptroller to manage and invest assets in the secondary account in authorized investments under Section 404.024. Requires any expenses incurred by the comptroller in managing and investing assets in the secondary account to be paid from the account.

(g) Authorizes money in the earnings account to be appropriated only to THECB for the purpose of providing grants as specified by Section 63.302(c) (relating to the appropriation of the investment returns), Education Code, for money from the permanent fund for minority health research education.

(h) Requires THECB to report regarding the money received under this section in the manner required by Section 63.302(f) (relating to THECB's report to the legislature), Education Code, and to include certain information in the report.

(i) Provides that Section 404.071 does not apply to the secondary account or the earnings account.

SECTION 7A.02. Amends Section 403.1069, Government Code, as follows:

Sec. 403.1069. REPORTING REQUIREMENT. Requires the Department of State Health Services (DSHS) to provide a report to the Legislative Budget Board on the permanent funds established under this subchapter from which DSHS may receive an appropriation of the available earnings no later than November 1 of each year.

SECTION 7A.03. (a) Requires all amounts held in certain funds to be transferred, on November 1, 2006, in a certain estimated amount, to the accounts established under Section 403.108, 403.1081, 403.1082, and 403.1083, Government Code, as added by this Act, specified by this section.

(b) Requires amounts transferred from the Permanent Health Fund for Higher Education to be deposited to the credit of the secondary health account for higher education established under Section 403.108, Government Code, as added by this Act.

(c) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Health Science Center at San Antonio to be deposited to the credit of the secondary account established for the benefit of the University of Texas Health Science Center at San Antonio under Section 403.1081, Government Code, as added by this Act.

(d) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas M.D Anderson Cancer Center to be deposited to the credit of the secondary account established for the benefit of the University of Texas M.D Anderson Cancer Center under Section 403.1081, Government Code, as added by this Act.

(e) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Southwestern Medical Center at Dallas to be deposited to the credit of the secondary account established for the benefit of the University of Texas Southwestern Medical Center at Dallas under Section 403.1081, Government Code, as added by this Act.

(f) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Medical Branch at Galveston to be deposited to the credit of the secondary account established for the benefit of the University of Texas Medical Branch at Galveston under Section 403.1081, Government Code, as added by this Act.

(g) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Health Science Center at Houston to be deposited to the credit of the secondary account established for the benefit of the University of Texas Health Science Center at Houston under Section 403.1081, Government Code, as added by this Act.

(h) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Health Science Center at Tyler to be deposited to the credit of the secondary account established for the benefit of the University of Texas Health Science Center at Tyler under Section 403.1081, Government Code, as added by this Act.

(i) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas at El Paso to be deposited to the credit of the secondary account established for the benefit of the University of Texas at El Paso under Section 403.1081, Government Code, as added by this Act.

(j) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - Texas A&M University Health Science Center to be deposited to the credit of the secondary account established for the benefit of the Texas A&M University Health Science Center under Section 403.1081, Government Code, as added by this Act.

(k) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of North Texas Health Science Center at Fort Worth to be deposited to the credit of the secondary account established for the benefit of the University of North Texas Health Science Center at Fort Worth under Section 403.1081, Government Code, as added by this Act.

(l) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - Components of Texas Tech University Health Science Center in El Paso to be deposited to the credit of the secondary account established for the benefit of the Components of Texas Tech University Health Science Center in El Paso under Section 403.1081, Government Code, as added by this Act.

(m) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - Components of Texas Tech University Health Science Center other than El Paso to be deposited to the credit of the secondary account established for the benefit of the Components of Texas Tech University Health Science Center other than El Paso under Section 403.1081, Government Code, as added by this Act.

(n) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Regional Academic Health Center to be deposited to the credit of the secondary account established for the benefit of the University of Texas Regional Academic Health Center under Section 403.1081, Government Code, as added by this Act.

(o) Requires amounts transferred from the Permanent Endowment Fund for Health Related Institutions - Baylor College of Medicine to be deposited to the credit of the secondary account established for the benefit of the Baylor College of Medicine under Section 403.1081, Government Code, as added by this Act.

(p) Requires amounts transferred from the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health Related Programs to be deposited to the credit of the secondary account for higher education nursing, allied health, and other health-related programs established under Section 403.1082, Government Code, as added by this Act.

(q) Requires amounts transferred from the Permanent Fund for Minority Health Research and Education to be deposited to the credit of the secondary account for minority health research and education established under Section 403.1083, Government Code, as added by this Act.

SECTION 7A.04. (a) Prohibits the transfers to accounts in the general revenue fund made by this article from resulting in a reduction in the amount available for distribution from those accounts, and requires the same amount that would have been distributed from the permanent funds but for the transfers made by this article to be appropriated and distributed from the applicable accounts created by this article. Requires the comptroller, if the earnings from the secondary account that are transferred to earnings account are inadequate to make a distribution of the same amount that would have been distributed from the permanent funds, to the extent that the difference is solely the result of an investment policy other than total return, to transfer the difference to the applicable earnings account from the unobligated portion of general revenue.

(b) Requires the comptroller to determine the amount of any loss to the Permanent Health Fund for Higher Education and other funds administered by The University of Texas System as a result of the transfer to general revenue under this article. Requires the comptroller, on August 31, 2007, to transfer from the general revenue to the applicable secondary account created by this Act, an amount equal to the amount of the loss. Requires the comptroller, in determining the amount of the loss, to consider the difference in the rate of return on investment of that secondary account and the rate of return over the preceding three years on investment of the Permanent University Fund.

(c) Prohibits the total distributions under Sections (a) and (b) from the accounts created by this article, plus transfers under Subsection (b) of this section from exceeding \$65 million for any fiscal year, notwithstanding any other provision of this article.

SECTION 7A.05. Effective date for this part: September 1, 2005.

#### PART B. TEXAS MOBILITY FUND

SECTION 7B.01. Amends Subchapter M, Chapter 201, Transportation Code, by adding Section 201.9471, as follows:

Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO FUND.

(a) Requires the comptroller, notwithstanding Sections 521.058, 521.313, 521.3466, 521.427, 522.029, 524.051, and 724.046, to the extent that those sections allocated money to the Texas mobility fund, in state fiscal year 2006, to deposit that money to the credit of the general revenue fund instead of to the credit of the Texas mobility fund.

(b) Requires the comptroller, notwithstanding Sections 521.313, 521.3466, 521.427, 522.029, 524.051, and 724.046, to the extent that those sections allocated money to the Texas mobility fund, in state fiscal year 2006, to deposit that money to the credit of the general revenue fund instead of to the credit of the Texas mobility fund.

(c) Provides that this section expires January 1, 2008.

SECTION 7B.02. Effective date for this part: September 1, 2005.

#### PART C. TELECOMMUNICATIONS INFRASTRUCTURE FUND

SECTION 7C.01. Amends Section 57.048, Utilities Code, by amending Subsections (a), (b), and (e) and adding Subsections (f)-(i), as follows:

(a), (b), and (e) Make conforming changes.

(f) Authorizes a certificated telecommunications utility, notwithstanding any other provision of this title, to recover from the utility's customers an assessment imposed on the utility under this subchapter after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller. Authorizes a certificated telecommunications utility to recover only the amount of the assessment imposed after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller. Authorizes the utility to recover the assessment through a monthly billing process.

(g) Requires the comptroller to publish in the Texas Register the date on which the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion.

(h) Requires, not later than February 15 of each year, a certificated telecommunications utility that wants to recover the assessment under Subsection (f) to file with the commission an affidavit or affirmation stating the amount that the utility recovered from its customers in cumulative payments during that year.

(i) Requires the Public Utility Commission (commission) to maintain the confidentiality of information the commission receives under this section that is claimed to be confidential for competitive purposes. Provides that the confidential information is exempt from disclosure under Chapter 552 (Public Information), Government Code.

SECTION 7C.02. Amends Section 57.0485, Utilities Code, as follows:

Sec. 57.0485. New heading: ALLOCATION OF REVENUE. Requires the comptroller to deposit the money collected by the comptroller under Section 57.048 to the credit of the general revenue fund, rather than the public schools account in the fund.

SECTION 7C.03. Amends Section 57.051, Utilities Code, to provide that this subchapter expires September 1, 2011. Makes conforming changes.

SECTION 7C.04. Repealer: Sections 57.043 (Telecommunications Infrastructure Fund and Accounts) and 57.048(c) (relating to the amount deposited to the credit of the fund) and (d) (prohibiting the comptroller from collecting the assessment in a fiscal year), Utilities Code.

SECTION 7C.05. Requires the comptroller, if, on the day before the effective date of this part, the assessment prescribed by Section 57.048 (Assessments and Collections), Utilities Code, is imposed at a rate of less than 1.25 percent, to reset the rate of the assessment to 1.25 percent on the effective date of this part.

SECTION 7C.06. Effective date for this part: July 1, 2005, or September 1, 2005.

#### ARTICLE 8. EFFECTS OF IMPLEMENTATION; EFFECTIVE DATE

SECTION 8.01. SPECIAL REPORT ON EFFECTS OF CERTAIN TAX POLICIES ON PERSONAL INCOME AND BUSINESSES. (a) Requires the comptroller to prepare a report that provides a comprehensive analysis of the effects of tax policies adopted by the 79th Legislature on the personal income of residents of this state and on business in this state. Requires the comptroller, not later than October 15, 2006, to submit the report to certain public officials.

(b) Sets forth the information that the report required under Subsection (a) must include.

(c) Sets forth the analyses the report must include.

(d) Requires the comptroller, not later than October 15, 2008, to update the information contained in the report submitted under this section and submit the updated report to certain public officials.

SECTION 8.02. Effective date for this part, except as provided by Subsections (b) and (c) of this section: July 1, 2005, or September 1, 2005.

(b) Provides that if a section, part, or article of this bill provides a different effective date than provided by Subsection (a) of this section, that section, part, or article takes effect according to its terms.

(c) Makes application of this Act contingent on the passage of H.B. 2, Acts of the 79th Legislature, Regular Session, 2005.