A BILL TO BE ENTITLED
AN ACT
relating to property tax relief and protection of taxpayers, taxes and fees, and other matters relating to the financing of public schools; providing civil and criminal penalties.

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

SECTION 1. Section 22.23(a), Tax Code, is amended to read as follows:

(a) Rendition statements and property reports must be delivered to the chief appraiser after January 1 and not later than April 1, except as provided by Section 22.02.

SECTION 2. Subchapter C, Chapter 22, Tax Code, is amended by adding Section 22.42 to read as follows:

Sec. 22.42. INFORMATION RECORDED IN COUNTY DEED RECORDS. At the request of the chief appraiser, the county clerk of the county for which the appraisal district is established shall provide to the chief appraiser any information recorded in the real property deed records of the county that the chief appraiser considers to be useful in determining the market value of real property in the county.

SECTION 3. Section 23.0101, Tax Code, is amended to read as follows:

Sec. 23.0101. CONSIDERATION OF ALTERNATE APPRAISAL METHODS. In determining the market value of property, the chief appraiser shall consider the cost, income, and market data
comparison methods of appraisal as well as any other method of appraisal the chief appraiser determines to be accurate and use the most appropriate method.

SECTION 4. Section 25.01(a), Tax Code, is amended to read as follows:

(a) By May 15 [or as soon thereafter as practicable,] the chief appraiser shall prepare appraisal records listing all property that is taxable in the district and stating the appraised value of each.

SECTION 5. Section 33.01(a), Tax Code, is amended to read as follows:

(a) A delinquent tax incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to August [July] 1 of the year in which it becomes delinquent. However, a tax delinquent on August [July] 1 incurs a total penalty of 13 [twelve] percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent. A delinquent tax continues to incur the penalty provided by this subsection as long as the tax remains unpaid, regardless of whether a judgment for the delinquent tax has been rendered.

SECTION 6. (a) Section 45.003, Education Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) A proposition submitted to authorize the levy of maintenance taxes must 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 be not
more than $1.00 ($1.50) on the $100 valuation of taxable property in
the district, stated in the proposition.

(e) An election held before September 1, 2005, authorizing a
maintenance tax at a rate of at least $1.00 on the $100 valuation of
taxable property in the district is sufficient to authorize a rate
of $1.00 or less.

(f) A district permitted by special law on January 1, 2005,
to impose an ad valorem tax at a rate greater than $1.50 may
continue to impose a rate that is $0.50 less than the rate
previously authorized.

(b) This section takes effect January 1, 2007.

SECTION 7. (a) Section 151.0038(b), Tax Code, is amended to
read as follows:

(b) In this section, "newspaper" means a publication that is
printed on newsprint, the average sales price of which for each copy
over a 30-day period does not exceed $1.50, and that is printed and
distributed at a daily, weekly, or other short interval for the
dissemination of news of a general character and of a general
interest. "Newspaper" does not include a magazine, handbill,
circular, flyer, sales catalog, or similar printed item unless the
printed item is printed for distribution as a part of a newspaper
and is actually distributed as a part of a newspaper. For the
purposes of this section, an advertisement is news of a general
character and of a general interest. Notwithstanding any other
provision of this subsection, "newspaper" includes:

(1) a publication containing articles and essays of
general interest by various writers and advertisements that is
produced for the operator of a licensed and certified carrier of
persons and distributed by the operator to its customers during
their travel on the carrier; and

(2) a publication for the dissemination of news of a
general character and of a general interest that is printed on
newsprint and distributed to the general public free of charge at a
daily, weekly, or other short interval [has the meaning assigned by
Section 151.319(f)].

(b) Sections 151.319 and 151.320, Tax Code, are repealed.

(c) This section takes effect September 1, 2005.

SECTION 8. (a) Section 154.021(b), Tax Code, is amended to
read as follows:

(b) The tax rates are:

(1) $70.50 [$20.50] per thousand on cigarettes
weighing three pounds or less per thousand; and

(2) the rate provided by Subdivision (1) plus $2.10
per thousand on cigarettes weighing more than three pounds per
thousand.

(b) This section takes effect September 1, 2005.

SECTION 9. (a) Chapter 171, Tax Code, is repealed.

(b) Chapter 171, Tax Code, and Subtitle B, Title 2, Tax
Code, continue to apply to audits, deficiencies, re determinations,
and refunds of any tax due or collected under that chapter until
barred by limitations.
The repeal of Chapter 171, Tax Code, by this part does not affect:

1. the status of a corporation that has had its corporate privileges, certificate of authority, or corporate charter revoked, a suit filed against it, or a receiver appointed under Subchapter F, G, or H of that chapter;
2. the ability of the comptroller, secretary of state, or attorney general to take action against a corporation under those subchapters for actions that took place before the repeal; or
3. the right of a corporation to contest a forfeiture, revocation, lawsuit, or appointment of a receiver under those subchapters.

(d) This section takes effect January 1, 2006.

SECTION 10. [Reserved for expansion]

SECTION 11. (a) Chapter 111, Tax Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. FORFEITURE OF RIGHT TO TRANSACT BUSINESS IN THIS STATE

Sec. 111.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a taxpayer that is a corporation, banking corporation, limited liability company, state or federal savings and loan association, and any other kind of business association, company, joint venture, partnership, or other combination of entities or persons engaged in business that qualifies under the law of this state for liability limitations for its owners or shareholders that are substantially equivalent to those for a corporation.
Sec. 111.402. APPLICATION TO NONCORPORATE ENTITIES. (a) The comptroller may, for the same reasons and using the same procedures the comptroller uses in relation to the forfeiture of the corporate privileges of a corporation, forfeit the right to transact business in this state of another entity to which this subchapter applies that is subject to a tax imposed by this title.

(b) The comptroller may, for the same reasons and using the same procedures the comptroller uses in relation to the forfeiture of a corporation's charter or certificate of authority, forfeit the certificate or registration of another entity to which this subchapter applies that is subject to a tax imposed by this title.

(c) The provisions of this subchapter, including Section 111.407, that apply to the forfeiture of a corporation's corporate privileges and charter or certificate of authority apply to the forfeiture of another entity's right to transact business in this state and certificate or registration.

Sec. 111.403. FORFEITURE OF CORPORATE PRIVILEGES. The comptroller shall forfeit the corporate privileges of a corporation on which a tax is imposed under this title if the corporation:

(1) does not file, in accordance with this title and on or before the 45th day after the date notice of forfeiture is mailed, a report required by this title; or

(2) does not pay, on or before the 45th day after the date notice of forfeiture is mailed, a tax imposed under this title or does not pay, on or before the 45th day, a penalty imposed relating to that tax.

Sec. 111.404. EFFECTS OF FORFEITURE. If the corporate
privileges of a corporation are forfeited under this subchapter:

(1) the corporation shall be denied the right to sue or
    defend in a court of this state; and

(2) each director or officer of the corporation is
    liable for a debt of the corporation as provided by Section 111.407.

Sec. 111.405. SUIT ON CAUSE OF ACTION ARISING BEFORE
FORFEITURE. In a suit against a corporation on a cause of action
arising before the forfeiture of the corporate privileges of the
 corporation, affirmative relief may not be granted to the
 corporation unless its corporate privileges are revived under this
 subchapter.

Sec. 111.406. EXCEPTION TO FORFEITURE. The forfeiture of
the corporate privileges of a corporation does not apply to the
privilege to defend in a suit to forfeit the corporation’s charter
or certificate of authority.

Sec. 111.407. LIABILITY OF DIRECTOR AND OFFICERS. (a) If
the corporate privileges of a corporation are forfeited for the
failure to file a report or pay a tax or penalty imposed under this
title, each director or officer of the corporation is liable for
each debt of the corporation that is created or incurred in this
state after the date on which the report, tax, or penalty is due and
before the corporate privileges are revived. The liability
includes liability for any tax or penalty imposed under this title
on the corporation that becomes due and payable after the date of
the forfeiture.

(b) The liability of a director or officer is in the same
manner and to the same extent as if the director or officer were a
partner and the corporation were a partnership.

(c) A director or officer is not liable for a debt of the corporation if the director or officer shows that the debt was created or incurred:

(1) over the director's objection; or

(2) without the director's knowledge and that the exercise of reasonable diligence to become acquainted with the affairs of the corporation would not have revealed the intention to create the debt.

(d) If a corporation's charter or certificate of authority and its corporate privileges are forfeited and revived under this subchapter, the liability under this section of a director or officer of the corporation is not affected by the revival of the charter or certificate and the corporate privileges.

Sec. 111.408. NOTICE OF FORFEITURE. (a) If the comptroller proposes to forfeit the corporate privileges of a corporation, the comptroller shall notify the corporation that the forfeiture will occur without a judicial proceeding unless the corporation:

(1) files, within the time established by Section 111.403, the report to which that section refers; or

(2) pays, within the time established by Section 111.403, the delinquent tax and penalty to which that section refers.

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

(c) The comptroller shall mail the notice to the corporation not later than the 45th day before the forfeiture of corporate

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privileges. The notice shall be addressed to the corporation and mailed to the address named in the corporation's charter as its principal place of business or to another known place of business of the corporation.

(d) The comptroller shall keep at the comptroller's office a record of the date on which the notice is mailed. For the purposes of this subchapter, the notice and the record of the mailing date constitute legal and sufficient notice of the forfeiture.

Sec. 111.409. JUDICIAL PROCEEDING NOT REQUIRED FOR FORFEITURE. The forfeiture of the corporate privileges of a corporation is effected by the comptroller without a judicial proceeding.

Sec. 111.410. REVIVAL OF CORPORATE PRIVILEGES. The comptroller shall revive the corporate privileges of a corporation if the corporation, before the forfeiture of its charter or certificate of authority, pays any tax, penalty, or interest due under this title.

Sec. 111.411. BANKING CORPORATIONS AND SAVINGS AND LOAN ASSOCIATIONS. (a) Except as provided by Subsection (b), this subchapter does not apply to a banking corporation that is organized under the laws of this state or under federal law and has its main office in this state.

(b) The banking commissioner shall appoint a conservator under Subtitle A, Title 3, Finance Code, to pay the tax of a banking corporation that is organized under the laws of this state and that the commissioner certifies as being delinquent in the payment of the corporation's tax.
Sec. 111.412. SAVINGS AND LOAN ASSOCIATION. (a) Except as provided by Subsection (b), this subchapter does not apply to a savings and loan association that is organized under the laws of this state or under federal law and has its main office in this state.

(b) The savings and loan commissioner shall appoint a conservator under Subtitle B or C, Title 3, Finance Code, to pay the tax of a savings and loan association that is organized under the laws of this state and that the commissioner certifies as being delinquent in the payment of the association's tax.

Sec. 111.413. GROUNDS FOR FORFEITURE OF CHARTER OR CERTIFICATE OF AUTHORITY. It is a ground for the forfeiture of a corporation's charter or certificate of authority if the corporate privileges of the corporation are forfeited under this subchapter and the corporation does not pay, on or before the 120th day after the date the corporate privileges are forfeited, the amount necessary for the corporation to revive under this subchapter its corporate privileges.

Sec. 111.414. CERTIFICATION BY COMPTROLLER. After the 120th day after the date the corporate privileges of a corporation are forfeited under this subchapter, the comptroller shall certify the name of the corporation to the attorney general and the secretary of state.

Sec. 111.415. SUIT FOR JUDICIAL FORFEITURE. On receipt of the comptroller's certification, the attorney general shall bring suit to forfeit the charter or certificate of authority of a corporation if a ground exists for the forfeiture of the charter or
certificate.

Sec. 111.416. RECORD OF JUDICIAL FORFEITURE. (a) If a district court forfeits a corporation's charter or certificate of authority under this subchapter, the clerk of the court shall promptly mail to the secretary of state a certified copy of the court's judgment. On receipt of the copy of the judgment, the secretary of state shall inscribe on the corporation's record at the secretary's office the words "Judgment of Forfeiture" and the date of the judgment.

(b) If a court forfeits a corporation's charter or certificate of authority under this subchapter, the court may appoint a receiver for the corporation and may administer the receivership under the laws relating to receiverships.

(c) If an appeal of the judgment is perfected, the clerk of the court shall promptly certify to the secretary of state that the appeal has been perfected. On receipt of the certification, the secretary of state shall inscribe on the corporation's record at the secretary's office the word "Appealed" and the date on which the appeal was perfected.

(d) If final disposition of an appeal is made, the clerk of the court making the disposition shall promptly certify to the secretary of state the type of disposition made and the date of the disposition. On receipt of the certification, the secretary of state shall inscribe on the corporation's record at the secretary's office a brief note of the type of final disposition made and the date of the disposition.

Sec. 111.417. REVIVAL OF CHARTER OR CERTIFICATE OF
AUTHORITY AFTER JUDICIAL FORFEITURE. A corporation whose charter or certificate of authority is judicially forfeited under this subchapter is entitled to have its charter or certificate revived and to have its corporate privileges revived if:

(1) the corporation files each report that is required by this title and that is delinquent;

(2) the corporation pays the tax, penalty, and interest that is imposed under this title and that is due at the time the suit under Section 111.418 to set aside forfeiture is filed; and

(3) the forfeiture of the corporation's charter or certificate is set aside in a suit under Section 111.418.

Sec. 111.418. SUIT TO SET ASIDE JUDICIAL FORFEITURE. If a corporation's charter or certificate of authority is judicially forfeited under this subchapter, a stockholder, director, or officer of the corporation at the time of the forfeiture of the charter or certificate or of the corporate privileges of the corporation may bring suit in a district court of Travis County in the name of the corporation to set aside the forfeiture of the charter or certificate. The suit must be in the nature of a bill of review. The secretary of state and attorney general must be made defendants in the suit.

Sec. 111.419. RECORD OF SUIT TO SET ASIDE JUDICIAL FORFEITURE. If a court under this subchapter sets aside the forfeiture of a corporation's charter or certificate of authority, the secretary of state shall inscribe on the corporation's record in the secretary's office the words "Charter Revived by Court
Order" or "Certificate Revived by Court Order," a citation to the
suit, and the date of the court's judgment.

Sec. 111.420. CORPORATE PRIVILEGES AFTER JUDICIAL
FORFEITURE IS SET ASIDE. If a court under this subchapter sets
aside the forfeiture of a corporation's charter or certificate of
authority, the comptroller shall revive the corporate privileges of
the corporation and shall inscribe on the corporation's record in
the comptroller's office a note of the revival.

Sec. 111.421. FORFEITURE BY SECRETARY OF STATE. The
secretary of state may forfeit the charter or certificate of
authority of a corporation if:

(1) the secretary receives the comptroller's
certification under Section 111.414;

(2) the corporation does not revive its forfeited
corporate privileges on or before the 120th day after the date that
the corporate privileges were forfeited; and

(3) the corporation does not have assets from which a
judgment for any tax, penalty, or court costs imposed by this title
may be satisfied.

Sec. 111.422. JUDICIAL PROCEEDING NOT REQUIRED FOR
FORFEITURE BY SECRETARY OF STATE. The forfeiture by the secretary
of state of a corporation's charter or certificate of authority
under this subchapter is effected without a judicial proceeding.

Sec. 111.423. RECORD OF FORFEITURE BY SECRETARY OF STATE.
The secretary of state shall effect a forfeiture of a corporation's
charter or certificate of authority under this subchapter by
inscribing on the corporation's record in the secretary's office
the words "Charter Forfeited" or "Certificate Forfeited," the date
on which this inscription is made, and a citation to this subchapter
as authority for the forfeiture.

Sec. 111.424. REVIVAL OF CHARTER OR CERTIFICATE OF
AUTHORITY AFTER FORFEITURE BY SECRETARY OF STATE. A corporation
whose charter or certificate of authority is forfeited under this
subchapter by the secretary of state is entitled to have its charter
or certificate revived and to have its corporate privileges revived
if:

(1) the corporation files each report that is required
by this title and that is delinquent;

(2) the corporation pays the tax, penalty, and
interest that is imposed by this title and that is due at the time
the request under Section 111.425 to set aside forfeiture is made;
and

(3) the forfeiture of the corporation's charter or
certificate is set aside in a proceeding under Section 111.425.

Sec. 111.425. PROCEEDING TO SET ASIDE FORFEITURE BY
SECRETARY OF STATE. (a) If a corporation's charter or certificate
of authority is forfeited under this subchapter by the secretary of
state, a stockholder, director, or officer of the corporation at
the time of the forfeiture of the charter or certificate or of the
corporate privileges of the corporation may request in the name of
the corporation that the secretary of state set aside the
forfeiture of the charter or certificate.

(b) If a request is made, the secretary of state shall
determine if each delinquent report has been filed and any
delinquent tax, penalty, or interest has been paid. If each report
has been filed and the tax, penalty, or interest has been paid, the
secretary shall set aside the forfeiture of the corporation's
charter or certificate of authority.

Sec. 111.426. CORPORATE PRIVILEGES AFTER FORFEITURE BY
SECRETARY OF STATE IS SET ASIDE. If the secretary of state sets
aside under this subchapter the forfeiture of a corporation's
charter or certificate of authority, the comptroller shall revive
the corporate privileges of the corporation.

Sec. 111.427. USE OF CORPORATE NAME AFTER REVIVAL OF
CHARTER OR CERTIFICATE OF AUTHORITY. If a corporation's charter or
certificate of authority is forfeited under this subchapter by the
secretary of state and if the corporation requests the secretary to
set aside the forfeiture under Section 111.425, the corporation
shall determine from the secretary whether the corporation's name
is available for use. If the name is not available, the corporation
shall amend its charter or certificate to change its name.

(b) This section takes effect January 1, 2006.

SECTION 12. (a) Section 57.048, Utilities Code, is amended
by amending Subsections (c) and (d) and adding Subsections (f)-(i)
to read as follows:

(c) The total amount deposited to the credit of the fund,
excluding interest and loan repayments, may not exceed $1.76
[$1.75] billion. Not later than August 31 of each year, the
comptroller shall determine the total amount, excluding interest
and loan repayments, that has been deposited to the credit of the
fund during that fiscal year and the preceding fiscal years. If the
comptroller determines that a total of $1.51 \text{ billion or more, excluding interest and loan repayments, has been deposited to the credit of the fund, the comptroller shall impose the assessment during the next fiscal year at a rate that the comptroller estimates is sufficient to produce the amount necessary to result in the deposit in the fund of a total of not more than $1.76 \text{ billion, excluding interest and loan repayments.}

(d) The comptroller may not collect the assessment during a fiscal year if the comptroller determines after the yearly review that the total amount deposited to the credit of the fund during that fiscal year and the preceding fiscal years is $1.75 \text{ billion or more, excluding interest and loan repayments, and it is not possible to impose the assessment during the next fiscal year at a practical rate without collecting more than a total of $1.76 \text{ billion, excluding interest and loan repayments.}

(f) Notwithstanding any other provision of this title, a certificated telecommunications utility may 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. A certificated telecommunications utility may 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. The utility may recover the assessment through a monthly billing process.

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

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

(b) Section 57.051, Utilities Code, is amended to read as
follows:

Sec. 57.051. SUNSET PROVISION. The Telecommunications
Infrastructure Fund [Board] is subject to Chapter 325, Government
Code (Texas Sunset Act). Unless continued in existence as provided
by that chapter, [the board is abolished and] this subchapter
expires September 1, 2007 [2005].

(c) If, on the day before the effective date of this
section, the assessment prescribed by Section 57.048, Utilities
Code, is imposed at a rate of less than 1.25 percent, the
comptroller shall, effective September 1, 2005, reset the rate of
the assessment to 1.25 percent.

(d) This section takes effect September 1, 2005.
SECTION 13. Subchapter F, Chapter 466, Government Code, is amended by adding Section 466.253 to read as follows:

Sec. 466.253. PURCHASE OF TICKET AT MOTOR FUEL PUMP. (a) In this section:

(1) "Credit card transaction" and "lender credit card agreement" have the meanings assigned to those terms by Section 301.002, Finance Code.

(2) "Self-service motor fuel pump" means a self-service motor fuel dispenser for the retail sale of motor fuel operated by a motor fuel retailer.

(3) "Self-service ticket sales terminal" means an electronic device:

(A) that is integrated into an operating self-service motor fuel pump; and

(B) from which a ticket, other than a scratch-off or similar instant-win ticket, can be purchased directly by the purchaser without the assistance of a sales agent or an employee of a sales agent.

(b) A person may purchase a ticket from a self-service ticket sales terminal located on the premises of a sales agent in accordance with this section during a motor fuel purchase made:

(1) after the person has begun depositing motor fuel into a motor vehicle; and

(2) through a credit card transaction under a lender credit card agreement.

(c) The self-service ticket sales terminal must be located so that a person purchasing a ticket is in the direct line of sight of

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of the sales agent or an employee of a sales agent.

(d) The sales agent or employee of the sales agent must have the ability to remotely terminate a transaction if the sales agent or employee witnesses the purchase of a ticket at a self-service ticket sales terminal by an individual who is or appears to be younger than 18 years of age.

(e) The self-service ticket sales terminal must include a display or decal informing purchasers that individuals younger than 18 years of age are prohibited from purchasing tickets.

SECTION 14. Section 466.305, Government Code, is amended by adding Subsection (c) to read as follows:

(c) It is a defense to prosecution under Subsection (a) that the ticket is sold to a person by extending credit to the person through a ticket sale authorized by Section 466.253.

SECTION 15. Section 466.3052(a), Government Code, is amended to read as follows:

(a) A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

(1) United States currency;

(2) a negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code;

(3) a debit made through a financial institution debit card;

(4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; [or]

(5) a mail order subscription on a mail order
subscription form authorized by the commission; or

(6) for a ticket sale authorized by Section 466.253,

credit made through a lender credit card agreement as defined by

Section 301.002, Finance Code.

SECTION 16. The changes in law made by this Act to Title 1, Tax Code, take effect January 1, 2006, and apply only to an ad valorem tax year that begins on or after that date.

SECTION 17. Except as provided by the other sections of this Act, this Act takes effect September 1, 2005.