

By: Griggs

H.B. No. 14

A BILL TO BE ENTITLED

AN ACT

relating to public school finance, a voluntary personal income tax,  
and other sources of revenue.

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

ARTICLE 1. PUBLIC SCHOOL FINANCE

SECTION 1.01. Section 42.002(a), Education Code, is amended  
to read as follows:

~~[(a)]~~ The purposes of the Foundation School Program set  
forth in this chapter are to guarantee that each school district in  
the state has:

(1) adequate resources to provide each eligible  
student an exemplary ~~[a basic]~~ instructional program ~~[and  
facilities]~~ suitable to the student's educational needs; and

(2) access to resources ~~[a substantially equalized  
program of financing]~~ in excess of the ~~[basic]~~ costs of an exemplary  
instructional program ~~[for certain services]~~, as provided by this  
chapter.

SECTION 1.02. Subchapter A, Chapter 42, Education Code, is  
amended by adding Section 42.0051 to read as follows:

Sec. 42.0051. WEIGHTED AVERAGE DAILY ATTENDANCE. In this  
chapter, the number of students in weighted average daily  
attendance is calculated by dividing the sum of a school district's  
allotments under Subchapters B and C, less any allotment to the  
district for transportation, any allotment under Section 42.158,

1 and 50 percent of the adjustment under Section 42.102, by the basic  
2 allotment for the applicable year.

3 SECTION 1.03. Sections 42.007(c) and (d), Education Code,  
4 are amended to read as follows:

5 (c) The funding elements must include:

6 (1) a basic allotment for the purposes of Section  
7 42.101 [~~that, when combined with the guaranteed yield component~~  
8 ~~provided by Subchapter F, represents the cost per student of a~~  
9 ~~regular education program that meets all mandates of law and~~  
10 ~~regulation]~~;

11 (2) adjustments designed to reflect the variation in  
12 known resource costs and costs of education beyond the control of  
13 school districts; and

14 (3) appropriate program cost differentials and other  
15 funding elements for the programs authorized under Subchapter C,  
16 with the program funding level expressed as dollar amounts and as  
17 weights applied to the adjusted basic allotment for the appropriate  
18 year [~~+~~

19 [~~(4) the maximum guaranteed level of qualified state~~  
20 ~~and local funds per student for the purposes of Subchapter F,~~

21 [~~(5) the enrichment and facilities tax rate under~~  
22 ~~Subchapter F,~~

23 [~~(6) the computation of students in weighted average~~  
24 ~~daily attendance under Section 42.302, and~~

25 [~~(7) the amount to be appropriated for the school~~  
26 ~~facilities assistance program under Chapter 46].~~

27 (d) The board shall conduct a study on the funding elements

1 each biennium, as appropriate. [~~The study must include a~~  
2 ~~determination of the projected cost to the state in the next state~~  
3 ~~fiscal biennium of ensuring the ability of each school district to~~  
4 ~~maintain existing programs without increasing property tax rates.]~~

5 SECTION 1.04. Section 42.101, Education Code, is amended to  
6 read as follows:

7 Sec. 42.101. BASIC ALLOTMENT. For each student in average  
8 daily attendance, not including the time students spend each day in  
9 special education programs in an instructional arrangement other  
10 than mainstream or career and technology education programs, for  
11 which an additional allotment is made under Subchapter C, a  
12 district is entitled to an allotment in an amount determined [~~of~~  
13 ~~\$2,537. A greater amount for any school year may be provided~~] by  
14 appropriation. The commissioner shall adjust the amount as  
15 appropriate to:

16 (1) reflect the findings of any biennial state study  
17 of the cost of providing an adequate education to students in this  
18 state; and

19 (2) address costs beyond the control of the district  
20 and not otherwise addressed by this code.

21 SECTION 1.05. Section 42.158(g), Education Code, is amended  
22 to read as follows:

23 (g) In this section, "instructional facility" means an  
24 improvement to real property that is used predominantly for  
25 teaching the curriculum required under Section 28.002 [~~has the~~  
26 ~~meaning assigned by Section 46.001~~].

27 SECTION 1.06. Section 42.251, Education Code, is amended to

1 read as follows:

2           Sec. 42.251. FINANCING; GENERAL RULE. (a) The sum of the  
3 basic allotment under Subchapter B and the special allotments under  
4 Subchapter C, computed in accordance with this chapter, constitute  
5 the exemplary program [~~tier one~~] allotments. The sum of the  
6 exemplary program [~~tier one~~] allotments and the enrichment amounts  
7 [~~guaranteed yield allotments~~] under Subchapter F, computed in  
8 accordance with this chapter, constitute the total cost of the  
9 Foundation School Program. State funding of exemplary program  
10 allotments, as provided by Subsection (c), provides for an  
11 equalized exemplary education for all public school students in  
12 this state.

13           (b) The program shall be financed by:

14                 (1) ad valorem tax revenue generated by a [~~an~~  
15 ~~equalized~~] uniform school district effort;

16                 (2) ad valorem tax revenue generated by local school  
17 district effort in excess of the [~~equalized~~] uniform school  
18 district effort;

19                 (3) state available school funds distributed in  
20 accordance with law; [~~and~~]

21                 (4) state funds appropriated for the purposes of  
22 public school education and allocated to each district in  
23 accordance with this chapter;

24                 (5) revenue generated by cigarette and tobacco taxes  
25 in accordance with Chapters 154 and 155, Tax Code;

26                 (6) revenue generated by an expanded sales and use tax  
27 in accordance with Section 151.0511, Tax Code; and

1           (7) revenue generated by a voluntary personal income  
2 tax in accordance with Chapter 261, Tax Code [~~an amount sufficient~~  
3 ~~to finance the cost of each district's Foundation School Program~~  
4 ~~not covered by other funds specified in this subsection)].~~

5           (c) The state shall provide each district with state revenue  
6 sufficient to pay at least 50 percent of the total amount of  
7 exemplary program allotments to which the district is entitled.

8           (d) Notwithstanding any other provision of this chapter, a  
9 school district is entitled to the amount of state revenue needed to  
10 maintain state and local revenue in an amount equal to state and  
11 local revenue per weighted student for maintenance and operation of  
12 the district for the 2004-2005 school year less the district's  
13 current year distribution per weighted student from the available  
14 school fund, other than amounts distributed under Chapter 31, if  
15 the district imposes an effective tax rate for maintenance and  
16 operation of the district at least equal to the district's tax rate  
17 for the 2004-2005 school year. This subsection expires September  
18 1, 2006.

19           SECTION 1.07. The heading to Section 42.252, Education  
20 Code, is amended to read as follows:

21           Sec. 42.252. LOCAL SHARE OF PROGRAM COST [~~(TIER ONE)~~].

22           SECTION 1.08. Section 42.252, Education Code, is amended by  
23 amending Subsections (a) and (d) and adding Subsection (e) to read  
24 as follows:

25           (a) Each school district's share of the Foundation School  
26 Program is determined by the following formula:

27                           
$$\underline{LS} [\underline{LFA}] = TR \times DPV$$

1 where:

2 "LS" ["LFA"] is the school district's local share;

3 "TR" is a tax rate which for each hundred dollars of valuation  
4 is an effective tax rate of \$1.45 or the rate specified by  
5 Subsection (e) [~~\$0.86~~]; and

6 "DPV" is the taxable value of property in the school district  
7 for the preceding tax year determined under Subchapter M, Chapter  
8 403, Government Code.

9 (d) A school district must raise its total local share of  
10 the Foundation School Program [~~to be eligible to receive foundation~~  
11 ~~school fund payments~~]. Any portion of a district's total local  
12 share that exceeds 50 percent of the total amount of the exemplary  
13 program allotments to which the district is entitled is considered  
14 state revenue and shall be remitted to the comptroller for  
15 equalization purposes in accordance with rules adopted by the  
16 commissioner.

17 (e) Notwithstanding the tax rate specified by Subsection  
18 (a), a school district's local share for the 2006-2007 school year  
19 is computed using a tax rate that results in an effective tax rate  
20 of \$1.435. In each subsequent school year, a district's local share  
21 is computed using a tax rate that results in an effective tax rate  
22 that is \$0.015 less than the effective tax rate required under this  
23 section for the preceding school year. Beginning with the  
24 2015-2016 school year, a district's local share is computed using a  
25 tax rate that results in an effective tax rate of \$1.30.

26 SECTION 1.09. Section 42.2521(a), Education Code, is  
27 amended to read as follows:

1 (a) For purposes of [~~Chapters 41 and 46 and~~] this chapter,  
2 and to the extent money specifically authorized to be used under  
3 this section is available, the commissioner shall adjust the  
4 taxable value of property in a school district that, due to factors  
5 beyond the control of the board of trustees, experiences a rapid  
6 decline in the tax base used in calculating taxable values in excess  
7 of four percent of the tax base used in the preceding year.

8 SECTION 1.10. Sections 42.253(a), (c), and (h), Education  
9 Code, are amended to read as follows:

10 (a) For each school year the commissioner shall determine:

11 (1) the amount of money to which a school district is  
12 entitled under Subchapters B and C;

13 (2) the amount of money to which a school district is  
14 entitled or awarded under Subchapter F;

15 (3) the amount of money allocated to the district from  
16 the available school fund; and

17 (4) the amount of each district's [~~tier one~~] local  
18 share under Section 42.252[~~, and~~

19 [~~(5) the amount of each district's tier two local share~~  
20 ~~under Section 42.302]~~.

21 (c) Each school district is entitled to an amount necessary  
22 to ensure that the district has state and local revenue sufficient  
23 to pay the costs of an exemplary education for each student in  
24 weighted average daily attendance [~~equal to the difference for that~~  
25 ~~district between the sum of Subsections (a)(1) and (a)(2) and the~~  
26 ~~sum of Subsections (a)(3), (a)(4), and (a)(5)]]. Each school  
27 district is also entitled to an amount equal to 50 percent of the~~

1 revenues raised by the district through an enrichment tax imposed  
2 by the district under Subchapter F.

3 (h) If the amount appropriated for purposes of the  
4 Foundation School Program is less than the amount to which school  
5 districts are entitled for the second year of a state fiscal  
6 biennium, the commissioner shall certify the amount of the  
7 difference to the Legislative Budget Board not later than January 1  
8 of the second year of the state fiscal biennium. The Legislative  
9 Budget Board shall propose to the legislature that the certified  
10 amount be transferred to the foundation school fund from the  
11 economic stabilization fund and appropriated for the purpose of  
12 increases in allocations under this subsection. If the legislature  
13 fails during the regular session to enact the transfer and  
14 appropriation proposed under this subsection [~~Subsection (f) and~~  
15 ~~there are not funds available under Subsection (j)~~], the  
16 commissioner shall reduce the total amount of state funds allocated  
17 to each district proportionately [~~by an amount determined by a~~  
18 ~~method under which the application of the same number of cents of~~  
19 ~~increase in tax rate in all districts applied to the taxable value~~  
20 ~~of property of each district, as determined under Subchapter M,~~  
21 ~~Chapter 403, Government Code, results in a total levy equal to the~~  
22 ~~total reduction~~]. The following fiscal year, a district's  
23 entitlement under this section is increased by an amount equal to  
24 the reduction made under this subsection.

25 SECTION 1.11. Sections 42.2531(a), (b), and (c), Education  
26 Code, are amended to read as follows:

27 (a) The commissioner may make adjustments to amounts due to



1 a school district under this chapter [~~or Chapter 46, or to amounts~~  
2 ~~necessary for a district to comply with the requirements of Chapter~~  
3 ~~41,~~] as provided by this section.

4 (b) A school district that has a major taxpayer, as  
5 determined by the commissioner, that because of a protest of the  
6 valuation of the taxpayer's property fails to pay all or a portion  
7 of the ad valorem taxes due to the district may apply to the  
8 commissioner to have the district's taxable value of property or ad  
9 valorem tax collections adjusted for purposes of this chapter [~~or~~  
10 ~~Chapter 41 or 46~~]. The commissioner may make the adjustment only to  
11 the extent the commissioner determines that making the adjustment  
12 will not:

13 (1) in the fiscal year in which the adjustment is made,  
14 cause the amount to which school districts are entitled under this  
15 chapter to exceed the amount appropriated for purposes of the  
16 Foundation School Program for that year; and

17 (2) if the adjustment is made in the first year of a  
18 state fiscal biennium, cause the amount to which school districts  
19 are entitled under this chapter for the second year of the biennium  
20 to exceed the amount appropriated for purposes of the Foundation  
21 School Program for that year.

22 (c) The commissioner shall recover the benefit of any  
23 adjustment made under this section by making offsetting adjustments  
24 in the school district's taxable value of property or ad valorem tax  
25 collections for purposes of this chapter [~~or Chapter 41 or 46~~] on a  
26 final determination of the taxable value of property that was the  
27 basis of the original adjustment, or in the second school year

1 following the year in which the adjustment is made, whichever is  
2 earlier.

3 SECTION 1.12. The heading to Subchapter F, Chapter 42,  
4 Education Code, is amended to read as follows:

5 SUBCHAPTER F. ENRICHMENT [~~GUARANTEED YIELD~~] PROGRAM

6 SECTION 1.13. Section 42.301, Education Code, is amended to  
7 read as follows:

8 Sec. 42.301. PURPOSE. The purpose of the enrichment  
9 [~~guaranteed yield~~] component of the Foundation School Program is to  
10 provide each school district with the opportunity to [~~provide the~~  
11 ~~basic program and to~~] supplement the exemplary [~~that~~] program at a  
12 level of its own choice. [~~An allotment under this subchapter may be~~  
13 ~~used for any legal purpose other than capital outlay or debt~~  
14 ~~service.~~]

15 SECTION 1.14. The heading to Section 42.302, Education  
16 Code, is amended to read as follows:

17 Sec. 42.302. ENRICHMENT TAX [~~ALLOTMENT~~].

18 SECTION 1.15. Sections 42.302(a) and (b), Education Code,  
19 are amended to read as follows:

20 (a) In addition to the [~~Each school district is guaranteed a~~  
21 ~~specified amount per weighted student in state and local funds for~~  
22 ~~each cent of~~] tax effort [~~over that~~] required for a school [~~the~~]  
23 district's local share under Section 42.252, each school district  
24 may impose an additional ad valorem tax [~~fund assignment~~] up to the  
25 maximum level specified in this subchapter. [~~The amount of state~~  
26 ~~support, subject only to the maximum amount under Section 42.303,~~  
27 ~~is determined by the formula:~~

1 
$$[GYA = (CL \times WADA \times DTR \times 100) - LR$$

2 [where:

3 ~~["GYA" is the guaranteed yield amount of state funds to be~~  
4 ~~allocated to the district;~~

5 ~~["GL" is the dollar amount guaranteed level of state and~~  
6 ~~local funds per weighted student per cent of tax effort, which is~~  
7 ~~\$27.14 or a greater amount for any year provided by appropriation;~~

8 ~~["WADA" is the number of students in weighted average daily~~  
9 ~~attendance, which is calculated by dividing the sum of the school~~  
10 ~~district's allotments under Subchapters B and C, less any allotment~~  
11 ~~to the district for transportation, any allotment under Section~~  
12 ~~42.158, and 50 percent of the adjustment under Section 42.102, by~~  
13 ~~the basic allotment for the applicable year;~~

14 ~~["DTR" is the district enrichment tax rate of the school~~  
15 ~~district, which is determined by subtracting the amounts specified~~  
16 ~~by Subsection (b) from the total amount of maintenance and~~  
17 ~~operations taxes collected by the school district for the~~  
18 ~~applicable school year and dividing the difference by the quotient~~  
19 ~~of the district's taxable value of property as determined under~~  
20 ~~Subchapter M, Chapter 403, Government Code, or, if applicable,~~  
21 ~~under Section 42.2521, divided by 100; and~~

22 ~~["LR" is the local revenue, which is determined by~~  
23 ~~multiplying "DTR" by the quotient of the district's taxable value~~  
24 ~~of property as determined under Subchapter M, Chapter 403,~~  
25 ~~Government Code, or, if applicable, under Section 42.2521, divided~~  
26 ~~by 100.]~~

27 (b) Fifty percent of any amount collected by a school

1 district through an enrichment tax imposed under this subchapter is  
2 considered state revenue and must be remitted to the comptroller  
3 for equalization purposes in accordance with rules adopted by the  
4 commissioner. [~~In computing the district enrichment tax rate of a~~  
5 ~~school district, the total amount of maintenance and operations~~  
6 ~~taxes collected by the school district does not include the amount~~  
7 ~~of:~~

8 ~~(1) the district's local fund assignment under~~  
9 ~~Section 42.252; or~~

10 ~~(2) taxes paid into a tax increment fund under~~  
11 ~~Chapter 311, Tax Code.]~~

12 SECTION 1.16. Section 42.303, Education Code, is amended to  
13 read as follows:

14 Sec. 42.303. LIMITATION ON ENRICHMENT TAX RATE. (a) The  
15 district enrichment tax rate [~~("DTR")~~] under Section 42.302 may not  
16 exceed \$0.05 [~~\$0.64~~] per \$100 of valuation, or the [~~a greater~~]  
17 amount specified by Subsection (b) [~~for any year provided by~~  
18 ~~appropriation~~].

19 (b) Notwithstanding Subsection (a), the district enrichment  
20 tax rate for the 2006-2007 school year may not exceed \$0.065 per  
21 \$100 of valuation. In each subsequent school year, the district  
22 enrichment tax rate may not exceed an amount that is \$0.015 more  
23 than the enrichment tax rate imposed by the district for the  
24 preceding school year, provided that the rate may never exceed  
25 \$0.20 per \$100 of valuation.

26 SECTION 1.17. Section 42.304, Education Code, is amended to  
27 read as follows:

1           Sec. 42.304. STATE ENRICHMENT GRANTS [~~COMPUTATION OF AID~~  
2 ~~FOR DISTRICT ON MILITARY RESERVATION OR AT STATE SCHOOL~~]. (a) The  
3 commissioner shall use state revenue made available through the  
4 enrichment tax authorized by this subchapter to award grants to  
5 school districts to supplement the enrichment component of the  
6 Foundation School Program [~~State assistance under this subchapter~~  
7 ~~for a school district located on a federal military installation or~~  
8 ~~at Moody State School is computed using the average tax rate and~~  
9 ~~property value per student of school districts in the county, as~~  
10 ~~determined by the commissioner~~].

11           (b) In awarding grants, the commissioner shall:

12                   (1) rank school districts by wealth per student and  
13 award grants beginning with the district with the lowest wealth per  
14 student;

15                   (2) distribute all available grant funds; and

16                   (3) award grants in amounts so that each district  
17 receiving a grant has an equal total amount of local and state  
18 enrichment revenue per weighted student per cent of enrichment tax  
19 effort under Section 42.302(a).

20           (c) The imposition of a tax under Section 42.302(a) does not  
21 entitle a school district to a grant under this section.

22           (d) In this section, "wealth per student" means a school  
23 district's taxable value of property as determined under Subchapter  
24 M, Chapter 403, Government Code, or, if applicable, Section  
25 42.2521, divided by the district's weighted average daily  
26 attendance as determined under Section 42.0051.

27           SECTION 1.18. Sections 45.003(a) and (d), Education Code,

1 are amended to read as follows:

2 (a) Bonds described by Section 45.001 may not be issued and  
3 taxes described by Section 45.001 or 45.002, other than a tax  
4 required for a school district's local share under Section 42.252,  
5 may not be levied unless authorized by a majority of the qualified  
6 voters of the district, voting at an election held for that purpose,  
7 at the expense of the district, in accordance with the Election  
8 Code, except as provided by this section. Each election must be  
9 called by resolution or order of the governing board or  
10 commissioners court. The resolution or order must state the date of  
11 the election, the proposition or propositions to be submitted and  
12 voted on, the polling place or places, and any other matters  
13 considered necessary or advisable by the governing board or  
14 commissioners court.

15 (d) A proposition submitted to authorize the levy of  
16 maintenance taxes must include the question of whether the  
17 governing board or commissioners court may levy, assess, and  
18 collect annual ad valorem taxes for the further maintenance of  
19 public schools[~~7~~] at a rate not to exceed the rate[~~, which may be~~  
20 ~~not more than \$1.50 on the \$100 valuation of taxable property in the~~  
21 ~~district,~~] stated in the proposition, which may not exceed the sum  
22 of the rate required by Section 42.252 and the maximum rate  
23 authorized by Section 42.303.

24 ARTICLE 2. SALES AND USE TAXES

25 SECTION 2.01. Section 151.051(b), Tax Code, is amended to  
26 read as follows:

27 (b) Subject to adjustment as provided by Section 151.0511,

1 the [~~The~~] sales tax rate is 6-1/4 percent of the sales price of the  
2 taxable item sold.

3 SECTION 2.02. Subchapter C, Tax Code, is amended by adding  
4 Section 151.0511 to read as follows:

5 Sec. 151.0511. TEMPORARY INCREASE IN RATE TO FUND STATE'S  
6 SHARE OF EXEMPLARY PROGRAM. (a) The comptroller, in cooperation  
7 with the commissioner of education, shall determine whether  
8 legislatively mandated reductions in the property tax rates that  
9 school districts may impose will result in the state having  
10 insufficient revenue to provide each district with at least 50  
11 percent of the total amount of exemplary program allotments to  
12 which the district is entitled under Chapter 42, Education Code,  
13 for a school year.

14 (b) If the comptroller determines that state revenue is  
15 insufficient for the purpose described in Subsection (a) for a  
16 school year, the comptroller shall by rule adopt an increase in the  
17 rate of the sales tax for a period necessary to raise additional  
18 state revenue equal to the amount of the insufficiency determined  
19 under Subsection (a).

20 (c) On adoption of the rule under Subsection (b), the rate  
21 of the sales tax is increased as provided by the rule for the time  
22 provided in the rule unless:

23 (1) the legislature enacts a bill that provides  
24 otherwise and that bill becomes law; or

25 (2) the comptroller certifies that enough additional  
26 state revenue has been raised to provide each district with at least  
27 50 percent of the total amount of exemplary program allotments to

1 which the district is entitled under Chapter 42, Education Code,  
2 for a school year.

3 ARTICLE 3. CIGARETTE AND TOBACCO TAXES

4 SECTION 3.01. Section 154.021(b), Tax Code, is amended to  
5 read as follows:

6 (b) The tax rates are:

7 (1) \$70.50 [~~\$20.50~~] per thousand on cigarettes  
8 weighing three pounds or less per thousand; and

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

12 SECTION 3.02. Section 154.603, Tax Code, is amended to read  
13 as follows:

14 Sec. 154.603. DISPOSITION OF REVENUE. (a) After the  
15 deductions for the purposes provided by Section 154.602 [~~of this~~  
16 ~~code~~], the revenue remaining of the first \$2 of tax received per  
17 1,000 cigarettes for cigarettes weighing three pounds or less per  
18 thousand and the first \$4.10 per 1,000 cigarettes of the tax  
19 received for cigarettes weighing more than three pounds per  
20 thousand is allocated:

21 (1) 18.75 percent to the foundation school fund; and

22 (2) 81.25 percent to the general revenue fund.

23 (b) The revenue remaining after the deductions for the  
24 purposes provided by Section 154.602 [~~of this code~~] and allocation  
25 under Subsection (a) of the next \$18.50 of tax received per 1,000  
26 cigarettes for cigarettes weighing three pounds or less per  
27 thousand and the next \$18.50 per 1,000 cigarettes of the tax



1 received for cigarettes weighing more than three pounds per  
2 thousand [~~this section~~] is allocated to the general revenue fund.

3 (c) The revenue remaining after the deductions for the  
4 purposes provided by Section 154.602 and allocation under  
5 Subsections (a) and (b) shall be deposited as follows:

6 (1) the next 50 cents of tax received per 1,000  
7 cigarettes weighing three pounds or less per thousand and the next  
8 50 cents per 1,000 cigarettes of the tax received for cigarettes  
9 weighing more than three pounds per thousand shall be deposited to  
10 the credit of the tobacco cessation account in the general revenue  
11 fund and may be appropriated only to the Texas Department of Health  
12 to provide grants to one or more national nonprofit organizations  
13 for programs to reduce the use of cigarettes and tobacco products in  
14 this state; and

15 (2) the remaining revenue shall be deposited to the  
16 foundation school fund.

17 SECTION 3.03. Section 155.021(b), Tax Code, is amended to  
18 read as follows:

19 (b) The tax rates are:

20 (1) 3.44 cents [~~one cent~~] per 10 or fraction of 10 on  
21 cigars weighing three pounds or less per thousand;

22 (2) \$25.80 [~~\$7.50~~] per thousand on cigars that:

23 (A) weigh more than three pounds per thousand;  
24 and

25 (B) sell at factory list price, exclusive of any  
26 trade discount, special discount, or deal, for 3.3 cents or less  
27 each;

1 (3) \$37.84 [~~\$11~~] per thousand on cigars that:

2 (A) weigh more than three pounds per thousand;

3 (B) sell at factory list price, exclusive of any  
4 trade discount, special discount, or deal, for more than 3.3 cents  
5 each; and

6 (C) contain no substantial amount of nontobacco  
7 ingredients; and

8 (4) \$51.60 [~~\$15~~] per thousand on cigars that:

9 (A) weigh more than three pounds per thousand;

10 (B) sell at factory list price, exclusive of any  
11 trade discount, special discount, or deal, for more than 3.3 cents  
12 each; and

13 (C) contain a substantial amount of nontobacco  
14 ingredients.

15 SECTION 3.04. Section 155.0211(b), Tax Code, is amended to  
16 read as follows:

17 (b) The tax rate for tobacco products other than cigars is  
18 121 [~~35.213~~] percent of the manufacturer's list price, exclusive of  
19 any trade discount, special discount, or deal.

20 SECTION 3.05. Section 155.241, Tax Code, is amended to read  
21 as follows:

22 Sec. 155.241. ALLOCATION OF TAX. (a) Revenue collected  
23 under this chapter at the following rates shall be deposited to the  
24 credit of the general revenue fund:

25 (1) the revenue from the first one cent per 10 or  
26 fraction of 10 on cigars weighing three pounds or less per thousand;

27 (2) the revenue from the first \$7.50 per thousand on

1 cigars that:

2 (A) weigh more than three pounds per thousand;

3 and

4 (B) sell at factory list price, exclusive of any  
5 trade discount, special discount, or deal, for 3.3 cents or less  
6 each;

7 (3) the revenue from the first \$11 per thousand on  
8 cigars that:

9 (A) weigh more than three pounds per thousand;

10 (B) sell at factory list price, exclusive of any  
11 trade discount, special discount, or deal, for more than 3.3 cents  
12 each; and

13 (C) contain no substantial amount of nontobacco  
14 ingredients;

15 (4) the revenue from the first \$15 per thousand on  
16 cigars that:

17 (A) weigh more than three pounds per thousand;

18 (B) sell at factory list price, exclusive of any  
19 trade discount, special discount, or deal, for more than 3.3 cents  
20 each; and

21 (C) contain a substantial amount of nontobacco  
22 ingredients; and

23 (5) the revenue from the tax on tobacco products other  
24 than cigars imposed at the rate of 35.213 percent of the  
25 manufacturer's list price, exclusive of any trade discount, special  
26 discount, or deal.

27 (b) The revenue remaining after the allocation under

1 Subsection (a) shall be deposited to the credit of the foundation  
2 school fund.

3 ARTICLE 4. INCOME TAX ALTERNATIVE

4 SECTION 4.01. Title 2, Tax Code, is amended by adding  
5 Subtitle L to read as follows:

6 SUBTITLE L. PERSONAL INCOME TAX ALTERNATIVE

7 CHAPTER 261. PERSONAL INCOME TAX ALTERNATIVE

8 SUBCHAPTER A. PERSONAL INCOME TAX ELECTION

9 Sec. 261.001. TAX IMPOSED. (a) An individual who is a  
10 resident of this state may elect to pay a tax on the resident's  
11 taxable income and receive a refund of the sales and use taxes the  
12 individual is imputed to have paid under Chapter 151 as provided by  
13 Section 151.433.

14 (b) An individual who is a nonresident of this state may  
15 elect to pay a tax on the nonresident's taxable income derived from  
16 sources in this state and receive a refund of the sales and use  
17 taxes the individual is imputed to have paid under Chapter 151 as  
18 provided by Section 151.433.

19 (c) The tax rate is 2.5 percent of the individual's taxable  
20 income.

21 Sec. 261.002. JOINT RETURN. If a husband and wife file a  
22 joint return, the tax imposed by Section 261.001 is twice the tax  
23 that would be imposed if the taxable income were divided by two.

24 Sec. 261.003. MEANING OF TERMS. (a) In this chapter:

25 (1) an individual is a resident of this state if the  
26 individual:

27 (A) is domiciled in this state, unless the

1 individual does not maintain a permanent place of abode in this  
2 state and does maintain a permanent place of abode elsewhere and  
3 spends, in the aggregate, not more than 30 days of the tax year in  
4 this state; or

5 (B) is not domiciled in this state but maintains  
6 a permanent place of abode in this state and spends, in the  
7 aggregate, more than 183 days of the tax year in this state; and

8 (2) an individual is a nonresident of this state if the  
9 individual is not a resident of this state.

10 (b) Any term used in this chapter and not defined by or for  
11 purposes of this chapter has the same meaning as when used in a  
12 comparable context in the laws of the United States relating to  
13 federal income taxes, unless a different meaning is clearly  
14 required. Any reference in this chapter to federal law means the  
15 provisions of the Internal Revenue Code of 1986 in effect on  
16 December 31, 2004, and other provisions of federal laws relating to  
17 federal income taxes in effect on December 31, 2004.

18 [Sections 261.004-261.050 reserved for expansion]

19 SUBCHAPTER B. COMPUTATION OF TAXABLE INCOME

20 Sec. 261.051. RESIDENT INDIVIDUALS: TAXABLE INCOME. The  
21 taxable income of a resident of this state who elects to pay the tax  
22 imposed by this chapter is the resident's federal adjusted gross  
23 income as defined by federal law.

24 Sec. 261.052. CREDIT FOR INCOME TAX PAID TO ANOTHER STATE.

25 (a) A resident individual is allowed a credit against the tax  
26 otherwise due under this chapter for the amount of any income tax  
27 imposed on the individual for the tax year by another state of the

1 United States on income that is derived from sources in that state  
2 and that is subject to tax under this chapter.

3 (b) The credit provided by this section may not exceed the  
4 proportion of the tax otherwise due under this chapter that the  
5 amount of the taxpayer's adjusted gross income derived from sources  
6 in the other taxing jurisdiction bears to the taxpayer's entire  
7 adjusted gross income as modified by this subchapter.

8 Sec. 261.053. DUAL RESIDENCE; REDUCTION OF TAX. If a  
9 taxpayer is a resident of this state and is regarded as a resident  
10 of another jurisdiction for purposes of personal income taxation,  
11 the comptroller shall reduce the tax on that portion of the  
12 taxpayer's income that is subject to tax in both jurisdictions  
13 solely by virtue of dual residence. The reduction shall be in an  
14 amount equal to that portion of the lower of the two taxes  
15 applicable to the income taxed twice that the tax imposed by this  
16 state bears to the combined taxes of the two jurisdictions on the  
17 income taxed twice.

18 Sec. 261.054. NONRESIDENT INDIVIDUALS: TAXABLE INCOME.  
19 The taxable income of a nonresident individual who elects to pay the  
20 tax imposed by this chapter is that part of the individual's federal  
21 adjusted gross income derived from sources in this state determined  
22 under Section 261.056.

23 Sec. 261.055. HUSBAND AND WIFE--NONRESIDENT. (a) If the  
24 federal taxable income of a husband and wife, both of whom are  
25 nonresidents of this state, is determined on separate federal  
26 returns, their taxable incomes in this state shall be separately  
27 determined.

1       (b) If the federal taxable income of a husband and wife,  
2 both of whom are nonresidents, is determined on a joint federal  
3 return, their tax shall be determined in this state on their  
4 combined taxable income.

5       (c) If one spouse is a nonresident and the other a resident,  
6 separate taxes shall be determined on their separate taxable  
7 incomes in this state on forms prescribed by the comptroller unless  
8 both elect to determine their combined taxable income in this state  
9 as if both were residents. If a husband and wife file a joint  
10 federal income tax return but determine their taxable income in  
11 this state separately, they must compute their taxable incomes in  
12 this state as if their federal adjusted gross incomes had been  
13 determined separately.

14       Sec. 261.056. ADJUSTED GROSS INCOME FROM SOURCES IN THIS  
15 STATE--NONRESIDENT. (a) The adjusted gross income of a  
16 nonresident derived from sources in this state is the net amount of  
17 items of income, gain, loss, and deduction entering into the  
18 nonresident's federal adjusted gross income that are derived from  
19 or connected with sources in this state, including:

20               (1) the nonresident's distributive share of  
21 partnership income and deductions determined under Section  
22 261.203; and

23               (2) the nonresident's share of estate or trust income  
24 and deductions derived from sources in this state.

25       (b) Items of income, gain, loss, and deduction derived from  
26 or connected with sources in this state are those items  
27 attributable to:

1           (1) the ownership or disposition of an interest in  
2 real or tangible personal property in this state; and

3           (2) a business, trade, profession, or occupation  
4 conducted in this state.

5           (c) Income from intangible personal property, including  
6 annuities, dividends, interest, and gains from the disposition of  
7 intangible personal property, constitutes income derived from  
8 sources in this state only to the extent that the income is from  
9 property used in a business, trade, profession, or occupation  
10 carried on in this state.

11           (d) Deductions for capital losses, net long-term capital  
12 gains, and net operating losses derived from or connected with  
13 sources in this state, are determined in the same manner as the  
14 corresponding federal deductions. However, the extent to which the  
15 deductions are derived from or connected with sources in this state  
16 is determined under the comptroller's rules.

17           (e) For a nonresident individual who is a shareholder of a  
18 corporation that is an electing small business corporation for  
19 federal income tax purposes, the undistributed taxable income of  
20 the corporation does not constitute income derived from sources in  
21 this state and a net operating loss of the corporation does not  
22 constitute a loss or deduction connected with sources in this  
23 state.

24           (f) If a business, trade, profession, or occupation is  
25 carried on partly in and partly outside this state, the items of  
26 income and deduction derived from or connected with sources in this  
27 state are determined by apportionment and allocation consistent



1 with Chapter 141 under the comptroller's rules.

2 (g) Compensation paid by the United States for service in  
3 the armed forces of the United States performed by a nonresident is  
4 not income derived from sources in this state.

5 [Sections 261.057-261.100 reserved for expansion]

6 SUBCHAPTER C. ACCOUNTING PERIODS AND METHODS

7 Sec. 261.101. PERIOD FOR COMPUTATION OF TAXABLE INCOME.

8 (a) For purposes of the tax imposed by this chapter, a taxpayer's  
9 tax year is the same as the taxpayer's tax year for federal income  
10 tax purposes.

11 (b) If a taxpayer's tax year is changed for federal income  
12 tax purposes, the taxpayer's tax year for purposes of the tax  
13 imposed by this chapter shall be similarly changed.

14 Sec. 261.102. METHODS OF ACCOUNTING. (a) A taxpayer's  
15 method of accounting is the same as the taxpayer's method of  
16 accounting for federal income tax purposes.

17 (b) If a taxpayer's method of accounting is changed for  
18 federal income tax purposes, the taxpayer's method of accounting  
19 for purposes of this chapter is changed in the same manner.

20 [Sections 261.103-261.200 reserved for expansion]

21 SUBCHAPTER D. PARTNERS AND PARTNERSHIPS

22 Sec. 261.201. ENTITY NOT TAXABLE. A partnership as an  
23 entity is not subject to the tax imposed by this chapter.  
24 Individuals carrying on business as partners are liable for the tax  
25 imposed by this chapter only in their separate or individual  
26 capacities.

27 Sec. 261.202. RESIDENT PARTNER--ADJUSTED GROSS INCOME. (a)

1 Partnership income, gain, loss, or deduction shall be allocated in  
2 accordance with each partner's distributive share for federal  
3 income tax purposes.

4 (b) Each item of partnership income, gain, loss, or  
5 deduction has the same character for a partner under this chapter as  
6 it has for federal income tax purposes. If an item is not  
7 characterized for federal income tax purposes, it has the same  
8 character for a partner as if realized directly from the source from  
9 which realized by the partnership or incurred in the same manner as  
10 incurred by the partnership.

11 Sec. 261.203. NONRESIDENT PARTNER--ADJUSTED GROSS INCOME  
12 FROM SOURCES IN THIS STATE. (a) In determining the adjusted gross  
13 income of a nonresident partner of any partnership, there shall be  
14 included only that part derived from or connected with sources in  
15 this state of the partner's distributive share of items of  
16 partnership income, gain, loss, and deduction entering into the  
17 partner's federal adjusted gross income, as that part is determined  
18 under rules adopted by the comptroller and consistent with the  
19 rules under Section 261.056.

20 (b) Except as authorized in Subsection (c), in determining  
21 the sources of a nonresident partner's income, no effect is given to  
22 a provision in the partnership agreement that:

23 (1) characterizes payments to the partner as being for  
24 services or for the use of capital, or allocates to the partner, as  
25 income or gain from sources outside this state, a greater  
26 proportion of the partner's distributive share of partnership  
27 income or gain than the ratio of partnership income or gain from

1 sources outside this state to partnership income or gain from all  
2 sources; or

3 (2) allocates to the partner a greater proportion of a  
4 partnership item of loss or deduction connected with sources in  
5 this state than the partner's proportionate share, for federal  
6 income tax purposes, of partnership loss or deduction generally.

7 (c) The comptroller may, on application, authorize the use  
8 of other methods of determining a nonresident partner's portion of  
9 partnership items derived from or connected with sources in this  
10 state, and the modifications related to it, that are appropriate  
11 and equitable, on terms and conditions the comptroller may require.

12 (d) A nonresident partner's distributive share of items of  
13 income, gain, loss, or deduction is determined under Section  
14 261.202(a). The character of partnership items for a nonresident  
15 partner is determined under Section 261.202(b).

16 [Sections 261.204-261.300 reserved for expansion]

17 SUBCHAPTER E. TAX RETURNS AND PAYMENTS

18 Sec. 261.301. PERSONS REQUIRED TO MAKE RETURNS OF INCOME.

19 (a) A state income tax return shall be made by every individual who  
20 elects to pay the tax imposed by this chapter.

21 (b) The comptroller by rule shall prescribe the form of the  
22 return. The return must include a statement that by filing the  
23 return and paying the tax the individual has automatically applied  
24 for a refund of sales and use taxes under Section 151.433.

25 Sec. 261.302. JOINT RETURNS BY HUSBAND AND WIFE. (a) A  
26 husband and wife who elect to pay the tax imposed by this chapter  
27 may make a joint state income tax return even though one of the

1 spouses has no gross income or deductions except that:

2 (1) a joint return may not be made if the spouses are  
3 not permitted to file a joint federal income tax return;

4 (2) if the federal income tax liability of either  
5 spouse is determined on a separate federal return, their income tax  
6 liabilities under this chapter must be determined on separate  
7 returns;

8 (3) if the federal income tax liabilities of husband  
9 and wife, other than a husband and wife described in Subsection (b),  
10 are determined on a joint federal return, the husband and wife must  
11 file a joint return under this chapter, and their tax liabilities  
12 are joint and severable; and

13 (4) if neither spouse is required to file a federal  
14 income tax return and either or both elect to file an income tax  
15 return under this chapter, they may elect to file separate returns  
16 or a joint return, and, according to their election, their  
17 liabilities are separate or joint and severable.

18 (b) If either husband or wife is a resident and the other is  
19 a nonresident, they must file on forms required by the comptroller  
20 separate income tax returns in this state if either spouse has  
21 income that is not community property, and in that case their tax  
22 liabilities are separate; but they may elect to determine their  
23 joint taxable income as if both were residents, and in that case  
24 their liabilities are joint and severable.

25 Sec. 261.303. RETURNS BY FIDUCIARIES. (a) An income tax  
26 return for a deceased individual must be made and filed by the  
27 executor, administrator, or other person charged with the care of

1 the property of the decedent. A final return of a decedent is due  
2 when it would have been due if the decedent had not died.

3 (b) An income tax return for an individual who is unable to  
4 make a return because of minority or other disability must be made  
5 and filed by the individual's duly authorized agent, guardian,  
6 conservator, fiduciary, or other person charged with the care of  
7 the individual or the individual's property other than a receiver  
8 in possession of only a part of the individual's property.

9 (c) If two or more fiduciaries are acting jointly, the  
10 return may be made by any one of them.

11 Sec. 261.304. NOTICE OF QUALIFICATION AS RECEIVER. A  
12 receiver, trustee in bankruptcy, assignee for benefit of creditors,  
13 or other similar fiduciary must give notice of the person's  
14 qualification to the comptroller, as may be required by rule.

15 Sec. 261.305. CHANGE OF STATUS AS RESIDENT OR NONRESIDENT  
16 DURING YEAR. (a) If the status of an individual changes during the  
17 individual's tax year from resident to nonresident or from  
18 nonresident to resident, the comptroller by rule may require the  
19 individual to file one return for the portion of the year during  
20 which the individual is a resident and one for the portion of the  
21 year during which the individual is a nonresident.

22 (b) Except as provided by Subsection (c), the taxable income  
23 of an individual is determined as provided by Section 261.051 for  
24 residents and Section 261.054 for nonresidents as if the  
25 individual's tax year for federal income tax purposes were limited  
26 to the period of the individual's resident and nonresident status  
27 respectively.

1       (c) There shall be included in determining taxable income  
2 from sources in or outside this state, as the case may be, income,  
3 gain, loss, or deduction accrued prior to the change of status even  
4 though not otherwise includable or allowable in respect to the  
5 period before the change, but the taxation or deduction of items  
6 accrued before the change of status is not affected by the change.

7       (d) If two returns are required to be filed under this  
8 section, the total of the taxes due may not be less than would be due  
9 if the total of the taxable incomes reported on the two returns were  
10 includable in one return.

11       Sec. 261.306. TIME AND PLACE FOR FILING RETURNS AND PAYING  
12 TAX. An individual who elects to pay the tax under this chapter  
13 must file a tax return and pay the tax not earlier than April 15 or  
14 later than December 31 following the end of the taxpayer's tax year.  
15 The comptroller by rule shall prescribe the place for filing a  
16 return, statement, or other document required by this chapter and  
17 for the payment of a tax.

18       Sec. 261.307. ESTIMATED TAX OR PAYMENT IN INSTALLMENTS.

19       (a) An individual subject to the income tax imposed by this chapter  
20 may make estimated prepayments of the tax or prepay the tax in  
21 installments.

22       (b) The comptroller shall adopt rules for the  
23 administration of this section.

24       (c) Prepayment of the estimated tax or an installment is  
25 considered payment on account of the tax imposed by this chapter.

26       Sec. 261.308. CHANGE OF ELECTION. An election expressly  
27 authorized by this chapter may be changed as authorized by the

1 comptroller or by the comptroller's rule.

2 Sec. 261.309. SIGNING OF RETURNS AND OTHER DOCUMENTS. (a)  
3 A return, statement, or other document required to be made or filed  
4 under this chapter must be signed as provided by the comptroller.  
5 An individual's name signed to a return, statement, or other  
6 document is prima facie evidence that the individual signed the  
7 return, statement, or other document.

8 (b) A return, statement, or other document required of a  
9 partnership must be signed by at least one partner. A partner's  
10 name signed to a return, statement, or other document is prima facie  
11 evidence that the partner is authorized to sign on behalf of the  
12 partnership.

13 (c) The making or filing of a return, statement, or other  
14 document or copy required to be made or filed under this chapter,  
15 including a copy of a federal return, constitutes a certification  
16 by the individual making or filing the return, statement, or other  
17 document or copy that the statements contained in it are true and  
18 that a copy filed is a true copy.

19 [Sections 261.310-261.350 reserved for expansion]

20 SUBCHAPTER F. CREDITS AND REFUNDS

21 Sec. 261.351. CREDITS AND REFUNDS. (a) Within the  
22 applicable period of limitations the comptroller may credit an  
23 overpayment of income tax and interest on the overpayment against a  
24 liability of a tax imposed by the tax laws of this state on the  
25 individual who made the overpayment, and the balance shall be  
26 refunded by the comptroller out of the proceeds of the tax retained  
27 by the comptroller.

1       (b) If an individual entitled to a credit or refund under  
2 this section received a sales and use tax refund under Section  
3 151.433 based on the original amount of income tax paid, the  
4 comptroller shall determine whether the individual would be  
5 entitled to that refund based on the adjusted income tax paid. If  
6 the comptroller determines that the individual received an  
7 overpayment of the sales and use tax refund, the comptroller shall  
8 deduct that overpayment from the amount of any credit or refund to  
9 which the individual is otherwise entitled under this section.

10       [Sections 261.352-261.400 reserved for expansion]

11       SUBCHAPTER G. MISCELLANEOUS ENFORCEMENT PROVISIONS

12       Sec. 261.401. INCOME TAX CLAIMS OF OTHER STATES. The courts  
13 of this state shall recognize and enforce liabilities for personal  
14 income taxes lawfully imposed by another state that extends a like  
15 comity to this state, and the duly authorized officer of the other  
16 state may sue for the collection of personal income tax in the  
17 courts of this state. A certificate by the secretary of state of  
18 the other state that an officer suing for the collection of the tax  
19 is duly authorized to collect the tax is conclusive proof of the  
20 officer's authority. For the purposes of this section, "taxes"  
21 includes additions to tax, interest, and penalties.

22       [Sections 261.402-261.450 reserved for expansion]

23       SUBCHAPTER H. POWERS OF COMPTROLLER

24       Sec. 261.451. RECORDS. The comptroller by rule may require  
25 the keeping of records, prescribe the content and form of returns  
26 and statements, and require the filing of copies of federal income  
27 tax returns and determinations.



1       Sec. 261.452. COOPERATION WITH OTHER JURISDICTIONS. The  
2 comptroller may permit the United States secretary of the treasury  
3 or the secretary's delegate, or the proper officer of any state or  
4 other jurisdiction imposing an income tax on the incomes of  
5 individuals, or the authorized representative of either officer, to  
6 inspect the income tax returns of an individual, or may furnish to  
7 the officer or authorized representative an abstract of the return  
8 of income of an individual or supply the officer or representative  
9 with information concerning an item of income contained in a  
10 return, or disclosed by the report of an investigation of the income  
11 or return of income of an individual, but permission may be granted  
12 only if the statutes of the United States or of the other  
13 jurisdiction, as applicable, grant substantially similar  
14 privileges to the comptroller.

15       Sec. 261.453. COOPERATION WITH OTHER TAX OFFICIALS OF THIS  
16 STATE. The comptroller may permit other tax officials of this state  
17 to inspect tax returns and reports filed under this chapter but the  
18 inspection may be permitted only to enforce a tax law and only to  
19 the extent and under the conditions prescribed by rule of the  
20 comptroller.

21       [Sections 261.454-261.500 reserved for expansion]

22               SUBCHAPTER I. DISPOSITION OF PROCEEDS

23       Sec. 261.501. DISPOSITION OF PROCEEDS. The revenue from  
24 the tax imposed by this chapter shall be deposited to the credit of  
25 the foundation school fund.

26       SECTION 4.02. The heading to Subchapter I, Chapter 151, Tax  
27 Code, is amended to read as follows:

1 SUBCHAPTER I. REPORTS, PAYMENTS, [~~AND~~] METHODS OF REPORTING, AND  
2 CREDITS AND REFUNDS

3 SECTION 4.03. Subchapter I, Chapter 151, Tax Code, is  
4 amended by adding Section 151.433 to read as follows:

5 Sec. 151.433. SALES AND USE TAX REFUND FOR PAYING INCOME TAX  
6 ALTERNATIVE. (a) An individual who elects to pay a tax on the  
7 individual's taxable income under Chapter 261 is entitled to a  
8 refund of sales and use taxes the individual is imputed to have paid  
9 during a calendar year under this chapter as provided by this  
10 section. The filing of a return and the payment of the tax under  
11 Chapter 261 constitutes an application for a refund under this  
12 section.

13 (b) Using available statistical data, the comptroller by  
14 rule shall estimate the percentage of an individual's adjusted  
15 gross income that is spent on items subject to the tax imposed under  
16 this chapter. In estimating the percentage, the comptroller shall  
17 consider:

18 (1) the amount of the individual's federal adjusted  
19 gross income as defined by federal law;

20 (2) the number of dependents the individual has for  
21 federal income tax purposes; and

22 (3) any other information the comptroller considers  
23 appropriate.

24 (c) Based on the estimation made under Subsection (b), the  
25 comptroller shall develop a table specifying by income bracket and  
26 number of dependents the amount of sales and use taxes a taxpayer is  
27 imputed to have paid during a calendar year under this chapter.

1       (d) The comptroller shall refund the amount of sales and use  
2 taxes imputed to have been paid under this chapter not later than  
3 the 60th day after the comptroller receives an income tax return and  
4 tax payment under Chapter 261. If the taxpayer made estimated  
5 income tax payments or paid in installments, the comptroller shall  
6 refund the sales and use taxes not later than the 60th day after the  
7 comptroller receives the final tax return and final tax payment.

8       SECTION 4.04. (a) Not later than July 1, 2004, the  
9 comptroller shall request from the federal Internal Revenue Service  
10 a written determination on whether the income tax alternative  
11 provided by Chapter 261, Tax Code, as added by this article,  
12 qualifies as a deductible state income tax for purposes of  
13 determining a taxpayer's federal adjusted gross income.

14       (b) The comptroller shall publish a copy of a written  
15 determination received under Subsection (a) of this section in the  
16 Texas Register.

17                   ARTICLE 5. CONFORMING AMENDMENTS

18       SECTION 5.01. Section 12.013(b), Education Code, is amended  
19 to read as follows:

20       (b) A home-rule school district is subject to:

21               (1) a provision of this title establishing a criminal  
22 offense;

23               (2) a provision of this title relating to limitations  
24 on liability; and

25               (3) a prohibition, restriction, or requirement, as  
26 applicable, imposed by this title or a rule adopted under this  
27 title, relating to:

1 (A) the Public Education Information Management  
2 System (PEIMS) to the extent necessary to monitor compliance with  
3 this subchapter as determined by the commissioner;

4 (B) educator certification under Chapter 21 and  
5 educator rights under Sections 21.407, 21.408, and 22.001;

6 (C) criminal history records under Subchapter C,  
7 Chapter 22;

8 (D) student admissions under Section 25.001;

9 (E) school attendance under Sections 25.085,  
10 25.086, and 25.087;

11 (F) inter-district or inter-county transfers of  
12 students under Subchapter B, Chapter 25;

13 (G) elementary class size limits under Section  
14 25.112, in the case of any campus in the district that is considered  
15 low-performing under Section 39.132;

16 (H) high school graduation under Section 28.025;

17 (I) special education programs under Subchapter  
18 A, Chapter 29;

19 (J) bilingual education under Subchapter B,  
20 Chapter 29;

21 (K) prekindergarten programs under Subchapter E,  
22 Chapter 29;

23 (L) safety provisions relating to the  
24 transportation of students under Sections 34.002, 34.003, 34.004,  
25 and 34.008;

26 (M) computation and distribution of state aid  
27 under Chapters 31, 42, and 43;

1 (N) extracurricular activities under Section  
2 33.081;

3 (O) health and safety under Chapter 38;

4 (P) public school accountability under  
5 Subchapters B, C, D, and G, Chapter 39;

6 (Q) ~~[equalized wealth under Chapter 41;~~

7 ~~[(R)]~~ a bond or other obligation or tax rate  
8 under Chapters 42, 43, and 45; and

9 (R) ~~[(S)]~~ purchasing under Chapter 44.

10 SECTION 5.02. Section 12.029(b), Education Code, is amended  
11 to read as follows:

12 (b) If ~~[Except as provided by Subchapter H, Chapter 41, if]~~  
13 two or more school districts having different status, one of which  
14 is home-rule school district status, consolidate into a single  
15 district, the petition under Section 13.003 initiating the  
16 consolidation must state the status for the consolidated district.  
17 The ballot shall be printed to permit voting for or against the  
18 proposition: "Consolidation of (names of school districts) into a  
19 single school district governed as (status of school district  
20 specified in the petition)."

21 SECTION 5.03. Section 12.106(a), Education Code, is amended  
22 to read as follows:

23 (a) A charter holder is entitled to receive for the  
24 open-enrollment charter school funding under Chapter 42 in an  
25 equitable manner determined by the commissioner as if the school  
26 were a school district ~~[without a tier one local share for purposes~~  
27 ~~of Section 42.253 and without any local revenue ("LR") for purposes~~

1 ~~of Section 42.302. In determining funding for an open-enrollment~~  
2 ~~charter school, adjustments under Sections 42.102, 42.103, 42.104,~~  
3 ~~and 42.105 and the district enrichment tax rate ("DTR") under~~  
4 ~~Section 42.302 are based on the average adjustment and average~~  
5 ~~district enrichment tax rate for the state].~~

6 SECTION 5.04. Section 21.402, Education Code, is amended by  
7 amending Subsections (a) and (c) and adding Subsection (i) to read  
8 as follows:

9 (a) Except as provided by Subsection (d) ~~[, (e),]~~ or (f), and  
10 subject to biennial adjustment in accordance with Subsection (i), a  
11 school district must pay each classroom teacher, full-time  
12 librarian, full-time counselor certified under Subchapter B, or  
13 full-time school nurse not less than the minimum monthly salary,  
14 based on the employee's level of experience, prescribed  
15 ~~[determined]~~ by Subsection (c) ~~[the following formula:~~

$$16 \quad \quad \quad [\text{MS} - \text{SF} \times \text{FS}]$$

17 ~~[where:~~

18 ~~["MS" is the minimum monthly salary,~~

19 ~~["SF" is the applicable salary factor specified by Subsection~~  
20 ~~(c), and~~

21 ~~["FS" is the amount, as determined by the commissioner under~~  
22 ~~Subsection (b), of state and local funds per weighted student~~  
23 ~~available to a district eligible to receive state assistance under~~  
24 ~~Section 42.302 with an enrichment tax rate, as defined by Section~~  
25 ~~42.302, equal to the maximum rate authorized under Section 42.303,~~  
26 ~~except that the amount of state and local funds per weighted student~~  
27 ~~does not include the amount attributable to the increase in the~~

1 ~~guaranteed level made by H.B. No. 3343, Acts of the 77th~~  
 2 ~~Legislature, Regular Session, 2001].~~

3 (c) The minimum monthly salary under this section is  
 4 ~~[factors per step are]~~ as follows:

5	Years Experience	0	1	2
6	<u>Monthly Salary</u>	<u>\$2,424</u> [ <del>-.5656</del> ]	<u>\$2,481</u> [ <del>-.5790</del> ]	<u>\$2,539</u> [ <del>-.5924</del> ]
7	<del>[Factor]</del>			
8	Years Experience	3	4	5
9	<u>Monthly Salary</u>	<u>\$2,596</u> [ <del>-.6058</del> ]	<u>\$2,717</u> [ <del>-.6340</del> ]	<u>\$2,838</u> [ <del>-.6623</del> ]
10	<del>[Factor]</del>			
11	Years Experience	6	7	8
12	<u>Monthly Salary</u>	<u>\$2,959</u> [ <del>-.6906</del> ]	<u>\$3,072</u> [ <del>-.7168</del> ]	<u>\$3,178</u> [ <del>-.7416</del> ]
13	<del>[Factor]</del>			
14	Years Experience	9	10	11
15	<u>Monthly Salary</u>	<u>\$3,279</u> [ <del>-.7651</del> ]	<u>\$3,373</u> [ <del>-.7872</del> ]	<u>\$3,464</u> [ <del>-.8082</del> ]
16	<del>[Factor]</del>			
17	Years Experience	12	13	14
18	<u>Monthly Salary</u>	<u>\$3,549</u> [ <del>-.8281</del> ]	<u>\$3,628</u> [ <del>-.8467</del> ]	<u>\$3,705</u> [ <del>-.8645</del> ]
19	<del>[Factor]</del>			
20	Years Experience	15	16	17
21	<u>Monthly Salary</u>	<u>\$3,776</u> [ <del>-.8811</del> ]	<u>\$3,844</u> [ <del>-.8970</del> ]	<u>\$3,908</u> [ <del>-.9119</del> ]
22	<del>[Factor]</del>			
23	Years Experience	18	19	20 and over
24	<u>Monthly Salary</u>	<u>\$3,968</u> [ <del>-.9260</del> ]	<u>\$4,026</u> [ <del>-.9394</del> ]	<u>\$4,080</u> [ <del>-.9520</del> ]
25	<del>[Factor]</del>			

26 (i) Biennially the commissioner shall adjust the minimum  
 27 monthly salary required by Subsection (a) as appropriate to reflect

1 cost-of-living changes.

2 SECTION 5.05. Section 21.410(h), Education Code, is amended  
3 to read as follows:

4 (h) A grant a school district receives under this section is  
5 in addition to any funding the district receives under Chapter 42.  
6 The commissioner shall distribute funds under this section with the  
7 Foundation School Program payment to which the district is entitled  
8 as soon as practicable after the end of the school year as  
9 determined by the commissioner. [~~A district to which Chapter 41~~  
10 ~~applies is entitled to the grants paid under this section.~~] The  
11 commissioner shall determine the timing of the distribution of  
12 grants to a district that does not receive Foundation School  
13 Program payments.

14 SECTION 5.06. Section 21.411(h), Education Code, is amended  
15 to read as follows:

16 (h) A grant a school district receives under this section is  
17 in addition to any funding the district receives under Chapter 42.  
18 The commissioner shall distribute funds under this section with the  
19 Foundation School Program payment to which the district is entitled  
20 as soon as practicable after the end of the school year as  
21 determined by the commissioner. [~~A district to which Chapter 41~~  
22 ~~applies is entitled to the grants paid under this section.~~] The  
23 commissioner shall determine the timing of the distribution of  
24 grants to a district that does not receive Foundation School  
25 Program payments.

26 SECTION 5.07. Section 21.412(h), Education Code, is amended  
27 to read as follows:



1 (h) A grant a school district receives under this section is  
2 in addition to any funding the district receives under Chapter 42.  
3 The commissioner shall distribute funds under this section with the  
4 Foundation School Program payment to which the district is entitled  
5 as soon as practicable after the end of the school year as  
6 determined by the commissioner. [~~A district to which Chapter 41~~  
7 ~~applies is entitled to the grants paid under this section.~~] The  
8 commissioner shall determine the timing of the distribution of  
9 grants to a district that does not receive Foundation School  
10 Program payments.

11 SECTION 5.08. Section 21.413(h), Education Code, as added  
12 by Section 2, Chapter 430, Acts of the 78th Legislature, Regular  
13 Session, 2003, is amended to read as follows:

14 (h) A grant a school district receives under this section is  
15 in addition to any funding the district receives under Chapter 42.  
16 The commissioner shall distribute funds under this section with the  
17 Foundation School Program payment to which the district is entitled  
18 as soon as practicable after the end of the school year as  
19 determined by the commissioner. [~~A district to which Chapter 41~~  
20 ~~applies is entitled to the grants paid under this section.~~] The  
21 commissioner shall determine the timing of the distribution of  
22 grants to a district that does not receive Foundation School  
23 Program payments.

24 SECTION 5.09. Section 29.008(b), Education Code, is amended  
25 to read as follows:

26 (b) Except as provided by Subsection (c), costs of an  
27 approved contract for residential placement may be paid from a

1 combination of federal, state, and local funds. [~~The local share of~~  
2 ~~the total contract cost for each student is that portion of the~~  
3 ~~local tax effort that exceeds the district's local fund assignment~~  
4 ~~under Section 42.252, divided by the average daily attendance in~~  
5 ~~the district. If the contract involves a private facility, the~~  
6 ~~state share of the total contract cost is that amount remaining~~  
7 ~~after subtracting the local share. If the contract involves a~~  
8 ~~public facility, the state share is that amount remaining after~~  
9 ~~subtracting the local share from the portion of the contract that~~  
10 ~~involves the costs of instructional and related services. For~~  
11 ~~purposes of this subsection, "local tax effort" means the total~~  
12 ~~amount of money generated by taxes imposed for debt service and~~  
13 ~~maintenance and operation less any amounts paid into a tax~~  
14 ~~increment fund under Chapter 311, Tax Code.]~~

15 SECTION 5.10. Section 29.087(j), Education Code, is amended  
16 to read as follows:

17 (j) For purposes of funding under Chapter [~~Chapters 41,~~  
18 ~~42[, and 46]~~], a student attending a program authorized by this  
19 section may be counted in attendance only for the actual number of  
20 hours each school day the student attends the program, in  
21 accordance with Sections 25.081 and 25.082.

22 SECTION 5.11. Section 37.0061, Education Code, is amended  
23 to read as follows:

24 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN  
25 JUVENILE RESIDENTIAL FACILITIES. A school district that provides  
26 education services to pre-adjudicated and post-adjudicated  
27 students who are confined by court order in a juvenile residential

1 facility operated by a juvenile board is entitled to count such  
2 students in the district's average daily attendance for purposes of  
3 receipt of state funds under the Foundation School Program. [~~If the  
4 district has a wealth per student greater than the guaranteed  
5 wealth level but less than the equalized wealth level, the district  
6 in which the student is enrolled on the date a court orders the  
7 student to be confined to a juvenile residential facility shall  
8 transfer to the district providing education services an amount  
9 equal to the difference between the average Foundation School  
10 Program costs per student of the district providing education  
11 services and the sum of the state aid and the money from the  
12 available school fund received by the district that is attributable  
13 to the student for the portion of the school year for which the  
14 district provides education services to the student.~~]

15 SECTION 5.12. Section 2175.304(c), Government Code, is  
16 amended to read as follows:

17 (c) The procedures established under Subsection (b) must  
18 give preference to transferring the property directly to a public  
19 school or school district or to an assistance organization  
20 designated by the school district before disposing of the property  
21 in another manner. If more than one public school or school  
22 district or assistance organization seeks to acquire the same  
23 property on substantially the same terms, the system, institution,  
24 or agency shall give preference to a public school that is  
25 considered low-performing by the commissioner of education or to a  
26 school district that has a relatively low [~~taxable~~] wealth per  
27 student, as determined by the commissioner of education in

1 accordance with Section 42.304 [~~that entitles the district to an~~  
2 ~~allotment of state funds under Subchapter F, Chapter 42~~], Education  
3 Code, or to the assistance organization designated by such a school  
4 district.

5 SECTION 5.13. Section 6.02(b), Tax Code, is amended to read  
6 as follows:

7 (b) A taxing unit that has boundaries extending into two or  
8 more counties may choose to participate in only one of the appraisal  
9 districts. In that event, the boundaries of the district chosen  
10 extend outside the county to the extent of the unit's boundaries.  
11 To be effective, the choice must be approved by resolution of the  
12 board of directors of the district chosen. [~~The choice of a school~~  
13 ~~district to participate in a single appraisal district does not~~  
14 ~~apply to property annexed to the school district under Subchapter C~~  
15 ~~or G, Chapter 41, Education Code, unless:~~

16 [~~(1) the school district taxes property other than~~  
17 ~~property annexed to the district under Subchapter C or G, Chapter~~  
18 ~~41, Education Code, in the same county as the annexed property; or~~

19 [~~(2) the annexed property is contiguous to property in~~  
20 ~~the school district other than property annexed to the district~~  
21 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

22 SECTION 5.14. Section 21.01, Tax Code, is amended to read as  
23 follows:

24 Sec. 21.01. REAL PROPERTY. Real property is taxable by a  
25 taxing unit if located in the unit on January 1 [~~except as provided~~  
26 ~~by Chapter 41, Education Code~~].

27 SECTION 5.15. Section 21.02(a), Tax Code, is amended to

1 read as follows:

2 (a) Except as provided by [~~Subsection (b) and~~] Sections  
3 21.021, 21.04, and 21.05, tangible personal property is taxable by  
4 a taxing unit if:

5 (1) it is located in the unit on January 1 for more  
6 than a temporary period;

7 (2) it normally is located in the unit, even though it  
8 is outside the unit on January 1, if it is outside the unit only  
9 temporarily;

10 (3) it normally is returned to the unit between uses  
11 elsewhere and is not located in any one place for more than a  
12 temporary period; or

13 (4) the owner resides (for property not used for  
14 business purposes) or maintains his principal place of business in  
15 this state (for property used for business purposes) in the unit and  
16 the property is taxable in this state but does not have a taxable  
17 situs pursuant to Subdivisions (1) through (3) [~~of this section~~].

18 SECTION 5.16. Sections 26.08(i) and (k), Tax Code, are  
19 amended to read as follows:

20 (i) For purposes of this section, the rollback tax rate of a  
21 school district is the sum of:

22 (1) the tax rate that, applied to the current total  
23 value for the district, would impose taxes in an amount that, when  
24 added to state funds that would be distributed to the district under  
25 Chapter 42, Education Code, for the school year beginning in the  
26 current tax year using that tax rate, would provide the same amount  
27 of state funds distributed under Chapter 42 and maintenance and

1 operations taxes of the district per student in weighted average  
2 daily attendance for that school year that would have been  
3 available to the district in the preceding year if the funding  
4 elements for Chapter [~~Chapters 41 and~~] 42, Education Code, for the  
5 current year had been in effect for the preceding year;

6 (2) the rate of \$0.06 per \$100 of taxable value; and

7 (3) the district's current debt rate.

8 (k) For purposes of this section, for the 2003, 2004, 2005,  
9 2006, 2007, or 2008 tax year, for a school district that is entitled  
10 to state funds under Section 1581.1015 [~~4(a-1), (a-2), (a-3),~~  
11 ~~(a-4), (a-5), or (a-6), Article 3.50-9~~], Insurance Code, the  
12 rollback tax rate of the district is the sum of:

13 (1) the tax rate that, applied to the current total  
14 value for the district, would impose taxes in an amount that, when  
15 added to state funds that would be distributed to the district under  
16 Chapter 42, Education Code, for the school year beginning in the  
17 current tax year using that tax rate, would provide the same amount  
18 of state funds distributed under Chapter 42 and maintenance and  
19 operations taxes of the district per student in weighted average  
20 daily attendance for that school year that would have been  
21 available to the district in the preceding year if the funding  
22 elements for Chapter [~~Chapters 41 and~~] 42, Education Code, for the  
23 current year had been in effect for the preceding year;

24 (2) the tax rate that, applied to the current total  
25 value for the district, would impose taxes in the amount that, when  
26 added to state funds that would be distributed to the district under  
27 Chapter 42, Education Code, for the school year beginning in the

1 current tax year using that tax rate, permits the district to comply  
2 with Section 1581.052 [~~3, Article 3.50-9~~], Insurance Code;

3 (3) the rate of \$0.06 per \$100 of taxable value; and

4 (4) the district's current debt rate.

5 SECTION 5.17. Section 1579.251(a), Insurance Code, is  
6 amended to read as follows:

7 (a) The state shall assist employees of participating  
8 school districts and charter schools in the purchase of group  
9 health coverage under this chapter by providing for each covered  
10 employee the amount of \$900 each state fiscal year or a greater  
11 amount as provided by the General Appropriations Act. [~~The state  
12 contribution shall be distributed through the school finance  
13 formulas under Chapters 41 and 42, Education Code, and used by  
14 school districts and charter schools as provided by Sections  
15 42.2514 and 42.260, Education Code.~~]

16 ARTICLE 6. REPEALER AND EFFECTIVE DATE

17 SECTION 6.01. (a) The following provisions of the  
18 Education Code are repealed:

19 (1) Chapters 41 and 46; and

20 (2) Sections 7.055(b)(34), 21.402(b) and (e),  
21 42.002(b), 42.103(e), 42.106, 42.158(e), 42.2511, 42.2512,  
22 42.2514, 42.2515, 42.253(e)-(g) and (l), 42.260, and  
23 42.302(c)-(e).

24 (b) Sections 21.02(b) and (c), Tax Code, are repealed.

25 (c) Sections 1, 2, and 3, Chapter 201, Acts of the 78th  
26 Legislature, Regular Session, 2003, are repealed.

27 SECTION 6.02. Notwithstanding the repeal of Chapter 46,

1 Education Code, by this Act, the state shall continue to provide  
2 state assistance under Chapter 46, Education Code, as it existed  
3 before repeal by this Act, to each district receiving state  
4 assistance under that chapter during the 2004-2005 school year, as  
5 necessary to comply with the state's obligations under that chapter  
6 as it existed before repeal by this Act, and the former law is  
7 continued in effect for that purpose. The commissioner of  
8 education may adopt rules to implement this section.

9 SECTION 6.03. (a) Except as provided by Subsections (b) and  
10 (c) of this section, this Act takes effect September 1, 2005, but  
11 only if the constitutional amendment proposed by H.J.R. No. \_\_\_\_,  
12 \_\_\_\_ Legislature, \_\_\_\_\_ Session, 200\_, is approved by the voters.  
13 If that amendment is not approved by the voters, this Act has no  
14 effect, except as provided by Subsection (b) of this section.

15 (b) The repeal by this Act of Sections 1, 2, and 3, Chapter  
16 201, Acts of the 78th Legislature, Regular Session, 2003, and  
17 Section 4.04 of this Act take effect immediately if this Act  
18 receives a vote of two-thirds of all the members elected to each  
19 house, as provided by Section 39, Article III, Texas Constitution.  
20 If this Act does not receive the vote necessary for immediate  
21 effect, the repeal by this Act of Sections 1, 2, and 3, Chapter 201,  
22 Acts of the 78th Legislature, Regular Session, 2003, and Section  
23 4.04 of this Act take effect on the 91st day after the last day of  
24 the legislative session.

25 (c) Sections 4.01, 4.02, and 4.03 of this Act take effect  
26 January 1, 2006, but only if:

27 (1) the constitutional amendment proposed by H.J.R.



1 No. \_\_\_, \_\_\_ Legislature, \_\_\_ Session, 200\_, is approved by the  
2 voters; and

3 (2) not later than January 1, 2006, the federal  
4 Internal Revenue Service provides to the comptroller a written  
5 determination that the income tax alternative provided by Chapter  
6 261, Tax Code, as added by this Act, qualifies as a deductible state  
7 income tax for purposes of determining a taxpayer's federal  
8 adjusted gross income.