

By: Moreno of El Paso

H.B. No. 2570

A BILL TO BE ENTITLED

AN ACT

relating to financing schools through the adoption of an income tax; providing penalties.

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

ARTICLE 1. SCHOOL FINANCE

SECTION 1.01. Section 12.013(b), Education Code, is amended to read as follows:

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

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

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

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

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

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

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

(D) student admissions under Section 25.001;

(E) school attendance under Sections 25.085,

1 25.086, and 25.087;

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

4 (G) elementary class size limits under Section
5 25.112, in the case of any campus in the district that is considered
6 low-performing under Section 39.131(b);

7 (H) high school graduation under Section 28.025;

8 (I) special education programs under Subchapter
9 A, Chapter 29;

10 (J) bilingual education under Subchapter B,
11 Chapter 29;

12 (K) prekindergarten programs under Subchapter E,
13 Chapter 29;

14 (L) safety provisions relating to the
15 transportation of students under Sections 34.002, 34.003, 34.004,
16 and 34.008;

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

19 (N) extracurricular activities under Section
20 33.081;

21 (O) health and safety under Chapter 38;

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

24 (Q) ~~[equalized wealth under Chapter 41,~~

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

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

1 SECTION 1.02. Section 12.029(b), Education Code, is amended
2 to read as follows:

3 (b) If [~~Except as provided by Subchapter H, Chapter 41, if~~]
4 two or more school districts having different status, one of which
5 is home-rule school district status, consolidate into a single
6 district, the petition under Section 13.003 initiating the
7 consolidation must state the status for the consolidated district.
8 The ballot shall be printed to permit voting for or against the
9 proposition: "Consolidation of (names of school districts) into a
10 single school district governed as (status of school district
11 specified in the petition)."

12 SECTION 1.03. Section 12.106(a), Education Code, is amended
13 to read as follows:

14 (a) A charter holder is entitled to receive for the
15 open-enrollment charter school funding under Chapter 42 as if the
16 school were a school district [~~without a tier one local share for~~
17 ~~purposes of Section 42.253 and without any local revenue ("LR") for~~
18 ~~purposes of Section 42.302~~]. In determining funding for an
19 open-enrollment charter school, adjustments under Sections 42.102,
20 42.103, 42.104, and 42.105 [~~and the district enrichment tax rate~~
21 ~~("DTR") under Section 42.302~~] are based on the average adjustment
22 [~~and average district enrichment tax rate~~] for the state.

23 SECTION 1.04. Section 13.051(c), Education Code, is amended
24 to read as follows:

25 (c) Territory that does not have residents may be detached
26 from a school district and annexed to another school district if:

27 (1) the total taxable value of the property in the

1 territory according to the most recent certified appraisal roll for
2 each school district is not greater than:

3 (A) five percent of the district's taxable value
4 of all property in that district [~~as determined under Subchapter M,~~
5 ~~Chapter 403, Government Code~~]; and

6 (B) \$5,000 property value per student in average
7 daily attendance as determined under Section 42.005; and

8 (2) the school district from which the property will
9 be detached does not own any real property located in the territory.

10 SECTION 1.05. Section 13.231(b), Education Code, is amended
11 to read as follows:

12 (b) In this section, "taxable value" means the market value
13 of all taxable property less:

14 (1) the total dollar amount of any residence homestead
15 exemptions lawfully granted under Section 11.13(b) or (c), Tax
16 Code, in the year that is the subject of the study for each school
17 district;

18 (2) one-half of the total dollar amount of any
19 residence homestead exemptions granted under Section 11.13(n), Tax
20 Code, in the year that is the subject of the study for each school
21 district;

22 (3) the total dollar amount of any exemptions granted
23 before May 31, 1993, within a reinvestment zone under agreements
24 authorized by Chapter 312, Tax Code;

25 (4) the total dollar amount of any captured appraised
26 value of property that:

27 (A) is within a reinvestment zone created on or

1 before May 31, 1999, or is proposed to be included within the
2 boundaries of a reinvestment zone as the boundaries of the zone and
3 the proposed portion of tax increment paid into the tax increment
4 fund by a school district are described in a written notification
5 provided by the municipality or the board of directors of the zone
6 to the governing bodies of the other taxing units in the manner
7 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
8 within the boundaries of the zone as those boundaries existed on
9 September 1, 1999, including subsequent improvements to the
10 property regardless of when made;

11 (B) generates taxes paid into a tax increment
12 fund created under Chapter 311, Tax Code, under a reinvestment zone
13 financing plan approved under Section 311.011(d), Tax Code, on or
14 before September 1, 1999; and

15 (C) is eligible for tax increment financing under
16 Chapter 311, Tax Code;

17 (5) the total dollar amount of any exemptions granted
18 under Section 11.251, Tax Code;

19 (6) the difference between the comptroller's estimate
20 of the market value and the productivity value of land that
21 qualifies for appraisal on the basis of its productive capacity,
22 except that the productivity value estimated by the comptroller may
23 not exceed the fair market value of the land;

24 (7) the portion of the appraised value of residence
25 homesteads of the elderly on which school district taxes are not
26 imposed in the year that is the subject of the study, calculated as
27 if the residence homesteads were appraised at the full value

1 required by law;

2 (8) a portion of the market value of property not
3 otherwise fully taxable by the district at market value because of:

4 (A) action required by statute or the
5 constitution of this state that, if the tax rate adopted by the
6 district is applied to it, produces an amount equal to the
7 difference between the tax that the district would have imposed on
8 the property if the property were fully taxable at market value and
9 the tax that the district is actually authorized to impose on the
10 property, if this subsection does not otherwise require that
11 portion to be deducted; or

12 (B) action taken by the district under Subchapter
13 B or C, Chapter 313, Tax Code;

14 (9) the market value of all tangible personal
15 property, other than manufactured homes, owned by a family or
16 individual and not held or used for the production of income;

17 (10) the appraised value of property the collection of
18 delinquent taxes on which is deferred under Section 33.06, Tax
19 Code;

20 (11) the portion of the appraised value of property
21 the collection of delinquent taxes on which is deferred under
22 Section 33.065, Tax Code; and

23 (12) the amount by which the market value of a
24 residence homestead to which Section 23.23, Tax Code, applies
25 exceeds the appraised value of that property as calculated under
26 that section [~~has the meaning assigned by Section 403.302,~~
27 ~~Government Code~~].

1 SECTION 1.06. Sections 21.402(a) and (b), Education Code,
2 are amended to read as follows:

3 (a) Except as provided by Subsection (d), (e), or (f), a
4 school district must pay each classroom teacher, full-time
5 librarian, full-time counselor certified under Subchapter B, or
6 full-time school nurse not less than the minimum monthly salary,
7 based on the employee's level of experience, determined by the
8 following formula:

9
$$MS = SF \times \underline{AWABA} \text{ [FS]}$$

10 where:

11 "MS" is the minimum monthly salary;

12 "SF" is the applicable salary factor specified by Subsection
13 (c); and

14 "AWABA" is the average weighted adjusted basic allotment,
15 which is computed by:

16 (1) multiplying the basic allotment under Section
17 42.101 by the average adjustment for the state under Sections
18 42.102, 42.103, 42.104, and 42.105; and

19 (2) multiplying the product determined under
20 Subdivision (1) by the average for the state of the sum of weights
21 to which school districts are entitled under Sections 42.151,
22 42.152, 42.153, 42.154, 42.156, 42.157, and 42.158.

23 ~~["FS" is the amount, as determined by the commissioner under~~
24 ~~Subsection (b), of state and local funds per weighted student~~
25 ~~available to a district eligible to receive state assistance under~~
26 ~~Section 42.302 with an enrichment tax rate, as defined by Section~~
27 ~~42.302, equal to the maximum rate authorized under Section 42.303,~~

1 ~~except that the amount of state and local funds per weighted student~~
2 ~~does not include the amount attributable to the increase in the~~
3 ~~guaranteed level made by H.B. No. 3343, Acts of the 77th~~
4 ~~Legislature, Regular Session, 2001.]~~

5 (b) Not later than June 1 of each year, the commissioner
6 shall determine the average weighted adjusted basic allotment
7 ~~[amount of state and local funds per weighted student available,~~
8 ~~for purposes of Subsection (a), to a district described by that~~
9 ~~subsection]~~ for the following school year.

10 SECTION 1.07. Section 21.410(h), Education Code, is amended
11 to read as follows:

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

22 SECTION 1.08. Section 21.411(h), Education Code, as added
23 by Chapter 834, Acts of the 77th Legislature, Regular Session,
24 2001, is amended to read as follows:

25 (h) A grant a school district receives under this section is
26 in addition to any funding the district receives under Chapter 42.
27 The commissioner shall distribute funds under this section with the

1 Foundation School Program payment to which the district is entitled
2 as soon as practicable after the end of the school year as
3 determined by the commissioner. [~~A district to which Chapter 41~~
4 ~~applies is entitled to the grants paid under this section. The~~
5 ~~commissioner shall determine the timing of the distribution of~~
6 ~~grants to a district that does not receive Foundation School~~
7 ~~Program payments.~~]

8 SECTION 1.09. Section 21.411(h), Education Code, as added
9 by Chapter 1301, Acts of the 77th Legislature, Regular Session,
10 2001, is amended to read as follows:

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

21 SECTION 1.10. Section 29.008(b), Education Code, is amended
22 to read as follows:

23 (b) Except as provided by Subsection (c), costs of an
24 approved contract for residential placement may be paid from a
25 combination of federal and[7] state[7, ~~and local~~] funds. [~~The local~~
26 ~~share of the total contract cost for each student is that portion of~~
27 ~~the local tax effort that exceeds the district's local fund~~

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

12 SECTION 1.11. Section 29.203(b), Education Code, is amended
13 to read as follows:

14 (b) A school district is entitled to the allotment provided
15 by Section 42.157 for each eligible student using a public
16 education grant. [~~If the district has a wealth per student greater~~
17 ~~than the guaranteed wealth level but less than the equalized wealth~~
18 ~~level, a school district is entitled under rules adopted by the~~
19 ~~commissioner to additional state aid in an amount equal to the~~
20 ~~difference between the cost to the district of providing services~~
21 ~~to a student using a public education grant and the sum of the state~~
22 ~~aid received because of the allotment under Section 42.157 and~~
23 ~~money from the available school fund attributable to the student.]~~

24 SECTION 1.12. Section 37.0061, Education Code, is amended
25 to read as follows:

26 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN
27 JUVENILE RESIDENTIAL FACILITIES. A school district that provides

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

17 SECTION 1.13. Section 42.001(b), Education Code, is amended
18 to read as follows:

19 (b) The public school finance system of this state shall
20 adhere to a standard of neutrality that provides for substantially
21 equal access to similar revenue per student [~~at similar tax effort,~~
22 ~~considering all state and local tax revenues of districts~~] after
23 acknowledging all legitimate student and district cost
24 differences.

25 SECTION 1.14. Section 42.002(b), Education Code, is amended
26 to read as follows:

27 (b) The Foundation School Program consists of:

1 (1) a basic allotment that provides [~~two tiers that in~~
2 ~~combination provide~~] for:

3 (A) sufficient financing for all school
4 districts to provide a basic program of education that is rated
5 academically acceptable or higher under Section 39.072 and meets
6 other applicable legal standards; and

7 (B) substantially equal access to funds to
8 provide an enriched program; and

9 (2) a facilities component as provided by Chapter 46.

10 SECTION 1.15. Section 42.007(c), Education Code, is amended
11 to read as follows:

12 (c) The funding elements must include:

13 (1) a basic allotment for the purposes of Section
14 42.101 that [~~, when combined with the guaranteed yield component~~
15 ~~provided by Subchapter F,~~] represents the cost per student of a
16 regular education program that meets all mandates of law and
17 regulation;

18 (2) adjustments designed to reflect the variation in
19 known resource costs and costs of education beyond the control of
20 school districts;

21 (3) appropriate program cost differentials and other
22 funding elements for the programs authorized under Subchapter C,
23 with the program funding level expressed as dollar amounts and as
24 weights applied to the adjusted basic allotment for the appropriate
25 year;

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

1 ~~[(5) the enrichment and facilities tax rate under~~
2 ~~Subchapter F,~~

3 ~~[(6) the computation of students in weighted average~~
4 ~~daily attendance under Section 42.302,]~~ and

5 (4) ~~[(7)]~~ the amount to be appropriated for the school
6 facilities assistance program under Chapter 46.

7 SECTION 1.16. Section 42.101, Education Code, is amended to
8 read as follows:

9 Sec. 42.101. BASIC ALLOTMENT. For each student in average
10 daily attendance, not including the time students spend each day in
11 special education programs in an instructional arrangement other
12 than mainstream or career and technology education programs, for
13 which an additional allotment is made under Subchapter C, a
14 district is entitled to an allotment of \$4,285 ~~[\$2,537]~~. A greater
15 amount for any school year may be provided by appropriation.

16 SECTION 1.17. Section 42.201(d), Education Code, is amended
17 to read as follows:

18 (d) If a school district fails to reduce administrative
19 costs to the level required by this section, the commissioner shall
20 deduct from a school district's ~~[tier one]~~ allotments an amount
21 equal to the amount by which the district's administrative costs
22 exceed the amount permitted by its administrative cost ratio,
23 unless the commissioner has granted a waiver in response to the
24 district's request. The commissioner shall make a deduction under
25 this subsection from the foundation school fund payments to the
26 district in the school year following the school year in which the
27 plan to reduce costs was to be implemented. ~~[If a school district~~

1 ~~does not receive a tier one allotment, the district shall remit an~~
2 ~~amount equal to the excess to the comptroller for deposit to the~~
3 ~~credit of the foundation school fund.]~~

4 SECTION 1.18. Section 42.251, Education Code, is amended to
5 read as follows:

6 Sec. 42.251. FINANCING; GENERAL RULE. (a) The sum of the
7 basic allotment under Subchapter B and the special allotments under
8 Subchapter C [~~, computed in accordance with this chapter,~~
9 ~~constitute the tier one allotments. The sum of the tier one~~
10 ~~allotments and the guaranteed yield allotments under Subchapter F,~~
11 ~~computed in accordance with this chapter,~~] constitute the total
12 cost of the Foundation School Program.

13 (b) The program shall be financed by:

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

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

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

21 (2) [~~(4)~~] state funds appropriated for the purposes of
22 public school education and allocated to each district in an amount
23 sufficient to finance the cost of each district's Foundation School
24 Program not covered by state available school [~~other~~] funds
25 [~~specified in this subsection~~].

26 SECTION 1.19. Sections 42.253(a), (b), (c), (g), and (h),
27 Education Code, are amended to read as follows:

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

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

4 ~~(2) [the amount of money to which a school district is~~
5 ~~entitled under Subchapter F,~~

6 ~~[(3)] the amount of money allocated to the district~~
7 ~~from the available school fund[,~~

8 ~~[(4) the amount of each district's tier one local share~~
9 ~~under Section 42.252; and~~

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

12 (b) Except as provided by this subsection, the commissioner
13 shall base the determinations under Subsection (a) on the estimates
14 provided to the legislature under Section 42.254 [~~, or, if the~~
15 ~~General Appropriations Act provides estimates for that purpose, on~~
16 ~~the estimates provided under that Act, for each school district for~~
17 ~~each school year]. [~~The commissioner shall reduce the entitlement~~
18 ~~of each district that has a final taxable value of property for the~~
19 ~~second year of a state fiscal biennium that is higher than the~~
20 ~~estimate under Section 42.254 or the General Appropriations Act, as~~
21 ~~applicable. A reduction under this subsection may not reduce the~~
22 ~~district's entitlement below the amount to which it is entitled at~~
23 ~~its actual taxable value of property. The sum of the reductions~~
24 ~~under this subsection may not be greater than the amount necessary~~
25 ~~to fully fund the entitlement of each district.]~~~~

26 (c) Each school district is entitled to an amount from the
27 foundation school fund equal to the amount determined for the

1 district under Subsection [~~difference for that district between the~~
2 ~~sum of Subsections~~] (a)(1) [~~and (a)(2) and the sum of Subsections~~
3 ~~(a)(3), (a)(4), and (a)(5)~~].

4 (g) If a school district demonstrates to the satisfaction of
5 the commissioner that the estimate of the district's [~~tax rate,~~
6 ~~student enrollment~~ [~~, or taxable value of property~~] used in
7 determining the amount of state funds to which the district is
8 entitled are so inaccurate as to result in undue financial hardship
9 to the district, the commissioner may adjust funding to that
10 district in that school year to the extent that funds are available
11 for that year [~~, including funds in the reserve account. Funds in~~
12 ~~the reserve account may not be used under this subsection until any~~
13 ~~reserve funds have been used for purposes of Subsection (f)~~].

14 (h) If the amount appropriated for purposes of the
15 Foundation School Program is less than the amount to which school
16 districts are entitled for the second year of a state fiscal
17 biennium, the commissioner shall certify the amount of the
18 difference to the Legislative Budget Board not later than January 1
19 of the second year of the state fiscal biennium. The Legislative
20 Budget Board shall propose to the legislature that the certified
21 amount be transferred to the foundation school fund from the
22 economic stabilization fund and appropriated for the purpose of
23 increases in allocations under this subsection. If the legislature
24 fails during the regular session to enact the transfer and
25 appropriation proposed under this subsection [~~Subsection (f) and~~
26 ~~there are not funds available under Subsection (j)~~], the
27 commissioner shall reduce the total amount of state funds allocated

1 to each district proportionately [~~by an amount determined by a~~
2 ~~method under which the application of the same number of cents of~~
3 ~~increase in tax rate in all districts applied to the taxable value~~
4 ~~of property of each district, as determined under Subchapter M,~~
5 ~~Chapter 403, Government Code, results in a total levy equal to the~~
6 ~~total reduction~~]. The following fiscal year, a district's
7 entitlement under this section is increased by an amount equal to
8 the reduction made under this subsection.

9 SECTION 1.20. Section 42.254, Education Code, is amended to
10 read as follows:

11 Sec. 42.254. ESTIMATE [~~ESTIMATES~~] REQUIRED. (a) Not later
12 than October 1 of each even-numbered year, ~~[+~~

13 [~~(1)~~] the agency shall submit to the legislature an
14 estimate of the [~~tax rate and~~] student enrollment of each school
15 district for the following biennium [~~, and~~

16 [~~(2) the comptroller shall submit to the legislature~~
17 ~~an estimate of the total taxable value of all property in the state~~
18 ~~as determined under Subchapter M, Chapter 403, Government Code, for~~
19 ~~the following biennium]~~.

20 (b) The agency [~~and the comptroller~~] shall update the
21 information provided to the legislature under Subsection (a) not
22 later than March 1 of each odd-numbered year.

23 SECTION 1.21. Section 42.259(b), Education Code, is amended
24 to read as follows:

25 (b) Payments from the foundation school fund to each
26 [~~category 1~~] school district shall be made in 12 equal installments
27 not later than the 25th day of each month [~~as follows:~~

1 ~~[(1) 15 percent of the yearly entitlement of the~~
2 ~~district shall be paid in an installment to be made on or before the~~
3 ~~25th day of September of a fiscal year;~~

4 ~~[(2) 80 percent of the yearly entitlement of the~~
5 ~~district shall be paid in eight equal installments to be made on or~~
6 ~~before the 25th day of October, November, December, January, March,~~
7 ~~May, June, and July; and~~

8 ~~[(3) five percent of the yearly entitlement of the~~
9 ~~district shall be paid in an installment to be made on or before the~~
10 ~~25th day of February].~~

11 SECTION 1.22. Section 43.002, Education Code, is amended to
12 read as follows:

13 Sec. 43.002. TRANSFERS FROM GENERAL REVENUE FUND TO
14 AVAILABLE FUND. Of the amounts available for transfer from the
15 general revenue fund to the available school fund for the months of
16 January and February of each fiscal year, no more than the amount
17 necessary to enable the comptroller to distribute from the
18 available school fund an amount equal to 9-1/2 percent of the
19 estimated annual available school fund apportionment to [~~category~~
20 ~~1~~] school districts, as defined by Section 42.259, and 3-1/2
21 percent of the estimated annual available school fund apportionment
22 to category 2 school districts, as defined by Section 42.259, may be
23 transferred from the general revenue fund to the available school
24 fund. Any remaining amount that would otherwise be available for
25 transfer for the months of January and February shall be
26 transferred from the general revenue fund to the available school
27 fund in equal amounts in June and in August of the same fiscal year.

1 SECTION 1.23. The heading to Section 45.003, Education
2 Code, is amended to read as follows:

3 Sec. 45.003. BOND [~~AND TAX~~] ELECTIONS.

4 SECTION 1.24. Section 45.003(a), Education Code, is amended
5 to read as follows:

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

17 SECTION 1.25. Section 45.111(b), Education Code, is amended
18 to read as follows:

19 (b) The governing body of the district shall provide for the
20 payment of the certificates issued under this section by
21 appropriating and pledging any local school funds derived from
22 maintenance taxes levied and assessed under Section [~~Sections~~
23 ~~45.002 and~~] 130.122; Chapter 273, Acts of the 53rd Legislature,
24 Regular Session, 1953 (Article 2784g, Vernon's Texas Civil
25 Statutes); or other similar law that limits the amount of tax that
26 may be levied for maintenance purposes, as distinguished from bond
27 requirements. The appropriation and pledge may be in the nature of

1 a continuing irrevocable pledge to apply the first moneys collected
 2 annually from the tax levy to the payment of the obligations or by
 3 the irrevocable present levy and appropriation of the amount of the
 4 maintenance tax required to meet the annual debt service
 5 requirements of the obligations, in which event the governing body
 6 shall covenant to annually set aside the amount in the annual tax
 7 levy, showing the same is a portion of the maintenance tax. The
 8 governing body shall annually budget the amount required to pay the
 9 principal and interest of the obligations that may be scheduled to
 10 become due in any fiscal year. This section may not be construed as
 11 permitting the levy of a maintenance tax in excess of the amount
 12 approved by the qualified voters of the district.

13 SECTION 1.26. Section 46.003(a), Education Code, is amended
 14 to read as follows:

15 (a) For each year, except as provided by Sections 46.005 and
 16 46.006, a school district is guaranteed a specified amount per
 17 student in state and local funds for each cent of tax effort, up to
 18 the maximum rate under Subsection (b), to pay the principal of and
 19 interest on eligible bonds issued to construct, acquire, renovate,
 20 or improve an instructional facility. The amount of state support
 21 is determined by the formula:

$$22 \quad \text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

23 where:

24 "FYA" is the guaranteed facilities yield amount of state
 25 funds allocated to the district for the year;

26 "FYL" is the dollar amount guaranteed level of state and
 27 local funds per student per cent of tax effort, which is \$35 or a

1 greater amount for any year provided by appropriation;

2 "ADA" is the greater of the number of students in average
3 daily attendance, as determined under Section 42.005, in the
4 district or 400;

5 "BTR" is the district's bond tax rate for the current year,
6 which is determined by dividing the amount budgeted by the district
7 for payment of eligible bonds by the quotient of the district's
8 taxable value of property [~~as determined under Subchapter M,
9 Chapter 403, Government Code, or, if applicable, Section 42.2521,~~]
10 divided by 100; and

11 "DPV" is the district's taxable value of property [~~as
12 determined under Subchapter M, Chapter 403, Government Code, or, if
13 applicable, Section 42.2521~~].

14 SECTION 1.27. Section 46.006(g), Education Code, is amended
15 to read as follows:

16 (g) In this section, "wealth per student" means a school
17 district's taxable value of property [~~as determined under
18 Subchapter M, Chapter 403, Government Code, or, if applicable,
19 Section 42.2521,~~] divided by the district's average daily
20 attendance as determined under Section 42.005.

21 SECTION 1.28. Section 46.032(a), Education Code, is amended
22 to read as follows:

23 (a) Each school district is guaranteed a specified amount
24 per student in state and local funds for each cent of tax effort to
25 pay the principal of and interest on eligible bonds. The amount of
26 state support, subject only to the maximum amount under Section
27 46.034, is determined by the formula:

1 $EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$

2 where:

3 "EDA" is the amount of state funds to be allocated to the
4 district for assistance with existing debt;

5 "EDGL" is the dollar amount guaranteed level of state and
6 local funds per student per cent of tax effort, which is \$35 or a
7 greater amount for any year provided by appropriation;

8 "ADA" is the number of students in average daily attendance,
9 as determined under Section 42.005, in the district;

10 "EDTR" is the existing debt tax rate of the district, which is
11 determined by dividing the amount budgeted by the district for
12 payment of eligible bonds by the quotient of the district's taxable
13 value of property [~~as determined under Subchapter M, Chapter 403,~~
14 ~~Government Code, or, if applicable, under Section 42.2521,~~] divided
15 by 100; and

16 "DPV" is the district's taxable value of property [~~as~~
17 ~~determined under Subchapter M, Chapter 403, Government Code, or, if~~
18 ~~applicable, under Section 42.2521].~~

19 SECTION 1.29. Sections 56.208(a) and (b), Education Code,
20 are amended to read as follows:

21 (a) The Early High School Graduation Scholarship program is
22 financed under the Foundation School Program. [~~Funding for the~~
23 ~~state tuition credits is not subject to the provisions of Sections~~
24 ~~42.253(e) through (k).~~]

25 (b) The commissioner of education shall reduce the total
26 annual amount of foundation school fund payments made to a school
27 district by an amount equal to [~~F x A, where:~~

1 ~~[(1) "F" is the lesser of one or the quotient of the~~
2 ~~district's local share for the preceding school year under Section~~
3 ~~42.252 divided by the amount of money to which the district was~~
4 ~~entitled under Subchapters B and C, Chapter 42, for the preceding~~
5 ~~school year, and~~

6 ~~[(2) "A" is]~~ the amount of state tuition credits under
7 this subchapter applied by institutions of higher education on
8 behalf of eligible persons who graduated from the district that has
9 not been used to compute a previous reduction under this
10 subsection.

11 SECTION 1.30. Section 87.208, Education Code, is amended to
12 read as follows:

13 Sec. 87.208. SEABORNE CONSERVATION CORPS. If the board of
14 regents of The Texas A&M University System administers a program
15 that is substantially similar to the Seaborne Conservation Corps as
16 it was administered by the board during the 1998-1999 school year,
17 the program is entitled, for each student enrolled, to allotments
18 from the Foundation School Program under Chapter 42 as if the
19 program were a school district~~[, except that the program has a local~~
20 ~~share applied that is equivalent to the local fund assignment of the~~
21 ~~school district in which the principal facilities of the program~~
22 ~~are located].~~

23 SECTION 1.31. Section 96.707(k), Education Code, is amended
24 to read as follows:

25 (k) For each student enrolled in the academy, the academy is
26 entitled to allotments from the Foundation School Program under
27 Chapter 42 as if the academy were a school district~~[, except that~~

1 ~~the academy has a local share applied that is equivalent to the~~
2 ~~local fund assignment of the Beaumont Independent School District].~~

3 SECTION 1.32. Section 105.301(e), Education Code, is
4 amended to read as follows:

5 (e) The academy is not subject to the provisions of this
6 code, or to the rules of the Texas Education Agency, regulating
7 public schools, except that:

8 (1) professional employees of the academy are entitled
9 to the limited liability of an employee under Section 22.051 or
10 22.052;

11 (2) a student's attendance at the academy satisfies
12 compulsory school attendance requirements; and

13 (3) for each student enrolled, the academy is entitled
14 to allotments from the foundation school program under Chapter 42
15 as if the academy were a school district[~~, except that the academy~~
16 ~~has a local share applied that is equivalent to the local fund~~
17 ~~assignment of the Denton Independent School District].~~

18 SECTION 1.33. Section 2175.304(c), Government Code, is
19 amended to read as follows:

20 (c) The procedures established under Subsection (b) must
21 give preference to transferring the property directly to a public
22 school or school district before disposing of the property in
23 another manner. If more than one public school or school district
24 seeks to acquire the same property on substantially the same terms,
25 the system, institution, or agency shall give preference to a
26 public school that is considered low-performing by the commissioner
27 of education or to a school district that has a relatively low

1 taxable wealth per student, as determined by the commissioner of
2 education [~~that entitles the district to an allotment of state~~
3 ~~funds under Subchapter F, Chapter 42, Education Code~~].

4 SECTION 1.34. Section 5.10(a), Tax Code, is amended to read
5 as follows:

6 (a) The comptroller shall conduct an annual study in each
7 appraisal district to determine the degree of uniformity of and the
8 median level of appraisals by the appraisal district within each
9 major category of property. The comptroller shall publish a report
10 of the findings of the study, including in the report the median
11 levels of appraisal for each major category of property, the
12 coefficient of dispersion around the median level of appraisal for
13 each major category of property, and any other standard statistical
14 measures that the comptroller considers appropriate. [~~In~~
15 ~~conducting the study, the comptroller shall apply appropriate~~
16 ~~standard statistical analysis techniques to data collected as part~~
17 ~~of the annual study of school district taxable values required by~~
18 ~~Section 403.302, Government Code.~~]

19 SECTION 1.35. Section 5.101(a), Tax Code, is amended to
20 read as follows:

21 (a) The comptroller shall appoint a technical advisory
22 committee for the purpose of providing professional and practical
23 expertise to the comptroller and to review and comment on the
24 methodology used by the comptroller to conduct the annual study
25 [~~studies~~] required by Section 5.10 [~~of this code and by Section~~
26 ~~403.302, Government Code~~]. A member of the committee serves at the
27 will of the comptroller.

1 SECTION 1.36. Section 5.16(a), Tax Code, is amended to read
2 as follows:

3 (a) The comptroller may inspect the records or other
4 materials of an appraisal office or taxing unit, including the
5 relevant records and materials in the possession or control of a
6 consultant, advisor, or expert hired by the appraisal office or
7 taxing unit, for the purpose of:

8 (1) establishing, reviewing, or evaluating the value
9 of or an appraisal of any property; or

10 (2) conducting a study, review, or audit required by
11 Section 5.10 or 5.102 [~~or by Section 403.302, Government Code~~].

12 SECTION 1.37. Section 6.02(b), Tax Code, is amended to read
13 as follows:

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

23 [~~(1) the school district taxes property other than
24 property annexed to the district under Subchapter C or G, Chapter
25 41, Education Code, in the same county as the annexed property; or~~

26 [~~(2) the annexed property is contiguous to property in
27 the school district other than property annexed to the district~~

1 ~~under Subchapter C or G, Chapter 41, Education Code.]~~

2 SECTION 1.38. Section 21.01, Tax Code, is amended to read as
3 follows:

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

7 SECTION 1.39. Section 21.02(a), Tax Code, is amended to
8 read as follows:

9 (a) Except as provided by [~~Subsection (b) and~~] Sections
10 21.021, 21.04, and 21.05, tangible personal property is taxable by
11 a taxing unit if:

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

14 (2) it normally is located in the unit, even though it
15 is outside the unit on January 1, if it is outside the unit only
16 temporarily;

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

20 (4) the owner resides (for property not used for
21 business purposes) or maintains the owner's [~~his~~] principal place
22 of business in this state (for property used for business purposes)
23 in the unit and the property is taxable in this state but does not
24 have a taxable situs pursuant to Subdivisions (1) through (3) of
25 this section.

26 SECTION 1.40. Section 26.05(a), Tax Code, is amended to
27 read as follows:

1 (a) The governing body of each taxing unit, before the later
2 of September 30 or the 60th day after the date the certified
3 appraisal roll is received by the taxing unit, shall adopt a tax
4 rate for the current tax year and shall notify the assessor for the
5 unit of the rate adopted. The tax rate for a school district is the
6 rate authorized by Section 45.003(b), Education Code, or Chapter
7 46, Education Code. The tax rate for a taxing unit other than a
8 school district consists of two components, each of which must be
9 approved separately. The components are:

10 (1) the rate that, if applied to the total taxable
11 value, will impose the total amount published under Section
12 26.04(e)(3)(C), less any amount of additional sales and use tax
13 revenue that will be used to pay debt service; and

14 (2) the rate that, if applied to the total taxable
15 value, will impose the amount of taxes needed to fund maintenance
16 and operation expenditures of the unit for the next year.

17 SECTION 1.41. Section 313.022(b), Tax Code, is amended to
18 read as follows:

19 (b) For purposes of determining the required minimum amount
20 of a qualified investment under Section 313.021(2)(A)(iv)(a), and
21 the minimum amount of a limitation on appraised value under Section
22 313.027(b), school districts to which this subchapter applies are
23 categorized according to the taxable value of property in the
24 district for the preceding tax year [~~determined under Subchapter M,~~
25 ~~Chapter 403, Government Code~~], as follows:

CATEGORY	TAXABLE VALUE OF PROPERTY
I	\$10 billion or more

1	II	\$1 billion or more but less than \$10
2		billion
3	III	\$500 million or more but less than
4		\$1 billion
5	IV	\$100 million or more but less than
6		\$500 million
7	V	less than \$100 million

8 SECTION 1.42. Section 313.052, Tax Code, is amended to read
 9 as follows:

10 Sec. 313.052. CATEGORIZATION OF SCHOOL DISTRICTS. For
 11 purposes of determining the required minimum amount of a qualified
 12 investment under Section 313.021(2)(A)(iv)(a) and the minimum
 13 amount of a limitation on appraised value under this subchapter,
 14 school districts to which this subchapter applies are categorized
 15 according to the taxable value of industrial property in the
 16 district for the preceding tax year [~~determined under Subchapter M,~~
 17 ~~Chapter 403, Government Code~~], as follows:

18	CATEGORY	TAXABLE VALUE OF INDUSTRIAL
19		PROPERTY
20	I	\$200 million or more
21	II	\$90 million or more but less than
22		\$200 million
23	III	\$1 million or more but less than \$90
24		million
25	IV	\$100,000 or more but less than \$1
26		million
27	V	less than \$100,000

1 SECTION 1.43. Section 5(a), Article 3.50-7, Insurance Code,
2 is amended to read as follows:

3 (a) Each [~~Effective September 1, 2002, each~~] school
4 district [~~with 500 or fewer employees~~] and each regional education
5 service center is required to participate in the program.

6 SECTION 1.44. Section 9(a), Article 3.50-7, Insurance Code,
7 is amended to read as follows:

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

19 SECTION 1.45. The following provisions of the Education
20 Code are repealed:

21 (1) Sections 7.055(b)(34), 13.054(f) and (g),
22 22.004(b)-(i), 29.203(g), 42.103(e), 42.158(e), 42.2511-42.2522,
23 42.253(e), (e-1), and (f), 42.2531, 42.257, 42.259(a), (c), and
24 (d), 42.260, 44.004(b)-(e), (h), and (i), 45.002, 45.003(d),
25 45.006, 45.105(e), and 46.009(f);

26 (2) Sections 46.012 and 46.036, as added by Chapter
27 1156, Acts of the 77th Legislature, Regular Session, 2001;

1 (3) Subchapter F, Chapter 42; and

2 (4) Chapter 41.

3 SECTION 1.46. The following provisions of the Government
4 Code are repealed:

5 (1) Sections 322.008(b) and 825.405(h) and (i); and

6 (2) Subchapter M, Chapter 403.

7 SECTION 1.47. The following sections of the Tax Code are
8 repealed: 6.02(g), 6.03(m), 21.02(b) and (c), 25.25(k), 26.012(5),
9 26.08, and 26.085.

10 SECTION 1.48. The following provisions of the Insurance
11 Code are repealed:

12 (1) Sections 5(b)-(i) and 9(b)-(e), Article 3.50-7;
13 and

14 (2) Articles 3.50-8 and 3.50-9.

15 SECTION 1.49. Section 39.901, Utilities Code, is repealed.

16 ARTICLE 2. TAX

17 SECTION 2.01. Title 2, Tax Code, is amended by adding
18 Subtitle L to read as follows:

19 SUBTITLE L. PERSONAL INCOME TAX

20 CHAPTER 261. PERSONAL INCOME TAX

21 SUBCHAPTER A. IMPOSITION OF TAX

22 Sec. 261.001. TAX IMPOSED. (a) A tax is imposed for each
23 tax year:

24 (1) on the taxable income of every resident of this
25 state; and

26 (2) on the taxable income derived from sources in this
27 state of every nonresident.

1 (b) The tax rate is four percent of the amount of taxable
2 income that exceeds \$100,000.

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

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

7 (1) an individual is a resident of this state if the
8 individual:

9 (A) is domiciled in this state, unless the
10 individual does not maintain a permanent place of abode in this
11 state and does maintain a permanent place of abode elsewhere and
12 spends, in the aggregate, not more than 30 days of the tax year in
13 this state; or

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

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

19 (b) Any term used in this chapter and not defined by or for
20 purposes of this chapter has the same meaning as when used in a
21 comparable context in the laws of the United States relating to
22 federal income taxes, unless a different meaning is clearly
23 required. Any reference in this chapter to federal law means the
24 provisions of the Internal Revenue Code of 1986 in effect on
25 December 31, 2003, and other provisions of federal laws relating to
26 federal income taxes in effect on December 31, 2003.

27 [Sections 261.004-261.050 reserved for expansion]

1 SUBCHAPTER B. COMPUTATION OF TAXABLE INCOME

2 Sec. 261.051. TAXABLE INCOME. The taxable income of a
3 resident of this state is the resident's federal adjusted gross
4 income as defined by federal law.

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

6 (a) A resident individual is allowed a credit against the tax
7 otherwise due under this chapter for the amount of any income tax
8 imposed on the individual for the tax year by another state of the
9 United States on income that is derived from sources in that state
10 and that is subject to tax under this chapter.

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

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

26 Sec. 261.054. NONRESIDENT INDIVIDUALS--TAXABLE INCOME.
27 The taxable income of a nonresident individual is that part of the

1 individual's federal adjusted gross income derived from sources in
2 this state determined under Section 261.056.

3 Sec. 261.055. HUSBAND AND WIFE--NONRESIDENT. (a) If the
4 federal taxable income of a husband and wife, both of whom are
5 nonresidents of this state, is determined on separate federal
6 returns, their taxable incomes in this state shall be separately
7 determined.

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

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

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

27 (1) the nonresident's distributive share of

1 partnership income and deductions determined under Section
2 261.403; and

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

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

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

10 (2) a business, trade, profession, or occupation
11 conducted in this state.

12 (c) Income from intangible personal property, including
13 annuities, dividends, interest, and gains from the disposition of
14 intangible personal property, constitutes income derived from
15 sources in this state only to the extent that the income is from
16 property used in a business, trade, profession, or occupation
17 carried on in this state.

18 (d) Deductions for capital losses, net long-term capital
19 gains, and net operating losses derived from or connected with
20 sources in this state, are determined in the same manner as the
21 corresponding federal deductions. However, the extent to which the
22 deductions are derived from or connected with sources in this state
23 is determined under the comptroller's rules.

24 (e) For a nonresident individual who is a shareholder of a
25 corporation that is an electing small business corporation for
26 federal income tax purposes, the undistributed taxable income of
27 the corporation does not constitute income derived from sources in

1 this state and a net operating loss of the corporation does not
2 constitute a loss or deduction connected with sources in this
3 state.

4 (f) If a business, trade, profession, or occupation is
5 carried on partly in and partly outside this state, the items of
6 income and deduction derived from or connected with sources in this
7 state are determined by apportionment and allocation consistent
8 with Chapter 141 under the comptroller's rules.

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

12 [Sections 261.057-261.100 reserved for expansion]

13 SUBCHAPTER C. WITHHOLDING TAX

14 Sec. 261.101. EMPLOYER TO WITHHOLD TAX FROM WAGES. (a)
15 Each employer maintaining an office or doing business in this state
16 and making payment of wages taxable under this chapter to a resident
17 or nonresident individual shall withhold from those wages for each
18 payroll period a tax computed in a manner as to result, so far as
19 practicable, in withholding from the employee's wages during each
20 calendar year an amount equivalent to the amount of tax reasonably
21 estimated to be due from the employee under this chapter from the
22 amount of the wages paid by the employer and included in the
23 employee's adjusted gross income during the calendar year. The
24 method of determining the amount to be withheld shall be prescribed
25 by the comptroller's rules. Payments by the United States for
26 service in the armed forces of the United States are not subject to
27 state withholding.

1 (b) The comptroller may enter into agreements with the tax
2 departments of other states that require income tax to be withheld
3 from the payment of wages and salaries to govern the amounts to be
4 withheld from the wages and salaries of residents of those states
5 under this chapter. The agreements may provide for recognition of
6 anticipated tax credits in determining the amounts to be withheld,
7 and the comptroller, by rule, may relieve employers in this state
8 from withholding income tax on wages and salaries paid to
9 nonresident employees. An agreement authorized by this section is
10 subject to the condition that the tax department of the other state
11 grants similar treatment to residents of this state.

12 Sec. 261.102. INFORMATION STATEMENT FOR EMPLOYEE. An
13 employer required to withhold the tax under Section 261.101 from
14 the wages of an employee shall furnish to each employee from whom
15 the employer withheld the tax during the calendar year a written
16 statement as prescribed by rule showing the amount of wages paid by
17 the employer to the employee, the amount deducted and withheld as
18 tax, and other information the comptroller prescribes. The
19 withholding statement shall be given to the employee from whom the
20 tax is withheld on or before February 15 of the year succeeding the
21 calendar year in which the withholding occurs or, if the employee's
22 employment ends during the calendar year, before the 31st day after
23 the last day on which wages are paid to the employee.

24 Sec. 261.103. CREDIT FOR TAX WITHHELD. Wages on which the
25 withholding tax applies are included fully as taxable income under
26 this chapter as if no withholding were required. The amount of
27 withholding tax actually withheld under this subchapter in a

1 calendar year is considered to have been paid to the comptroller on
2 behalf of the person from whom withheld, and the person shall be
3 credited with having paid that amount of tax for the tax year in
4 which the wages are taxed. For a tax year of less than 12 months,
5 the credit shall be made under rules of the comptroller.

6 Sec. 261.104. EMPLOYER'S RETURN AND PAYMENT OF TAX
7 WITHHELD. (a) An employer required to deduct and withhold tax
8 under this chapter shall, for each calendar quarter, on or before
9 the 15th day of the month following the end of the calendar quarter,
10 file a withholding return as prescribed by the comptroller and pay
11 to the comptroller or to a depository designated by the
12 comptroller, the taxes required to be withheld, except that for the
13 fourth quarter of the calendar year, the return shall be filed and
14 the taxes paid on or before January 31 of the succeeding year. If
15 the amount required to be withheld by an employer for a calendar
16 month exceeds \$500, the employer shall, not later than the 15th day
17 of the succeeding month, pay the withheld amount to the comptroller
18 or to a depository designated by the comptroller. The amount paid
19 is allowed as a credit against the liability shown on the employer's
20 quarterly withholding return required by this section. If the
21 amount required to be deducted and withheld by an employer is less
22 than \$100 in a calendar quarter, the comptroller by rule may permit
23 an employer to file a withholding return on or before July 31 for
24 the semiannual period ending on June 30 and on or before January 31
25 of the succeeding year for the semiannual period ending on December
26 31. The comptroller may, if it is necessary for the protection of
27 the revenue, require an employer to make a return and pay to the

1 comptroller the tax withheld at any time. If the amount of wages
2 paid by an employer is not sufficient under this chapter to require
3 the withholding of tax from the wages of any of the employer's
4 employees, the comptroller by rule may permit the employer to file
5 an annual return on or before January 31 of the succeeding calendar
6 year.

7 (b) If an employer fails to collect the tax, truthfully
8 account for the tax, pay the tax, or make returns of the tax as
9 required by this section, the comptroller may serve a notice
10 requiring the employer to collect the taxes that became collectible
11 after service of notice, to deposit the taxes in a bank approved by
12 the comptroller, in a separate account, in trust for and payable to
13 the comptroller, and to keep the amount of the tax in the account
14 until paid to the comptroller. A notice remains in effect until a
15 notice of cancellation is served by the comptroller.

16 Sec. 261.105. EMPLOYER'S LIABILITY FOR WITHHELD TAXES. An
17 employer required to withhold a tax under this chapter is liable for
18 the tax. For purposes of assessment and collection, any amount
19 required to be withheld and paid to the comptroller, and any
20 additions to tax, penalties, and interest with respect to it, is the
21 tax of the employer. Any amount of tax actually deducted and
22 withheld under this chapter shall be held to be a special fund in
23 trust for the comptroller. An employee does not have a right of
24 action against his employer in respect to money withheld from the
25 employee's wages and paid to the comptroller in compliance or in
26 intended compliance with this chapter.

27 Sec. 261.106. EMPLOYER'S FAILURE TO WITHHOLD. If an

1 employer fails to withhold tax as required, and thereafter the tax
2 against which that tax may be credited is paid, the tax so required
3 to be withheld may not be collected from the employer, but the
4 employer is liable for additions to tax, penalties, or interest
5 otherwise applicable resulting from a failure to withhold.

6 [Sections 261.107-261.200 reserved for expansion]

7 SUBCHAPTER D. ACCOUNTING PERIODS AND METHODS

8 Sec. 261.201. PERIOD FOR COMPUTATION OF TAXABLE INCOME.

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

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

15 Sec. 261.202. METHODS OF ACCOUNTING. (a) A taxpayer's
16 method of accounting is the same as the taxpayer's method of
17 accounting for federal income tax purposes. If a single method of
18 accounting has not been regularly used by the taxpayer, taxable
19 income for purposes of this chapter shall be computed under any
20 method that in the opinion of the comptroller fairly reflects
21 income.

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

25 Sec. 261.203. ADJUSTMENTS. In computing a taxpayer's
26 taxable income for any tax year under a method of accounting
27 different from the method under which the taxpayer's taxable income

1 for the previous year was computed, there shall be taken into
2 account those adjustments that are determined, under rules
3 prescribed by the comptroller, to be necessary solely by reason of
4 the change in order to prevent amounts from being duplicated or
5 omitted.

6 Sec. 261.204. LIMITATION ON ADDITIONAL TAX. (a) If a
7 taxpayer's method of accounting is changed, other than from an
8 accrual to an installment method, an additional tax that results
9 from adjustments determined to be necessary solely because of the
10 change may not be greater than if those adjustments were ratably
11 allocated and included for the tax year of the change and not more
12 than two preceding tax years during which the taxpayer used the
13 method of accounting from which the change is made.

14 (b) If a taxpayer's method of accounting is changed from an
15 accrual to an installment method, an additional tax for the year of
16 the change of method and for a subsequent year that is attributable
17 to the receipt of installment payments properly accrued in a prior
18 year shall be reduced by the portion of tax for any prior tax year
19 attributable to the accrual of the installment payments, under
20 rules adopted by the comptroller.

21 [Sections 261.205-261.400 reserved for expansion]

22 SUBCHAPTER E. PARTNERS AND PARTNERSHIPS

23 Sec. 261.401. ENTITY NOT TAXABLE. A partnership as an
24 entity is not subject to the tax imposed by this chapter. Persons
25 carrying on business as partners are liable for the tax imposed by
26 this chapter only in their separate or individual capacities.

27 Sec. 261.402. 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 (c) If a partner's distributive share of an item of
12 partnership income, gain, loss, or deduction is determined for
13 federal income tax purposes by a special provision in the
14 partnership agreement with respect to the item, and the principal
15 purpose of the provision is the avoidance or evasion of tax under
16 this chapter, the partner's distributive share of the item and a
17 modification required with respect to it is determined in
18 accordance with the partner's distributive share of the taxable
19 income or loss of the partnership generally, excluding those items
20 requiring separate computation under Section 702 of the Internal
21 Revenue Code of 1986.

22 Sec. 261.403. NONRESIDENT PARTNER--ADJUSTED GROSS INCOME
23 FROM SOURCES IN THIS STATE. (a) In determining the adjusted gross
24 income of a nonresident partner of any partnership, there shall be
25 included only that part derived from or connected with sources in
26 this state of the partner's distributive share of items of
27 partnership income, gain, loss, and deduction entering into the

1 partner's federal adjusted gross income, as that part is determined
2 under rules adopted by the comptroller and consistent with the
3 rules under Section 261.056.

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

7 (1) characterizes payments to the partner as being for
8 services or for the use of capital, or allocates to the partner, as
9 income or gain from sources outside this state, a greater
10 proportion of the partner's distributive share of partnership
11 income or gain than the ratio of partnership income or gain from
12 sources outside this state to partnership income or gain from all
13 sources; or

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

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

23 (d) A nonresident partner's distributive share of items of
24 income, gain, loss, or deduction is determined under Section
25 261.402(a). The character of partnership items for a nonresident
26 partner is determined under Section 261.402(b). The effect of a
27 special provision in a partnership agreement, other than a

1 provision referred to in Subsection (b), having as a principal
2 purpose the avoidance or evasion of tax under this chapter is
3 determined under Section 261.402(c).

4 [Sections 261.404-261.500 reserved for expansion]

5 SUBCHAPTER F. TAX RETURNS AND PAYMENTS

6 Sec. 261.501. PERSONS REQUIRED TO MAKE RETURNS OF INCOME. A
7 state income tax return shall be made by every individual who has
8 adjusted gross income from sources in this state of more than
9 \$100,000.

10 Sec. 261.502. JOINT RETURNS BY HUSBAND AND WIFE. (a) A
11 husband and wife may make a joint state income tax return even
12 though one of the spouses has no gross income or deductions except
13 that:

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

16 (2) if the federal income tax liability of either
17 spouse is determined on a separate federal return, their income tax
18 liabilities under this chapter shall be determined on separate
19 returns;

20 (3) if the federal income tax liabilities of husband
21 and wife, other than a husband and wife described in Subsection (b),
22 are determined on a joint federal return, the husband and wife shall
23 file a joint return under this chapter, and their tax liabilities
24 are joint and several; and

25 (4) if neither spouse is required to file a federal
26 income tax return and either or both are required to file an income
27 tax return under this chapter, they may elect to file separate

1 returns or a joint return, and, according to their election, their
2 liabilities are separate or joint and several.

3 (b) If either husband or wife is a resident and the other is
4 a nonresident, they shall file on forms required by the comptroller
5 separate income tax returns in this state if either spouse has
6 income that is not community property, and in that case their tax
7 liabilities are separate; but they may elect to determine their
8 joint taxable income as if both were residents, and in that case
9 their liabilities are joint and several.

10 Sec. 261.503. RETURNS BY FIDUCIARIES. (a) An income tax
11 return for a deceased individual shall be made and filed by the
12 executor, administrator, or other person charged with the care of
13 the property of the decedent. A final return of a decedent is due
14 when it would have been due if the decedent had not died.

15 (b) An income tax return for an individual who is unable to
16 make a return because of minority or other disability shall be made
17 and filed by the individual's duly authorized agent, guardian,
18 conservator, fiduciary, or other person charged with the care of
19 the individual or the individual's property other than a receiver
20 in possession of only a part of the individual's property.

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

23 Sec. 261.504. NOTICE OF QUALIFICATION AS RECEIVER. A
24 receiver, trustee in bankruptcy, assignee for benefit of creditors,
25 or other similar fiduciary shall give notice of the person's
26 qualification to the comptroller, as may be required by rule.

27 Sec. 261.505. CHANGE OF STATUS AS RESIDENT OR NONRESIDENT

1 DURING YEAR. (a) If the status of an individual changes during the
2 individual's tax year from resident to nonresident or from
3 nonresident to resident, the comptroller by rule may require the
4 individual to file one return for the portion of the year during
5 which the individual is a resident and one for the portion of the
6 year during which the individual is a nonresident.

7 (b) Except as provided in Subsection (c), the taxable income
8 of an individual is determined as provided in Section 261.051 for
9 residents and Section 261.054 for nonresidents as if the
10 individual's tax year for federal income tax purposes were limited
11 to the period of the individual's resident and nonresident status
12 respectively.

13 (c) There shall be included in determining taxable income
14 from sources in or outside this state, as the case may be, income,
15 gain, loss, or deduction accrued prior to the change of status even
16 though not otherwise includable or allowable in respect to the
17 period before the change, but the taxation or deduction of items
18 accrued before the change of status is not affected by the change.

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

23 Sec. 261.506. TIME AND PLACE FOR FILING RETURNS AND PAYING
24 TAX. The income tax return required by this chapter shall be filed
25 not later than the 15th day of the fourth month following the end of
26 the taxpayer's tax year. A person required to make and file a
27 return under this chapter shall pay a tax due to the comptroller not

1 later than the last day that the filing of the return is allowed
2 without penalty, excluding an extension of time for filing the
3 return. The comptroller by rule shall prescribe the place for
4 filing a return, statement, or other document required by this
5 chapter and for the payment of a tax.

6 Sec. 261.507. ESTIMATED TAX. (a) An individual subject to
7 the income tax imposed by this chapter shall make estimated
8 payments of the tax. The provisions of Section 6654, Internal
9 Revenue Code of 1986, other than Subsections (a), (b), (d)(2), and
10 (e) of that section, governing the payment of estimated federal
11 income taxes on individuals apply to the payments required by this
12 section, including exemptions from the estimated tax payment
13 requirement. A reference in that section to the federal income tax
14 imposed on individuals is construed as a reference to the tax
15 imposed by this chapter as required to administer this section. A
16 power or duty given by Section 6654, Internal Revenue Code of 1986,
17 to the United States secretary of the treasury is assigned to the
18 comptroller for purposes of the estimated payments required by this
19 section.

20 (b) The comptroller shall adopt rules for the
21 administration of this section.

22 (c) Payment of the estimated tax or an installment is
23 considered payment on account of the tax imposed by this chapter.

24 Sec. 261.508. EXTENSION OF TIME FOR FILING AND PAYMENT. (a)
25 The comptroller, on terms and conditions the comptroller may
26 require, may grant a reasonable extension of time for payment of tax
27 or an installment, or for filing a return, statement, or other

1 document required under this chapter. Except for an extension for a
2 taxpayer who is outside the United States, an extension for filing
3 any return, statement, or document may not exceed six months.

4 (b) If the time for the payment of an amount of tax is
5 extended, the comptroller may require the taxpayer to furnish a
6 bond or other security in an amount not exceeding twice the amount
7 of tax for which the extension of time for payment is granted, on
8 terms and conditions the comptroller may require.

9 Sec. 261.509. CHANGE OF ELECTION. An election expressly
10 authorized by this chapter may be changed as authorized by the
11 comptroller or by the comptroller's rule.

12 Sec. 261.510. SIGNING OF RETURNS AND OTHER DOCUMENTS. (a)
13 A return, statement, or other document required to be made or filed
14 under this chapter shall be signed as provided by the comptroller.
15 An individual's name signed to a return, statement, or other
16 document is prima facie evidence that the individual signed the
17 return, statement, or other document.

18 (b) A return, statement, or other document required of a
19 partnership must be signed by at least one partner. A partner's
20 name signed to a return, statement, or other document is prima facie
21 evidence that the partner is authorized to sign on behalf of the
22 partnership.

23 (c) The making or filing of a return, statement, or other
24 document or copy required to be made or filed under this chapter,
25 including a copy of a federal return, constitutes a certification
26 by the person making or filing the return, statement, or other
27 document or copy that the statements contained in it are true and

1 that a copy filed is a true copy.

2 [Sections 261.511-261.520 reserved for expansion]

3 SUBCHAPTER G. INFORMATION RETURNS

4 Sec. 261.521. GENERAL REQUIREMENTS. The comptroller by
5 rule may require the keeping of records, the content and form of
6 returns and statements, and the filing of copies of federal income
7 returns and determinations. The comptroller may require a person,
8 by rule or by notice served on the person, to make returns, render
9 statements, or keep records, as the comptroller considers
10 sufficient to show whether the person is liable under this chapter
11 for tax or for the collection of tax.

12 Sec. 261.522. PARTNERSHIP RETURN. Each partnership having
13 a resident partner or having income derived from sources in this
14 state, determined in accordance with the applicable rules of
15 Section 261.056 as in the case of a nonresident individual, shall
16 make a return for the tax year setting forth all items of income,
17 gain, loss, and deduction, and the names and addresses of the
18 individuals, whether residents or nonresidents, who would be
19 entitled to share in the net income if distributed and the amount of
20 the distributive share of each individual, and other relevant
21 information the comptroller requires by rules or instructions. The
22 return must be filed not later than the 15th day of the fourth month
23 following the end of each tax year. For purposes of this section,
24 "tax year" means a year or period that would be a tax year of the
25 partnership if it were subject to tax under this chapter.

26 Sec. 261.523. INFORMATION RETURNS. The comptroller by rule
27 may require returns of information to be made and filed not later

1 than February 28 of each year by a person making payment or
2 crediting in a calendar year the amount of \$600 or more (\$10 or more
3 in the case of interest or dividends) to a person who may be subject
4 to the tax imposed under this chapter. The returns may be required
5 of any person, including a lessee or mortgagor of real or personal
6 property, a fiduciary, an employer, and an officer or employee of
7 this state, or of any municipality or other political subdivision
8 of this state, having the control, receipt, custody, disposal, or
9 payment of dividends, interest, rents, salaries, wages, premiums,
10 annuities, compensations, remunerations, emoluments, or other
11 fixed or determinable gains, profits, or income, except interest
12 coupons payable to bearer. A copy of the withholding statement
13 required to be furnished by an employer to an employee constitutes
14 the return of information required to be made under this section for
15 wages.

16 Sec. 261.524. REPORT OF CHANGE IN FEDERAL TAXABLE INCOME.

17 (a) If the amount of a taxpayer's federal taxable income reported
18 on the taxpayer's federal income tax return for a tax year is
19 changed or corrected by the United States Internal Revenue Service
20 or other competent authority, or as the result of a renegotiation of
21 a contract or subcontract with the United States, the taxpayer
22 shall:

23 (1) report the change or correction in federal taxable
24 income not later than the 90th day after the final determination of
25 the change, correction, or renegotiation, or as required by the
26 comptroller; and

27 (2) concede the accuracy of the determination or state

1 in what way it is erroneous.

2 (b) A taxpayer filing an amended federal income tax return
3 shall also file, not later than the 90th day after filing, an
4 amended return under this chapter, and shall give any information
5 required by the comptroller.

6 (c) The comptroller by rule may prescribe exceptions to the
7 requirements of this section.

8 [Sections 261.525-261.600 reserved for expansion]

9 SUBCHAPTER H. ADDITIONS TO TAX; PENALTIES

10 Sec. 261.601. FAILURE TO FILE TAX RETURN. (a) A person who
11 does not file a return required under this chapter on or before the
12 prescribed date is subject to the following penalty based on a
13 percentage of the full amount of tax owed on the prescribed day:

14 (1) if the return is filed not later than the 30th day
15 after the prescribed date, five percent;

16 (2) if the return is filed later than the 30th day
17 after the prescribed date, but not later than the 60th day after the
18 prescribed date, 10 percent;

19 (3) if the return is filed later than the 60th day
20 after the prescribed date, but not later than the 90th day after the
21 prescribed date, 15 percent;

22 (4) if the return is filed later than the 90th day
23 after the prescribed date, but not later than the 120th day after
24 the prescribed date, 20 percent; or

25 (5) if the return is filed later than the 120th day
26 after the prescribed date, 25 percent.

27 (b) The prescribed date is determined with regard to an

1 extension of time for filing.

2 (c) In determining the amount owed on the prescribed date,
3 the taxpayer is entitled to credit for a portion of the tax paid on
4 or before the prescribed date and other credit that may be claimed
5 on the return.

6 (d) The penalty required by this section does not apply if
7 the taxpayer shows that the failure to file a return was not the
8 result of wilful neglect before the prescribed date or at any time
9 during the delinquency and that good cause for the failure existed
10 at all times before filing.

11 Sec. 261.602. FAILURE TO FILE INFORMATION RETURN. (a) A
12 person who does not file a statement of payment to another person
13 required under the authority of this chapter or a duplicate
14 statement of tax withheld on wages on or before the prescribed date
15 for filing shall, after notice and demand by the comptroller, pay a
16 penalty of \$5 for each statement not timely filed.

17 (b) The total amount of penalties imposed under this section
18 on any person during a single calendar year may not exceed \$2,000.

19 (c) The prescribed date for filing is determined with regard
20 to any extension of time for filing.

21 (d) The penalty required by this section is not applicable
22 if the person required to file the statement shows that the failure
23 to file did not result from wilful neglect and that there was good
24 cause for the failure.

25 Sec. 261.603. FAILURE TO PAY TAX. (a) A person who does not
26 pay any amount of tax owed by the person on the prescribed date
27 shall pay, in addition to all other penalties and interest, a

1 penalty of 10 percent of the amount of the tax due and owing on the
2 prescribed date.

3 (b) The prescribed date is determined with regard to
4 extensions of time allowed by the comptroller.

5 (c) A failure to pay all or part of an estimated tax is
6 considered to be an underpayment of estimated tax. The comptroller
7 by rule shall prescribe the method of determining the amount and
8 period of underpayment.

9 Sec. 261.604. FAILURE TO PAY WITHHOLDING TAX. (a) An
10 employer who fails to pay the tax withheld by the employer or
11 required to be withheld by the employer at the time required under
12 this chapter is liable for the amount of the unpaid tax in addition
13 to the amount of the penalty prescribed in Section 261.603 together
14 with interest on the full amount of tax and penalty due.

15 (b) Amounts assessed under this section may not be collected
16 from the employee by the employer.

17 (c) The comptroller has the same rights and powers for the
18 collection of the tax, penalties, and interest against an employer
19 as are prescribed for the collection of the tax against an
20 individual.

21 Sec. 261.605. PENALTIES AND INTEREST TREATED AS TAX. The
22 penalties and interest provided by this subchapter shall be paid on
23 notice and demand and shall be assessed, collected, and paid in the
24 same manner as other taxes. The comptroller may issue a deficiency
25 notice for all or part of a penalty or interest along with or
26 separate from the amount of tax owed in absence of penalties or
27 interest.

1 [Sections 261.606-261.630 reserved for expansion]

2 SUBCHAPTER I. CREDITS AND REFUNDS

3 Sec. 261.631. CREDITS AND REFUNDS. (a) Within the
4 applicable period of limitations the comptroller may credit an
5 overpayment of income tax and interest on the overpayment against a
6 liability of a tax imposed by the tax laws of this state on the
7 person who made the overpayment, and the balance shall be refunded
8 by the comptroller out of the proceeds of the tax retained by the
9 comptroller.

10 (b) If the amount allowable as a credit for tax withheld
11 from the taxpayer exceeds the tax to which the credit relates, the
12 excess is an overpayment.

13 (c) If there has been an overpayment of tax required to be
14 deducted and withheld under Section 261.101, refund shall be made
15 to the employer only to the extent that the amount of the
16 overpayment was not deducted and withheld by the employer.

17 (d) The comptroller may prescribe rules providing for
18 crediting against the estimated tax for a tax year the amount
19 determined to be an overpayment of the income tax for a preceding
20 tax year.

21 (e) If an amount of income tax is assessed and collected
22 after the expiration of the period of limitations properly
23 applicable, the amount is an overpayment.

24 Sec. 261.632. ABATEMENTS. (a) The comptroller may abate
25 any unpaid portion of a tax or a tax liability that is excessive in
26 amount, assessed after the expiration of the applicable period of
27 limitations, or erroneously or illegally assessed.

1 (b) The comptroller may abate the unpaid portion of a tax or
2 a tax liability if the comptroller determines under uniform rules
3 prescribed by the comptroller that the administration and
4 collection costs involved would not warrant collection of the
5 amount due.

6 Sec. 261.633. EXTENDED LIMITATION PERIOD. (a) If a
7 taxpayer is required by Section 261.524 to report a change or
8 correction in federal taxable income reported on a federal income
9 tax return, or to report a change or correction that is treated in
10 the same manner as if it were an overpayment for federal income tax
11 purposes, or to file an amended return with the comptroller, a claim
12 for credit or refund of a resulting overpayment of tax must be filed
13 by the taxpayer not later than two years after the notice of the
14 change or correction or the amended return was required to be filed
15 with the comptroller. If the report or amended return required by
16 Section 261.524 is not filed within the period specified by that
17 section, interest on a resulting refund or credit ceases to accrue
18 after the period. The amount of credit or refund may not exceed the
19 amount of the reduction in tax attributable to the federal change,
20 correction, or items amended on the taxpayer's amended federal
21 income tax return. This subsection does not affect the time within
22 which or the amount for which a claim for credit or refund may be
23 filed apart from this section.

24 (b) If a claim for credit or refund relates to an
25 overpayment of tax on account of the deductibility by the taxpayer
26 of a debt as a debt that became worthless or a loss from
27 worthlessness of a security or the effect that the deductibility of

1 a debt or of a loss has on the application to the taxpayer of a
2 carryover, the claim may be made, under rules adopted by the
3 comptroller, not later than the seventh anniversary of the date
4 prescribed by law for filing the return for the year with respect to
5 which the claim is made.

6 (c) If a claim for credit or refund relates to an
7 overpayment attributable to a net operating loss carryback, the
8 claim may be made, under rules adopted by the comptroller, not later
9 than the 15th day of the 40th month following the end of the tax year
10 of the net operating loss that resulted in the carryback or the
11 period prescribed by Section 111.104, whichever expires later.

12 [Sections 261.634-261.650 reserved for expansion]

13 SUBCHAPTER J. MISCELLANEOUS ENFORCEMENT PROVISIONS

14 Sec. 261.651. TAXPAYER NOT RESIDENT. If notice and demand
15 for the payment of a tax is given to a nonresident and it appears to
16 the comptroller that it is not practicable to locate property of the
17 taxpayer sufficient in amount to cover the amount of tax due, the
18 comptroller may authorize the institution of any available action
19 or proceeding to collect or enforce the claim in any place by any
20 procedure by which a civil judgment of a court of record of this
21 state could be collected or enforced. The comptroller may
22 designate agents or retain counsel outside this state for the
23 purpose of collecting taxes due under this chapter and require of
24 them bonds or other security for the faithful performance of their
25 duties. The comptroller may enter into agreements with the tax
26 department of another state for the collection of taxes from
27 persons found in this state who are delinquent in the payment of

1 income taxes imposed by that state on condition that the agreeing
2 state afford similar assistance in the collection of taxes from
3 persons found in that state who are delinquent in the payment of
4 taxes imposed by this chapter.

5 Sec. 261.652. INCOME TAX CLAIMS OF OTHER STATES. The courts
6 of this state shall recognize and enforce liabilities for personal
7 income taxes lawfully imposed by another state that extends a like
8 comity to this state, and the duly authorized officer of the other
9 state may sue for the collection of personal income tax in the
10 courts of this state. A certificate by the secretary of state of
11 the other state that an officer suing for the collection of the tax
12 is duly authorized to collect the tax is conclusive proof of the
13 officer's authority. For the purposes of this section, "taxes"
14 includes additions to tax, interest, and penalties.

15 Sec. 261.653. ORDER TO COMPEL COMPLIANCE. (a) On
16 application of the attorney general, a judge of a court of
17 appropriate jurisdiction for the county in which a taxpayer or
18 other person who intentionally or knowingly refuses to file a tax
19 return required by this chapter may, by order, direct the person to
20 file the return. A person who fails or refuses to obey the order is
21 guilty of contempt of court.

22 (b) If any person intentionally or knowingly refuses to make
23 available any books, papers, records, or memorandums for
24 examination by the comptroller or wilfully refuses to attend and
25 testify, pursuant to the powers conferred on the comptroller by
26 Chapter 111, on application of the comptroller, a judge in the court
27 of appropriate jurisdiction for the county where the person resides

1 may by order direct the person to comply with the comptroller's
2 request for books, papers, records, or memorandums or for the
3 person's attendance and testimony. If the books, papers, records,
4 or memorandums required by the comptroller are in the custody of a
5 corporation, the order of the court may be directed to any principal
6 officer of the corporation. A person who fails or refuses to obey
7 the order is guilty of contempt of court.

8 Sec. 261.654. TRANSFEREES. (a) The liability, at law or in
9 equity, of a transferee of property of a taxpayer for any tax,
10 addition to tax, penalty, or interest due under this chapter, is
11 assessed, paid, and collected in the same manner and subject to the
12 same provisions and limitations as in the case of the tax to which
13 the liability relates except as otherwise provided in this section.
14 "Transferee" includes an heir or a recipient of a donation, legacy,
15 devise, or distribution.

16 (b) The period of limitation for assessment of liability of
17 a transferee is:

18 (1) the first anniversary of the expiration of the
19 period of limitation against the initial transferor if the
20 transferee is the initial transferee;

21 (2) the first anniversary of the expiration of the
22 period of limitation against the preceding transferee, but not
23 later than the third anniversary of the expiration of the period of
24 limitation for assessment against the initial transferor, if the
25 transferee is not the initial transferee; or

26 (3) notwithstanding Subdivisions (1) and (2), if
27 before the expiration of the period of limitation under Subdivision

1 (1) or (2) a proceeding for the collection of the liability has been
2 begun against the initial transferor or the last preceding
3 transferee, respectively, the first anniversary of the date on
4 which the proceeding is terminated.

5 (c) If, before the expiration of the period of limitation
6 applicable to a transferee, the comptroller and the transferee
7 consent in writing to an assessment after that time, the liability
8 may be assessed at any time before the expiration of the agreed
9 period. The period of limitation on credit or refund to the
10 transferee of overpayments of tax made by the transferee or of
11 overpayments of tax made by the transferor of which the transferee
12 is legally entitled to credit or refund is extended by an agreement
13 under this subsection and any extension of the agreement.

14 (d) If a person dies, the period of limitation for
15 assessment against that person is the period that would be in effect
16 had death not occurred.

17 Sec. 261.655. JEOPARDY DETERMINATIONS. (a) If the
18 comptroller issues a jeopardy determination for a tax for a current
19 period, the comptroller shall terminate the tax period of the
20 taxpayer immediately, and the notice and demand for a return and
21 immediate payment of the tax shall apply to the terminated period
22 and to income accrued and deductions incurred on or before
23 termination date if not otherwise properly includable or deductible
24 for the period.

25 (b) The comptroller may abate the jeopardy determination if
26 he finds that jeopardy does not exist.

27 Sec. 261.656. BANKRUPTCY OR RECEIVERSHIP. (a) On the

1 adjudication of bankruptcy of any taxpayer in any bankruptcy
2 proceeding or the appointment of a receiver for any taxpayer in any
3 receivership proceeding before any court of the United States or
4 any state or territory, any deficiency, together with additions to
5 tax and interest provided by law, determined by the comptroller may
6 be immediately assessed.

7 (b) Claims for the deficiency and additions to tax and
8 interest may be presented, for adjudication in accordance with law,
9 to the court before which the bankruptcy or receivership proceeding
10 is pending, despite the pendency of any protest before the
11 comptroller. A protest against a proposed assessment may not be
12 filed with the comptroller after the adjudication of bankruptcy or
13 appointment of the receiver.

14 Sec. 261.657. EVIDENCE OF RELATED FEDERAL DETERMINATION.
15 Evidence of a federal determination relevant to the taxes imposed
16 by this chapter is admissible in an administrative or judicial
17 proceeding relating to those taxes.

18 [Sections 261.658-261.670 reserved for expansion] SUBCHAPTER K.

19 OFFENSES

20 Sec. 261.671. ATTEMPT TO EVADE OR DEFEAT TAX. (a) A person
21 commits an offense if the person intentionally or knowingly
22 attempts in any manner to evade or defeat a tax imposed by this
23 chapter or the payment of tax imposed by this chapter.

24 (b) An offense under this section is a felony of the third
25 degree.

26 Sec. 261.672. FAILURE TO COLLECT OR PAY. (a) A person
27 commits an offense if the person is required under this chapter to

1 collect, truthfully account for, and pay a tax imposed by this
2 chapter and the person intentionally or knowingly fails to collect
3 or truthfully account for and pay the tax.

4 (b) An offense under this section is a felony of the third
5 degree.

6 Sec. 261.673. FAILURE TO FILE RETURN, SUPPLY INFORMATION,
7 OR PAY TAX. (a) A person commits an offense if the person is
8 required under this chapter to pay a tax, or required by this
9 chapter or rule adopted under this chapter to make a return, to keep
10 records, or to supply information, and the person intentionally or
11 knowingly fails to pay the tax, make the return, keep the records,
12 or supply the information at the time or times required by law.

13 (b) An offense under this section is a Class A misdemeanor.

14 [Sections 261.674-261.680 reserved for expansion] SUBCHAPTER L.

15 POWERS OF COMPTROLLER

16 Sec. 261.681. COOPERATION WITH OTHER JURISDICTIONS. The
17 comptroller may permit the United States secretary of the treasury
18 or the secretary's delegate, or the proper officer of any state or
19 other jurisdiction imposing an income tax on the incomes of
20 individuals, or the authorized representative of either officer, to
21 inspect the income tax returns of an individual, or may furnish to
22 the officer or authorized representative an abstract of the return
23 of income of an individual or supply the officer with information
24 concerning an item of income contained in a return, or disclosed by
25 the report of an investigation of the income or return of income of
26 an individual, but permission may be granted only if the statutes of
27 the United States or of the other jurisdiction, as applicable,

1 grant substantially similar privileges to the comptroller.

2 Sec. 261.682. COOPERATION WITH OTHER TAX OFFICIALS OF THIS
3 STATE. The comptroller may permit other tax officials of this state
4 to inspect tax returns and reports filed under this chapter but the
5 inspection shall be permitted only for purposes of enforcing a tax
6 law and only to the extent and under the conditions prescribed by
7 rule of the comptroller.

8 Sec. 261.683. CONTRACT WITH SECRETARY OF TREASURY FOR
9 COLLECTION OF TAX. The comptroller may enter into an agreement with
10 the United States secretary of the treasury or the secretary's
11 delegate under which, to the extent provided by the terms of the
12 agreement, the secretary or delegate will administer, enforce, and
13 collect a tax imposed by this chapter on behalf of this state. The
14 cost of the services performed by the secretary or delegate in
15 administering, enforcing, or collecting the tax under the terms of
16 the agreement may be paid from the appropriations for the general
17 operations of the comptroller.

18 Sec. 261.684. ARMED FORCES RELIEF PROVISIONS. (a) The
19 period of service in the armed forces of the United States in a
20 combat zone plus a period of continuous hospitalization outside
21 this state attributable to that service plus the next 180 days shall
22 be disregarded in determining, under rules of the comptroller,
23 whether an act required by this chapter was performed by a taxpayer
24 or the taxpayer's representative within the time prescribed.

25 (b) In the case of an individual who dies during an
26 induction period while in active service as a member of the armed
27 forces of the United States, if the death occurred while the

1 individual was serving in a combat zone or as a result of wounds,
2 disease, or injury incurred while so serving, the tax imposed by
3 this chapter does not apply to the tax year in which the individual
4 dies or to any prior tax year ending on or after the first day the
5 individual so served in a combat zone.

6 Sec. 261.685. DISPOSITION OF PROCEEDS. The revenue from
7 the tax imposed by this chapter shall be deposited to the credit of
8 a special account in the general revenue fund and may be
9 appropriated only for a purpose provided by Section 24, Article
10 VIII, Texas Constitution.

11 SECTION 2.02. Section 111.201, Tax Code, is amended to read
12 as follows:

13 Sec. 111.201. ASSESSMENT LIMITATION. (a) No tax imposed by
14 this title may be assessed after four years from the date that the
15 tax becomes due and payable except as provided by Subsection (b).

16 (b) A tax imposed by Chapter 261 may not be assessed after
17 six years from the date the tax becomes due and payable.

18 SECTION 2.03. A referendum as required by Section 24,
19 Article VIII, Texas Constitution, on the adoption of the income tax
20 under this Act shall be submitted to the voters at an election to be
21 held November 4, 2003. The ballot for the referendum shall be
22 printed to permit voting for or against the proposition: "The
23 adoption of an income tax at a rate of four percent for taxable
24 income that exceeds \$100,000."

25 SECTION 2.04. (a) Except as provided by Subsection (b) of
26 this section, this article applies to income earned, accrued, or
27 received on or after the effective date of this article.

1 (b) Income, deductions, losses, credits against income, or
2 other adjustment allowed in determining the amount of tax under
3 this article or the amount of federal adjusted gross income under
4 this article, including carryovers, are not prohibited in computing
5 the taxes for a tax period beginning on January 1, 2004, because
6 those adjustments may have accrued or otherwise originated before
7 the effective date of this article.

8 (c) In 2004, the comptroller by rule may suspend the
9 application of Section 261.507, Tax Code, as added by this article,
10 in whole or in part, and may extend the deadlines for estimated tax
11 payments under that section.

12 ARTICLE 3. EFFECTIVE DATE

13 SECTION 3.01. (a) If the proposition in Section 2.03 of
14 this Act is approved, this Act takes effect January 1, 2004.

15 (b) If the proposition in Section 2.03 of this Act is not
16 approved, this Act has no effect.