

By: Rodriguez

H.B. No. 33

A BILL TO BE ENTITLED

AN ACT

relating to state taxes and financing schools through those taxes;  
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 39.132;

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 individuals who receive a tax limitation under  
26 Section 11.26, Tax Code, on which school district taxes are not  
27 imposed in the year that is the subject of the study, calculated as

1 if the residence homesteads were appraised at the full value  
2 required by law;

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

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

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

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

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

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

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

1 ~~Government Code]~~.

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

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

10 
$$MS = SF \times \underline{AWABA} \text{ [FS]}$$

11 where:

12 "MS" is the minimum monthly salary;

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

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

17 (1) multiplying the basic allotment under Section  
18 42.101 by the average adjustment for the state under Sections  
19 42.102, 42.103, 42.104, and 42.105; and

20 (2) multiplying the product determined under  
21 Subdivision (1) by the average for the state of the sum of weights  
22 to which school districts are entitled under Sections 42.151,  
23 42.152, 42.153, 42.154, 42.156, 42.157, and 42.158.

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

1 ~~42.302, equal to the maximum rate authorized under Section 42.303,~~  
2 ~~except that the amount of state and local funds per weighted student~~  
3 ~~does not include the amount attributable to the increase in the~~  
4 ~~guaranteed level made by H.B. No. 3343, Acts of the 77th~~  
5 ~~Legislature, Regular Session, 2001.]~~

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

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

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

23 SECTION 1.08. Section 21.411(h), Education Code, is amended  
24 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 21.412(h), Education Code, is amended  
9 to read as follows:

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

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

22 (b) Except as provided by Subsection (c), costs of an  
23 approved contract for residential placement may be paid from a  
24 combination of federal and[7] state[~~7 and local~~] funds. [~~The local~~  
25 ~~share of the total contract cost for each student is that portion of~~  
26 ~~the local tax effort that exceeds the district's local fund~~  
27 ~~assignment under Section 42.252, divided by the average daily~~

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

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

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

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

25 Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN  
26 JUVENILE RESIDENTIAL FACILITIES. A school district that provides  
27 education services to pre-adjudicated and post-adjudicated

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

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

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

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

26 (b) The Foundation School Program consists of:

27 (1) a basic allotment that provides [~~two tiers that in~~

1 ~~combination provide]~~ for:

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

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

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

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

11 (c) The funding elements must include:

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

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

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

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

27 [~~(5) the enrichment and facilities tax rate under~~

1 ~~Subchapter F,~~

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

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

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

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

15 SECTION 1.17. Section 42.251, Education Code, is amended to  
16 read as follows:

17 Sec. 42.251. FINANCING; GENERAL RULE. (a) The sum of the  
18 basic allotment under Subchapter B and the special allotments under  
19 Subchapter C ~~[, computed in accordance with this chapter,~~  
20 ~~constitute the tier one allotments. The sum of the tier one~~  
21 ~~allotments and the guaranteed yield allotments under Subchapter F,~~  
22 ~~computed in accordance with this chapter,] constitute the total~~  
23 cost of the Foundation School Program.

24 (b) The program shall be financed by:

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

27 ~~[(2) ad valorem tax revenue generated by local school~~

1 ~~district effort in excess of the equalized uniform school district~~  
2 ~~effort,~~

3           ~~(3)~~ state available school funds distributed in  
4 accordance with law; and

5           (2) ~~(4)~~ state funds appropriated for the purposes of  
6 public school education and allocated to each district in an amount  
7 sufficient to finance the cost of each district's Foundation School  
8 Program not covered by state available school ~~[other]~~ funds  
9 ~~[specified in this subsection].~~

10           SECTION 1.18. Section 42.253(a), Education Code, is amended  
11 to read as follows:

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

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

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

17                   ~~(3)~~ the amount of money allocated to the district  
18 from the available school fund~~;~~

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

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

23           SECTION 1.19. Section 42.253(b), Education Code, is amended  
24 to read as follows:

25           (b) Except as provided by this subsection, the commissioner  
26 shall base the determinations under Subsection (a) on the estimates  
27 provided to the legislature under Section 42.254 ~~[, or, if the~~

1 ~~General Appropriations Act provides estimates for that purpose, on~~  
 2 ~~the estimates provided under that Act, for each school district for~~  
 3 ~~each school year]. [The commissioner shall reduce the entitlement~~  
 4 ~~of each district that has a final taxable value of property for the~~  
 5 ~~second year of a state fiscal biennium that is higher than the~~  
 6 ~~estimate under Section 42.254 or the General Appropriations Act, as~~  
 7 ~~applicable. A reduction under this subsection may not reduce the~~  
 8 ~~district's entitlement below the amount to which it is entitled at~~  
 9 ~~its actual taxable value of property.]~~

10 SECTION 1.20. Sections 42.253(c), (g), and (h), Education  
 11 Code, are amended to read as follows:

12 (c) Each school district is entitled to an amount from the  
 13 foundation school fund equal to the amount determined for the  
 14 district under Subsection [~~difference for that district between the~~  
 15 ~~sum of Subsections~~] (a)(1) [~~and (a)(2) and the sum of Subsections~~  
 16 ~~(a)(3), (a)(4), and (a)(5)].~~

17 (g) If a school district demonstrates to the satisfaction of  
 18 the commissioner that the estimate of the district's [~~tax rate,~~  
 19 ~~student enrollment~~] [~~, or taxable value of property~~] used in  
 20 determining the amount of state funds to which the district is  
 21 entitled are so inaccurate as to result in undue financial hardship  
 22 to the district, the commissioner may adjust funding to that  
 23 district in that school year to the extent that funds are available  
 24 for that year [~~, including funds in the reserve account. Funds in~~  
 25 ~~the reserve account may not be used under this subsection until any~~  
 26 ~~reserve funds have been used for purposes of Subsection (f)].~~

27 (h) If the amount appropriated for purposes of the

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

22 SECTION 1.21. Section 42.254, Education Code, is amended to  
 23 read as follows:

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

26 [~~1~~] the agency shall submit to the legislature an  
 27 estimate of the [~~tax rate and~~] student enrollment of each school



1 district for the following biennium[~~, and~~

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

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

9 SECTION 1.22. Section 42.259(b), Education Code, is amended  
10 to read as follows:

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

14 [~~(1) 15 percent of the yearly entitlement of the~~  
15 ~~district shall be paid in an installment to be made on or before the~~  
16 ~~25th day of September of a fiscal year;~~

17 [~~(2) 80 percent of the yearly entitlement of the~~  
18 ~~district shall be paid in eight equal installments to be made on or~~  
19 ~~before the 25th day of October, November, December, January, March,~~  
20 ~~May, June, and July; and~~

21 [~~(3) five percent of the yearly entitlement of the~~  
22 ~~district shall be paid in an installment to be made on or before the~~  
23 ~~25th day of February]~~.

24 SECTION 1.23. Section 42.259(f), Education Code, is amended  
25 to read as follows:

26 (f) Any [~~Except as provided by Subsection (c)(8) or (d)(3),~~  
27 ~~any~~] previously unpaid additional funds from prior years owed to a

1 district shall be paid to the district together with the September  
2 payment of the current year entitlement.

3 SECTION 1.24. Section 43.002(b), Education Code, is amended  
4 to read as follows:

5 (b) Of the amounts available for transfer from the general  
6 revenue fund to the available school fund for the months of January  
7 and February of each fiscal year, no more than the amount necessary  
8 to enable the comptroller to distribute from the available school  
9 fund an amount equal to [~~9-1/2 percent of the estimated annual~~  
10 ~~available school fund apportionment to category 1 school districts,~~  
11 ~~as defined by Section 42.259, and]~~ 3-1/2 percent of the estimated  
12 annual available school fund apportionment to [~~category 2~~] school  
13 districts[~~, as defined by Section 42.259,~~] may be transferred from  
14 the general revenue fund to the available school fund. Any  
15 remaining amount that would otherwise be available for transfer for  
16 the months of January and February shall be transferred from the  
17 general revenue fund to the available school fund in equal amounts  
18 in June and in August of the same fiscal year.

19 SECTION 1.25. The heading to Section 45.003, Education  
20 Code, is amended to read as follows:

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

22 SECTION 1.26. Section 45.003(a), Education Code, is amended  
23 to read as follows:

24 (a) Bonds described by Section 45.001 may not be issued and  
25 taxes described by Section 45.001 [~~or 45.002~~] may not be levied  
26 unless authorized by a majority of the qualified voters of the  
27 district, voting at an election held for that purpose, at the

1 expense of the district, in accordance with the Election Code,  
2 except as provided by this section. Each election must be called by  
3 resolution or order of the governing board or commissioners court.  
4 The resolution or order must state the date of the election, the  
5 proposition or propositions to be submitted and voted on, the  
6 polling place or places, and any other matters considered necessary  
7 or advisable by the governing board or commissioners court.

8 SECTION 1.27. Section 45.111(b), Education Code, is amended  
9 to read as follows:

10 (b) The governing body of the district shall provide for the  
11 payment of the certificates issued under this section by  
12 appropriating and pledging any local school funds derived from  
13 maintenance taxes levied and assessed under Section [~~Sections~~  
14 ~~45.002 and~~] 130.122; Chapter 273, Acts of the 53rd Legislature,  
15 Regular Session, 1953 (Article 2784g, Vernon's Texas Civil  
16 Statutes); or other similar law that limits the amount of tax that  
17 may be levied for maintenance purposes, as distinguished from bond  
18 requirements. The appropriation and pledge may be in the nature of  
19 a continuing irrevocable pledge to apply the first moneys collected  
20 annually from the tax levy to the payment of the obligations or by  
21 the irrevocable present levy and appropriation of the amount of the  
22 maintenance tax required to meet the annual debt service  
23 requirements of the obligations, in which event the governing body  
24 shall covenant to annually set aside the amount in the annual tax  
25 levy, showing the same is a portion of the maintenance tax. The  
26 governing body shall annually budget the amount required to pay the  
27 principal and interest of the obligations that may be scheduled to

1 become due in any fiscal year. This section may not be construed as  
2 permitting the levy of a maintenance tax in excess of the amount  
3 approved by the qualified voters of the district.

4 SECTION 1.28. Section 46.003(a), Education Code, is amended  
5 to read as follows:

6 (a) For each year, except as provided by Sections 46.005 and  
7 46.006, a school district is guaranteed a specified amount per  
8 student in state and local funds for each cent of tax effort, up to  
9 the maximum rate under Subsection (b), to pay the principal of and  
10 interest on eligible bonds issued to construct, acquire, renovate,  
11 or improve an instructional facility. The amount of state support  
12 is determined by the formula:

13 
$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

14 where:

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

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

20 "ADA" is the greater of the number of students in average  
21 daily attendance, as determined under Section 42.005, in the  
22 district or 400;

23 "BTR" is the district's bond tax rate for the current year,  
24 which is determined by dividing the amount budgeted by the district  
25 for payment of eligible bonds by the quotient of the district's  
26 taxable value of property [~~as determined under Subchapter M,~~  
27 ~~Chapter 403, Government Code, or, if applicable, Section 42.2521,~~]

1 divided by 100; and

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

5 SECTION 1.29. Section 46.006(g), Education Code, is amended  
6 to read as follows:

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

12 SECTION 1.30. Section 46.032(a), Education Code, is amended  
13 to read as follows:

14 (a) Each school district is guaranteed a specified amount  
15 per student in state and local funds for each cent of tax effort to  
16 pay the principal of and interest on eligible bonds. The amount of  
17 state support, subject only to the maximum amount under Section  
18 46.034, is determined by the formula:

19 
$$EDA = (EDGL \times ADA \times EDTR \times 100) - (EDTR \times (DPV/100))$$

20 where:

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

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

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

1 "EDTR" is the existing debt tax rate of the district, which is  
2 determined by dividing the amount budgeted by the district for  
3 payment of eligible bonds by the quotient of the district's taxable  
4 value of property [~~as determined under Subchapter M, Chapter 403,~~  
5 ~~Government Code, or, if applicable, under Section 42.2521,~~] divided  
6 by 100; and

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

10 SECTION 1.31. Sections 56.208(a) and (b), Education Code,  
11 are amended to read as follows:

12 (a) The Early High School Graduation Scholarship program is  
13 financed under the Foundation School Program. [~~Funding for the~~  
14 ~~state tuition credits is not subject to the provisions of Sections~~  
15 ~~42.253(e) through (k).~~]

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

19 [~~(1) "F" is the lesser of one or the quotient of the~~  
20 ~~district's local share for the preceding school year under Section~~  
21 ~~42.252 divided by the amount of money to which the district was~~  
22 ~~entitled under Subchapters B and C, Chapter 42, for the preceding~~  
23 ~~school year, and~~

24 [~~(2) "A" is~~] the amount of state tuition credits under  
25 this subchapter applied by institutions of higher education on  
26 behalf of eligible persons who graduated from the district that has  
27 not been used to compute a previous reduction under this

1 subsection.

2 SECTION 1.32. Section 87.208, Education Code, is amended to  
3 read as follows:

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

14 SECTION 1.33. Section 96.707(k), Education Code, is amended  
15 to read as follows:

16 (k) For each student enrolled in the academy, the academy is  
17 entitled to allotments from the Foundation School Program under  
18 Chapter 42 as if the academy were a school district[~~, except that~~  
19 ~~the academy has a local share applied that is equivalent to the~~  
20 ~~local fund assignment of the Beaumont Independent School District].~~

21 SECTION 1.34. Section 105.301(e), Education Code, is  
22 amended to read as follows:

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

26 (1) professional employees of the academy are entitled  
27 to the limited liability of an employee under Section 22.0511,

1 22.0512, or 22.052;

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

4 (3) for each student enrolled, the academy is entitled  
5 to allotments from the foundation school program under Chapter 42  
6 as if the academy were a school district [~~without a tier one local~~  
7 ~~share for purposes of Section 42.253~~].

8 SECTION 1.35. Section 2175.304(c), Government Code, is  
9 amended to read as follows:

10 (c) The procedures established under Subsection (b) must  
11 give preference to transferring the property directly to a public  
12 school or school district or to an assistance organization  
13 designated by the school district before disposing of the property  
14 in another manner. If more than one public school or school  
15 district or assistance organization seeks to acquire the same  
16 property on substantially the same terms, the system, institution,  
17 or agency shall give preference to a public school that is  
18 considered low-performing by the commissioner of education or to a  
19 school district that has a relatively low taxable wealth per  
20 student, as determined by the commissioner of education [~~that~~  
21 ~~entitles the district to an allotment of state funds under~~  
22 ~~Subchapter F, Chapter 42, Education Code~~], or to the assistance  
23 organization designated by such a school district.

24 SECTION 1.36. Section 5.10(a), Tax Code, is amended to read  
25 as follows:

26 (a) The comptroller shall conduct an annual study in each  
27 appraisal district to determine the degree of uniformity of and the



1 median level of appraisals by the appraisal district within each  
2 major category of property. The comptroller shall publish a report  
3 of the findings of the study, including in the report the median  
4 levels of appraisal for each major category of property, the  
5 coefficient of dispersion around the median level of appraisal for  
6 each major category of property, and any other standard statistical  
7 measures that the comptroller considers appropriate. [~~In~~  
8 ~~conducting the study, the comptroller shall apply appropriate~~  
9 ~~standard statistical analysis techniques to data collected as part~~  
10 ~~of the annual study of school district taxable values required by~~  
11 ~~Section 403.302, Government Code.~~]

12 SECTION 1.37. Section 5.101(a), Tax Code, is amended to  
13 read as follows:

14 (a) The comptroller shall appoint a technical advisory  
15 committee for the purpose of providing professional and practical  
16 expertise to the comptroller and to review and comment on the  
17 methodology used by the comptroller to conduct the annual study  
18 [~~studies~~] required by Section 5.10 [~~of this code and by Section~~  
19 ~~403.302, Government Code~~]. A member of the committee serves at the  
20 will of the comptroller.

21 SECTION 1.38. Section 5.16(a), Tax Code, is amended to read  
22 as follows:

23 (a) The comptroller may inspect the records or other  
24 materials of an appraisal office or taxing unit, including the  
25 relevant records and materials in the possession or control of a  
26 consultant, advisor, or expert hired by the appraisal office or  
27 taxing unit, for the purpose of:

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

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

5 SECTION 1.39. Section 6.02(b), Tax Code, is amended to read  
6 as follows:

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

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

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

22 SECTION 1.40. Section 21.01, Tax Code, is amended to read as  
23 follows:

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

27 SECTION 1.41. Section 21.02(a), Tax Code, is amended to

1 read as follows:

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

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

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

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

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

19 SECTION 1.42. Section 26.05(a), Tax Code, is amended to  
20 read as follows:

21 (a) The governing body of each taxing unit, before the later  
22 of September 30 or the 60th day after the date the certified  
23 appraisal roll is received by the taxing unit, shall adopt a tax  
24 rate for the current tax year and shall notify the assessor for the  
25 unit of the rate adopted. The tax rate for a school district is the  
26 rate authorized by Section 45.003(b), Education Code, or Chapter  
27 46, Education Code. The tax rate for a taxing unit other than a

1 school district consists of two components, each of which must be  
2 approved separately. The components are:

3 (1) the rate that, if applied to the total taxable  
4 value, will impose the total amount published under Section  
5 26.04(e)(3)(C), less any amount of additional sales and use tax  
6 revenue that will be used to pay debt service; and

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

10 SECTION 1.43. Section 313.022(b), Tax Code, is amended to  
11 read as follows:

12 (b) For purposes of determining the required minimum amount  
13 of a qualified investment under Section 313.021(2)(A)(iv)(a), and  
14 the minimum amount of a limitation on appraised value under Section  
15 313.027(b), school districts to which this subchapter applies are  
16 categorized according to the taxable value of property in the  
17 district for the preceding tax year [~~determined under Subchapter M,~~  
18 ~~Chapter 403, Government Code~~], as follows:

CATEGORY	TAXABLE VALUE OF PROPERTY
I	\$10 billion or more
II	\$1 billion or more but less than \$10 billion
III	\$500 million or more but less than \$1 billion
IV	\$100 million or more but less than \$500 million
V	less than \$100 million

1 SECTION 1.44. Section 313.052, Tax Code, is amended to read  
2 as follows:

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

11	CATEGORY	TAXABLE VALUE OF INDUSTRIAL
12		PROPERTY
13	I	\$200 million or more
14	II	\$90 million or more but less than
15		\$200 million
16	III	\$1 million or more but less than \$90
17		million
18	IV	\$100,000 or more but less than \$1
19		million
20	V	less than \$100,000

21 SECTION 1.45. The following provisions of the Education  
22 Code are repealed:

23 (1) Sections 7.055(b)(34), 13.054(f) and (g),  
24 22.004(b)-(i), 29.203(g), 42.103(e), 42.158(e), 42.2511-42.2522,  
25 42.253(e), (e-1), and (f), 42.2531, 42.257, 42.259(a), (c), and  
26 (d), 42.260, 44.004(b)-(e), (h), and (i), 45.002, 45.003(d),  
27 45.006, 45.105(e), 46.009(f), 46.013, and 46.037;

1 (2) Subchapter F, Chapter 42; and

2 (3) 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. Section 39.901, Utilities Code, is repealed.

11 ARTICLE 2. UNIFORM GROUP BENEFITS PROGRAM FOR PUBLIC SCHOOL

12 EMPLOYEES

13 SECTION 2.01. Subtitle H, Title 8, Insurance Code, is  
14 amended by adding Chapter 1582 to read as follows:

15 CHAPTER 1582. TEXAS PUBLIC SCHOOL EMPLOYEES UNIFORM GROUP BENEFITS  
16 PROGRAM

17 Sec. 1582.001. SHORT TITLE. This chapter may be cited as  
18 the Texas Public School Employees Uniform Group Benefits Act.

19 Sec. 1582.002. DEFINITIONS. The definitions adopted under  
20 Chapter 1575 apply to this chapter.

21 Sec. 1582.003. UNIFORM GROUP BENEFITS PROGRAM ESTABLISHED.

22 (a) Notwithstanding any other law, the trustee shall:

23 (1) consolidate the programs administered under  
24 Chapters 1575-1579 and 1581 into one uniform group benefits program  
25 for active employees, retirees, and dependents of active employees  
26 and retirees; and

27 (2) administer the uniform group benefits program

1 established under Subsection (a)(1) in accordance with this code  
2 and all other applicable law.

3 (b) The uniform group benefits program established under  
4 Subsection (a) must provide coverage that is comparable to the  
5 basic coverage provided under Chapter 1551.

6 Sec. 1582.004. PARTICIPATION. Notwithstanding any other  
7 law, each public school participates in the consolidated uniform  
8 group benefits program under this chapter.

9 Sec. 1582.005. STATE CONTRIBUTION. The state shall  
10 contribute the amount specified by the General Appropriations Act  
11 to fund the coverage provided under this chapter in a manner  
12 analogous to that provided by Subchapter G, Chapter 1551.

13 Sec. 1582.006. RULES. The trustee shall adopt rules as  
14 necessary to implement this chapter.

15 ARTICLE 3. TAX

16 SECTION 3.01. Title 2, Tax Code, is amended by adding  
17 Subtitle L to read as follows:

18 SUBTITLE L. PERSONAL INCOME TAX

19 CHAPTER 261. PERSONAL INCOME TAX

20 SUBCHAPTER A. IMPOSITION OF TAX

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

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

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

27 (b) The tax rates for an individual are:

1           (1) one percent of the amount of taxable income that  
2 does not exceed \$25,000;

3           (2) \$250, plus an amount equal to two percent of the  
4 amount of taxable income that exceeds \$25,000 but does not exceed  
5 \$50,000;

6           (3) \$750, plus an amount equal to 3.5 percent of the  
7 amount of taxable income that exceeds \$50,000 but does not exceed  
8 \$75,000;

9           (4) \$1,625, plus an amount equal to five percent of the  
10 amount of taxable income that exceeds \$75,000 but does not exceed  
11 \$100,000;

12           (5) \$2,875, plus an amount equal to 6.5 percent of the  
13 amount of taxable income that exceeds \$100,000 but does not exceed  
14 \$150,000;

15           (6) \$6,125, plus an amount equal to seven percent of  
16 the amount of taxable income that exceeds \$150,000 but does not  
17 exceed \$200,000; and

18           (7) \$9,625, plus an amount equal to 7.5 percent of the  
19 amount of taxable income that exceeds \$200,000.

20           Sec. 261.002. JOINT RETURN. If persons subject to this tax  
21 file a joint federal income tax return with a spouse, they may file  
22 a joint return under this chapter but they may not combine their  
23 incomes for the purpose of determining the amount of tax owed. The  
24 separate incomes of each spouse are taxed as individual incomes  
25 under Section 261.001.

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

27           (1) an individual is a resident of this state if the



1 individual:

2 (A) is domiciled in this state, unless the  
3 individual does not maintain a permanent abode in this state and  
4 does maintain a permanent abode elsewhere and spends, in the  
5 aggregate, not more than 30 days of the tax year in this state; or

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

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

11 (b) Any term used in this chapter and not defined by or for  
12 purposes of this chapter has the same meaning as when used in a  
13 comparable context in the laws of the United States relating to  
14 federal income taxes, unless a different meaning is clearly  
15 required. Any reference in this chapter to federal law means the  
16 provisions of the Internal Revenue Code of 1986 in effect on  
17 December 31, 2005, and other provisions of federal laws relating to  
18 federal income taxes in effect on December 31, 2005.

19 [Sections 261.004-261.050 reserved for expansion]

20 SUBCHAPTER B. COMPUTATION OF TAXABLE INCOME

21 Sec. 261.051. TAXABLE INCOME. The taxable income of a  
22 resident of this state is the resident's federal adjusted gross  
23 income as defined by federal law minus an amount equal to the  
24 product of:

25 (1) \$3,200; and

26 (2) the number of deductions claimed on the resident's  
27 federal income tax return.

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

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

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

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

22       Sec. 261.054. NONRESIDENT INDIVIDUALS--TAXABLE INCOME.  
23 The taxable income of a nonresident individual is that part of the  
24 individual's federal adjusted gross income derived from sources in  
25 this state determined under Section 261.055.

26       Sec. 261.055. ADJUSTED GROSS INCOME FROM SOURCES IN THIS  
27 STATE--NONRESIDENT. (a) The adjusted gross income of a

1 nonresident derived from sources in this state is the net amount of  
2 items of income, gain, loss, and deduction entering into the  
3 nonresident's federal adjusted gross income that are derived from  
4 or connected with sources in this state, including:

5 (1) the nonresident's distributive share of  
6 partnership income and deductions determined under Section  
7 261.403; and

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

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

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

15 (2) a business, trade, profession, or occupation  
16 conducted in this state.

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

23 (d) Deductions for capital losses, net long-term capital  
24 gains, and net operating losses derived from or connected with  
25 sources in this state, are determined in the same manner as the  
26 corresponding federal deductions. However, the extent to which the  
27 deductions are derived from or connected with sources in this state

1 is determined under the comptroller's rules.

2 (e) For a nonresident individual who is a shareholder of a  
3 corporation that is an electing small business corporation for  
4 federal income tax purposes, the undistributed taxable income of  
5 the corporation does not constitute income derived from sources in  
6 this state and a net operating loss of the corporation does not  
7 constitute a loss or deduction connected with sources in this  
8 state.

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

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

17 [Sections 261.056-261.100 reserved for expansion]

18 SUBCHAPTER C. WITHHOLDING TAX

19 Sec. 261.101. EMPLOYER TO WITHHOLD TAX FROM WAGES. (a)  
20 Each employer maintaining an office or doing business in this state  
21 and making payment of wages taxable under this chapter to a resident  
22 or nonresident individual shall withhold from those wages for each  
23 payroll period a tax computed in a manner as to result, so far as  
24 practicable, in withholding from the employee's wages during each  
25 calendar year an amount equivalent to the amount of tax reasonably  
26 estimated to be due from the employee under this chapter from the  
27 amount of the wages paid by the employer and included in the

1 employee's adjusted gross income during the calendar year. The  
2 method of determining the amount to be withheld shall be prescribed  
3 by the comptroller's rules. Payments by the United States for  
4 service in the armed forces of the United States are not subject to  
5 state withholding.

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

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

1 the last day on which wages are paid to the employee.

2 Sec. 261.103. CREDIT FOR TAX WITHHELD. Wages on which the  
3 withholding tax applies are included fully as taxable income under  
4 this chapter as if no withholding were required. The amount of  
5 withholding tax actually withheld under this subchapter in a  
6 calendar year is considered to have been paid to the comptroller on  
7 behalf of the employee from whom withheld, and the employee shall be  
8 credited with having paid that amount of tax for the tax year in  
9 which the wages are taxed. For a tax year of less than 12 months,  
10 the credit shall be made under rules of the comptroller.

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

1 an employer to file a withholding return on or before July 31 for  
2 the semiannual period ending on June 30 and on or before January 31  
3 of the succeeding year for the semiannual period ending on December  
4 31. The comptroller may, if it is necessary for the protection of  
5 the revenue, require an employer to make a return and pay to the  
6 comptroller the tax withheld at any time. If the amount of wages  
7 paid by an employer is not sufficient under this chapter to require  
8 the withholding of tax from the wages of any of the employer's  
9 employees, the comptroller by rule may permit the employer to file  
10 an annual return on or before January 31 of the succeeding calendar  
11 year.

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

21 Sec. 261.105. EMPLOYER'S LIABILITY FOR WITHHELD TAXES. An  
22 employer required to withhold a tax under this chapter is liable for  
23 the tax. For purposes of assessment and collection, any amount  
24 required to be withheld and paid to the comptroller, and any  
25 additions to tax, penalties, and interest with respect to it, is the  
26 tax of the employer. Any amount of tax actually deducted and  
27 withheld under this chapter shall be held to be a special fund in

1 trust for the comptroller. An employee does not have a right of  
2 action against his employer in respect to money withheld from the  
3 employee's wages and paid to the comptroller in compliance or in  
4 intended compliance with this chapter.

5 Sec. 261.106. EMPLOYER'S FAILURE TO WITHHOLD. If an  
6 employer fails to withhold tax as required, and thereafter the tax  
7 against which that tax may be credited is paid, the tax so required  
8 to be withheld may not be collected from the employer, but the  
9 employer is liable for additions to tax, penalties, or interest  
10 otherwise applicable resulting from a failure to withhold.

11 [Sections 261.107-261.200 reserved for expansion]

12 SUBCHAPTER D. ACCOUNTING PERIODS AND METHODS

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

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

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

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

27 (b) If a taxpayer's method of accounting is changed for



1 federal income tax purposes, the taxpayer's method of accounting  
2 for purposes of this chapter is changed in the same manner.

3 Sec. 261.203. ADJUSTMENTS. In computing a taxpayer's  
4 taxable income for any tax year under a method of accounting  
5 different from the method under which the taxpayer's taxable income  
6 for the previous year was computed, there shall be taken into  
7 account those adjustments that are determined, under rules  
8 prescribed by the comptroller, to be necessary solely by reason of  
9 the change in order to prevent amounts from being duplicated or  
10 omitted.

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

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

26 [Sections 261.205-261.400 reserved for expansion]

1                   SUBCHAPTER E. PARTNERS AND PARTNERSHIPS

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

6                   Sec. 261.402. RESIDENT PARTNER--ADJUSTED GROSS INCOME. (a)  
7 Partnership income, gain, loss, or deduction shall be allocated in  
8 accordance with each partner's distributive share for federal  
9 income tax purposes.

10                   (b) Each item of partnership income, gain, loss, or  
11 deduction has the same character for a partner under this chapter as  
12 it has for federal income tax purposes. If an item is not  
13 characterized for federal income tax purposes, it has the same  
14 character for a partner as if realized directly from the source from  
15 which realized by the partnership or incurred in the same manner as  
16 incurred by the partnership.

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

1       Sec. 261.403. NONRESIDENT PARTNER--ADJUSTED GROSS INCOME  
2 FROM SOURCES IN THIS STATE. (a) In determining the adjusted gross  
3 income of a nonresident partner of any partnership, there shall be  
4 included only that part derived from or connected with sources in  
5 this state of the partner's distributive share of items of  
6 partnership income, gain, loss, and deduction entering into the  
7 partner's federal adjusted gross income, as that part is determined  
8 under rules adopted by the comptroller and consistent with the  
9 rules adopted under Section 261.055.

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

13           (1) characterizes payments to the partner as being for  
14 services or for the use of capital, or allocates to the partner, as  
15 income or gain from sources outside this state, a greater  
16 proportion of the partner's distributive share of partnership  
17 income or gain than the ratio of partnership income or gain from  
18 sources outside this state to partnership income or gain from all  
19 sources; or

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

24       (c) The comptroller may, on application, authorize the use  
25 of other methods of determining a nonresident partner's portion of  
26 partnership items derived from or connected with sources in this  
27 state, and the modifications related to it, that are appropriate

1 and equitable, on terms the comptroller may require.

2 (d) A nonresident partner's distributive share of items of  
3 income, gain, loss, or deduction is determined under Section  
4 261.402(a). The character of partnership items for a nonresident  
5 partner is determined under Section 261.402(b). The effect of a  
6 special provision in a partnership agreement, other than a  
7 provision described by Subsection (b), having as a principal  
8 purpose the avoidance or evasion of tax under this chapter is  
9 determined under Section 261.402(c).

10 [Sections 261.404-261.500 reserved for expansion]

11 SUBCHAPTER F. TAX RETURNS AND PAYMENTS

12 Sec. 261.501. PERSONS REQUIRED TO MAKE RETURNS OF INCOME. A  
13 state income tax return shall be made by every individual who has  
14 adjusted gross income from sources in this state, except that the  
15 comptroller by rule may prescribe minimum gross income amounts to  
16 exempt individuals from this requirement.

17 Sec. 261.502. RETURNS BY FIDUCIARIES. (a) An income tax  
18 return for a deceased individual shall be made and filed by the  
19 executor, administrator, or other person charged with the care of  
20 the property of the decedent. A final return of a decedent is due  
21 when it would have been due if the decedent had not died.

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

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

3       Sec. 261.503. NOTICE OF QUALIFICATION AS RECEIVER. A  
4 receiver, trustee in bankruptcy, assignee for benefit of creditors,  
5 or other similar fiduciary shall give notice of the person's  
6 qualification to the comptroller, as may be required by rule.

7       Sec. 261.504. CHANGE OF STATUS AS RESIDENT OR NONRESIDENT  
8 DURING YEAR. (a) If the status of an individual changes during the  
9 individual's tax year from resident to nonresident or from  
10 nonresident to resident, the comptroller by rule may require the  
11 individual to file one return for the portion of the year during  
12 which the individual is a resident and one for the portion of the  
13 year during which the individual is a nonresident.

14       (b) Except as provided by Subsection (c), the taxable income  
15 of an individual is determined as provided by Section 261.051 for  
16 residents and Section 261.054 for nonresidents as if the  
17 individual's tax year for federal income tax purposes were limited  
18 to the period of the individual's resident and nonresident status  
19 respectively.

20       (c) There shall be included in determining taxable income  
21 from sources in or outside this state, as the case may be, income,  
22 gain, loss, or deduction accrued prior to the change of status even  
23 though not otherwise includable or allowable in respect to the  
24 period before the change, but the taxation or deduction of items  
25 accrued before the change of status is not affected by the change.

26       (d) If two returns are required to be filed under this  
27 section, the total of the taxes due may not be less than would be due

1 if the total of the taxable incomes reported on the two returns were  
2 includable in one return.

3 Sec. 261.505. TIME AND PLACE FOR FILING RETURNS AND PAYING  
4 TAX. The income tax return required by this chapter shall be filed  
5 not later than the 15th day of the fourth month following the end of  
6 the taxpayer's tax year. A person required to make and file a  
7 return under this chapter shall pay a tax due to the comptroller not  
8 later than the last day that the filing of the return is allowed  
9 without penalty, excluding an extension of time for filing the  
10 return. The comptroller by rule shall prescribe the place for  
11 filing a return, statement, or other document required by this  
12 chapter and for the payment of a tax.

13 Sec. 261.506. ESTIMATED TAX. (a) An individual subject to  
14 the income tax imposed by this chapter shall make estimated  
15 payments of the tax. Section 6654, Internal Revenue Code of 1986,  
16 other than Subsections (a), (b), (d)(2), and (e) of that section,  
17 governing the payment of estimated federal income taxes on  
18 individuals applies to the payments required by this section,  
19 including exemptions from the estimated tax payment requirement. A  
20 reference in that section to the federal income tax imposed on  
21 individuals is construed as a reference to the tax imposed by this  
22 chapter as required to administer this section. A power or duty  
23 given by Section 6654, Internal Revenue Code of 1986, to the United  
24 States secretary of the treasury is assigned to the comptroller for  
25 purposes of the estimated payments required by this section.

26 (b) The comptroller shall adopt rules for the  
27 administration of this section.

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

3        Sec. 261.507. EXTENSION OF TIME FOR FILING AND PAYMENT. (a)  
4 The comptroller, on terms the comptroller may require, may grant a  
5 reasonable extension of time for payment of tax or an installment,  
6 or for filing a return, statement, or other document required under  
7 this chapter. Except for an extension for a taxpayer who is outside  
8 the United States, an extension for filing a return, statement, or  
9 document may not exceed six months.

10       (b) If the time for the payment of an amount of tax is  
11 extended, the comptroller may require the taxpayer to furnish a  
12 bond or other security in an amount not exceeding twice the amount  
13 of tax for which the extension of time for payment is granted, on  
14 terms the comptroller may require.

15       Sec. 261.508. CHANGE OF ELECTION. An election expressly  
16 authorized by this chapter may be changed as authorized by the  
17 comptroller or by the comptroller's rule.

18       Sec. 261.509. SIGNING OF RETURNS AND OTHER DOCUMENTS. (a)  
19 A return, statement, or other document required to be made or filed  
20 under this chapter shall be signed as provided by the comptroller.  
21 An individual's name signed to a return, statement, or other  
22 document is prima facie evidence that the individual signed the  
23 return, statement, or other document.

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

1 partnership.

2 (c) The making or filing of a return, statement, or other  
3 document or copy required to be made or filed under this chapter,  
4 including a copy of a federal return, constitutes a certification  
5 by the person making or filing the return, statement, or other  
6 document or copy that the statements contained in it are true and  
7 that a copy filed is a true copy.

8 [Sections 261.510-261.520 reserved for expansion]

9 SUBCHAPTER G. INFORMATION RETURNS

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

18 Sec. 261.522. PARTNERSHIP RETURN. Each partnership having  
19 a resident partner or having income derived from sources in this  
20 state, determined in accordance with the applicable rules  
21 prescribed by Section 261.055 as in the case of a nonresident  
22 individual, shall make a return for the tax year stating all items  
23 of income, gain, loss, and deduction, and the names and addresses of  
24 the individuals, whether residents or nonresidents, who would be  
25 entitled to share in the net income if distributed and the amount of  
26 the distributive share of each individual, and other relevant  
27 information the comptroller requires. The return must be filed not



1 later than the 15th day of the fourth month following the end of  
2 each tax year. For purposes of this section, "tax year" means a  
3 year or period that would be a tax year of the partnership if it were  
4 subject to tax under this chapter.

5 Sec. 261.523. INFORMATION RETURNS. The comptroller by rule  
6 may require returns of information to be made and filed not later  
7 than February 28 of each year by a person making payment or  
8 crediting in a calendar year the amount of \$600 or more (\$10 or more  
9 in the case of interest or dividends) to a person who may be subject  
10 to the tax imposed under this chapter. The returns may be required  
11 of any person, including a lessee or mortgagor of real or personal  
12 property, a fiduciary, an employer, and an officer or employee of  
13 this state, or of any municipality or other political subdivision  
14 of this state, having the control, receipt, custody, disposal, or  
15 payment of dividends, interest, rents, salaries, wages, premiums,  
16 annuities, compensations, remunerations, emoluments, or other  
17 fixed or determinable gains, profits, or income, except interest  
18 coupons payable to bearer. A copy of the withholding statement  
19 required to be furnished by an employer to an employee constitutes  
20 the return of information required to be made under this section for  
21 wages.

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

23 (a) If the amount of a taxpayer's federal taxable income reported  
24 on the taxpayer's federal income tax return for a tax year is  
25 changed or corrected by the United States Internal Revenue Service  
26 or other competent authority, or as the result of a renegotiation of  
27 a contract or subcontract with the United States, the taxpayer

1 shall:

2 (1) report the change or correction in federal taxable  
3 income not later than the 90th day after the final determination of  
4 the change, correction, or renegotiation, or as required by the  
5 comptroller; and

6 (2) concede the accuracy of the determination or state  
7 in what way it is erroneous.

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

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

14 [Sections 261.525-261.600 reserved for expansion]

15 SUBCHAPTER H. ADDITIONS TO TAX; PENALTIES

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

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

22 (2) if the return is filed later than the 30th day  
23 after the prescribed date, but not later than the 60th day after the  
24 prescribed date, 10 percent;

25 (3) if the return is filed later than the 60th day  
26 after the prescribed date, but not later than the 90th day after the  
27 prescribed date, 15 percent;

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

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

6           (b) The prescribed date is determined with regard to an  
7 extension of time for filing.

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

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

17           Sec. 261.602. FAILURE TO FILE INFORMATION RETURN. (a) A  
18 person who does not file a statement of payment to another person as  
19 required by this chapter or a duplicate statement of tax withheld on  
20 wages on or before the prescribed date for filing shall, after  
21 notice and demand by the comptroller, pay a penalty of \$5 for each  
22 statement not timely filed.

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

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

27           (d) The penalty required by this section is not applicable

1 if the person required to file the statement shows that the failure  
2 to file did not result from wilful neglect and that there was good  
3 cause for the failure.

4 Sec. 261.603. FAILURE TO PAY TAX. (a) A person who does not  
5 pay any amount of tax owed by the person on the prescribed date  
6 shall pay, in addition to all other penalties and interest, a  
7 penalty of 10 percent of the amount of the tax due and owing on the  
8 prescribed date.

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

11 (c) A failure to pay all or part of an estimated tax is  
12 considered to be an underpayment of estimated tax. The comptroller  
13 by rule shall prescribe the method of determining the amount and  
14 period of underpayment.

15 Sec. 261.604. FAILURE TO PAY WITHHOLDING TAX. (a) An  
16 employer who fails to pay the tax withheld by the employer or  
17 required to be withheld by the employer at the time required by this  
18 chapter is liable for the amount of the unpaid tax in addition to  
19 the amount of the penalty prescribed by Section 261.603 together  
20 with interest on the full amount of tax and penalty due.

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

23 (c) The comptroller has the same rights and powers for the  
24 collection of the tax, penalties, and interest against an employer  
25 as are prescribed for the collection of the tax against an  
26 individual.

27 Sec. 261.605. PENALTIES AND INTEREST TREATED AS TAX. The

1 penalties and interest provided by this subchapter shall be paid on  
2 notice and demand and shall be assessed, collected, and paid in the  
3 same manner as other taxes. The comptroller may issue a deficiency  
4 notice for all or part of a penalty or interest along with or  
5 separate from the amount of tax owed in absence of penalties or  
6 interest.

7 [Sections 261.606-261.630 reserved for expansion]

8 SUBCHAPTER I. CREDITS AND REFUNDS

9 Sec. 261.631. CREDITS AND REFUNDS. (a) Within the  
10 applicable period of limitations the comptroller may credit an  
11 overpayment of income tax and interest on the overpayment against a  
12 liability of a tax imposed by the tax laws of this state on the  
13 person who made the overpayment, and the balance shall be refunded  
14 by the comptroller out of the proceeds of the tax retained by the  
15 comptroller.

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

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

23 (d) The comptroller may prescribe rules providing for  
24 crediting against the estimated tax for a tax year the amount  
25 determined to be an overpayment of the income tax for a preceding  
26 tax year.

27 (e) If an amount of income tax is assessed and collected

1 after the expiration of the period of limitations properly  
2 applicable, the amount is an overpayment.

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

7 (b) The comptroller may abate the unpaid portion of a tax or  
8 a tax liability if the comptroller determines under uniform rules  
9 prescribed by the comptroller that the administration and  
10 collection costs involved would not warrant collection of the  
11 amount due.

12 Sec. 261.633. EXTENDED LIMITATION PERIOD. (a) If a  
13 taxpayer is required by Section 261.524 to report a change or  
14 correction in federal taxable income reported on a federal income  
15 tax return, or to report a change or correction that is treated in  
16 the same manner as if it were an overpayment for federal income tax  
17 purposes, or to file an amended return with the comptroller, a claim  
18 for credit or refund of a resulting overpayment of tax must be filed  
19 by the taxpayer not later than the second anniversary of the date  
20 the notice of the change or correction or the amended return was  
21 required to be filed with the comptroller. If the report or amended  
22 return required by Section 261.524 is not filed within the period  
23 prescribed by that section, interest on a resulting refund or  
24 credit ceases to accrue after the period. The amount of credit or  
25 refund may not exceed the amount of the reduction in tax  
26 attributable to the federal change, correction, or items amended on  
27 the taxpayer's amended federal income tax return. This subsection

1 does not affect the time within which or the amount for which a  
2 claim for credit or refund may be filed under a provision other than  
3 this section.

4 (b) If a claim for credit or refund relates to an  
5 overpayment of tax on account of the deductibility by the taxpayer  
6 of a debt as a debt that became worthless or a loss from  
7 worthlessness of a security or the effect that the deductibility of  
8 a debt or of a loss has on the application to the taxpayer of a  
9 carryover, the claim may be made, under rules adopted by the  
10 comptroller, not later than the seventh anniversary of the date  
11 prescribed by law for filing the return for the year with respect to  
12 which the claim is made.

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

19 [Sections 261.634-261.650 reserved for expansion]

20 SUBCHAPTER J. MISCELLANEOUS ENFORCEMENT PROVISIONS

21 Sec. 261.651. TAXPAYER NOT RESIDENT. If notice and demand  
22 for the payment of a tax is given to a nonresident and it appears to  
23 the comptroller that it is not practicable to locate property of the  
24 taxpayer sufficient in amount to cover the amount of tax due, the  
25 comptroller may authorize the institution of any available action  
26 or proceeding to collect or enforce the claim in any place by any  
27 procedure by which a civil judgment of a court of record of this

1 state could be collected or enforced. The comptroller may  
2 designate agents or retain counsel outside this state for the  
3 purpose of collecting taxes due under this chapter and require of  
4 them bonds or other security for the faithful performance of their  
5 duties. The comptroller may enter into agreements with the tax  
6 department of another state for the collection of taxes from  
7 persons found in this state who are delinquent in the payment of  
8 income taxes imposed by that state on condition that the agreeing  
9 state afford similar assistance in the collection of taxes from  
10 persons found in that state who are delinquent in the payment of  
11 taxes imposed by this chapter.

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

22 Sec. 261.653. ORDER TO COMPEL COMPLIANCE. (a) On  
23 application of the attorney general, a judge of a court of  
24 appropriate jurisdiction for the county in which a taxpayer or  
25 other person who intentionally or knowingly refuses to file a tax  
26 return required by this chapter may, by order, direct the person to  
27 file the return. A person who fails or refuses to obey the order is



1 guilty of contempt of court.

2 (b) If any person intentionally or knowingly refuses to make  
3 available any books, papers, records, or memorandums for  
4 examination by the comptroller or wilfully refuses to attend and  
5 testify, in accordance with the powers conferred on the comptroller  
6 by Chapter 111, on application of the comptroller, a judge in the  
7 court of appropriate jurisdiction for the county where the person  
8 resides may by order direct the person to comply with the  
9 comptroller's request for books, papers, records, or memorandums or  
10 for the person's attendance and testimony. If the books, papers,  
11 records, or memorandums required by the comptroller are in the  
12 custody of a corporation, the order of the court may be directed to  
13 any principal officer of the corporation. A person who fails or  
14 refuses to obey the order is guilty of contempt of court.

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

23 (b) The period of limitation for assessment of liability of  
24 a transferee is:

25 (1) the first anniversary of the expiration of the  
26 period of limitation against the initial transferor if the  
27 transferee is the initial transferee;

1           (2) the first anniversary of the expiration of the  
2 period of limitation against the preceding transferee, but not  
3 later than the third anniversary of the expiration of the period of  
4 limitation for assessment against the initial transferor, if the  
5 transferee is not the initial transferee; or

6           (3) notwithstanding Subdivisions (1) and (2), if  
7 before the expiration of the period of limitation under Subdivision  
8 (1) or (2) a proceeding for the collection of the liability has been  
9 begun against the initial transferor or the last preceding  
10 transferee, respectively, the first anniversary of the date on  
11 which the proceeding is terminated.

12           (c) If, before the expiration of the period of limitation  
13 applicable to a transferee, the comptroller and the transferee  
14 consent in writing to an assessment after that time, the liability  
15 may be assessed at any time before the expiration of the agreed  
16 period. The period of limitation on credit or refund to the  
17 transferee of overpayments of tax made by the transferee or of  
18 overpayments of tax made by the transferor of which the transferee  
19 is legally entitled to credit or refund is extended by an agreement  
20 under this subsection and any extension of the agreement.

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

24           Sec. 261.655. JEOPARDY DETERMINATIONS. (a) If the  
25 comptroller issues a jeopardy determination for a tax for a current  
26 period, the comptroller shall terminate the tax period of the  
27 taxpayer immediately, and the notice and demand for a return and

1 immediate payment of the tax shall apply to the terminated period  
2 and to income accrued and deductions incurred on or before  
3 termination date if not otherwise properly includable or deductible  
4 for the period.

5 (b) The comptroller may abate the jeopardy determination if  
6 the comptroller finds that jeopardy does not exist.

7 Sec. 261.656. BANKRUPTCY OR RECEIVERSHIP. (a) On the  
8 adjudication of bankruptcy of any taxpayer in any bankruptcy  
9 proceeding or the appointment of a receiver for any taxpayer in any  
10 receivership proceeding before any court of the United States or  
11 any state or territory, any deficiency, together with additions to  
12 tax and interest provided by law, determined by the comptroller may  
13 be immediately assessed.

14 (b) Claims for the deficiency and additions to tax and  
15 interest may be presented, for adjudication in accordance with law,  
16 to the court before which the bankruptcy or receivership proceeding  
17 is pending, despite the pendency of any protest before the  
18 comptroller. A protest against a proposed assessment may not be  
19 filed with the comptroller after the adjudication of bankruptcy or  
20 appointment of the receiver.

21 Sec. 261.657. EVIDENCE OF RELATED FEDERAL DETERMINATION.  
22 Evidence of a federal determination relevant to the taxes imposed  
23 by this chapter is admissible in an administrative or judicial  
24 proceeding relating to those taxes.

25 [Sections 261.658-261.670 reserved for expansion]

26 SUBCHAPTER K. OFFENSES

27 Sec. 261.671. ATTEMPT TO EVADE OR DEFEAT TAX. (a) A person

1 commits an offense if the person intentionally or knowingly  
2 attempts in any manner to evade or defeat a tax imposed by this  
3 chapter or the payment of tax imposed by this chapter.

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

6 Sec. 261.672. FAILURE TO COLLECT OR PAY. (a) A person  
7 commits an offense if the person is required under this chapter to  
8 collect, truthfully account for, and pay a tax imposed by this  
9 chapter and the person intentionally or knowingly fails to collect  
10 or truthfully account for and pay the tax.

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

13 Sec. 261.673. FAILURE TO FILE RETURN, SUPPLY INFORMATION,  
14 OR PAY TAX. (a) A person commits an offense if the person is  
15 required under this chapter to pay a tax, or required by this  
16 chapter or rule adopted under this chapter to make a return, to keep  
17 records, or to supply information, and the person intentionally or  
18 knowingly fails to pay the tax, make the return, keep the records,  
19 or supply the information at the time or times required by law.

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

21 [Sections 261.674-261.680 reserved for expansion]

22 SUBCHAPTER L. POWERS OF COMPTROLLER

23 Sec. 261.681. COOPERATION WITH OTHER JURISDICTIONS. The  
24 comptroller may permit the United States secretary of the treasury  
25 or the secretary's delegate, or the proper officer of any state or  
26 other jurisdiction imposing an income tax on the incomes of  
27 individuals, or the authorized representative of either officer, to

1 inspect the income tax returns of an individual, or may furnish to  
2 the officer or authorized representative an abstract of the return  
3 of income of an individual or supply the officer with information  
4 concerning an item of income contained in a return, or disclosed by  
5 the report of an investigation of the income or return of income of  
6 an individual, but permission may be granted only if the statutes of  
7 the United States or of the other jurisdiction, as applicable,  
8 grant substantially similar privileges to the comptroller.

9 Sec. 261.682. COOPERATION WITH OTHER TAX OFFICIALS OF THIS  
10 STATE. The comptroller may permit other tax officials of this state  
11 to inspect tax returns and reports filed under this chapter but the  
12 inspection shall be permitted only for purposes of enforcing a tax  
13 law and only to the extent and under the conditions prescribed by  
14 rule of the comptroller.

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

25 Sec. 261.684. ARMED FORCES RELIEF PROVISIONS. (a) The  
26 period of service in the armed forces of the United States in a  
27 combat zone plus a period of continuous hospitalization outside

1 this state attributable to that service plus the next 180 days shall  
2 be disregarded in determining, under rules of the comptroller,  
3 whether an act required by this chapter was performed by a taxpayer  
4 or the taxpayer's representative within the time prescribed.

5 (b) If an individual dies during an induction period while  
6 in active service as a member of the armed forces of the United  
7 States and the death occurred while the individual was serving in a  
8 combat zone or as a result of wounds, disease, or injury incurred  
9 while serving, the tax imposed by this chapter does not apply to the  
10 tax year in which the individual dies or to any prior tax year  
11 ending on or after the first day the individual so served in a  
12 combat zone.

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

18 SECTION 3.02. Section 111.201, Tax Code, is amended to read  
19 as follows:

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

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

25 SECTION 3.03. (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, 2006, because  
6 those adjustments may have accrued or otherwise originated before  
7 the effective date of this article.

8           (c) In 2006, the comptroller by rule may suspend the  
9 application of Section 261.506, 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 4. EFFECTIVE DATE

13           SECTION 4.01. (a) Except as provided by Subsection (b) of  
14 this section and subject to Subsection (c) of this section, this Act  
15 takes effect January 1, 2006, only if a constitutional amendment  
16 that provides for the approval of the income tax imposed by this Act  
17 is approved by the voters at an election to be held November 8,  
18 2005.

19           (b) Subject to Subsection (c) of this section, Article 2 of  
20 this Act takes effect September 1, 2006, only if a constitutional  
21 amendment that provides for the approval of the income tax imposed  
22 by this Act is approved by the voters at an election to be held  
23 November 8, 2005.

24           (c) If the constitutional amendment that provides for the  
25 approval of the income tax imposed by this Act is not approved by  
26 the voters, this Act has no effect.