

By: Rodriguez

H.B. No. 21

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,

25.086, and 25.087;

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

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

(H) high school graduation under Section 28.025;

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

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

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

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

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

(N) extracurricular activities under Section 33.081;

(O) health and safety under Chapter 38;

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

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

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

(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

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

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

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

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

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

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

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

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

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

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

(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,~~

~~Government Code~~].

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

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

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

where:

"MS" is the minimum monthly salary;

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

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

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

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

~~["FS" is the amount, as determined by the commissioner under Subsection (b), of state and local funds per weighted student available to a district eligible to receive state assistance under 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~~

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

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

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

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

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

~~combination provide]~~ for:

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

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

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

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

(c) The funding elements must include:

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

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

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

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

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

~~Subchapter F,~~

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

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

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

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

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

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

(b) The program shall be financed by:

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

~~[(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~~

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

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

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

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

(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
$$\text{EDA} = (\text{EDGL} \times \text{ADA} \times \text{EDTR} \times 100) - (\text{EDTR} \times (\text{DPV}/100))$$

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

subsection.

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

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

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

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

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

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

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

22.0512, or 22.052;

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

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

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

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

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

(a) The comptroller shall conduct an annual study in each 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, as amended by
20 S.B. No. 1652, Acts of the 79th Legislature, Regular Session, 2005,
21 is amended to read as follows:

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

1 46, Education Code. The tax rate for a taxing unit other than a
2 school district consists of two components, each of which must be
3 approved separately. The components are:

4 (1) for a taxing unit other than a school district, the
5 rate that, if applied to the total taxable value, will impose the
6 total amount published under Section 26.04(e)(3)(C), less any
7 amount of additional sales and use tax revenue that will be used to
8 pay debt service, or, for a school district, the rate published
9 under Section 44.004(c)(2)(A)(ii)(b), Education Code; and

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

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

15 (b) For purposes of determining the required minimum amount
16 of a qualified investment under Section 313.021(2)(A)(iv)(a), and
17 the minimum amount of a limitation on appraised value under Section
18 313.027(b), school districts to which this subchapter applies are
19 categorized according to the taxable value of property in the
20 district for the preceding tax year [~~determined under Subchapter M,~~
21 ~~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

1 IV \$100 million or more but less than
2 \$500 million
3 V less than \$100 million

4 SECTION 1.44. Section 313.052, Tax Code, is amended to read
5 as follows:

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

CATEGORY	TAXABLE VALUE OF INDUSTRIAL PROPERTY
I	\$200 million or more
II	\$90 million or more but less than \$200 million
III	\$1 million or more but less than \$90 million
IV	\$100,000 or more but less than \$1 million
V	less than \$100,000

24 SECTION 1.45. The following provisions of the Education
25 Code are repealed:

26 (1) Sections 7.055(b)(34), 13.054(f) and (g),
27 22.004(b)-(i), 29.203(g), 42.103(e), 42.158(e), 42.2511-42.2522,

1 42.253(e), (e-1), and (f), 42.2531, 42.257, 42.259(a), (c), and
2 (d), 42.260, 44.004(b)-(e), (h), and (i), 45.002, 45.003(d),
3 45.006, 45.105(e), 46.009(f), 46.013, and 46.037;

4 (2) Subchapter F, Chapter 42; and

5 (3) Chapter 41.

6 SECTION 1.46. The following provisions of the Government
7 Code are repealed:

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

9 (2) Subchapter M, Chapter 403.

10 SECTION 1.47. The following sections of the Tax Code are
11 repealed: 6.02(g), 6.03(m), 21.02(b) and (c), 25.25(k), 26.012(5),
12 26.08, and 26.085.

13 SECTION 1.48. Section 39.901, Utilities Code, is repealed.

14 ARTICLE 2. UNIFORM GROUP BENEFITS PROGRAM FOR PUBLIC SCHOOL
15 EMPLOYEES

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

18 CHAPTER 1582. TEXAS PUBLIC SCHOOL EMPLOYEES UNIFORM GROUP BENEFITS
19 PROGRAM

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

22 Sec. 1582.002. DEFINITIONS. The definitions adopted under
23 Chapter 1575 apply to this chapter.

24 Sec. 1582.003. UNIFORM GROUP BENEFITS PROGRAM ESTABLISHED.
25 (a) Notwithstanding any other law, the trustee shall:

26 (1) consolidate the programs administered under
27 Chapters 1575, 1576, 1578, 1579, and 1581 into one uniform group

benefits program for active employees, retirees, and dependents of active employees and retirees; and

(2) administer the uniform group benefits program established under Subsection (a)(1) in accordance with this code and all other applicable law.

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

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

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

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

ARTICLE 3. TAX

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

SUBTITLE L. PERSONAL INCOME TAX

CHAPTER 261. PERSONAL INCOME TAX

SUBCHAPTER A. IMPOSITION OF TAX

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

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

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

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

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

6 (2) \$250, plus an amount equal to two percent of the
7 amount of taxable income that exceeds \$25,000 but does not exceed
8 \$50,000;

9 (3) \$750, plus an amount equal to 3.5 percent of the
10 amount of taxable income that exceeds \$50,000 but does not exceed
11 \$75,000;

12 (4) \$1,625, plus an amount equal to five percent of the
13 amount of taxable income that exceeds \$75,000 but does not exceed
14 \$100,000;

15 (5) \$2,875, plus an amount equal to 6.5 percent of the
16 amount of taxable income that exceeds \$100,000 but does not exceed
17 \$150,000;

18 (6) \$6,125, plus an amount equal to seven percent of
19 the amount of taxable income that exceeds \$150,000 but does not
20 exceed \$200,000; and

21 (7) \$9,625, plus an amount equal to 7.5 percent of the
22 amount of taxable income that exceeds \$200,000.

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

1 under Section 261.001.

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

3 (1) an individual is a resident of this state if the
4 individual:

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

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

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

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

22 [Sections 261.004-261.050 reserved for expansion]

23 SUBCHAPTER B. COMPUTATION OF TAXABLE INCOME

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

1 (1) \$3,200; and
2 (2) the number of deductions claimed on the resident's
3 federal income tax return.

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

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

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

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

25 Sec. 261.054. NONRESIDENT INDIVIDUALS--TAXABLE INCOME.
26 The taxable income of a nonresident individual is that part of the
27 individual's federal adjusted gross income derived from sources in

1 this state determined under Section 261.055.

2 Sec. 261.055. ADJUSTED GROSS INCOME FROM SOURCES IN THIS
3 STATE--NONRESIDENT. (a) The adjusted gross income of a
4 nonresident derived from sources in this state is the net amount of
5 items of income, gain, loss, and deduction entering into the
6 nonresident's federal adjusted gross income that are derived from
7 or connected with sources in this state, including:

8 (1) the nonresident's distributive share of
9 partnership income and deductions determined under Section
10 261.403; and

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

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

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

18 (2) a business, trade, profession, or occupation
19 conducted in this state.

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

26 (d) Deductions for capital losses, net long-term capital
27 gains, and net operating losses derived from or connected with

1 sources in this state, are determined in the same manner as the
2 corresponding federal deductions. However, the extent to which the
3 deductions are derived from or connected with sources in this state
4 is determined under the comptroller's rules.

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

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

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

20 [Sections 261.056-261.100 reserved for expansion]

21 SUBCHAPTER C. WITHHOLDING TAX

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

1 calendar year an amount equivalent to the amount of tax reasonably
2 estimated to be due from the employee under this chapter from the
3 amount of the wages paid by the employer and included in the
4 employee's adjusted gross income during the calendar year. The
5 method of determining the amount to be withheld shall be prescribed
6 by the comptroller's rules. Payments by the United States for
7 service in the armed forces of the United States are not subject to
8 state withholding.

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

20 Sec. 261.102. INFORMATION STATEMENT FOR EMPLOYEE. An
21 employer required to withhold the tax under Section 261.101 from
22 the wages of an employee shall furnish to each employee from whom
23 the employer withheld the tax during the calendar year a written
24 statement as prescribed by rule showing the amount of wages paid by
25 the employer to the employee, the amount deducted and withheld as
26 tax, and other information the comptroller prescribes. The
27 withholding statement shall be given to the employee from whom the

1 tax is withheld on or before February 15 of the year succeeding the
2 calendar year in which the withholding occurs or, if the employee's
3 employment ends during the calendar year, before the 31st day after
4 the last day on which wages are paid to the employee.

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

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

1 quarterly withholding return required by this section. If the
2 amount required to be deducted and withheld by an employer is less
3 than \$100 in a calendar quarter, the comptroller by rule may permit
4 an employer to file a withholding return on or before July 31 for
5 the semiannual period ending on June 30 and on or before January 31
6 of the succeeding year for the semiannual period ending on December
7 31. The comptroller may, if it is necessary for the protection of
8 the revenue, require an employer to make a return and pay to the
9 comptroller the tax withheld at any time. If the amount of wages
10 paid by an employer is not sufficient under this chapter to require
11 the withholding of tax from the wages of any of the employer's
12 employees, the comptroller by rule may permit the employer to file
13 an annual return on or before January 31 of the succeeding calendar
14 year.

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

24 Sec. 261.105. EMPLOYER'S LIABILITY FOR WITHHELD TAXES. An
25 employer required to withhold a tax under this chapter is liable for
26 the tax. For purposes of assessment and collection, any amount
27 required to be withheld and paid to the comptroller, and any

additions to tax, penalties, and interest with respect to it, is the tax of the employer. Any amount of tax actually deducted and withheld under this chapter shall be held to be a special fund in trust for the comptroller. An employee does not have a right of action against his employer in respect to money withheld from the employee's wages and paid to the comptroller in compliance or in intended compliance with this chapter.

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

[Sections 261.107-261.200 reserved for expansion]

SUBCHAPTER D. ACCOUNTING PERIODS AND METHODS

Sec. 261.201. PERIOD FOR COMPUTATION OF TAXABLE INCOME.

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

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

Sec. 261.202. METHODS OF ACCOUNTING. (a) A taxpayer's method of accounting is the same as the taxpayer's method of accounting for federal income tax purposes. If a single method of accounting has not been regularly used by the taxpayer, taxable income for purposes of this chapter shall be computed under any

1 method that in the opinion of the comptroller fairly reflects
2 income.

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

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

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

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

1 rules adopted by the comptroller.

2 [Sections 261.205-261.400 reserved for expansion]

3 SUBCHAPTER E. PARTNERS AND PARTNERSHIPS

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

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

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

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

1 requiring separate computation under Section 702, Internal Revenue
2 Code of 1986.

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

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

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

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

26 (c) The comptroller may, on application, authorize the use
27 of other methods of determining a nonresident partner's portion of

1 partnership items derived from or connected with sources in this
2 state, and the modifications related to it, that are appropriate
3 and equitable, on terms the comptroller may require.

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

12 [Sections 261.404-261.500 reserved for expansion]

13 SUBCHAPTER F. TAX RETURNS AND PAYMENTS

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

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

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

1 the individual or the individual's property other than a receiver
2 in possession of only a part of the individual's property.

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

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

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

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

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

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

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

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

1 (b) The comptroller shall adopt rules for the
2 administration of this section.

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

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

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

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

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

26 (b) A return, statement, or other document required of a
27 partnership must be signed by at least one partner. A partner's

1 name signed to a return, statement, or other document is prima facie
2 evidence that the partner is authorized to sign on behalf of the
3 partnership.

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

10 [Sections 261.510-261.520 reserved for expansion]

11 SUBCHAPTER G. INFORMATION RETURNS

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

20 Sec. 261.522. PARTNERSHIP RETURN. Each partnership having
21 a resident partner or having income derived from sources in this
22 state, determined in accordance with the applicable rules
23 prescribed by Section 261.055 as in the case of a nonresident
24 individual, shall make a return for the tax year stating all items
25 of income, gain, loss, and deduction, and the names and addresses of
26 the individuals, whether residents or nonresidents, who would be
27 entitled to share in the net income if distributed and the amount of

1 the distributive share of each individual, and other relevant
2 information the comptroller requires. The return must be filed not
3 later than the 15th day of the fourth month following the end of
4 each tax year. For purposes of this section, "tax year" means a
5 year or period that would be a tax year of the partnership if it were
6 subject to tax under this chapter.

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

24 Sec. 261.524. REPORT OF CHANGE IN FEDERAL TAXABLE INCOME.
25 (a) If the amount of a taxpayer's federal taxable income reported
26 on the taxpayer's federal income tax return for a tax year is
27 changed or corrected by the United States Internal Revenue Service

1 or other competent authority, or as the result of a renegotiation of
2 a contract or subcontract with the United States, the taxpayer
3 shall:

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

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

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

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

16 [Sections 261.525-261.600 reserved for expansion]

17 SUBCHAPTER H. ADDITIONS TO TAX; PENALTIES

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

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

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

27 (3) if the return is filed later than the 60th day

1 after the prescribed date, but not later than the 90th day after the
2 prescribed date, 15 percent;

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

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

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

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

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

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

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

27 (c) The prescribed date for filing is determined with regard

1 to any extension of time for filing.

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

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

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

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

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

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

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

1 individual.

2 Sec. 261.605. PENALTIES AND INTEREST TREATED AS TAX. The
3 penalties and interest provided by this subchapter shall be paid on
4 notice and demand and shall be assessed, collected, and paid in the
5 same manner as other taxes. The comptroller may issue a deficiency
6 notice for all or part of a penalty or interest along with or
7 separate from the amount of tax owed in absence of penalties or
8 interest.

9 [Sections 261.606-261.630 reserved for expansion]

10 SUBCHAPTER I. CREDITS AND REFUNDS

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

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

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

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

1 tax year.

2 (e) If an amount of income tax is assessed and collected
3 after the expiration of the period of limitations properly
4 applicable, the amount is an overpayment.

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

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

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

1 attributable to the federal change, correction, or items amended on
2 the taxpayer's amended federal income tax return. This subsection
3 does not affect the time within which or the amount for which a
4 claim for credit or refund may be filed under a provision other than
5 this section.

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

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

21 [Sections 261.634-261.650 reserved for expansion]

22 SUBCHAPTER J. MISCELLANEOUS ENFORCEMENT PROVISIONS

23 Sec. 261.651. TAXPAYER NOT RESIDENT. If notice and demand
24 for the payment of a tax is given to a nonresident and it appears to
25 the comptroller that it is not practicable to locate property of the
26 taxpayer sufficient in amount to cover the amount of tax due, the
27 comptroller may authorize the institution of any available action

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

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

24 Sec. 261.653. ORDER TO COMPEL COMPLIANCE. (a) On
25 application of the attorney general, a judge of a court of
26 appropriate jurisdiction for the county in which a taxpayer or
27 other person who intentionally or knowingly refuses to file a tax

1 return required by this chapter may, by order, direct the person to
2 file the return. A person who fails or refuses to obey the order is
3 guilty of contempt of court.

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

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

25 (b) The period of limitation for assessment of liability of
26 a transferee is:

27 (1) the first anniversary of the expiration of the

1 period of limitation against the initial transferor if the
2 transferee is the initial transferee;

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

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

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

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

26 Sec. 261.655. JEOPARDY DETERMINATIONS. (a) If the
27 comptroller issues a jeopardy determination for a tax for a current

1 period, the comptroller shall terminate the tax period of the
2 taxpayer immediately, and the notice and demand for a return and
3 immediate payment of the tax shall apply to the terminated period
4 and to income accrued and deductions incurred on or before
5 termination date if not otherwise properly includable or deductible
6 for the period.

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

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

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

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

27 [Sections 261.658-261.670 reserved for expansion]

SUBCHAPTER K. OFFENSES

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

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

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

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

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

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

[Sections 261.674-261.680 reserved for expansion]

SUBCHAPTER L. POWERS OF COMPTROLLER

Sec. 261.681. COOPERATION WITH OTHER JURISDICTIONS. The comptroller may permit the United States secretary of the treasury or the secretary's delegate, or the proper officer of any state or

other jurisdiction imposing an income tax on the incomes of individuals, or the authorized representative of either officer, to inspect the income tax returns of an individual, or may furnish to the officer or authorized representative an abstract of the return of income of an individual or supply the officer with information concerning an item of income contained in a return, or disclosed by the report of an investigation of the income or return of income of an individual, but permission may be granted only if the statutes of the United States or of the other jurisdiction, as applicable, grant substantially similar privileges to the comptroller.

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

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

Sec. 261.684. ARMED FORCES RELIEF PROVISIONS. (a) The

1 period of service in the armed forces of the United States in a
2 combat zone plus a period of continuous hospitalization outside
3 this state attributable to that service plus the next 180 days shall
4 be disregarded in determining, under rules of the comptroller,
5 whether an act required by this chapter was performed by a taxpayer
6 or the taxpayer's representative within the time prescribed.

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

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

20 **SECTION 3.02.** Section 111.201, Tax Code, is amended to read
21 as follows:

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

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

27 **SECTION 3.03.** (a) Except as provided by Subsection (b) of

1 this section, this article applies to income earned, accrued, or
2 received on or after the effective date of this article.

3 (b) Income, deductions, losses, credits against income, or
4 other adjustment allowed in determining the amount of tax under
5 this article or the amount of federal adjusted gross income under
6 this article, including carryovers, are not prohibited in computing
7 the taxes for a tax period beginning on January 1, 2006, because
8 those adjustments may have accrued or otherwise originated before
9 the effective date of this article.

10 (c) In 2006, the comptroller by rule may suspend the
11 application of Section 261.506, Tax Code, as added by this article,
12 in whole or in part, and may extend the deadlines for estimated tax
13 payments under that section.

14 ARTICLE 4. EFFECTIVE DATE

15 SECTION 4.01. (a) Except as provided by Subsection (b) of
16 this section and subject to Subsection (c) of this section, this Act
17 takes effect January 1, 2006, only if a constitutional amendment
18 that provides for the approval of the income tax imposed by this Act
19 is approved by the voters at an election to be held November 8,
20 2005.

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

26 (c) If the constitutional amendment that provides for the
27 approval of the income tax imposed by this Act is not approved by

H.B. No. 21

1 the voters, this Act has no effect.