

By: Rodriguez

H.B. No. 90

A BILL TO BE ENTITLED

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AN ACT

relating to state taxes and financing schools through those taxes;  
providing penalties.

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

ARTICLE 1. SCHOOL FINANCE

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

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

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

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

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

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

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

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

(D) student admissions under Section 25.001;

(E) school attendance under Sections 25.085,

1 25.086, and 25.087;

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

4 (G) elementary class size limits under Section  
5 25.112, in the case of any campus in the district that is considered  
6 low-performing under Section 39.132;

7 (H) high school graduation under Section 28.025;

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

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

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

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

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

19 (N) extracurricular activities under Section  
20 33.081;

21 (O) health and safety under Chapter 38;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (7) the portion of the appraised value of residence  
25 homesteads of individuals who receive a tax limitation under  
26 Section 11.26, Tax Code, on which school district taxes are not  
27 imposed in the year that is the subject of the study, calculated as

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

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

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

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

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

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

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

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

1 ~~Government Code]~~.

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

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

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

11 where:

12 "MS" is the minimum monthly salary;

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

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

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

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

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

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

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

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

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

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

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



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

8 SECTION 1.09. Section 21.412(h), Education Code, is amended  
9 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

26 (b) The Foundation School Program consists of:

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

1 ~~combination provide]~~ for:

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

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

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

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

11 (c) The funding elements must include:

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

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

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

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

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

1 ~~Subchapter F,~~

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

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

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

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

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

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

24 (b) The program shall be financed by:

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

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

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

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

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

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

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

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

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

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

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

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

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

25           (b) Except as provided by this subsection, the commissioner

26 shall base the determinations under Subsection (a) on the estimates  
27 provided to the legislature under Section 42.254 ~~[, or, if the~~

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 where:

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

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

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

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

1 divided by 100; and

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

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

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

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

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

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

20 where:

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

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

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

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

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

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

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

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

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

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

1 subsection.

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

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

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

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

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

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

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

1 22.0512, or 22.052;

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

19	CATEGORY	TAXABLE VALUE OF PROPERTY
20	I	\$10 billion or more
21	II	\$1 billion or more but less than \$10
22		billion
23	III	\$500 million or more but less than
24		\$1 billion
25	IV	\$100 million or more but less than
26		\$500 million
27	V	less than \$100 million

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

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

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

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

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

1 (2) Subchapter F, Chapter 42; and

2 (3) Chapter 41.

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

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

6 (2) Subchapter M, Chapter 403.

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

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

11 ARTICLE 2. TAX

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

14 SUBTITLE L. PERSONAL INCOME TAX

15 CHAPTER 261. PERSONAL INCOME TAX

16 SUBCHAPTER A. IMPOSITION OF TAX

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

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

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

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

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

26 (2) \$250, plus an amount equal to two percent of the  
27 amount of taxable income that exceeds \$25,000 but does not exceed

1 \$50,000;

2 (3) \$750, plus an amount equal to 3.5 percent of the  
3 amount of taxable income that exceeds \$50,000 but does not exceed  
4 \$75,000;

5 (4) \$1,625, plus an amount equal to five percent of the  
6 amount of taxable income that exceeds \$75,000 but does not exceed  
7 \$100,000;

8 (5) \$2,875, plus an amount equal to 6.5 percent of the  
9 amount of taxable income that exceeds \$100,000 but does not exceed  
10 \$150,000;

11 (6) \$6,125, plus an amount equal to seven percent of  
12 the amount of taxable income that exceeds \$150,000 but does not  
13 exceed \$200,000; and

14 (7) \$9,625, plus an amount equal to 7.5 percent of the  
15 amount of taxable income that exceeds \$200,000.

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

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

23 (1) an individual is a resident of this state if the  
24 individual:

25 (A) is domiciled in this state, unless the  
26 individual does not maintain a permanent abode in this state and  
27 does maintain a permanent abode elsewhere and spends, in the

1 aggregate, not more than 30 days of the tax year in this state; or

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

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

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

15 [Sections 261.004-261.050 reserved for expansion]

16 SUBCHAPTER B. COMPUTATION OF TAXABLE INCOME

17 Sec. 261.051. TAXABLE INCOME. The taxable income of a  
18 resident of this state is the resident's federal adjusted gross  
19 income as defined by federal law minus an amount equal to the  
20 product of:

21 (1) \$3,200; and

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

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

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



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

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

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

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

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

1           (1) the nonresident's distributive share of  
2 partnership income and deductions determined under Section  
3 261.403; and

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

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

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

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

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

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

25           (e) For a nonresident individual who is a shareholder of a  
26 corporation that is an electing small business corporation for  
27 federal income tax purposes, the undistributed taxable income of

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

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

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

13 [Sections 261.056-261.100 reserved for expansion]

14 SUBCHAPTER C. WITHHOLDING TAX

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

1 state withholding.

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

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

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

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

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

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

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

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

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

7       [Sections 261.107-261.200 reserved for expansion]

8       SUBCHAPTER D. ACCOUNTING PERIODS AND METHODS

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

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

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

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

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

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

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

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

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

22 [Sections 261.205-261.400 reserved for expansion]

23 SUBCHAPTER E. PARTNERS AND PARTNERSHIPS

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



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

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

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

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

1 partnership income, gain, loss, and deduction entering into the  
2 partner's federal adjusted gross income, as that part is determined  
3 under rules adopted by the comptroller and consistent with the  
4 rules adopted under Section 261.055.

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

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

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

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

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

1 special provision in a partnership agreement, other than a  
2 provision described by Subsection (b), having as a principal  
3 purpose the avoidance or evasion of tax under this chapter is  
4 determined under Section 261.402(c).

5 [Sections 261.404-261.500 reserved for expansion]

6 SUBCHAPTER F. TAX RETURNS AND PAYMENTS

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

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

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

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

25 Sec. 261.503. NOTICE OF QUALIFICATION AS RECEIVER. A  
26 receiver, trustee in bankruptcy, assignee for benefit of creditors,  
27 or other similar fiduciary shall give notice of the person's

1 qualification to the comptroller, as may be required by rule.

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

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

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

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

25 Sec. 261.505. TIME AND PLACE FOR FILING RETURNS AND PAYING  
26 TAX. The income tax return required by this chapter shall be filed  
27 not later than the 15th day of the fourth month following the end of

1 the taxpayer's tax year. A person required to make and file a  
2 return under this chapter shall pay a tax due to the comptroller not  
3 later than the last day that the filing of the return is allowed  
4 without penalty, excluding an extension of time for filing the  
5 return. The comptroller by rule shall prescribe the place for  
6 filing a return, statement, or other document required by this  
7 chapter and for the payment of a tax.

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

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

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

25 Sec. 261.507. EXTENSION OF TIME FOR FILING AND PAYMENT. (a)  
26 The comptroller, on terms the comptroller may require, may grant a  
27 reasonable extension of time for payment of tax or an installment,

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

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

10 Sec. 261.508. CHANGE OF ELECTION. An election expressly  
11 authorized by this chapter may be changed as authorized by the  
12 comptroller or by the comptroller's rule.

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

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

24 (c) The making or filing of a return, statement, or other  
25 document or copy required to be made or filed under this chapter,  
26 including a copy of a federal return, constitutes a certification  
27 by the person making or filing the return, statement, or other

1 document or copy that the statements contained in it are true and  
2 that a copy filed is a true copy.

3 [Sections 261.510-261.520 reserved for expansion]

4 SUBCHAPTER G. INFORMATION RETURNS

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

13 Sec. 261.522. PARTNERSHIP RETURN. Each partnership having  
14 a resident partner or having income derived from sources in this  
15 state, determined in accordance with the applicable rules  
16 prescribed by Section 261.055 as in the case of a nonresident  
17 individual, shall make a return for the tax year stating all items  
18 of income, gain, loss, and deduction, and the names and addresses of  
19 the individuals, whether residents or nonresidents, who would be  
20 entitled to share in the net income if distributed and the amount of  
21 the distributive share of each individual, and other relevant  
22 information the comptroller requires. The return must be filed not  
23 later than the 15th day of the fourth month following the end of  
24 each tax year. For purposes of this section, "tax year" means a  
25 year or period that would be a tax year of the partnership if it were  
26 subject to tax under this chapter.

27 Sec. 261.523. INFORMATION RETURNS. The comptroller by rule

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

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

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

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



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

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

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

9           [Sections 261.525-261.600 reserved for expansion]

10           SUBCHAPTER H. ADDITIONS TO TAX; PENALTIES

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

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

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

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

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

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

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

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

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

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

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

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

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

26       Sec. 261.603. FAILURE TO PAY TAX. (a) A person who does not  
27 pay any amount of tax owed by the person on the prescribed date

1 shall pay, in addition to all other penalties and interest, a  
2 penalty of 10 percent of the amount of the tax due and owing on the  
3 prescribed date.

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

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

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

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

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

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

1 interest.

2 [Sections 261.606-261.630 reserved for expansion]

3 SUBCHAPTER I. CREDITS AND REFUNDS

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

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

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

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

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

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

1 limitations, or erroneously or illegally assessed.

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

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

26 (b) If a claim for credit or refund relates to an  
27 overpayment of tax on account of the deductibility by the taxpayer

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

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

14 [Sections 261.634-261.650 reserved for expansion]

15 SUBCHAPTER J. MISCELLANEOUS ENFORCEMENT PROVISIONS

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

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

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

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

24 (b) If any person intentionally or knowingly refuses to make  
25 available any books, papers, records, or memorandums for  
26 examination by the comptroller or wilfully refuses to attend and  
27 testify, in accordance with the powers conferred on the comptroller

1 by Chapter 111, on application of the comptroller, a judge in the  
2 court of appropriate jurisdiction for the county where the person  
3 resides may by order direct the person to comply with the  
4 comptroller's request for books, papers, records, or memorandums or  
5 for the person's attendance and testimony. If the books, papers,  
6 records, or memorandums required by the comptroller are in the  
7 custody of a corporation, the order of the court may be directed to  
8 any principal officer of the corporation. A person who fails or  
9 refuses to obey the order is guilty of contempt of court.

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

18 (b) The period of limitation for assessment of liability of  
19 a transferee is:

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

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



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

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

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

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

27           (b) The comptroller may abate the jeopardy determination if

1 the comptroller finds that jeopardy does not exist.

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

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

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

20 [Sections 261.658-261.670 reserved for expansion]

21 SUBCHAPTER K. OFFENSES

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

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

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

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

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

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

16       [Sections 261.674-261.680 reserved for expansion]

17                   SUBCHAPTER L. POWERS OF COMPTROLLER

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

1 an individual, but permission may be granted only if the statutes of  
2 the United States or of the other jurisdiction, as applicable,  
3 grant substantially similar privileges to the comptroller.

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

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

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

27 (b) If an individual dies during an induction period while

1 in active service as a member of the armed forces of the United  
2 States and the death occurred while the individual was serving in a  
3 combat zone or as a result of wounds, disease, or injury incurred  
4 while serving, the tax imposed by this chapter does not apply to the  
5 tax year in which the individual dies or to any prior tax year  
6 ending on or after the first day the individual so served in a  
7 combat zone.

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

13 SECTION 2.02. Section 111.201, Tax Code, is amended to read  
14 as follows:

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

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

20 SECTION 2.03. (a) Except as provided by Subsection (b) of  
21 this section, this article applies to income earned, accrued, or  
22 received on or after the effective date of this article.

23 (b) Income, deductions, losses, credits against income, or  
24 other adjustment allowed in determining the amount of tax under  
25 this article or the amount of federal adjusted gross income under  
26 this article, including carryovers, are not prohibited in computing  
27 the taxes for a tax period beginning on January 1, 2006, because

1 those adjustments may have accrued or otherwise originated before  
2 the effective date of this article.

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

7 ARTICLE 3. EFFECTIVE DATE

8 SECTION 3.01. This Act takes effect January 1, 2006, only if  
9 a constitutional amendment that provides for the approval of the  
10 income tax imposed by this Act is approved by the voters at an  
11 election to be held November 8, 2005. If the constitutional  
12 amendment is not approved by the voters, this Act has no effect.