

1-1 By: Keffer, et al. (Senate Sponsor - Ogden) H.B. No. 3928  
1-2 (In the Senate - Received from the House May 3, 2007;  
1-3 May 7, 2007, read first time and referred to Committee on Finance;  
1-4 May 15, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 13, Nays 0; May 15, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3928 By: Ogden

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to technical changes to the revised franchise tax.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. The title of Chapter 171, Tax Code, is amended to  
1-13 read as follows:

1-14 CHAPTER 171. ELECTIVE FRANCHISE TAX

1-15 SECTION 2. Section 171.0001, Tax Code, as effective January  
1-16 1, 2008, is amended by amending Subdivisions (6), (8), (9), (10),  
1-17 (15), and (17) and adding Subdivisions (11-a) and (13-a) to read as  
1-18 follows:

1-19 (6) "Client company" means:

1-20 (A) a person that contracts with a license holder  
1-21 under Chapter 91 [has the meaning assigned by Section 91.001],  
1-22 Labor Code, and is assigned employees by the license holder under  
1-23 that contract; or

1-24 (B) a client of a temporary employment service,  
1-25 as that term is defined by Section 93.001(2), Labor Code, to whom  
1-26 individuals are assigned for a purpose described by that  
1-27 subdivision.

1-28 (8) "Controlling interest" means:

1-29 (A) for a corporation, either more than 50 [80]  
1-30 percent [or more], owned directly or indirectly, of the total  
1-31 combined voting power of all classes of stock of the corporation, or  
1-32 more than 50 [80] percent [or more], owned directly or indirectly,  
1-33 of the beneficial ownership interest in the voting stock of the  
1-34 corporation; ~~and~~

1-35 (B) for a partnership, association, trust, or  
1-36 other entity other than a limited liability company, more than 50  
1-37 [80] percent [or more], owned directly or indirectly, of the  
1-38 capital, profits, or beneficial interest in the partnership,  
1-39 association, trust, or other entity; and

1-40 (C) for a limited liability company, either more  
1-41 than 50 percent, owned directly or indirectly, of the total  
1-42 membership interest of the limited liability company or more than  
1-43 50 percent, owned directly or indirectly, of the beneficial  
1-44 ownership interest in the membership interest of the limited  
1-45 liability company.

1-46 (9) "Internal Revenue Code" means the Internal Revenue  
1-47 Code of 1986 in effect for the federal tax year beginning on January  
1-48 1, 2007 [2006], not including any changes made by federal law after  
1-49 that date, and any regulations adopted under that code applicable  
1-50 to that period.

1-51 (10) "Lending institution" means an entity that makes  
1-52 loans and:

1-53 (A) is regulated by the Federal Reserve Board,  
1-54 the Office of the Comptroller of the Currency, the Federal Deposit  
1-55 Insurance Corporation, the Commodity Futures Trading Commission,  
1-56 the Office of Thrift Supervision, the Texas Department of Banking,  
1-57 the Office of Consumer Credit Commissioner, [the Department of  
1-58 Savings and Mortgage Lending,] the Credit Union Department, or any  
1-59 comparable regulatory body;

1-60 (B) is licensed by, registered with, or otherwise  
1-61 regulated by the Department of Savings and Mortgage Lending;

1-62 (C) is a "broker" or "dealer" as defined by the  
1-63 Securities Exchange Act of 1934 at 15 U.S.C. Section 78c; or

2-1 (D) provides financing to unrelated parties  
2-2 solely for agricultural production.

2-3 (11-a) "Natural person" means a human being or the  
2-4 estate of a human being. The term does not include a purely legal  
2-5 entity given recognition as the possessor of rights, privileges, or  
2-6 responsibilities, such as a corporation, limited liability  
2-7 company, partnership, or trust.

2-8 (13-a) "Security," for purposes of Sections  
2-9 171.1011(g), 171.1011(g-2), and 171.106(f) only, has the meaning  
2-10 assigned by Section 475(c)(2), Internal Revenue Code, and includes  
2-11 instruments described by Sections 475(e)(2)(B), (C), and (D) of  
2-12 that code.

2-13 (15) "Staff leasing services company" means:

2-14 (A) a business entity that offers staff leasing  
2-15 services, as that term is defined ~~[has the meaning assigned]~~ by  
2-16 Section 91.001, Labor Code; or

2-17 (B) a temporary employment service, as that term  
2-18 is defined by Section 93.001, Labor Code.

2-19 (17) "Unitary business" means a single economic  
2-20 enterprise that is made up of separate parts of a single entity or  
2-21 of a commonly controlled group of entities that are sufficiently  
2-22 interdependent, integrated, and interrelated through their  
2-23 activities so as to provide a synergy and mutual benefit that  
2-24 produces a sharing or exchange of value among them and a significant  
2-25 flow of value to the separate parts. In determining whether a  
2-26 unitary business exists, the comptroller shall consider any  
2-27 relevant factor, including whether:

2-28 (A) the activities of the group members ~~[+~~  
2-29 ~~[-i-]~~ are in the same general line, such as  
2-30 manufacturing, wholesaling, retailing of tangible personal  
2-31 property, insurance, transportation, or finance; ~~[or]~~

2-32 (B) the activities of the group members ~~[-ii-]~~  
2-33 are steps in a vertically structured enterprise or process, such as  
2-34 the steps involved in the production of natural resources,  
2-35 including exploration, mining, refining, and marketing; or ~~[and]~~

2-36 (C) ~~[-B-]~~ the members are functionally  
2-37 integrated through the exercise of strong centralized management,  
2-38 such as authority over purchasing, financing, product line,  
2-39 personnel, and marketing.

2-40 SECTION 3. Section 171.0002, Tax Code, as effective January  
2-41 1, 2008, is amended to read as follows:

2-42 Sec. 171.0002. DEFINITION OF TAXABLE ENTITY. (a) Except as  
2-43 otherwise provided by this section, "taxable entity" means a  
2-44 partnership, limited liability partnership, corporation, banking  
2-45 corporation, savings and loan association, limited liability  
2-46 company, business trust, professional association, business  
2-47 association, joint venture, joint stock company, holding company,  
2-48 or other legal entity. The term includes a combined group. A joint  
2-49 venture does not include joint operating or co-ownership  
2-50 arrangements meeting the requirements of Treasury Regulation  
2-51 Section 1.761-2(a)(3) that elect out of federal partnership  
2-52 treatment as provided by Section 761(a), Internal Revenue Code.

2-53 (b) "Taxable entity" does not include:

2-54 (1) a sole proprietorship;

2-55 (2) a general partnership:

2-56 (A) the direct ownership of which is entirely  
2-57 composed of natural persons; and

2-58 (B) the liability of which is not limited under a  
2-59 statute of this state or another state, including by registration  
2-60 as a limited liability partnership;

2-61 (3) a passive entity as defined by Section 171.0003;  
2-62 or

2-63 (4) an entity that is exempt from taxation under  
2-64 Subchapter B.

2-65 (c) "Taxable entity" does not include an entity that is:

2-66 (1) a grantor trust as defined by Sections 671 and  
2-67 7701(a)(30)(E), Internal Revenue Code, all of the grantors and  
2-68 beneficiaries of which are natural persons or charitable entities  
2-69 as described in Section 501(c)(3), Internal Revenue Code, excluding

3-1 a trust taxable as a business entity pursuant to Treasury  
 3-2 Regulation Section 301.7701-4(b);

3-3 (2) an estate of a natural person as defined by Section  
 3-4 7701(a)(30)(D), Internal Revenue Code, excluding an estate taxable  
 3-5 as a business entity pursuant to Treasury Regulation Section  
 3-6 301.7701-4(b);

3-7 (3) an escrow;

3-8 (4) ~~[a family limited partnership that is a passive~~  
 3-9 ~~entity in which at least 80 percent of the interests are held,~~  
 3-10 ~~directly or indirectly, by members of the same family, including an~~  
 3-11 ~~individual's ancestors, lineal descendants, spouse, and brothers~~  
 3-12 ~~and sisters by the whole or half blood, and the estate of any of~~  
 3-13 ~~these persons, and that is a limited partnership;~~

3-14 ~~[(A) formed pursuant to the Texas Revised Limited~~  
 3-15 ~~Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes);~~

3-16 ~~[(B) formed pursuant to the limited partnership~~  
 3-17 ~~law of any other state; or~~

3-18 ~~[(C) treated as a partnership for federal income~~  
 3-19 ~~tax purposes;~~

3-20 ~~[(5) a passive investment partnership that is a~~  
 3-21 ~~passive entity and that is:~~

3-22 ~~[(A) formed pursuant to the Texas Revised Limited~~  
 3-23 ~~Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes);~~

3-24 ~~[(B) formed pursuant to the limited partnership~~  
 3-25 ~~law of any other state; or~~

3-26 ~~[(C) formed pursuant to the limited partnership~~  
 3-27 ~~laws of any foreign country;~~

3-28 ~~[(6) a passive investment partnership that is a~~  
 3-29 ~~passive entity and is a general partnership;~~

3-30 ~~[(7) a trust that is a passive entity;~~

3-31 ~~[(A) that is taxable as a trust under Section~~  
 3-32 ~~641, Internal Revenue Code;~~

3-33 ~~[(B) all of the beneficiaries of which are~~  
 3-34 ~~natural persons or charitable entities as defined in Section~~  
 3-35 ~~501(c)(3), Internal Revenue Code;~~

3-36 ~~[(C) that is not a trust taxable as a business~~  
 3-37 ~~entity pursuant to Treasury Regulation Section 301.7701-4(b); and~~

3-38 ~~[(D) that is organized as a trust and is~~  
 3-39 ~~described in Section 7701(a)(30)(E), Internal Revenue Code;~~

3-40 ~~[(8)]~~ a real estate investment trust (REIT) as defined  
 3-41 by Section 856, Internal Revenue Code, and its "qualified REIT  
 3-42 subsidiary" entities as defined by Section 856(i)(2), Internal  
 3-43 Revenue Code, provided that:

3-44 (A) a REIT with any amount of its assets in direct  
 3-45 holdings of real estate, other than real estate it occupies for  
 3-46 business purposes, as opposed to holding interests in limited  
 3-47 partnerships or other entities that directly hold the real estate,  
 3-48 is a taxable entity; and

3-49 (B) a limited partnership or other entity that  
 3-50 directly holds the real estate as described in Paragraph (A) is not  
 3-51 exempt under this subdivision, without regard to whether a REIT  
 3-52 holds an interest in it; ~~or~~

3-53 (5) ~~[(9)]~~ a real estate mortgage investment conduit  
 3-54 (REMIC), as defined by Section 860D, Internal Revenue Code;

3-55 (6) a nonprofit self-insurance trust created under  
 3-56 Chapter 2212, Insurance Code, or a predecessor statute;

3-57 (7) a trust qualified under Section 401(a), Internal  
 3-58 Revenue Code; or

3-59 (8) a trust or other entity that is exempt under  
 3-60 Section 501(c)(9), Internal Revenue Code.

3-61 (d) An entity that can file as a sole proprietorship for  
 3-62 federal tax purposes is not a sole proprietorship for purposes of  
 3-63 Subsection (b)(1) and is not exempt under that subsection if the  
 3-64 entity is formed in a manner under the statutes of this state, ~~or~~  
 3-65 another state, or a foreign country that limit the liability of the  
 3-66 entity.

3-67 SECTION 4. Section 171.0003(a), Tax Code, as effective  
 3-68 January 1, 2008, is amended to read as follows:

3-69 (a) An entity is a passive entity only if:

4-1 (1) the entity is a general or limited partnership or a  
4-2 trust, other than a business trust;

4-3 (2) during the period on which margin is based, the  
4-4 entity's federal gross income consists of at least 90 percent of the  
4-5 following income:

4-6 (A) dividends, interest, foreign currency  
4-7 exchange gain, periodic and nonperiodic payments with respect to  
4-8 notional principal contracts, option premiums, cash settlement or  
4-9 termination payments with respect to a financial instrument, and  
4-10 income from a limited liability company;

4-11 (B) distributive shares of partnership income to  
4-12 the extent that those distributive shares of income are greater  
4-13 than zero;

4-14 (C) capital gains from the sale of real property,  
4-15 gains from the sale of commodities traded on a commodities  
4-16 exchange, and gains from the sale of securities; and

4-17 (D) royalties, bonuses, or delay rental income  
4-18 from mineral properties and income from other nonoperating mineral  
4-19 interests; and

4-20 (3) the entity does not receive more than 10 percent of  
4-21 its federal gross income from conducting an active trade or  
4-22 business.

4-23 SECTION 5. Section 171.0004(e), Tax Code, as effective  
4-24 January 1, 2008, is amended to read as follows:

4-25 (e) For purposes of this section:

4-26 (1) the ownership of a royalty interest or a  
4-27 nonoperating working interest in mineral rights does not constitute  
4-28 conduct of an active trade or business; ~~and~~

4-29 (2) payment of compensation to employees or  
4-30 independent contractors for financial or legal services reasonably  
4-31 necessary for the operation of the entity does not constitute  
4-32 conduct of an active trade or business; and

4-33 (3) holding a seat on the board of directors of an  
4-34 entity does not by itself constitute conduct of an active trade or  
4-35 business.

4-36 SECTION 6. Section 171.001, Tax Code, as effective January  
4-37 1, 2008, is amended to read as follows:

4-38 Sec. 171.001. IMPOSITION OF TAX AT ELECTION OF TAXABLE  
4-39 ENTITY; NO LIABILITY FOR CHAPTER 172 FRANCHISE TAX [IMPOSED]. (a)  
4-40 Notwithstanding any other provision of this chapter, [A franchise  
4-41 tax is imposed on] each taxable entity that does business in this  
4-42 state or that is chartered or organized in this state may elect to  
4-43 pay the tax imposed under this chapter instead of the tax imposed  
4-44 under Chapter 172.

4-45 (b) A taxable entity that elects to pay the tax imposed  
4-46 under this chapter is not liable for the tax imposed under Chapter  
4-47 172.

4-48 (c) The tax imposed under this chapter extends to the limits  
4-49 of the United States Constitution and the federal law adopted under  
4-50 the United States Constitution.

4-51 (d) The tax imposed under this section or Section 171.0011  
4-52 is not imposed on an entity if, during the period on which the  
4-53 report is based, the entity qualifies as a passive entity as defined  
4-54 by Section 171.0003.

4-55 SECTION 7. Sections 171.0011(a) and (b), Tax Code, as  
4-56 effective January 1, 2008, are amended to read as follows:

4-57 (a) Except as provided by Section 171.001(c) [~~Subsection~~  
4-58 ~~(e)~~], an additional tax is imposed on a taxable entity that for any  
4-59 reason becomes no longer subject to the tax imposed under this  
4-60 chapter.

4-61 (b) The additional tax is equal to the appropriate rate  
4-62 under Section 171.002 of the taxable entity's taxable margin  
4-63 computed on the period beginning on the day after the last day for  
4-64 which the tax imposed on taxable margin or net taxable earned  
4-65 surplus was computed and ending on the date the taxable entity is no  
4-66 longer subject to the tax imposed under this chapter.

4-67 SECTION 8. Sections 171.002(a), (b), (c), and (d), Tax  
4-68 Code, as effective January 1, 2008, are amended to read as follows:

4-69 (a) Subject to Section 171.003 and except as provided by

5-1 Subsection (b), the rate of the franchise tax is one percent [~~per~~  
5-2 ~~year of privilege period~~] of taxable margin.

5-3 (b) The rate of the franchise tax is 0.5 percent [~~per year of~~  
5-4 ~~privilege period~~] of taxable margin for those taxable entities  
5-5 primarily engaged in retail or wholesale trade.

5-6 (c) A taxable entity is primarily engaged in retail or  
5-7 wholesale trade only if:

5-8 (1) the total revenue from its activities in retail or  
5-9 wholesale trade is greater than the total revenue from its  
5-10 activities in trades other than the retail and wholesale trades;

5-11 (2) except as provided by Subsection (c-1), less than  
5-12 50 percent of the total revenue from activities in retail or  
5-13 wholesale trade comes from the sale of products it produces or  
5-14 products produced by an entity that is part of an affiliated group  
5-15 to which the taxable entity also belongs; and

5-16 (3) the taxable entity does not provide retail or  
5-17 wholesale utilities, including telecommunications services, ~~[and]~~  
5-18 electricity, or gas.

5-19 (d) A taxable entity is not required to pay any tax and is  
5-20 not considered to owe any tax for a period if:

5-21 (1) the amount of tax computed for the taxable entity  
5-22 is less than \$1,000; or

5-23 (2) the amount of the taxable entity's total revenue  
5-24 from its entire business is less than or equal to \$300,000 or the  
5-25 amount determined under Section 171.006 per 12-month period on  
5-26 which margin is based.

5-27 SECTION 9. Subchapter A, Chapter 171, Tax Code, is amended  
5-28 by adding Section 171.0021 to read as follows:

5-29 Sec. 171.0021. DISCOUNTS FROM TAX LIABILITY FOR SMALL  
5-30 BUSINESSES. (a) A taxable entity is entitled to a discount of the  
5-31 tax imposed under this chapter that the taxable entity is required  
5-32 to pay after determining its taxable margin under Section 171.101,  
5-33 applying the appropriate rate of the tax under Section 171.002(a)  
5-34 or (b), and subtracting any other allowable credits, as follows:

5-35 (1) for a taxable entity for which the total revenue  
5-36 from its entire business is greater than \$300,000 but less than  
5-37 \$400,000, the taxable entity is entitled to a discount of 80  
5-38 percent;

5-39 (2) for a taxable entity for which the total revenue  
5-40 from its entire business is equal to or greater than \$400,000 but  
5-41 less than \$500,000, the taxable entity is entitled to a discount of  
5-42 60 percent;

5-43 (3) for a taxable entity for which the total revenue  
5-44 from its entire business is equal to or greater than \$500,000 but  
5-45 less than \$700,000, the taxable entity is entitled to a discount of  
5-46 40 percent; and

5-47 (4) for a taxable entity for which the total revenue  
5-48 from its entire business is equal to or greater than \$700,000 but  
5-49 less than \$900,000, the taxable entity is entitled to a discount of  
5-50 20 percent.

5-51 (b) The amounts under Subsection (a) are subject to  
5-52 adjustment as provided by Section 171.006.

5-53 SECTION 10. The heading to Section 171.006, Tax Code, as  
5-54 effective January 1, 2008, is amended to read as follows:

5-55 Sec. 171.006. ADJUSTMENT OF ELIGIBILITY FOR NO TAX DUE,  
5-56 DISCOUNTS, [EXEMPTION] AND COMPENSATION DEDUCTION.

5-57 SECTION 11. Section 171.006(b), Tax Code, as effective  
5-58 January 1, 2008, is amended to read as follows:

5-59 (b) Beginning in 2010 [~~2009~~], on January 1 of each  
5-60 even-numbered [~~odd-numbered~~] year, the amounts prescribed by  
5-61 Sections 171.002(d)(2), 171.0021, and 171.1013(c) are increased or  
5-62 decreased by an amount equal to the amount prescribed by those  
5-63 sections on December 31 of the preceding year multiplied by the  
5-64 percentage increase or decrease during the preceding state fiscal  
5-65 biennium in the consumer price index and rounded to the nearest  
5-66 \$10,000.

5-67 SECTION 12. Section 171.101(d), Tax Code, as effective  
5-68 January 1, 2008, is amended to read as follows:

5-69 (d) An election under Subsection (a)(1)(B)(ii) shall be

6-1 made by the taxable entity on its annual report and is effective  
 6-2 only for that annual report. A taxable entity shall notify the  
 6-3 comptroller of its election not later than the due date of the  
 6-4 annual ~~[The election may be changed by filing an amended]~~ report.

6-5 SECTION 13. Section 171.1011, Tax Code, as effective  
 6-6 January 1, 2008, is amended by amending Subsections (b), (c), (d),  
 6-7 (e), (g-3), (h), (n), and (o) and adding Subsections (g-4) and (t)  
 6-8 to read as follows:

6-9 (b) In this section, a reference to an amount reportable as  
 6-10 income ~~[entered]~~ on a line number on an Internal Revenue Service  
 6-11 form is the amount entered to the extent the amount entered complies  
 6-12 with federal income tax law and includes the corresponding amount  
 6-13 entered on a variant of the form, or a subsequent form, with a  
 6-14 different line number to the extent the amount entered complies  
 6-15 with federal income tax law. ~~[The comptroller shall adopt rules as~~  
 6-16 ~~necessary to accomplish the legislative intent prescribed by this~~  
 6-17 ~~subsection and Subsection (a).]~~

6-18 (c) Except as provided by this section, and subject to  
 6-19 Section 171.1014, for the purpose of computing its taxable margin  
 6-20 under Section 171.101, the total revenue of a taxable entity is:

6-21 (1) for a taxable entity treated for federal income  
 6-22 tax purposes as a corporation, an amount computed by:

6-23 (A) adding:

6-24 (i) the amount reportable as income  
 6-25 ~~[entered]~~ on line 1c, Internal Revenue Service Form 1120; ~~[and]~~

6-26 (ii) the amounts reportable as income  
 6-27 ~~[entered]~~ on lines 4 through 10, Internal Revenue Service Form  
 6-28 1120; and

6-29 (iii) any total revenue reported by a lower  
 6-30 tier entity as includable in the taxable entity's total revenue  
 6-31 under Section 171.1015(b); and

6-32 (B) subtracting:

6-33 (i) bad debt expensed for federal income  
 6-34 tax purposes that corresponds to items of gross receipts included  
 6-35 in Subsection (c)(1)(A) for the current reporting period or a past  
 6-36 reporting period;

6-37 (ii) to the extent included in Subsection  
 6-38 (c)(1)(A), foreign royalties and foreign dividends, including  
 6-39 amounts determined under Section 78 or Sections 951-964, Internal  
 6-40 Revenue Code;

6-41 (iii) to the extent included in Subsection  
 6-42 (c)(1)(A), net distributive income from a taxable entity  
 6-43 ~~[partnerships and from trusts and limited liability companies]~~  
 6-44 treated as a partnership or [partnerships for federal income tax  
 6-45 purposes and net distributive income from limited liability  
 6-46 companies and corporations treated] as an S corporation  
 6-47 ~~[corporations]~~ for federal income tax purposes;

6-48 (iv) allowable deductions from Internal  
 6-49 Revenue Service Form 1120, Schedule C, to the extent the relating  
 6-50 dividend income is included in total revenue;

6-51 (v) to the extent included in Subsection  
 6-52 (c)(1)(A), items of income attributable to an entity that is a  
 6-53 disregarded entity for federal income tax purposes; and

6-54 (vi) to the extent included in Subsection  
 6-55 (c)(1)(A), other amounts authorized by this section;

6-56 (2) for a taxable entity treated for federal income  
 6-57 tax purposes as a partnership, an amount computed by:

6-58 (A) adding:

6-59 (i) the amount reportable as income  
 6-60 ~~[entered]~~ on line 1c, Internal Revenue Service Form 1065;

6-61 (ii) the amounts reportable as income  
 6-62 ~~[entered]~~ on lines 4, 6, and [through] 7, Internal Revenue Service  
 6-63 Form 1065; ~~[and]~~

6-64 (iii) the amounts reportable as income  
 6-65 ~~[entered]~~ on lines 3a and 5 [2] through 11, Internal Revenue Service  
 6-66 Form 1065, Schedule K; ~~[and]~~

6-67 (iv) the amounts reportable as income on  
 6-68 line 17, Internal Revenue Service Form 8825;

6-69 (v) the amounts reportable as income on

7-1 line 11, plus line 2 or line 45, Internal Revenue Service Form 1040,  
7-2 Schedule F; and  
7-3 (vi) any total revenue reported by a lower  
7-4 tier entity as includable in the taxable entity's total revenue  
7-5 under Section 171.1015(b); and  
7-6 (B) subtracting:  
7-7 (i) bad debt expensed for federal income  
7-8 tax purposes that corresponds to items of gross receipts included  
7-9 in Subsection (c)(2)(A) for the current reporting period or a past  
7-10 reporting period;  
7-11 (ii) to the extent included in Subsection  
7-12 (c)(2)(A), foreign royalties and foreign dividends, including  
7-13 amounts determined under Section 78 or Sections 951-964, Internal  
7-14 Revenue Code;  
7-15 (iii) to the extent included in Subsection  
7-16 (c)(2)(A), net distributive income from a taxable entity  
7-17 [partnerships and from trusts and limited liability companies]  
7-18 treated as a partnership or [partnerships for federal income tax  
7-19 purposes and net distributive income from limited liability  
7-20 companies and corporations treated] as an S corporation  
7-21 [corporations] for federal income tax purposes;  
7-22 (iv) to the extent included in Subsection  
7-23 (c)(2)(A), items of income attributable to an entity that is a  
7-24 disregarded entity for federal income tax purposes; and  
7-25 (v) to the extent included in Subsection  
7-26 (c)(2)(A), other amounts authorized by this section; or  
7-27 (3) for a taxable entity other than a taxable entity  
7-28 treated for federal income tax purposes as a corporation or  
7-29 partnership, an amount determined in a manner substantially  
7-30 equivalent to the amount for Subdivision (1) or (2) determined by  
7-31 rules that the comptroller shall adopt.  
7-32 (d) Subject to Section 171.1014, a taxable entity  
7-33 [corporation] that is part of a federal consolidated group shall  
7-34 compute its total revenue under Subsection (c) as if it had filed a  
7-35 separate return for federal income tax purposes.  
7-36 (e) A taxable entity that owns an interest in a passive  
7-37 entity [that is not included in a group report under Section  
7-38 171.1014] shall exclude from [include in] the taxable entity's  
7-39 total revenue the taxable entity's share of the net income of the  
7-40 passive entity, but only to the extent the net income of the passive  
7-41 entity was [not] generated by the margin of any other taxable  
7-42 entity.  
7-43 (g-3) A taxable entity that provides legal services shall  
7-44 exclude from its total revenue [, to the extent included under  
7-45 Subsection (c)(1)(A), (c)(2)(A), or (c)(3)]:  
7-46 (1) to the extent included under Subsection (c)(1)(A),  
7-47 (c)(2)(A), or (c)(3), the following flow-through funds that are  
7-48 mandated by law, contract, or fiduciary duty to be distributed to  
7-49 the claimant by the claimant's attorney or to other entities on  
7-50 behalf of a claimant by the claimant's attorney:  
7-51 (A) damages due the claimant;  
7-52 (B) funds subject to a lien or other contractual  
7-53 obligation arising out of the representation, other than fees owed  
7-54 to the attorney;  
7-55 (C) funds subject to a subrogation interest or  
7-56 other third-party contractual claim; and  
7-57 (D) fees paid an attorney in the matter who is not  
7-58 a member, partner, shareholder, or employee of the taxable entity;  
7-59 (2) to the extent included under Subsection (c)(1)(A),  
7-60 (c)(2)(A), or (c)(3), reimbursement of the taxable entity's  
7-61 expenses incurred in prosecuting a claimant's matter that are  
7-62 specific to the matter and that are not general operating expenses;  
7-63 and  
7-64 (3) [the actual out-of-pocket expenses of the  
7-65 attorney, not to exceed] \$500 per pro bono services case handled by  
7-66 the attorney, [of providing pro bono legal services to a person,]  
7-67 but only if the attorney maintains records of the pro bono services  
7-68 for auditing purposes in accordance with the manner in which those  
7-69 services are reported to the State Bar of Texas.

8-1 (g-4) A taxable entity that is a pharmacy cooperative shall  
 8-2 exclude from its total revenue, to the extent included under  
 8-3 Subsection (c)(1)(A), (c)(2)(A), or (c)(3), flow-through funds  
 8-4 from rebates from pharmacy wholesalers that are distributed to the  
 8-5 pharmacy cooperative's shareholders.

8-6 (h) If the taxable entity belongs to an affiliated group,  
 8-7 the taxable entity may not exclude payments described by Subsection  
 8-8 (f), (g), (g-1), (g-2), ~~or~~ (g-3), or (g-4) that are made to  
 8-9 entities that are members of the affiliated group.

8-10 (n) Except as provided by Subsection (o), a taxable entity  
 8-11 that is a health care provider shall exclude from its total  
 8-12 revenue~~[, to the extent included under Subsection (c)(1)(A),~~  
 8-13 ~~(c)(2)(A), or (c)(3)]:~~

8-14 (1) to the extent included under Subsection (c)(1)(A),  
 8-15 (c)(2)(A), or (c)(3), the total amount of payments the health care  
 8-16 provider received:

8-17 (A) under the Medicaid program, Medicare  
 8-18 program, Indigent Health Care and Treatment Act (Chapter 61, Health  
 8-19 and Safety Code), and Children's Health Insurance Program (CHIP);

8-20 (B) for professional services provided in  
 8-21 relation to a workers' compensation claim under Title 5, Labor  
 8-22 Code; and

8-23 (C) for professional services provided to a  
 8-24 beneficiary rendered under the TRICARE military health system; and

8-25 (2) the actual cost to the health care provider for any  
 8-26 uncompensated care provided, but only if the provider maintains  
 8-27 records of the uncompensated care for auditing purposes and, if the  
 8-28 provider later receives payment for all or part of that care, the  
 8-29 provider adjusts the amount excluded for the tax year in which the  
 8-30 payment is received.

8-31 (o) A health care provider that is a health care institution  
 8-32 shall exclude from its total revenue~~[, to the extent included under~~  
 8-33 ~~Subsection (c)(1)(A), (c)(2)(A), or (c)(3),]~~ 50 percent of the  
 8-34 amounts described by Subsection (n).

8-35 (t) The comptroller shall adopt rules as necessary to  
 8-36 accomplish the legislative intent prescribed by this section.

8-37 SECTION 14. Section 171.1011(1)(1), Tax Code, as effective  
 8-38 January 1, 2008, is amended to read as follows:

8-39 (1) "Sales commission" means:

8-40 (A) any form of compensation paid to a person for  
 8-41 engaging in an act for which a license is required by Chapter 1101,  
 8-42 Occupations Code; ~~or~~ ~~and~~

8-43 (B) compensation paid to a sales representative  
 8-44 by a principal in an amount that is based on the amount or level of  
 8-45 certain orders for or sales of the principal's product and that the  
 8-46 principal is required to report on Internal Revenue Service Form  
 8-47 1099-MISC.

8-48 SECTION 15. Section 171.1012(a)(3)(A), Tax Code, as  
 8-49 effective January 1, 2008, is amended to read as follows:

8-50 (A) "Tangible personal property" means:

8-51 (i) personal property that can be seen,  
 8-52 weighed, measured, felt, or touched or that is perceptible to the  
 8-53 senses in any other manner;

8-54 (ii) films, sound recordings, videotapes,  
 8-55 live and prerecorded television and radio programs, books, and  
 8-56 other similar property embodying words, ideas, concepts, images, or  
 8-57 sound, without regard to the means or methods of distribution or the  
 8-58 medium in which the property is embodied, ~~[by the creator of the~~  
 8-59 ~~property]~~ for which, as costs are incurred in producing the  
 8-60 property, it is intended or is reasonably likely that any  
 8-61 ~~[tangible]~~ medium in which the property is embodied will be  
 8-62 mass-distributed by the creator or any one or more third parties in  
 8-63 a form that is not substantially altered; and

8-64 (iii) a computer program, as defined by  
 8-65 Section 151.0031.

8-66 SECTION 16. Section 171.1012, Tax Code, as effective  
 8-67 January 1, 2008, is amended by amending Subsections (c), (g), (h),  
 8-68 and (k) and adding Subsection (o) to read as follows:

8-69 (c) The cost of goods sold includes all direct costs of



- 9-1 acquiring or producing the goods, including:
- 9-2 (1) labor costs;
- 9-3 (2) cost of materials that are an integral part of
- 9-4 specific property produced;
- 9-5 (3) cost of materials that are consumed in the
- 9-6 ordinary course of performing production activities;
- 9-7 (4) handling costs, including costs attributable to
- 9-8 processing, assembling, repackaging, and inbound transportation
- 9-9 costs;
- 9-10 (5) storage costs, including the costs of carrying,
- 9-11 storing, or warehousing property, subject to Subsection (e);
- 9-12 (6) depreciation, depletion, and amortization,
- 9-13 reported on the federal income tax return on which the report under
- 9-14 this chapter is based, to the extent associated with and necessary
- 9-15 for the production of goods, including recovery described by
- 9-16 Section 197, Internal Revenue Code;
- 9-17 (7) the cost of renting or leasing equipment,
- 9-18 facilities, or real property directly used for the production of
- 9-19 the goods, including pollution control equipment and intangible
- 9-20 drilling and dry hole costs;
- 9-21 (8) the cost of repairing and maintaining equipment,
- 9-22 facilities, or real property directly used for the production of
- 9-23 the goods, including pollution control devices;
- 9-24 (9) costs attributable to research, experimental,
- 9-25 engineering, and design activities directly related to the
- 9-26 production of the goods, including all research or experimental
- 9-27 expenditures described by Section 174, Internal Revenue Code;
- 9-28 (10) geological and geophysical costs incurred to
- 9-29 identify and locate property that has the potential to produce
- 9-30 minerals;
- 9-31 (11) taxes paid in relation to acquiring or producing
- 9-32 any material, or taxes paid in relation to services that are a
- 9-33 direct cost of production;
- 9-34 (12) the cost of producing or acquiring electricity
- 9-35 sold; and
- 9-36 (13) a contribution to a partnership in which the
- 9-37 taxable entity owns an interest that is used to fund activities, the
- 9-38 costs of which would otherwise be treated as cost of goods sold of
- 9-39 the partnership, but only to the extent that those costs are related
- 9-40 to goods distributed to the taxable entity as goods-in-kind in the
- 9-41 ordinary course of production activities rather than being sold.
- 9-42 (g) A taxable entity that is allowed a subtraction by this
- 9-43 section for a cost of goods sold and that is subject to Section
- 9-44 263A, 460, or 471, Internal Revenue Code, may ~~shall~~ capitalize
- 9-45 that cost in the same manner and to the same extent that the taxable
- 9-46 entity capitalized that cost on its federal income tax return or may
- 9-47 expense those costs [is required or allowed to capitalize the cost
- 9-48 under federal law and regulations], except for costs excluded under
- 9-49 Subsection (e), or in accordance with Subsections (c), (d), and
- 9-50 (f). If the taxable entity elects to capitalize costs, it must
- 9-51 capitalize each cost allowed under this section that it capitalized
- 9-52 on its federal income tax return. If the taxable entity later
- 9-53 elects to begin expensing a cost that may be allowed under this
- 9-54 section as a cost of goods sold, the entity may not deduct any cost
- 9-55 in ending inventory from a previous report. If the taxable entity
- 9-56 elects to expense a cost of goods sold that may be allowed under
- 9-57 this section, a cost incurred before the first day of the period on
- 9-58 which the report is based may not be subtracted as a cost of goods
- 9-59 sold. If the taxable entity elects to expense a cost of goods sold
- 9-60 and later elects to capitalize that cost of goods sold, a cost
- 9-61 expensed on a previous report may not be capitalized.
- 9-62 (h) A taxable entity shall determine its cost of goods sold,
- 9-63 except as otherwise provided by this section, in accordance with
- 9-64 the methods used on the federal income tax return on which the
- 9-65 report under this chapter is based ~~[permitted by federal statutes~~
- 9-66 ~~and regulations]~~. This subsection does not affect the type or
- 9-67 category of cost of goods sold that may be subtracted under this
- 9-68 section.
- 9-69 (k) Notwithstanding any other provision of this section, if

10-1 the taxable entity is a lending institution that offers loans to the  
 10-2 public and elects to subtract cost of goods sold, the entity, other  
 10-3 than an entity primarily engaged in an activity described by  
 10-4 category 5932 of the 1987 Standard Industrial Classification Manual  
 10-5 published by the federal Office of Management and Budget, may  
 10-6 subtract as a cost of goods sold an amount equal to interest  
 10-7 expense. For purposes of this subsection, an entity engaged in  
 10-8 lending to unrelated parties solely for agricultural production  
 10-9 offers loans to the public.

10-10 (o) If a taxable entity, including a taxable entity with  
 10-11 respect to which cost of goods sold is determined pursuant to  
 10-12 Section 171.1014(e)(1), whose principal business activity is film  
 10-13 or television production or broadcasting or the distribution of  
 10-14 tangible personal property described by Subsection (a)(3)(A)(ii),  
 10-15 or any combination of these activities, elects to subtract cost of  
 10-16 goods sold, the cost of goods sold for the taxable entity shall be  
 10-17 the costs described in this section in relation to the property and  
 10-18 include depreciation, amortization, and other expenses directly  
 10-19 related to the acquisition, production, or use of the property,  
 10-20 including expenses for the right to broadcast or use the property.

10-21 SECTION 17. Section 171.1013, Tax Code, as effective  
 10-22 January 1, 2008, is amended by amending Subsections (a), (b), and  
 10-23 (c) and adding Subsection (b-1) to read as follows:

10-24 (a) Except as otherwise provided by this section, "wages and  
 10-25 cash compensation" means the amount entered in the Medicare wages  
 10-26 and tips box of Internal Revenue Service Form W-2 or any subsequent  
 10-27 form with a different number or designation that substantially  
 10-28 provides the same information. The term also includes, to the  
 10-29 extent not included above:

10-30 (1) net distributive income from a taxable entity  
 10-31 treated as a partnership ~~[partnerships and from trusts and limited~~  
 10-32 ~~liability companies treated as partnerships]~~ for federal income tax  
 10-33 purposes, but only if the person receiving the distribution is a  
 10-34 natural person;

10-35 (2) net distributive income from limited liability  
 10-36 companies and corporations treated as S corporations for federal  
 10-37 income tax purposes, but only if the person receiving the  
 10-38 distribution is a natural person; ~~and~~

10-39 (3) stock awards and stock options deducted for  
 10-40 federal income tax purposes; and

10-41 (4) net distributive income from a limited liability  
 10-42 company treated as a sole proprietorship for federal income tax  
 10-43 purposes, but only if the person receiving the distribution is a  
 10-44 natural person.

10-45 (b) Subject to Section 171.1014, a taxable entity that  
 10-46 elects to subtract compensation for the purpose of computing its  
 10-47 taxable margin under Section 171.101 may subtract an amount equal  
 10-48 to:

10-49 (1) subject to the limitation in Subsection (c), all  
 10-50 wages and cash compensation paid by the taxable entity to its  
 10-51 officers, directors, owners, partners, and employees; and

10-52 (2) the cost of all benefits, to the extent deductible  
 10-53 for federal income tax purposes, the taxable entity provides to its  
 10-54 officers, directors, owners, partners, and employees, including  
 10-55 workers' compensation benefits, health care, employer  
 10-56 contributions made to employees' health savings accounts, and  
 10-57 retirement ~~[to the extent deductible for federal income tax~~  
 10-58 ~~purposes].~~

10-59 (b-1) This subsection applies to a taxable entity that is a  
 10-60 small employer, as that term is defined by Section 1501.002,  
 10-61 Insurance Code, and that has not provided health care benefits to  
 10-62 any of its employees in the calendar year preceding the beginning  
 10-63 date of its reporting period. Subject to Section 171.1014, a  
 10-64 taxable entity to which this subsection applies that elects to  
 10-65 subtract compensation for the purpose of computing its taxable  
 10-66 margin under Section 171.101 may subtract health care benefits as  
 10-67 provided under Subsection (b) and may also subtract:

10-68 (1) for the first 12-month period on which margin is  
 10-69 based and in which the taxable entity provides health care benefits

11-1 to all of its employees, an additional amount equal to 50 percent of  
 11-2 the cost of health care benefits provided to its employees for that  
 11-3 period; and

11-4 (2) for the second 12-month period on which margin is  
 11-5 based and in which the taxable entity provides health care benefits  
 11-6 to all of its employees, an additional amount equal to 25 percent of  
 11-7 the cost of health care benefits provided to its employees for that  
 11-8 period.

11-9 (c) Notwithstanding the actual amount of wages and cash  
 11-10 compensation paid by a taxable entity to its officers, directors,  
 11-11 owners, partners, and employees, a taxable entity may not include  
 11-12 more than \$300,000, or the amount determined under Section 171.006,  
 11-13 per 12-month period on which margin is based, for any person in the  
 11-14 amount of wages and cash compensation it determines under this  
 11-15 section [Section 171.101]. If a person is paid by more than one  
 11-16 entity of a combined group, the combined group may not subtract in  
 11-17 relation to that person a total of more than \$300,000, or the amount  
 11-18 determined under Section 171.006, per 12-month period on which  
 11-19 margin is based.

11-20 SECTION 18. Section 171.1014, Tax Code, as effective  
 11-21 January 1, 2008, is amended by amending Subsections (b), (d), and  
 11-22 (f) and adding Subsections (d-1), (h), and (i) to read as follows:

11-23 (b) The combined group is a single taxable entity for  
 11-24 purposes of the application of the tax imposed under this chapter,  
 11-25 including Section 171.002(d).

11-26 (d) For purposes of Section 171.101, a combined group shall  
 11-27 make an election to subtract either cost of goods sold or  
 11-28 compensation that applies to all of its members. Regardless of the  
 11-29 election, the taxable margin of the combined group may not exceed 70  
 11-30 percent of the combined group's total revenue from its entire  
 11-31 business, as provided by Section 171.101(a)(1)(A).

11-32 (d-1) A member of a combined group may claim as cost of goods  
 11-33 sold those costs that qualify under Section 171.1012 if the goods  
 11-34 for which the costs are incurred are owned by another member of the  
 11-35 combined group.

11-36 (f) For purposes of Section 171.101, a combined group that  
 11-37 elects to subtract compensation shall determine that amount by:

11-38 (1) determining the compensation for each of its  
 11-39 members as provided by Section 171.1013 as if each member were an  
 11-40 individual taxable entity, subject to the limitation prescribed by  
 11-41 Section 171.1013(c);

11-42 (2) adding the amounts of compensation determined  
 11-43 under Subdivision (1) together; and

11-44 (3) subtracting from the amount determined under  
 11-45 Subdivision (2) any compensation amounts paid from one member of  
 11-46 the combined group to another member of the combined group, but only  
 11-47 to the extent the corresponding item of total revenue was  
 11-48 subtracted under Subsection (c)(3).

11-49 (h) Each taxable entity that is part of a combined group  
 11-50 report shall, for purposes of determining margin and apportionment,  
 11-51 include its activities for the same period used by the combined  
 11-52 group.

11-53 (i) Each member of the combined group shall be jointly and  
 11-54 severally liable for the tax of the combined group.

11-55 SECTION 19. Section 171.1015, Tax Code, as effective  
 11-56 January 1, 2008, is amended to read as follows:

11-57 Sec. 171.1015. REPORTING FOR CERTAIN PARTNERSHIPS IN TIERED  
 11-58 PARTNERSHIP ARRANGEMENT. (a) In this section, "tiered partnership  
 11-59 arrangement" means an ownership structure in which any [all] of the  
 11-60 interests in one taxable entity treated as a partnership or  
 11-61 [partnership, trust, or limited liability company that is treated  
 11-62 for federal income taxes as a partnership or a limited liability  
 11-63 company treated as] an S corporation for federal income tax  
 11-64 purposes (a "lower tier entity" [an "upper tier partnership"])  
 11-65 owned by one or more other taxable entities (an "upper [a "lower  
 11-66 tier entity"). A tiered partnership arrangement may have two or  
 11-67 more tiers.

11-68 (b) In addition to the tax it is required to pay under this  
 11-69 chapter on its own taxable margin, a taxable entity that is an upper

12-1 ~~[a lower]~~ tier entity may include, for purposes of calculating its  
 12-2 own taxable margin, the total revenue ~~[pay the tax on the taxable~~  
 12-3 ~~margin]~~ of a lower tier entity ~~[higher tier partnership]~~ if the  
 12-4 lower tier entity ~~[higher tier partnership]~~ submits a report to the  
 12-5 comptroller showing the amount of total revenue ~~[taxable margin]~~  
 12-6 that each upper ~~[lower]~~ tier entity that owns it should include  
 12-7 within the upper ~~[lower]~~ tier entity's own taxable margin  
 12-8 calculation, according to the ownership ~~[profits]~~ interest of the  
 12-9 upper ~~[lower]~~ tier entity. ~~[An upper tier partnership is not~~  
 12-10 ~~required to pay tax under this chapter on any taxable margin~~  
 12-11 ~~reported under this section.]~~

12-12 (c) This section does not apply to that percentage of the  
 12-13 total revenue ~~[taxable margin]~~ attributable to an upper ~~[a lower]~~  
 12-14 tier entity by a lower tier entity ~~[an upper tier partnership]~~ if  
 12-15 the upper ~~[lower]~~ tier entity is not subject to the tax under this  
 12-16 chapter. In this case, the lower tier entity ~~[higher tier~~  
 12-17 ~~partnership]~~ is liable for the tax on its taxable margin.

12-18 (d) Section 171.002(d) does not apply to an upper tier  
 12-19 entity if, before the attribution of any total revenue by a lower  
 12-20 tier entity to an upper tier entity under this section, the lower  
 12-21 tier entity does not meet the criteria of Section 171.002(d)(1) or  
 12-22 (d)(2).

12-23 (e) The comptroller shall adopt rules to administer this  
 12-24 section.

12-25 SECTION 20. Section 171.103, Tax Code, as effective January  
 12-26 1, 2008, is amended by adding Subsection (c) to read as follows:

12-27 (c) For informational purposes only, a combined group shall  
 12-28 include in a report filed under Section 171.201 or 171.202  
 12-29 financial information relating to the gross receipts computed under  
 12-30 Subsection (a) of each taxable entity that is a member of the  
 12-31 combined group and that does not have a nexus with this state for  
 12-32 the purpose of taxation. A combined group is subject to a penalty  
 12-33 in the amount of \$10,000 for each member of the combined group for  
 12-34 which the combined group fails to report the financial information  
 12-35 required by this subsection or underreports the financial  
 12-36 information by 25 percent or more.

12-37 SECTION 21. Section 171.1055(b), Tax Code, as effective  
 12-38 January 1, 2008, is amended to read as follows:

12-39 (b) In apportioning margin, receipts derived from  
 12-40 transactions between individual members of a combined group that  
 12-41 are excluded under Section 171.1014(c)(3) may not be included in  
 12-42 the receipts of the taxable entity from its business done in this  
 12-43 state as determined under Section 171.103, except that receipts  
 12-44 ultimately derived from the sale of tangible personal property  
 12-45 between individual members of a combined group where one member  
 12-46 party to the transaction does not have nexus in this state shall be  
 12-47 included in the receipts of the taxable entity from its business  
 12-48 done in this state as determined under Section 171.103 to the extent  
 12-49 that the member of the combined group that does not have nexus in  
 12-50 this state resells the tangible personal property without  
 12-51 substantial modification to a purchaser in this state. "Receipts  
 12-52 ultimately derived from the sale" means the amount paid for the  
 12-53 tangible personal property by the third party purchaser.

12-54 SECTION 22. Section 171.106, Tax Code, as effective January  
 12-55 1, 2008, is amended by adding Subsection (f) to read as follows:

12-56 (f) Notwithstanding Section 171.1055, if a loan or security  
 12-57 is treated as inventory of the seller for federal income tax  
 12-58 purposes, the gross proceeds of the sale of that loan or security  
 12-59 are considered gross receipts.

12-60 SECTION 23. Section 171.111, Tax Code, as effective January  
 12-61 1, 2008, is amended to read as follows:

12-62 Sec. 171.111. TEMPORARY CREDIT ON TAXABLE MARGIN. (a) On  
 12-63 the first report originally due under this chapter on or after  
 12-64 January 1, 2008, ~~[Not later than March 1, 2007,]~~ a taxable entity  
 12-65 must ~~[may]~~ notify the comptroller in writing of its intent to  
 12-66 ~~[preserve its right to]~~ take a credit in an amount allowed by this  
 12-67 section on the tax due on taxable margin. The taxable entity may  
 12-68 thereafter elect to claim the credit for the current year and future  
 12-69 year at or before the original due date of any report due after

13-1 January 1, 2008 [~~2007~~], until the taxable entity revokes the  
 13-2 election or this section expires, whichever is earlier. A taxable  
 13-3 entity may claim the credit for not more than 20 consecutive  
 13-4 privilege periods beginning with the first report originally due  
 13-5 under this chapter on or after January 1, 2008 [~~2007~~]. A taxable  
 13-6 entity may make only one election under this section and the  
 13-7 election may not be conveyed, assigned, or transferred to another  
 13-8 entity.

13-9 (b) The credit allowed under this section for any privilege  
 13-10 period is computed by:

13-11 (1) determining the amount of the business loss  
 13-12 carryforwards of the taxable entity under Section 171.110(e), as  
 13-13 that section applied to annual reports originally due before  
 13-14 January 1, 2008, that were not exhausted on a report originally due  
 13-15 under this chapter before January 1, 2008 [~~, as of the end of the~~  
 13-16 ~~taxable entity's accounting year ending in 2006, of the difference~~  
 13-17 ~~between (i) the taxable entity's deductible temporary differences~~  
 13-18 ~~and net operating loss carryforwards, net of related valuation~~  
 13-19 ~~allowance amounts, shown on the taxable entity's books and records~~  
 13-20 ~~on the last day of its taxable year ending in 2006, and (ii) the~~  
 13-21 ~~taxable entity's taxable temporary differences as shown on those~~  
 13-22 ~~books and records on that date. The amount of other net deferred~~  
 13-23 ~~tax items may be less than zero. For the purpose of computing the~~  
 13-24 ~~amount of the taxable entity's other net deferred tax items, any~~  
 13-25 ~~credit carryforward allowed under this chapter shall be excluded~~  
 13-26 ~~from the amount of deductible temporary differences to the extent~~  
 13-27 ~~such credit carryforward amount, net of any related valuation~~  
 13-28 ~~allowance amount, is otherwise included in the taxable entity's~~  
 13-29 ~~deductible temporary differences, net of related valuation~~  
 13-30 ~~allowance amounts, shown on the taxable entity's books and records~~  
 13-31 ~~on the last day of the taxable entity's taxable year ending in~~  
 13-32 ~~2006~~];

13-33 (2) [~~apportioning the amount determined under~~  
 13-34 ~~Subdivision (1) to this state in the same manner taxable margin is~~  
 13-35 ~~apportioned under Section 171.106 on the first report due on or~~  
 13-36 ~~after January 1, 2007~~;

13-37 [~~(3)~~] multiplying the amount determined under  
 13-38 Subdivision (1) [~~(2)~~] by:

13-39 (A) 2.25 [~~10~~] percent for reports originally due  
 13-40 on or after January 1, 2008, and before January 1, 2018; and

13-41 (B) 7.75 percent for reports originally due on or  
 13-42 after January 1, 2018, and before September 1, 2027; and

13-43 (3) [~~(4)~~] multiplying the amount determined under  
 13-44 Subdivision (2) [~~(3)~~] by 4.5 percent [~~the tax rate prescribed by~~  
 13-45 ~~Section 171.002(a)(2)~~].

13-46 (c) [~~A taxable entity that notifies the comptroller of its~~  
 13-47 ~~intent to preserve its right to take a credit allowed by this~~  
 13-48 ~~section shall submit with its notice of intent a statement of the~~  
 13-49 ~~amount determined under Subsection (b)(1).] The comptroller may~~  
 13-50 ~~request that the taxable entity submit, with each~~ [~~in the~~] annual  
 13-51 ~~report~~ [~~for each succeeding privilege period~~] in which the taxable  
 13-52 entity is eligible to take a credit, information relating to the  
 13-53 amount determined under Subsection (b)(1). The taxable entity  
 13-54 shall submit in the form and content the comptroller requires any  
 13-55 information relating to [~~the assets and liabilities that determine~~  
 13-56 ~~the amount of the credit~~], the amount determined under Subsection  
 13-57 (b)(1) [~~7~~] or any other matter relevant to the computation of the  
 13-58 credit for which the taxable entity is eligible.

13-59 (d) A credit that a taxable entity is entitled to under this  
 13-60 section may [~~does~~] not be conveyed [~~convey~~], [~~and may not be~~  
 13-61 ~~assigned, or transferred~~], [~~in relation to a transaction in which~~  
 13-62 ~~the taxable entity is purchased by another entity~~]. A taxable  
 13-63 entity loses the right to claim the credit if the entity changes  
 13-64 combined groups after June 30, 2007.

13-65 (d-1) A taxable entity, other than a combined group, may not  
 13-66 claim the credit under this section unless the taxable entity was,  
 13-67 on May 1, 2006, subject to the tax imposed by this chapter as this  
 13-68 chapter existed on that date. A taxable entity that is a combined  
 13-69 group may claim the credit for each member entity that was, on May

14-1 1, 2006, subject to the tax imposed by this chapter as this chapter  
 14-2 existed on that date and shall compute the amount of the credit for  
 14-3 that member as provided by this section.

14-4 (d-2) The amount of credit claimed, including any unused  
 14-5 credit carried forward, may not exceed the amount of franchise tax  
 14-6 due for the report. Unused credits may not be carried forward to  
 14-7 reports originally due on or after September 1, 2027.

14-8 (e) This section expires September 1, 2027 [~~2026~~].

14-9 SECTION 24. Section 171.1121(b), Tax Code, as effective  
 14-10 January 1, 2008, is amended to read as follows:

14-11 (b) Except as otherwise provided by this section, a taxable  
 14-12 entity shall use the same accounting methods to apportion margin as  
 14-13 used in computing margin [~~reportable federal taxable income~~].

14-14 SECTION 25. Section 171.1532(b), Tax Code, as effective  
 14-15 January 1, 2008, is amended to read as follows:

14-16 (b) The tax covering the regular annual period, other than a  
 14-17 regular annual period included on the initial report, is based on  
 14-18 the business done by the taxable entity during the period beginning  
 14-19 with the day after the last date upon which taxable margin or net  
 14-20 taxable earned surplus on a previous report was based and ending  
 14-21 with its last accounting period ending date for federal income tax  
 14-22 purposes in the year before the year in which the report is  
 14-23 originally due.

14-24 SECTION 26. Section 171.201(a), Tax Code, as effective  
 14-25 January 1, 2008, is amended to read as follows:

14-26 (a) Except as provided by Section 171.2022, a taxable entity  
 14-27 on which the franchise tax is imposed shall file an initial report  
 14-28 with the comptroller containing:

14-29 (1) financial information of the taxable entity  
 14-30 necessary to compute the tax under this chapter [~~showing the~~  
 14-31 ~~financial condition of the taxable entity on the day that is the~~  
 14-32 ~~last day of a calendar month and that is nearest to the end of the~~  
 14-33 ~~taxable entity's first year of business~~];

14-34 (2) the name and address of:

14-35 (A) each officer, director, and manager of the  
 14-36 taxable entity;

14-37 (B) for a limited partnership, each general  
 14-38 partner;

14-39 (C) for a general partnership or limited  
 14-40 liability partnership, each managing partner or, if there is not a  
 14-41 managing partner, each partner; or

14-42 (D) for a trust, each trustee;

14-43 (3) the name and address of the agent of the taxable  
 14-44 entity designated under Section 171.354; and

14-45 (4) other information required by the comptroller.

14-46 SECTION 27. Sections 171.203(a), (b), (d), and (e), Tax  
 14-47 Code, as effective January 1, 2008, are amended to read as follows:

14-48 (a) A corporation or limited liability company on which the  
 14-49 franchise tax is imposed, regardless of whether the corporation or  
 14-50 limited liability company is required to pay any tax, shall file a  
 14-51 report with the comptroller containing:

14-52 (1) the name of each corporation or limited liability  
 14-53 company in which the corporation or limited liability company  
 14-54 filing the report owns a 10 percent or greater interest and the  
 14-55 percentage owned by the corporation or limited liability company;

14-56 (2) the name of each corporation or limited liability  
 14-57 company that owns a 10 percent or greater interest in the  
 14-58 corporation or limited liability company filing the report;

14-59 (3) the name, title, and mailing address of each  
 14-60 person who is an officer or director of the corporation or limited  
 14-61 liability company on the date the report is filed and the expiration  
 14-62 date of each person's term as an officer or director, if any;

14-63 (4) the name and address of the agent of the  
 14-64 corporation or limited liability company designated under Section  
 14-65 171.354; and

14-66 (5) the address of the corporation's or limited  
 14-67 liability company's principal office and principal place of  
 14-68 business.

14-69 (b) The corporation or limited liability company shall file

15-1 the report once a year on a form prescribed by the comptroller.

15-2 (d) The corporation or limited liability company shall send  
15-3 a copy of the report to each person named in the report under  
15-4 Subsection (a)(3) who is not currently employed by the corporation  
15-5 or limited liability company or a related corporation or limited  
15-6 liability company listed in Subsection (a)(1) or (2). An officer or  
15-7 director of the corporation or limited liability company or another  
15-8 authorized person must sign the report under a certification that:

15-9 (1) all information contained in the report is true  
15-10 and correct to the best of the person's knowledge; and

15-11 (2) a copy of the report has been mailed to each person  
15-12 identified in this subsection on the date the return is filed.

15-13 (e) If a person's name is included in a report under  
15-14 Subsection (a)(3) and the person is not an officer or director of  
15-15 the corporation or limited liability company on the date the report  
15-16 is filed, the person may file with the comptroller a sworn statement  
15-17 disclaiming the person's status as shown on the report. The  
15-18 comptroller shall maintain a record of statements filed under this  
15-19 subsection and shall make that information available on request  
15-20 using the same procedures the comptroller uses for other requests  
15-21 for public information.

15-22 SECTION 28. Section 171.204, Tax Code, as effective January  
15-23 1, 2008, is amended by adding Subsection (c) to read as follows:

15-24 (c) The comptroller may require any entity to file  
15-25 information as necessary to verify that the entity is not subject to  
15-26 the tax imposed under this chapter.

15-27 SECTION 29. Subchapter E, Chapter 171, Tax Code, is amended  
15-28 by adding Section 171.2125 to read as follows:

15-29 Sec. 171.2125. CALCULATING COST OF GOODS OR COMPENSATION IN  
15-30 STAFF LEASING ARRANGEMENTS. In calculating cost of goods sold or  
15-31 compensation, a taxable entity that is a client company of a staff  
15-32 leasing services company shall rely on information provided by the  
15-33 staff leasing services company on a form promulgated by the  
15-34 comptroller or an invoice.

15-35 SECTION 30. Subchapter E, Chapter 171, Tax Code, is amended  
15-36 by adding Section 171.214 to read as follows:

15-37 Sec. 171.214. SMALL BUSINESS TAX ADVISORY COMMITTEE. (a)  
15-38 The Small Business Tax Advisory Committee will conduct an annual  
15-39 study of the effects of the tax levied under this chapter on small  
15-40 businesses in the state. The study must take into consideration:

15-41 (1) job growth or loss attributable to the franchise  
15-42 tax;

15-43 (2) the impact of the franchise tax on wages;  
15-44 (3) the number of businesses that ceased to operate  
15-45 due to the franchise tax, if any;

15-46 (4) the number of businesses that changed business  
15-47 organization to avoid payment of the franchise tax, if any;

15-48 (5) the number of businesses that relocated their  
15-49 operations, headquarters, or other facilities due to the franchise  
15-50 tax, if any; and

15-51 (6) any other items presented by the comptroller.

15-52 (b) The comptroller shall chair the Small Business Tax  
15-53 Advisory Committee and shall appoint:

15-54 (1) at the direction of the speaker of the house, one  
15-55 member of the house of representatives;

15-56 (2) at the direction of the lieutenant governor, one  
15-57 member of the senate;

15-58 (3) at least one certified public accountant; and

15-59 (4) at least three small business owners.

15-60 (c) The comptroller, by rule, shall establish procedures  
15-61 for the functions of the advisory committee, including a report to  
15-62 be issued to the speaker of the house of representatives, the  
15-63 lieutenant governor, and the governor not later than January 1,  
15-64 2009.

15-65 SECTION 31. Subchapter G, Chapter 171, Tax Code, is amended  
15-66 by adding Sections 171.3015 and 171.3125 to read as follows:

15-67 Sec. 171.3015. FORFEITURE OF CERTIFICATE OR REGISTRATION OF  
15-68 TAXABLE ENTITY. The comptroller may, for the same reasons and using  
15-69 the same procedures the comptroller uses in relation to the

16-1 forfeiture of a corporation's charter or certificate of authority,  
 16-2 forfeit the certificate or registration of a taxable entity.

16-3 Sec. 171.3125. REVIVAL OF CERTIFICATE OR REGISTRATION OF  
 16-4 TAXABLE ENTITY AFTER FORFEITURE BY SECRETARY OF STATE. (a) The  
 16-5 secretary of state may, using the same procedures the secretary  
 16-6 uses in relation to the revival of a corporation's charter or  
 16-7 certificate, revive the certificate or registration of a taxable  
 16-8 entity.

16-9 (b) The secretary of state may adopt rules to implement this  
 16-10 section.

16-11 SECTION 32. Section 171.309, Tax Code, is amended to read as  
 16-12 follows:

16-13 Sec. 171.309. FORFEITURE BY SECRETARY OF STATE. The  
 16-14 secretary of state may forfeit the charter, ~~[or]~~ certificate, or  
 16-15 registration of a taxable entity ~~[of authority of a corporation]~~  
 16-16 if:

16-17 (1) the secretary receives the comptroller's  
 16-18 certification under Section 171.302 ~~[of this code]~~; and

16-19 (2) the taxable entity ~~[corporation]~~ does not revive  
 16-20 its forfeited ~~[corporate]~~ privileges within 120 days after the date  
 16-21 that the ~~[corporate]~~ privileges were forfeited~~[, and~~

16-22 ~~[(3) the corporation does not have assets from which a~~  
 16-23 ~~judgment for any tax, penalty, or court costs imposed by this~~  
 16-24 ~~chapter may be satisfied].~~

16-25 SECTION 33. Subchapter H, Chapter 171, Tax Code, is amended  
 16-26 by adding Section 171.356 to read as follows:

16-27 Sec. 171.356. BILLING OR INVOICING THE TAX AS A FEE, CHARGE,  
 16-28 REIMBURSEMENT, OR OTHER ITEM. (a) A taxable entity may not include  
 16-29 in a bill or invoice a fee, charge, reimbursement, or other item  
 16-30 that the taxable entity represents is for the purpose of full or  
 16-31 partial payment or reimbursement of the tax under this chapter  
 16-32 unless:

16-33 (1) the fee, charge, reimbursement, or other item  
 16-34 directly corresponds to and may not exceed the amount of the tax the  
 16-35 taxable entity paid under this chapter before the date the bill or  
 16-36 invoice was issued or presented; and

16-37 (2) the taxable entity includes on the bill or invoice  
 16-38 the following statement, prominently displayed in relation to the  
 16-39 fee, charge, reimbursement, or other item: "Texas state law does  
 16-40 not require (name of taxable entity) to collect this charge."

16-41 (b) A taxable entity that collects a fee, charge,  
 16-42 reimbursement, or other item in a manner that violates Subsection  
 16-43 (a):

16-44 (1) holds the entire amount collected in trust for the  
 16-45 benefit of this state; and

16-46 (2) is liable to this state for the entire amount  
 16-47 collected plus any accrued penalties and interest on the amount  
 16-48 collected.

16-49 (c) The payment by a third party of a fee, charge,  
 16-50 reimbursement, or other item collected in a manner that violates  
 16-51 Subsection (a) is considered to be a voluntary payment of tax by  
 16-52 that person and the amount remitted by the taxable entity under  
 16-53 Subsection (b) is in addition to the amount otherwise owed and  
 16-54 payable by the taxable entity under this chapter.

16-55 (d) This section does not apply to a bill or invoice under a  
 16-56 contract for the lease of real property.

16-57 SECTION 34. Section 17, Chapter 1, Acts of the 79th  
 16-58 Legislature, 3rd Called Session, 2006, is amended to read as  
 16-59 follows:

16-60 Sec. 17. ~~[(a) The repeal of Section 171.111, Tax Code, by~~  
 16-61 ~~this Act does not affect a credit that accrued under that section~~  
 16-62 ~~before the effective date of this Act.~~

16-63 ~~[(b)]~~ A corporation that has any unused credits established  
 16-64 ~~[accrued]~~ before the effective date of this Act under Section  
 16-65 171.111, Tax Code, may claim those unused credits on or with the tax  
 16-66 report for the period in which the credits were established  
 16-67 ~~[accrued]~~, and the former law under which the corporation  
 16-68 established ~~[accrued]~~ the credits is continued in effect for  
 16-69 purposes of determining the amount of the credits the corporation



17-1 may claim and the manner in which the corporation may claim the  
17-2 credits.

17-3 SECTION 35. Sections 18(b) through (f), Chapter 1, Acts of  
17-4 the 79th Legislature, 3rd Called Session, 2006, are amended to read  
17-5 as follows:

17-6 (b) This section does not affect a credit authorized by a  
17-7 provision listed in Subsection (a) of this section that was  
17-8 established [~~accrued~~] under Chapter 171, Tax Code, before the  
17-9 effective date of this Act or a credit that continues to accrue  
17-10 under Section 19 of this Act.

17-11 (c) A corporation that has any unused credits established  
17-12 [~~accrued~~] before the effective date of this Act under a provision  
17-13 other than Subchapter O, P, or Q, Chapter 171, Tax Code, may claim  
17-14 those unused credits on or with the tax report for the period in  
17-15 which the credits were established [~~accrued~~], and the former law  
17-16 under which the corporation established [~~accrued~~] the credits is  
17-17 continued in effect for purposes of determining the amount of the  
17-18 credits the corporation may claim and the manner in which the  
17-19 corporation may claim the credits.

17-20 (d) A corporation that has any unused credits established  
17-21 [~~accrued~~] before the effective date of this Act under Subchapter O,  
17-22 Chapter 171, Tax Code, may claim those unused credits on or with the  
17-23 tax report for the period in which the credit was established  
17-24 [~~accrued~~]. However, if the corporation was allowed to carry  
17-25 forward unused credits under that subchapter, the corporation may  
17-26 continue to apply those credits on or with each consecutive report  
17-27 until the earlier of the date the credit would have expired under  
17-28 the terms of Subchapter O, Chapter 171, Tax Code, had it continued  
17-29 in existence, or December 31, 2027, and the former law under which  
17-30 the corporation established [~~accrued~~] the credits is continued in  
17-31 effect for purposes of determining the amount of the credits the  
17-32 corporation may claim and the manner in which the corporation may  
17-33 claim the credits.

17-34 (e) A corporation that has any unused credits established  
17-35 [~~accrued~~] before the effective date of this Act under Subchapter P,  
17-36 Chapter 171, Tax Code, may claim those unused credits on or with the  
17-37 tax report for the period in which the credit was established  
17-38 [~~accrued~~]. However, if the corporation was allowed to carry  
17-39 forward unused credits under that subchapter, the corporation may  
17-40 continue to apply those credits on or with each consecutive report  
17-41 until the earlier of the date the credit would have expired under  
17-42 the terms of Subchapter P, Chapter 171, Tax Code, had it continued  
17-43 in existence, or December 31, 2012, and the former law under which  
17-44 the corporation established [~~accrued~~] the credits is continued in  
17-45 effect for purposes of determining the amount of the credits the  
17-46 corporation may claim and the manner in which the corporation may  
17-47 claim the credits.

17-48 (f) A corporation that has any unused credits established  
17-49 [~~accrued~~] before the effective date of this Act under Subchapter Q,  
17-50 Chapter 171, Tax Code, may claim those unused credits on or with the  
17-51 tax report for the period in which the credit was established  
17-52 [~~accrued~~]. However, if the corporation was allowed to carry  
17-53 forward unused credits under that subchapter, the corporation may  
17-54 continue to apply those credits on or with each consecutive report  
17-55 until the earlier of the date the credit would have expired under  
17-56 the terms of Subchapter Q, Chapter 171, Tax Code, had it continued  
17-57 in existence, or December 31, 2012, and the former law under which  
17-58 the corporation established [~~accrued~~] the credits is continued in  
17-59 effect for purposes of determining the amount of the credits the  
17-60 corporation may claim and the manner in which the corporation may  
17-61 claim the credits.

17-62 SECTION 36. (a) Section 22, Chapter 1, Acts of the 79th  
17-63 Legislature, 3rd Called Session, 2006, is amended by amending  
17-64 Subsection (b) and adding Subsections (b-1), (b-2), and (g) to read  
17-65 as follows:

17-66 (b) For an entity becoming subject to the franchise tax  
17-67 under this Act:

17-68 (1) margin or gross receipts occurring before June 1,  
17-69 2006, may not be considered for purposes of determining taxable

margin or for apportionment purposes; and  
 (2) an entity subject to the franchise tax on January 1, 2008, that was not previously subject to the tax and for which January 1, 2008, is not the beginning date, shall file an annual report due May 15, 2008, based on the period:

(A) if the entity has an accounting period that ends on or after January 1, 2007, and before June 1, 2007:

(i) beginning on the later of:

(a) June 1, 2006; or

(b) the date the entity was organized in this state or, if a foreign entity, the date it began doing business in this state; and

(ii) ending on the date that accounting period ends in 2007;

(B) if the entity has an accounting period that ends on or after June 1, 2007, and before December 31, 2007:

(i) beginning on the date that accounting period begins; and

(ii) ending on the date that accounting period ends in 2007; and

(C) if the entity has an accounting period that ends on December 31, 2007, or if the entity does not have an accounting period that ends in 2007:

(i) beginning on the later of:

(a) January 1, 2007; or

(b) the date the entity was organized in the state or, if a foreign entity, the date it began doing business in this state; and

(ii) ending on December 31, 2007[ ~~and~~

~~[(3) an entity subject to the franchise tax as it existed before the effective date of this Act at any time after December 31, 2006, and before January 1, 2008, but not subject to the franchise tax on January 1, 2008, shall file a final report for the privilege of doing business at any time after June 30, 2007, and before January 1, 2008, based on the period:~~

~~[(A) beginning on the later of:~~

~~[(i) January 1, 2007; or~~

~~[(ii) the date the entity was organized in this state or, if a foreign entity, the date it began doing business in this state; and~~

~~[(B) ending on the date the entity became no longer subject to the franchise tax].~~

(b-1) This subsection applies to an entity that:

(1) is not doing business in this state on January 1, 2008;

(2) would be subject to the franchise tax as amended by this Act if it were doing business in this state on or after January 1, 2008, but would not have been subject to the franchise tax as it existed before being amended by this Act; and

(3) was doing business in this state at any time after June 30, 2007, and before January 1, 2008.

(b-2) An entity to which Subsection (b-1) applies shall, for the privilege of doing business in this state at any time after June 30, 2007, and before January 1, 2008, file a final report and pay an additional tax equal to the appropriate rate under Section 171.002, Tax Code, as amended by this Act, of the entity's taxable margin based on the period:

(1) beginning on the later of:

(A) January 1, 2007; or

(B) the date the entity was organized in this state or, if a foreign entity, the date it began doing business in this state; and

(2) ending on the date the entity became no longer subject to the tax.

(g) Except as provided by Subsections (b-1) and (b-2) of this section, an entity becoming subject to the franchise tax under this Act that is part of a combined group report shall, for purposes of determining margin and apportionment, include its activity for the same period used by the combined group.

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2007.

SECTION 37. Sections 23(b) and (f), Chapter 1, Acts of the 79th Legislature, 3rd Called Session, 2006, are amended to read as follows:

(b) The information report required under this section must contain the same information that an entity required to file the report would have submitted in its report due to the comptroller in 2006 under Chapter 171, Tax Code, if the changes made by this Act to Chapter 171, Tax Code, had been in effect January 1, 2006. The information report shall also contain the total of maintenance and operations school property taxes paid by the entity to school districts in Texas in the 2005 [~~2006, and 2007~~] tax year [~~years~~]. The comptroller shall provide the forms and instructions to the entities required to file a report under this section.

(f) The comptroller:

(1) shall identify the entities described by Subsection (d) of this section;

(2) shall prepare all forms and instructions required for those entities to file their information reports as required by this section;

(3) shall provide those forms and instructions to those entities on or after November 15, 2006, but before December 2, 2006;

(4) shall require the entities to submit their information reports on or before February 15, 2007 [~~and February 15, 2008~~];

(5) may not grant any extensions for filing the information reports; and

(6) shall report to the governor, the lieutenant governor, and the members of the legislature, on or before April 1, 2007, [~~and April 1, 2008,~~] the results of the information reports, stating the amount of revenue generated by the tax under Chapter 171, Tax Code, [~~in each year,~~] the amount that would have been generated from the entities submitting information reports under this section if the changes made by this Act to Chapter 171, Tax Code, had been in effect January 1, 2006, and the school maintenance and operations property taxes paid by the entities in the 2005 [~~2006, and 2007~~] tax year [~~years~~].

SECTION 38. Subtitle F, Title 2, Tax Code, is amended by adding Chapter 172 to read as follows:

CHAPTER 172. FRANCHISE TAX

Sec. 172.001. DEFINITIONS; REFERENCES IN OTHER LAW. (a) Unless otherwise provided by this chapter, the terms used in this chapter have the same meaning as the terms used in Chapter 171.

(b) A reference in other law to the franchise tax means, as appropriate, the tax imposed under this chapter or the tax imposed under Chapter 171 by an entity that elects to pay that tax.

Sec. 172.002. TAX IMPOSED. (a) A franchise tax is imposed on each taxable entity that does business in this state or that is chartered or organized in this state.

(b) The tax imposed under this chapter extends to the limits of the United States Constitution and the federal law adopted under the United States Constitution.

(c) A taxable entity that elects to pay the elective franchise tax under Chapter 171 is not liable for the tax imposed under this chapter.

Sec. 172.003. AMOUNT OF TAX. The amount of the tax imposed by this chapter on a taxable entity is computed by:

(1) determining the taxable entity's total revenue from its entire business, as determined under Section 171.1011;

(2) apportioning the amount computed under Subdivision (1) to this state, as provided by Section 171.106, to determine the taxable entity's apportioned total revenue; and

(3) multiplying the amount computed under Subdivision (2) by the rate of 0.675 percent.

Sec. 172.004. PAYMENT. A taxable entity that pays the tax imposed by this chapter shall pay the tax to the comptroller in the same manner provided for the elective franchise tax under Chapter 171.

Sec. 172.005. COLLECTION, ADMINISTRATION, AND ENFORCEMENT. The comptroller shall collect, administer, and enforce the tax under this chapter in the same manner as the comptroller collects, administers, and enforces the elective franchise tax under Chapter 171.

SECTION 39. The following provisions of the Tax Code are repealed:

- (1) Section 171.0011(e), as effective January 1, 2008;
  - (2) Section 171.1011(p)(4-b), as effective January 1, 2008;
  - (3) Section 171.1014(g), as effective January 1, 2008;
- and
- (4) Section 171.2035, as effective January 1, 2008.

SECTION 40. This Act applies only to a report originally due on or after the effective date of this Act.

SECTION 41. Except as otherwise provided by this Act, this Act takes effect January 1, 2008.

\* \* \* \* \*