

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 321, Page 1, Line 3 of the Title, by
2 deleting all of said line and inserting in lieu thereof the following: "income tax"; and

3
4 Further amend said bill, Page 8, Section 143.451, Line 245, by inserting after said line the following:

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6 "143.801. 1. A claim for credit or refund of an overpayment of any tax imposed by sections
7 143.011 to 143.996 shall be filed by the taxpayer within three years from the time the return was
8 filed or two years from the time the tax was paid, whichever of such periods expires the later; or if no
9 return was filed by the taxpayer, within two years from the time the tax was paid. No credit or
10 refund shall be allowed or made after the expiration of the period of limitation prescribed in this
11 subsection for the filing of a claim for credit or refund, unless a claim for credit or refund is filed by
12 the taxpayer within such period.

13 2. If the claim is filed by the taxpayer during the three-year period prescribed in subsection 1
14 of this section, the amount of the credit or refund shall not exceed the portion of the tax paid within
15 the three years immediately preceding the filing of the claim plus the period of any extension of time
16 for filing the return. If the claim is not filed within such three-year period, but is filed within the
17 two-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during
18 the two years immediately preceding the filing of the claim. If no claim is filed, the credit or refund
19 shall not exceed the amount which would be allowable under either of the preceding sentences, as
20 the case may be, if a claim was filed on the date the credit or refund is allowed.

21 3. If pursuant to subsection 6 of section 143.711 an agreement for an extension of the period
22 for assessment of income taxes is made within the period prescribed in subsection 1 of this section
23 for the filing of a claim for credit or refund, the period for filing a claim for credit or for making a
24 credit or refund if no claim is filed, shall not expire prior to six months after the expiration of the
25 period within which an assessment may be made pursuant to the agreement or any extension thereof.
26 The amount of such credit or refund shall not exceed the portion of the tax paid after the execution of
27 the agreement and before the filing of the claim or the making of the credit or refund, as the case
28 may be, plus the portion of the tax paid within the period which would be applicable under
29 subsection 1 of this section if a claim had been filed on the date the agreement was executed.

30 4. If a taxpayer is required by section 143.601 to report a change or correction in federal
31 taxable income reported on his federal income tax return, or to report a change or correction which is

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1 treated in the same manner as if it were an overpayment for federal income tax purposes, an
2 amended return or a claim for credit or refund of any resulting overpayment of tax shall be filed by
3 the taxpayer within one year from the time the notice of such change or correction or such amended
4 return was required to be filed with the director of revenue. If the report or amended return required
5 by section 143.601 is not filed within the ninety-day period therein specified, interest on any
6 resulting refund or credit shall cease to accrue after such ninetieth day. The amount of such credit or
7 refund shall not exceed the amount of the reduction in tax attributable to:

8 (1) The issues on which such federal change or correction or the items amended on the
9 taxpayer's amended federal income tax return are based[,] ; and

10 (2) Any change in the amount of [his] the taxpayer's federal income tax deduction under the
11 provisions of subsection 1 of section 143.171. No effect shall be given in the preceding sentence to
12 any federal change or correction or to any item on an amended return unless it is timely under the
13 applicable federal period of limitations. The time and amount provisions of this subsection shall be
14 in lieu of any other provisions of this section. This subsection shall not affect the time within which
15 or the amount for which a claim for credit or refund may be filed apart from this subsection.

16 5. If the claim for credit or refund relates to an overpayment of tax on account of the
17 deductibility by the taxpayer of a debt as a debt which became worthless or a loss from worthlessness
18 of a security or the effect that the deductibility of a debt or of a loss has on the application to the
19 taxpayer of a carryover, the claim may be made, under regulations prescribed by the director of
20 revenue within seven years from the date prescribed by law for filing the return for the year with
21 respect to which the claim is made.

22 6. If the claim for credit or refund relates to an overpayment attributable to a net operating
23 loss carryback or a capital loss carryback, in lieu of the three-year period of limitations prescribed in
24 subsection 1 of this section, the period shall be that period which ends with the expiration of the
25 fifteenth day of the fortieth month (or the thirty-ninth month, in the case of a corporation) following
26 the end of the taxable year of the net operating loss or net capital loss which results in such
27 carryback, or the period prescribed in subsection 3 of this section in respect of such taxable year,
28 whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed
29 the portion of the tax paid within the period provided in subsections 2, 3 and 4 of this section,
30 whichever is applicable, to the extent of the amount of the overpayment attributable to such
31 carryback.

32 7. (1) No period of limitations provided in subsections 1 to 6 of this section shall apply if a
33 taxpayer amends, or the federal Internal Revenue Service or its successor agency changes the
34 taxpayer's federal income tax return for the same tax period and:

35 (a) Such amendment or change occurs after any period of limitations provided in subsections
36 1 to 6 of this section has expired;

37 (b) Such amendment or change reveals that the taxpayer is eligible to claim a credit or
38 refund of an overpayment of any tax imposed under this chapter; and

39 (c) A period of limitations provided in subsections 1 to 6 of this section prohibits the
40 taxpayer from claiming such credit or refund.

41 (2) If the taxpayer files a claim for such credit or refund, the claim shall be filed in the

1 manner provided in this chapter and shall be filed within one year from the time the taxpayer amends
2 or the federal Internal Revenue Service changes the taxpayer's federal income tax return."; and
3
4 Further amend said bill by amending the title, enacting clause, and intersectional references
5 accordingly.