H.B. No. 2790 By: Homer

	A BILL TO BE ENTITLED
1	AN ACT
2	relating to franchise tax incentives for recycling.
3	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
4	SECTION 1. Section 171.1011(p), Tax Code, is amended by
5	adding Subdivisions (4-c) and (4-d) to read as follows:
6	(4-c) "Recycled product" has the meaning assigned by
7	Section 361.421, Health and Safety Code.
8	(4-d) "Solid waste" has the meaning assigned by
9	Section 361.003, Health and Safety Code.
10	SECTION 2. Section 171.1011, Tax Code, is amended by adding
11	Subsection (x) to read as follows:
12	(x) A taxable entity may exclude, to the extent included
13	under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), all revenue
14	received from sales of recycled products manufactured by the
15	taxable entity. A taxable entity is entitled to exclude revenue

(1) the taxable entity is not primarily engaged in the 18

received from the sale of recycled products under this subsection

- 19 business of manufacturing and selling recycled products; and
- (2) the taxable entity demonstrates to the comptroller 20
- 21 that the recycled products were manufactured using waste that the
- taxable entity would otherwise have disposed of as solid waste. 22
- 23 SECTION 3. Subchapter C, Chapter 171, Tax Code, is amended
- by adding Section 171.1045 to read as follows: 24

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only if:

- 1 Sec. 171.1045. GROSS RECEIPTS: DEDUCTION FOR RECYCLED
- 2 PRODUCTS. (a) In this section:
- 3 (1) "Recycled product" has the meaning assigned by
- 4 Section 361.421, Health and Safety Code.
- 5 (2) "Solid waste" has the meaning assigned by Section
- 6 361.003, Health and Safety Code.
- 7 (b) A taxable entity may exclude from its receipts
- 8 includable under Sections 171.103(a)(1) and 171.105(a)(1) the
- 9 amount of the taxable entity's receipts from sales of recycled
- 10 products manufactured by the taxable entity. A taxable entity that
- 11 chooses to exclude receipts as provided by this section shall
- 12 exclude those receipts from each computation of gross receipts
- 13 required by this chapter.
- 14 (c) A taxable entity is entitled to exclude receipts under
- 15 this section only if:
- 16 (1) the taxable entity is not primarily engaged in the
- 17 business of manufacturing and selling recycled products; and
- 18 (2) the taxable entity demonstrates to the comptroller
- 19 that the recycled products were manufactured using waste that the
- 20 taxable entity would otherwise have disposed of as solid waste.
- 21 SECTION 4. Chapter 171, Tax Code, is amended by adding
- 22 Subchapter W to read as follows:
- 23 SUBCHAPTER W. TAX CREDIT FOR CAPITAL EXPENDITURES FOR CERTAIN
- 24 RECYCLING EQUIPMENT
- Sec. 171.951. DEFINITIONS. In this subchapter:
- 26 (1) "Recycling equipment" means equipment necessary
- 27 to assist a taxable entity in recycling waste and used

- 1 predominantly for that purpose.
- 2 (2) "Solid waste" has the meaning assigned by Section
- 3 361.003, Health and Safety Code.
- 4 Sec. 171.952. ELIGIBILITY. A taxable entity is eligible for
- 5 a credit against the tax imposed under this chapter in the amount
- 6 and under the conditions and limitations provided by this
- 7 subchapter.
- 8 Sec. 171.953. CREDIT FOR CAPITAL EXPENDITURE FOR RECYCLING
- 9 EQUIPMENT. (a) A taxable entity may claim a credit under this
- 10 subchapter only for a capital expenditure made toward purchasing
- 11 recycling equipment.
- 12 (b) A taxable entity is entitled to a credit under this
- 13 section only if:
- 14 (1) the taxable entity is not primarily engaged in the
- 15 business of manufacturing and selling recycled products; and
- 16 (2) the taxable entity demonstrates to the comptroller
- 17 that the recycling equipment was used to recycle waste that the
- 18 taxable entity would otherwise have disposed of as solid waste.
- 19 Sec. 171.954. AMOUNTS; LIMITATIONS. (a) The amount of the
- 20 credit is equal to the lesser of:
- 21 (1) the total amount of the capital expenditure made
- 22 <u>during the reporting period; or</u>
- <u>(2)</u> \$50,000.
- 24 (b) The taxable entity may claim the credit only in five
- 25 <u>equal installments of one-fifth the credit amount over five</u>
- 26 consecutive reports beginning with the report based on the period
- 27 during which the capital expenditure was made.

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- 1 Sec. 171.955. APPLICATION FOR CREDIT. (a) A taxable entity
- 2 must apply for a credit under this subchapter on or with the tax
- 3 report for the period for which the credit is claimed.
- 4 (b) The comptroller shall adopt a form for the application
- 5 for the credit. A taxable entity must use this form in applying for
- 6 the credit.
- 7 Sec. 171.956. ASSIGNMENT PROHIBITED. A taxable entity may
- 8 not convey, assign, or transfer the credit allowed under this
- 9 subchapter to another entity unless all of the assets of the taxable
- 10 entity are conveyed, assigned, or transferred in the same
- 11 <u>transaction</u>.
- 12 SECTION 5. (a) This Act applies only to a report
- 13 originally due on or after the effective date of this Act.
- (b) A taxable entity may claim a credit under Subchapter W,
- 15 Chapter 171, Tax Code, as added by this Act, only for an expenditure
- 16 made on or after the effective date of this Act.
- 17 SECTION 6. This Act takes effect January 1, 2010.