

By: Herrero

H.B. No. 3138

A BILL TO BE ENTITLED

AN ACT

relating to a franchise tax credit for research and development of energy storage technologies.

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

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter V to read as follows:

SUBCHAPTER V. TAX CREDIT FOR RESEARCH AND DEVELOPMENT OF ENERGY STORAGE TECHNOLOGY

Sec. 171.901. DEFINITIONS. In this subchapter:

(1) "Base amount" and "qualified research expenses" have the meanings assigned by Section 41, Internal Revenue Code, except that all payments and expenses must be for research conducted in this state that relates to the development of energy storage technologies.

(2) "Energy storage technology" means a technology for storing generated electricity for later transmission and distribution.

Sec. 171.902. ENTITLEMENT TO CREDIT. A taxable entity is entitled to a credit in the amount and under the conditions and limitations provided by this subchapter against the tax imposed under this chapter.

Sec. 171.903. AMOUNT; LIMITATIONS. (a) The credit for a report is equal to the sum of the excess of qualified research expenses incurred in this state during the accounting period on

1 which the tax is based over the base amount for that research.

2 (b) For the purposes of this section, "gross receipts" as
3 used in Section 41, Internal Revenue Code, means gross receipts as
4 determined under Section 171.103.

5 (c) The total credit claimed under this subchapter for a
6 report may not exceed the amount of franchise tax due after any
7 other applicable credits.

8 Sec. 171.904. CARRYFORWARD. (a) If a taxable entity is
9 eligible for a credit that exceeds the limitation under Section
10 171.903(c), the taxable entity may carry the unused credit forward
11 for not more than 20 consecutive reports.

12 (b) A carryforward is considered the remaining portion of a
13 credit that cannot be claimed in the current year because of the
14 limitation under Section 171.903(c). A carryforward is added to
15 the next year's credit in determining whether the limitation is met
16 for that year. A credit carryforward from a previous report is
17 considered to be used before the current year credit.

18 Sec. 171.905. ASSIGNMENT PROHIBITED. A taxable entity may
19 not convey, assign, or transfer the credit allowed under this
20 subchapter to another entity unless all of the assets of the taxable
21 entity are conveyed, assigned, or transferred.

22 Sec. 171.906. RULES. The comptroller shall adopt rules
23 necessary to implement this subchapter.

24 SECTION 2. This Act applies only to a report originally due
25 on or after the effective date of this Act.

26 SECTION 3. This Act takes effect January 1, 2010.