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H.B. No. 500

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the computation of the franchise tax, including certain
3 exclusions from the tax.

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

5 SECTION 1. (a) Section 111.064, Tax Code, is amended by
6 adding Subsection (g) to read as follows:

7 (g) For a refund of an amount paid under Chapter 171 that is
8 claimed after December 31, 2015, and granted for a report period due
9 on or after January 1, 2000, the rate of interest is the rate set in
10 Section 111.060.

11 (b) This section takes effect January 1, 2016.

12 SECTION 2. Section 171.0001(12), Tax Code, is amended to
13 read as follows:

14 (12) "Retail trade" means:

15 (A) the activities described in Division G of the
16 1987 Standard Industrial Classification Manual published by the
17 federal Office of Management and Budget; ~~and~~

18 (B) apparel rental activities classified as
19 Industry 5999 or 7299 of the 1987 Standard Industrial
20 Classification Manual published by the federal Office of Management
21 and Budget;

22 (C) the activities classified as Industry Group
23 753 of the 1987 Standard Industrial Classification Manual published
24 by the federal Office of Management and Budget; and

25 (D) rental-purchase agreement activities

1 regulated by Chapter 92, Business & Commerce Code.

2 SECTION 3. Section 171.002, Tax Code, is amended by
3 amending Subsection (a) and adding Subsection (c-2) to read as
4 follows:

5 (a) Subject to Sections 171.003 and 171.1016 and except as
6 provided by Subsection (b), the rate of the franchise tax is:

7 (1) one percent of taxable margin; or

8 (2) for a taxable entity that elects to subtract
9 compensation under Section 171.1013 for the purpose of computing
10 its taxable margin, 0.95 percent of taxable margin.

11 (c-2) Subsection (c)(2) does not apply to total revenue from
12 activities in a trade that rents or leases tangible personal
13 property as described by Industry Group 735 of the Standard
14 Industrial Classification Manual published by the United States
15 Department of Labor.

16 SECTION 4. Section 171.006(b), Tax Code, is amended to read
17 as follows:

18 (b) Beginning in 2010, on January 1 of each even-numbered
19 year, the amounts prescribed by Sections 171.002(d)(2) [~~171.0021~~]
20 ~~171.0021~~] and 171.1013(c) are increased or decreased by an amount
21 equal to the amount prescribed by those sections on December 31 of
22 the preceding year multiplied by the percentage increase or
23 decrease during the preceding state fiscal biennium in the consumer
24 price index and rounded to the nearest \$10,000.

25 SECTION 5. Section 171.052(a), Tax Code, is amended to read
26 as follows:

27 (a) Except as provided by Subsection (c), an insurance

1 organization, title insurance company, or title insurance agent
2 authorized to engage in insurance business in this state that is
3 ~~[now]~~ required to pay an annual tax ~~[under Chapter 4 or 9, Insurance~~
4 ~~Code,~~] measured by its gross premium receipts is exempted from the
5 franchise tax. A nonadmitted insurance organization that is
6 required to pay a gross premium receipts tax during a tax year is
7 exempted from the franchise tax for that same tax year. A
8 nonadmitted insurance organization that is subject to an occupation
9 tax or any other tax that is imposed for the privilege of doing
10 business in another state or a foreign jurisdiction, including a
11 tax on gross premium receipts, is exempted from the franchise tax.

12 SECTION 6. Sections 171.101(a) and (b), Tax Code, are
13 amended to read as follows:

14 (a) The taxable margin of a taxable entity is computed by:

15 (1) determining the taxable entity's margin, which is
16 the lesser of:

17 (A) the amount provided by this paragraph, which
18 is the lesser of:

19 (i) 70 percent of the taxable entity's total
20 revenue from its entire business, as determined under Section
21 171.1011; or

22 (ii) an amount equal to the taxable entity's
23 total revenue from its entire business as determined under Section
24 171.1011 minus \$1 million; or

25 (B) an amount computed by~~+~~

26 ~~[(i)]~~ determining the taxable entity's
27 total revenue from its entire business~~+~~ under Section 171.1011

1 and [7

2 [~~(ii)~~] subtracting the greater of:

3 (i) \$1 million; or

4 (ii) an amount equal to:

5 (a) [7] at the election of the taxable
6 entity, either:

7 (1) [~~(a)~~] cost of goods sold, as
8 determined under Section 171.1012; or

9 (2) [~~(b)~~] compensation, as
10 determined under Section 171.1013; and

11 (b) any [~~(iii)~~] ~~subtracting, in~~
12 ~~addition to any subtractions made under Subparagraph (ii)(a) or~~
13 ~~(b),~~ compensation, as determined under Section 171.1013, paid to
14 an individual during the period the individual is serving on active
15 duty as a member of the armed forces of the United States if the
16 individual is a resident of this state at the time the individual is
17 ordered to active duty and the cost of training a replacement for
18 the individual;

19 (2) apportioning the taxable entity's margin to this
20 state as provided by Section 171.106 to determine the taxable
21 entity's apportioned margin; and

22 (3) subtracting from the amount computed under
23 Subdivision (2) any other allowable deductions to determine the
24 taxable entity's taxable margin.

25 (b) Notwithstanding Subsection (a)(1)(B)(ii)(a)
26 [~~(a)(1)(B)(ii)~~], a staff leasing services company may subtract only
27 the greater of \$1 million as provided by Subsection (a)(1)(B)(i) or

1 compensation as determined under Section 171.1013.

2 SECTION 7. Section 171.1011, Tax Code, is amended by
3 amending Subsections (g) and (g-4) and adding Subsections (g-8),
4 (g-9), (g-10), (g-11), (u), (v), (w-1), (x), and (y) to read as
5 follows:

6 (g) A taxable entity shall exclude from its total revenue,
7 to the extent included under Subsection (c)(1)(A), (c)(2)(A), or
8 (c)(3), only the following flow-through funds that are mandated by
9 contract or subcontract to be distributed to other entities:

10 (1) sales commissions to nonemployees, including
11 split-fee real estate commissions;

12 (2) the tax basis as determined under the Internal
13 Revenue Code of securities underwritten; and

14 (3) subcontracting payments made under a contract or
15 subcontract entered into [~~handled~~] by the taxable entity to provide
16 services, labor, or materials in connection with the actual or
17 proposed design, construction, remodeling, remediation, or repair
18 of improvements on real property or the location of the boundaries
19 of real property.

20 (g-4) A taxable entity that is a pharmacy cooperative shall
21 exclude from its total revenue, to the extent included under
22 Subsection (c)(1)(A), (c)(2)(A), or (c)(3), flow-through funds
23 from rebates from pharmacy wholesalers that are distributed to the
24 pharmacy cooperative's shareholders. A taxable entity that
25 provides a pharmacy network shall exclude from its total revenue,
26 to the extent included under Subsection (c)(1)(A), (c)(2)(A), or
27 (c)(3), flow-through funds from rebates from pharmacy wholesalers

1 that are distributed to pharmacies in the pharmacy network and
2 flow-through funds from reimbursements for payments to pharmacies
3 in the pharmacy network.

4 (g-8) A taxable entity that is primarily engaged in the
5 business of transporting aggregates shall exclude from its total
6 revenue, to the extent included under Subsection (c)(1)(A),
7 (c)(2)(A), or (c)(3), subcontracting payments made by the taxable
8 entity to nonemployee agents for the performance of delivery
9 services on behalf of the taxable entity. In this subsection,
10 "aggregates" means any commonly recognized construction material
11 removed or extracted from the earth, including dimension stone,
12 crushed and broken limestone, crushed and broken granite, other
13 crushed and broken stone, construction sand and gravel, industrial
14 sand, dirt, soil, cementitious material, and caliche.

15 (g-9) A taxable entity that is a landlord of commercial
16 property shall exclude from its total revenue, to the extent
17 included under Subsection (c)(1)(A), (2)(A), or (3), payments,
18 excluding expenses for interest and depreciation and other expenses
19 not listed in this subsection, received from a tenant of the
20 property for ad valorem taxes and any tax or excise imposed on
21 rents.

22 (g-10) A taxable entity that is primarily engaged in the
23 business of transporting barite shall exclude from its total
24 revenue, to the extent included under Subsection (c)(1)(A),
25 (c)(2)(A), or (c)(3), subcontracting payments made by the taxable
26 entity to nonemployee agents for the performance of transportation
27 services on behalf of the taxable entity. For purposes of this

1 subsection, "barite" means barium sulfate (BaSO4), a mineral used
2 as a weighing agent in oil and gas exploration.

3 (g-11) A taxable entity that is primarily engaged in the
4 business of performing landman services shall exclude from its
5 total revenue, to the extent included under Subsection (c)(1)(A),
6 (c)(2)(A), or (c)(3), subcontracting payments made by the taxable
7 entity to nonemployees for the performance of landman services on
8 behalf of the taxable entity. In this subsection, "landman
9 services" means:

10 (1) performing title searches for the purpose of
11 determining ownership of or curing title defects related to oil,
12 gas, or other related mineral or petroleum interests;

13 (2) negotiating the acquisition or divestiture of
14 mineral rights for the purpose of the exploration, development, or
15 production of oil, gas, or other related mineral or petroleum
16 interests; or

17 (3) negotiating or managing the negotiation of
18 contracts or other agreements related to the ownership of mineral
19 interests for the exploration, exploitation, disposition,
20 development, or production of oil, gas, or other related mineral or
21 petroleum interests.

22 (u) A taxable entity shall exclude from its total revenue
23 the actual cost paid by the taxable entity for a vaccine.

24 (v) A taxable entity primarily engaged in the business of
25 transporting commodities by waterways that does not subtract cost
26 of goods sold in computing its taxable margin shall exclude from its
27 total revenue direct costs of providing inbound and outbound

1 transportation services by intrastate or interstate waterways to
2 the same extent that a taxable entity that sells in the ordinary
3 course of business real or tangible personal property would be
4 authorized by Section 171.1012 to subtract those costs as costs of
5 goods sold in computing its taxable margin.

6 (w-1) A taxable entity primarily engaged in the business of
7 providing services as an agricultural aircraft operation, as
8 defined by 14 C.F.R. Section 137.3, shall exclude from its total
9 revenue the cost of labor, equipment, fuel, and materials used in
10 providing those services.

11 (x) A taxable entity that is registered as a motor carrier
12 under Chapter 643, Transportation Code, shall exclude from its
13 total revenue, to the extent included under Subsection (c)(1)(A),
14 (c)(2)(A), or (c)(3), flow-through revenue derived from taxes and
15 fees.

16 (y) A taxable entity shall exclude from its total revenue,
17 to the extent included under Subsection (c)(1)(A), (c)(2)(A), or
18 (c)(3) but not subtracted as a cost of goods sold on the report or on
19 a previous report, the depreciation used to calculate gain or loss
20 on the disposition of real property held primarily for the
21 production of rental income.

22 SECTION 8. Section 171.1011(p), Tax Code, is amended by
23 adding Subdivision (8) to read as follows:

24 (8) "Vaccine" means a preparation or suspension of
25 dead, live attenuated, or live fully virulent viruses or bacteria,
26 or of antigenic proteins derived from them, used to prevent,
27 ameliorate, or treat an infectious disease.

1 SECTION 9. Section 171.1012, Tax Code, is amended by
2 amending Subsection (f) and adding Subsections (k-2), (k-3), (p),
3 (q), (r), and (s) to read as follows:

4 (f) A taxable entity may subtract as a cost of goods sold
5 indirect or administrative overhead costs, including all mixed
6 service costs, such as security services, legal services, data
7 processing services, accounting services, personnel operations,
8 and general financial planning and financial management costs, that
9 it can demonstrate are allocable to the acquisition or production
10 of goods, except that the amount subtracted may not exceed 5.5
11 [~~four~~] percent of the taxable entity's total indirect or
12 administrative overhead costs, including all mixed service costs.
13 Any costs excluded under Subsection (e) may not be subtracted under
14 this subsection.

15 (k-2) This subsection applies only to a pipeline entity: (1)
16 that owns or leases and operates the pipeline by which the product
17 is transported for others and only to that portion of the product to
18 which the entity does not own title; and (2) that is primarily
19 engaged in gathering, storing, transporting, or processing crude
20 oil, including finished petroleum products, natural gas,
21 condensate, and natural gas liquids, except for a refinery
22 installation that manufactures finished petroleum products from
23 crude oil. Notwithstanding Subsection (e)(3) or (i), a pipeline
24 entity providing services for others related to the product that
25 the pipeline does not own and to which this subsection applies may
26 subtract as a cost of goods sold its depreciation, operations, and
27 maintenance costs allowed by this section related to the services

1 provided.

2 (k-3) For purposes of Subsection (k-2), "processing" means
3 the physical or mechanical removal, separation, or treatment of
4 crude oil, including finished petroleum products, natural gas,
5 condensate, and natural gas liquids after those materials are
6 produced from the earth. The term does not include the chemical or
7 biological transformation of those materials.

8 (p) Notwithstanding Subsection (e)(2) or any other
9 provision of this section, the cost of goods sold includes 20
10 percent of the costs attributable to the acceptance of credit cards
11 and debit cards as a means of payment.

12 (q) Notwithstanding Subsection (i) or any other provision
13 of this section, a taxable entity that is primarily engaged in the
14 business of harvesting trees for wood may subtract as cost of goods
15 sold the direct costs of acquiring or producing the timber for the
16 wood that are specified by this subsection or otherwise described
17 by this section, regardless of whether the taxable entity owns the
18 land from which the trees are harvested, the harvested timber, or
19 the wood resulting from the harvested timber. For purposes of this
20 subsection, direct costs include costs of:

21 (1) moving harvesting equipment;

22 (2) severing timber;

23 (3) transporting timber to and from a mill or
24 designated delivery point;

25 (4) obtaining, using, storing, or maintaining
26 equipment necessary for an activity described by Subdivision (1),

27 (2), or (3); and

1 (5) other supplies, labor, freight, and fuel necessary
2 for an activity described by Subdivision (1), (2), or (3).

3 (r) A taxable entity that has total revenue from its entire
4 business of less than \$5 million and that elects to subtract cost of
5 goods sold for the purpose of computing its taxable margin may elect
6 to determine the amount of that cost of goods sold in accordance
7 with this subsection. A taxable entity making the election
8 authorized by this subsection is not subject to the provisions of
9 this section relating to the computation of the amount of cost of
10 goods sold other than this subsection and Subsection (s). The
11 taxable entity shall determine the amount of cost of goods sold as
12 follows:

13 (1) for a taxable entity treated for federal income
14 tax purposes as a corporation, the cost of goods sold is the amount
15 reportable as cost of goods sold on line 2, Internal Revenue Service
16 Form 1120;

17 (2) for a taxable entity treated for federal income
18 tax purposes as a partnership, the cost of goods sold is the amount
19 reportable as cost of goods sold on line 2, Internal Revenue Service
20 Form 1065;

21 (3) for a taxable entity treated for federal income
22 tax purposes as an S corporation, the cost of goods sold is the
23 amount reportable as cost of goods sold on line 2, Internal Revenue
24 Service Form 1120S; or

25 (4) for any other taxable entity, the cost of goods
26 sold is an amount determined in a manner substantially equivalent
27 to the amount for Subdivision (1), (2), or (3) determined by rules

1 the comptroller shall adopt.

2 (s) A combined group that has total revenue from its entire
3 business of less than \$5 million and that elects to subtract cost of
4 goods sold for the purpose of computing its taxable margin shall
5 make the election to compute the amount of that cost of goods sold
6 under Subsection (r), or to compute that amount under the other
7 provisions of this section, for all of its members.

8 SECTION 10. (a) Section 171.1012, Tax Code, is amended by
9 adding Subsection (t) to read as follows:

10 (t) If a taxable entity that is a movie theater elects to
11 subtract cost of goods sold, the cost of goods sold for the taxable
12 entity shall be the costs described by this section in relation to
13 the acquisition, production, exhibition, or use of a film or motion
14 picture, including expenses for the right to use the film or motion
15 picture.

16 (b) Section 171.1012(t), Tax Code, as added by this section,
17 is a clarification of existing law and does not imply that existing
18 law may be construed as inconsistent with the law as amended by this
19 section.

20 (c) This section takes effect September 1, 2013.

21 SECTION 11. Section 171.1013(a), Tax Code, is amended to
22 read as follows:

23 (a) Except as otherwise provided by this section, "wages and
24 cash compensation" means the amount entered in the Medicare wages
25 and tips box of Internal Revenue Service Form W-2 or any subsequent
26 form with a different number or designation that substantially
27 provides the same information. The term also includes, to the

1 extent not included above:

2 (1) net distributive income from a taxable entity
3 treated as a partnership for federal income tax purposes, but only
4 if the person receiving the distribution is a natural person;

5 (2) net distributive income from limited liability
6 companies and corporations treated as S corporations for federal
7 income tax purposes, but only if the person receiving the
8 distribution is a natural person;

9 (3) stock awards and stock options deducted for
10 federal income tax purposes; ~~and~~

11 (4) net distributive income from a limited liability
12 company treated as a sole proprietorship for federal income tax
13 purposes, but only if the person receiving the distribution is a
14 natural person; and

15 (5) salaries or other compensation deducted for
16 federal income tax purposes of employees located outside the United
17 States for which the employer is not required to issue an Internal
18 Revenue Service Form W-2.

19 SECTION 12. Section 171.1014, Tax Code, is amended by
20 amending Subsections (d) and (d-1) and adding Subsection (j) to
21 read as follows:

22 (d) For purposes of Section 171.101, a combined group shall
23 make an election to subtract either cost of goods sold or
24 compensation that applies to all of its members, or \$1 million.
25 Regardless of the election, the taxable margin of the combined
26 group may not exceed the amount ~~[70 percent of the combined group's~~
27 ~~total revenue from its entire business, as]~~ provided by Section

1 171.101(a)(1)(A) for the combined group.

2 (d-1) A member of a combined group that does not elect to
3 compute the amount of cost of goods sold as provided by Section
4 171.1012(r), if applicable, may claim as cost of goods sold those
5 costs that qualify under Section 171.1012 if the goods for which the
6 costs are incurred are owned by another member of the combined
7 group.

8 (j) Notwithstanding any other provision of this section, a
9 taxable entity that provides retail or wholesale electric utilities
10 may not be included as a member of a combined group that includes
11 one or more taxable entities that do not provide retail or wholesale
12 electric utilities if that combined group in the absence of this
13 subsection:

14 (1) would not meet the requirements of Section
15 171.002(c) solely because one or more members of the combined group
16 provide retail or wholesale electric utilities; and

17 (2) would have less than five percent of the combined
18 group's total revenue derived from providing retail or wholesale
19 electric utilities.

20 SECTION 13. Section 171.106, Tax Code, is amended by adding
21 Subsection (g) to read as follows:

22 (g) A receipt from Internet hosting as defined by Section
23 151.108(a) is a receipt from business done in this state only if the
24 customer to whom the service is provided is located in this state.

25 SECTION 14. Section 171.106, Tax Code, is amended by adding
26 Subsection (h) to read as follows:

27 (h) A taxable entity that is a broadcaster shall include in

1 the numerator of the broadcaster's apportionment factor receipts
2 arising from a broadcast or other distribution of film by any means
3 only if the legal domicile of the broadcaster's customer is in this
4 state. This subsection applies only to receipts that are licensing
5 income from distributing film programming. In this subsection:

6 (1) "Broadcaster" means a taxable entity, not
7 including a cable service provider or a direct broadcast satellite
8 service, that is a:

9 (A) television or radio station licensed by the
10 Federal Communications Commission;

11 (B) television or radio broadcast network;

12 (C) cable television network; or

13 (D) television distribution company.

14 (2) "Customer" means a person, including a licensee,
15 that has a direct connection or contractual relationship with a
16 broadcaster under which the broadcaster derives revenue.

17 (3) "Film programming" means all or part of a live or
18 recorded performance, event, or production intended to be
19 distributed for visual and auditory perception by an audience.

20 (4) "Programming" includes news, entertainment,
21 sporting events, plays, stories, or other literary, commercial,
22 educational, or artistic works.

23 SECTION 15. (a) Subchapter C, Chapter 171, Tax Code, is
24 amended by adding Section 171.109 to read as follows:

25 Sec. 171.109. DEDUCTION OF RELOCATION COSTS BY CERTAIN
26 TAXABLE ENTITIES FROM MARGIN APPORTIONED TO THIS STATE. (a) In
27 this section, "relocation costs" means the costs incurred by a

1 taxable entity to relocate the taxable entity's main office or
2 other principal place of business from one location to another. The
3 term includes:

4 (1) costs of relocating computers and peripherals,
5 other business supplies, furniture, and inventory; and

6 (2) any other costs related to the relocation that are
7 allowable deductions for federal income tax purposes.

8 (b) Subject to Subsection (c), a taxable entity may deduct
9 from its apportioned margin relocation costs incurred in relocating
10 the taxable entity's main office or other principal place of
11 business to this state from another state if the taxable entity:

12 (1) did not do business in this state before
13 relocating the taxable entity's main office or other principal
14 place of business to this state; and

15 (2) is not a member of an affiliated group engaged in a
16 unitary business, another member of which is doing business in this
17 state on the date the taxable entity relocates the taxable entity's
18 main office or other principal place of business to this state.

19 (c) A taxable entity must take the deduction authorized by
20 Subsection (b) on the report based on the taxable entity's initial
21 period described by Section 171.151(1).

22 (d) On the comptroller's request, a taxable entity that
23 takes a deduction authorized by this section shall file with the
24 comptroller proof of the deducted relocation costs.

25 (b) The change in law made by this section applies only to a
26 taxable entity that relocates the taxable entity's main office or
27 other principal place of business to this state on or after the

1 effective date of this section.

2 (c) This section takes effect September 1, 2013.

3 SECTION 16. Subchapter D, Chapter 171, Tax Code, is amended
4 by adding Section 171.159 to read as follows:

5 Sec. 171.159. RETAILER RECEIPT SHOWING TAX. (a) A taxable
6 entity that is a retailer subject to Chapter 151 shall include on
7 any receipt for an item subject to taxation under Chapter 151 an
8 additional notation showing the amount of taxes the customer is
9 paying for the purpose of reimbursement of the tax under this
10 chapter.

11 (b) For purposes of this section, the taxable entity may
12 estimate the amount of tax the customer is paying under this chapter
13 based on the tax rate to which the taxable entity is subject.

14 SECTION 17. Subchapter E, Chapter 171, Tax Code, is amended
15 by adding Section 171.216 to read as follows:

16 Sec. 171.216. BIENNIAL REPORT. Not later than January 1 of
17 each odd-numbered year, the comptroller shall submit to the
18 legislature and the governor a report prepared by an independent
19 researcher from a research center established under Section 1.005,
20 Education Code, or a tier one research university, on tax relief,
21 including tax credits and exemptions, provided to taxable entities
22 through changes to the tax imposed under this chapter enacted by the
23 83rd Legislature, Regular Session, 2013, for economic development
24 purposes, as determined by the comptroller. The report must
25 include:

26 (1) an estimate of:

27 (A) the total number of taxable entities that

1 received tax relief during the preceding two calendar years as a
2 result of those changes; and

3 (B) the total amount of the tax relief described
4 by Paragraph (A); and

5 (2) an evaluation of the effects of the tax relief on
6 this state, including the effects on:

7 (A) employment in this state;

8 (B) other economic activity in this state; and

9 (C) state tax revenues.

10 SECTION 18. Effective January 1, 2016, Chapter 171, Tax
11 Code, is amended by adding Subchapters P-1 and Q-2 to read as
12 follows:

13 SUBCHAPTER P-1. TAX CREDITS FOR CERTAIN

14 JOB CREATION ACTIVITIES

15 Sec. 171.771. DEFINITIONS. In this subchapter:

16 (1) "Agricultural processing" means an establishment
17 primarily engaged in activities described in categories 0724,
18 2011-2099, 2211, 2231, 2824, 2833, 2834, 2835, 2836, 2841,
19 3111-3199, 3262, or 3952, in product classes 28692 or 28698 of
20 category 2869, or in product classes 28992 or 28994 of category 2899
21 of the 1987 Standard Industrial Classification Manual published by
22 the United States Department of Labor.

23 (2) "Central administrative offices" means an
24 establishment primarily engaged in performing management or
25 support services for other establishments of the same enterprise.
26 An enterprise consists of all establishments having more than 50
27 percent common direct or indirect ownership.

1 (3) "Data processing" means an establishment
2 primarily engaged in activities described in categories 7371-7379
3 of the 1987 Standard Industrial Classification Manual published by
4 the United States Department of Labor.

5 (4) "Distribution" means an establishment primarily
6 engaged in activities described in categories 5012-5199 of the 1987
7 Standard Industrial Classification Manual published by the United
8 States Department of Labor.

9 (5) "Group health benefit plan" means:

10 (A) a health plan provided by a health
11 maintenance organization established under Chapter 843, Insurance
12 Code;

13 (B) a health benefit plan approved by the
14 commissioner of insurance; or

15 (C) a self-funded or self-insured employee
16 welfare benefit plan that provides health benefits and is
17 established in accordance with the Employee Retirement Income
18 Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

19 (6) "Manufacturing" means an establishment primarily
20 engaged in activities described in categories 2011-3999 of the 1987
21 Standard Industrial Classification Manual published by the United
22 States Department of Labor.

23 (7) "Qualified business" means an establishment
24 primarily engaged in agricultural processing, central
25 administrative offices, distribution, data processing,
26 manufacturing, research and development, or warehousing.

27 (8) "Qualifying job" means a new permanent full-time

1 job that:

2 (A) pays an annual wage of at least \$50,000,
3 subject to Section 171.772;

4 (B) is covered by a group health benefit plan for
5 which the business pays at least 80 percent of the premiums or other
6 charges assessed under the plan for the employee; and

7 (C) is not created to replace a previous
8 employee.

9 (9) "Research and development" means an establishment
10 primarily engaged in activities described in category 8731 of the
11 1987 Standard Industrial Classification Manual published by the
12 United States Department of Labor.

13 (10) "Warehousing" means an establishment primarily
14 engaged in activities described in categories 4221-4226 of the 1987
15 Standard Industrial Classification Manual published by the United
16 States Department of Labor.

17 Sec. 171.772. BIENNIAL ADJUSTMENT OF WAGE FOR QUALIFYING
18 JOB. (a) In this section, "consumer price index" means the average
19 over a state fiscal biennium of the Consumer Price Index for All
20 Urban Consumers (CPI-U), U.S. City Average, published monthly by
21 the United States Bureau of Labor Statistics, or its successor in
22 function.

23 (b) Beginning in 2016, on January 1 of each even-numbered
24 year, the wage amount prescribed by Section 171.771(8) is increased
25 or decreased by an amount equal to the amount prescribed by that
26 section on December 31 of the preceding year multiplied by the
27 percentage increase or decrease during the preceding state fiscal

1 biennium in the consumer price index and rounded to the nearest
2 dollar.

3 (c) The amount determined under Subsection (b) applies to a
4 report originally due on or after the date the determination is
5 made.

6 (d) The comptroller shall make the determination required
7 by this section and may adopt rules related to making that
8 determination.

9 (e) A determination by the comptroller under this section is
10 final and may not be appealed.

11 Sec. 171.773. ELIGIBILITY. A taxable entity is eligible for
12 a credit against the tax imposed under this chapter if the taxable
13 entity:

14 (1) is a qualified business; and

15 (2) creates a minimum of 10 qualifying jobs.

16 Sec. 171.774. AMOUNT OF CREDIT. A taxable entity may
17 establish a credit equal to 25 percent of the total wages paid by
18 the taxable entity for each qualifying job during each of the first
19 12 months of employment of the person hired to perform the job that
20 occur during the period on which the report is based.

21 Sec. 171.775. LENGTH OF CREDIT. The credit established
22 shall be claimed in five equal installments of one-fifth the credit
23 amount over the five consecutive reports beginning with the report
24 based on the period during which the qualifying jobs were created.

25 Sec. 171.776. LIMITATIONS. (a) The total credit claimed
26 under this subchapter for a report, including the amount of any
27 carryforward credit under Section 171.777, may not exceed 50

1 percent of the amount of franchise tax due for the report before any
2 other applicable tax credits.

3 (b) The total credit claimed under this subchapter and
4 Subchapter Q-2 for a report, including the amount of any
5 carryforward credits, may not exceed the amount of franchise tax
6 due for the report after any other applicable credits.

7 Sec. 171.777. CARRYFORWARD. (a) If a taxable entity is
8 eligible for a credit that exceeds the limitations under Section
9 171.776, the taxable entity may carry the unused credit forward for
10 not more than five consecutive reports.

11 (b) A carryforward is considered the remaining portion of an
12 installment that cannot be claimed in the current year because of a
13 limitation under Section 171.776. A carryforward is added to the
14 next year's installment of the credit in determining the limitation
15 for that year. A credit carryforward from a previous report is
16 considered to be used before the current year installment.

17 Sec. 171.778. CERTIFICATION OF ELIGIBILITY. (a) For the
18 initial and each succeeding report on which a credit is claimed
19 under this subchapter, the taxable entity shall file with its
20 report, on a form provided by the comptroller, information that
21 sufficiently demonstrates that the taxable entity is eligible for
22 the credit.

23 (b) The burden of establishing entitlement to and the value
24 of the credit is on the taxable entity.

25 (c) A credit expires under this subchapter and the taxable
26 entity may not take any remaining installment of the credit if in
27 one of the five years in which the installment of a credit accrues,

1 the taxable entity fails to maintain the minimum number of
2 qualifying jobs required to be created by Section 171.773.

3 (d) Notwithstanding Subsection (c), the taxable entity may
4 take the portion of an installment that accrued in a previous year
5 and was carried forward to the extent permitted under Section
6 171.777.

7 Sec. 171.779. 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 transaction.

12 Sec. 171.780. BIENNIAL REPORT BY COMPTROLLER. (a) Before
13 the beginning of each regular session of the legislature, the
14 comptroller shall submit to the governor, the lieutenant governor,
15 and the speaker of the house of representatives a report that
16 states:

17 (1) the total number of jobs created by taxable
18 entities that claim a credit under this subchapter and the average
19 and median annual wage of those jobs;

20 (2) the total amount of credits applied against the
21 tax under this chapter and the amount of unused credits including:

22 (A) the total amount of franchise tax due by
23 taxable entities claiming a credit under this subchapter before and
24 after the application of the credit;

25 (B) the average percentage reduction in
26 franchise tax due by taxable entities claiming a credit under this
27 subchapter; and

1 (C) the percentage of tax credits that were
2 awarded to taxable entities with fewer than 100 employees;

3 (3) the two-digit standard industrial classification
4 of businesses claiming a credit under this subchapter;

5 (4) the geographical distribution of the credits
6 claimed under this subchapter; and

7 (5) the effect of the credit provided under this
8 subchapter on employment, personal income, and capital investment
9 in this state and on state tax revenues.

10 (b) The final report issued before the expiration of this
11 subchapter must include historical information on the credit
12 authorized under this subchapter.

13 (c) The comptroller may not include in the report
14 information that is confidential by law.

15 (d) For purposes of this section, the comptroller may
16 require a taxable entity that claims a credit under this subchapter
17 to submit information, on a form provided by the comptroller, on the
18 location of the taxable entity's job creation in this state and any
19 other information necessary to complete the report required under
20 this section.

21 (e) The comptroller shall provide notice to the members of
22 the legislature that the report required under this section is
23 available on request.

24 Sec. 171.781. COMPTROLLER POWERS AND DUTIES. The
25 comptroller shall adopt rules and forms necessary to implement this
26 subchapter.

27 Sec. 171.782. EXPIRATION. (a) This subchapter expires

1 December 31, 2025.

2 (b) The expiration of this subchapter does not affect the
3 carryforward of a credit under Section 171.777 or those credits for
4 which a taxable entity is eligible before the date this subchapter
5 expires.

6 SUBCHAPTER Q-2. TAX CREDITS FOR CERTAIN CAPITAL INVESTMENTS

7 Sec. 171.821. DEFINITIONS. In this subchapter:

8 (1) "Agricultural processing" and "qualified
9 business" have the meanings assigned those terms by Section
10 171.771.

11 (2) "Qualified capital investment" means tangible
12 personal property first placed in service in this state by a taxable
13 entity primarily engaged in agricultural processing, and that is
14 described in Section 1245(a), Internal Revenue Code, such as
15 engines, machinery, tools, and implements used in a trade or
16 business or held for investment and subject to an allowance for
17 depreciation, cost recovery under the accelerated cost recovery
18 system, or amortization. The term does not include real property or
19 buildings and their structural components. Property that is leased
20 under a capitalized lease is considered a "qualified capital
21 investment," but property that is leased under an operating lease
22 is not considered a "qualified capital investment." Property
23 expensed under Section 179, Internal Revenue Code, is not
24 considered a "qualified capital investment."

25 Sec. 171.822. ELIGIBILITY. (a) A qualified business is
26 eligible for a credit against the tax imposed under this chapter in
27 the amount and under the conditions and limitations provided by

1 this subchapter.

2 (b) To qualify for the credit authorized under this
3 subchapter, a qualified business must:

4 (1) pay an annual wage of at least the amount required
5 for a qualifying job as defined by Section 171.771 for the period on
6 which the report is based;

7 (2) offer health benefits coverage to all full-time
8 employees at the location with respect to which the credit is
9 claimed through a group health benefit plan, as defined by Section
10 171.771, for which the business pays at least 80 percent of the
11 premiums or other charges assessed under the plan for the
12 employees; and

13 (3) make a minimum \$500,000 qualified capital
14 investment.

15 Sec. 171.823. AMOUNT OF CREDIT. A taxable entity may
16 establish a credit equal to 7.5 percent of the qualified capital
17 investment during the period on which the report is based.

18 Sec. 171.824. LENGTH OF CREDIT. The credit established
19 shall be claimed in five equal installments of one-fifth the credit
20 amount over the five consecutive reports beginning with the report
21 based on the period during which the qualified capital investment
22 was made.

23 Sec. 171.825. LIMITATIONS. (a) The total credit claimed
24 under this subchapter for a report, including the amount of any
25 carryforward credit under Section 171.826, may not exceed 50
26 percent of the amount of franchise tax due for the report before any
27 other applicable tax credits.

1 (b) The total credit claimed under this subchapter and
2 Subchapter P-1 for a report, including the amount of any
3 carryforward credits, may not exceed the amount of franchise tax
4 due for the report after any other applicable tax credits.

5 Sec. 171.826. CARRYFORWARD. (a) If a taxable entity is
6 eligible for a credit from an installment that exceeds the
7 limitation under Section 171.825, the taxable entity may carry the
8 unused credit forward for not more than five consecutive reports.

9 (b) A carryforward is considered the remaining portion of an
10 installment that cannot be claimed in the current year because of a
11 limitation under Section 171.825. A carryforward is added to the
12 next year's installment of the credit in determining the limitation
13 for that year. A credit carryforward from a previous report is
14 considered to be used before the current year installment.

15 Sec. 171.827. CERTIFICATION OF ELIGIBILITY. (a) For the
16 initial and each succeeding report on which a credit is claimed
17 under this subchapter, the taxable entity shall file with its
18 report, on a form provided by the comptroller, information that
19 sufficiently demonstrates that the taxable entity is eligible for
20 the credit.

21 (b) The burden of establishing entitlement to and the value
22 of the credit is on the taxable entity.

23 (c) A credit expires under this subchapter and the taxable
24 entity may not take any remaining installment of the credit if in
25 one of the five years in which the installment of a credit accrues,
26 the taxable entity:

27 (1) disposes of the qualified capital investment;

1 (2) takes the qualified capital investment out of
2 service;

3 (3) moves the qualified capital investment out of this
4 state; or

5 (4) fails to pay the annual wage required for a
6 qualifying job under Section 171.771 for the period covered by the
7 report on which the taxable entity would otherwise claim the
8 credit.

9 (d) Notwithstanding Subsection (c), the taxable entity may
10 take the portion of an installment that accrued in a previous year
11 and was carried forward to the extent permitted under Section
12 171.826.

13 Sec. 171.828. ASSIGNMENT PROHIBITED. A taxable entity may
14 not convey, assign, or transfer the credit allowed under this
15 subchapter to another entity unless all of the assets of the taxable
16 entity are conveyed, assigned, or transferred in the same
17 transaction.

18 Sec. 171.829. BIENNIAL REPORT BY COMPTROLLER. (a) Before
19 the beginning of each regular session of the legislature, the
20 comptroller shall submit to the governor, the lieutenant governor,
21 and the speaker of the house of representatives a report that
22 states:

23 (1) the total amount of qualified capital investments
24 made by taxable entities that claim a credit under this subchapter
25 and the average and median wages paid by those taxable entities;

26 (2) the total amount of credits applied against the
27 tax under this chapter and the amount of unused credits, including:

1 (A) the total amount of franchise tax due by
2 taxable entities claiming a credit under this subchapter before and
3 after the application of the credit;

4 (B) the average percentage reduction in
5 franchise tax due by taxable entities claiming a credit under this
6 subchapter;

7 (C) the percentage of tax credits that were
8 awarded to taxable entities with fewer than 100 employees; and

9 (D) the two-digit standard industrial
10 classification of taxable entities claiming a credit under this
11 subchapter;

12 (3) the geographical distribution of the qualified
13 capital investments on which tax credit claims are made under this
14 subchapter; and

15 (4) the effect of the credit provided under this
16 subchapter on employment, personal income, and capital investment
17 in this state and on state tax revenues.

18 (b) The final report issued before the expiration of this
19 subchapter must include historical information on the credit
20 authorized under this subchapter.

21 (c) The comptroller may not include in the report
22 information that is confidential by law.

23 (d) For purposes of this section, the comptroller may
24 require a taxable entity that claims a credit under this subchapter
25 to submit information, on a form provided by the comptroller, on the
26 location of the taxable entity's capital investment in this state
27 and any other information necessary to complete the report required

1 under this section.

2 (e) The comptroller shall provide notice to the members of
3 the legislature that the report required under this section is
4 available on request.

5 Sec. 171.830. COMPTROLLER POWERS AND DUTIES. The
6 comptroller shall adopt rules and forms necessary to implement this
7 subchapter.

8 Sec. 171.831. EXPIRATION. (a) This subchapter expires
9 December 31, 2025.

10 (b) The expiration of this subchapter does not affect the
11 carryforward of a credit under Section 171.826 or those credits for
12 which a taxable entity is eligible before the date this subchapter
13 expires.

14 SECTION 19. Chapter 171, Tax Code, is amended by adding
15 Subchapter S to read as follows:

16 SUBCHAPTER S. TAX CREDIT FOR CERTIFIED REHABILITATION OF CERTIFIED
17 HISTORIC STRUCTURES

18 Sec. 171.901. DEFINITIONS. In this subchapter:

19 (1) "Certified historic structure" means a property in
20 this state that is:

21 (A) listed individually in the National Register
22 of Historic Places;

23 (B) designated as a Recorded Texas Historic
24 Landmark under Section 442.006, Government Code, or as a state
25 archeological landmark under Chapter 191, Natural Resources Code;
26 or

27 (C) certified by the commission as contributing

1 to the historic significance of:

2 (i) a historic district listed in the
3 National Register of Historic Places; or

4 (ii) a local district certified by the
5 United States Department of the Interior in accordance with 36
6 C.F.R. Section 67.9.

7 (2) "Certified rehabilitation" means the
8 rehabilitation of a certified historic structure that the
9 commission has certified as meeting the United States secretary of
10 the interior's Standards for Rehabilitation as defined in 36 C.F.R.
11 Section 67.7.

12 (3) "Commission" means the Texas Historical
13 Commission.

14 (4) "Eligible costs and expenses" means qualified
15 rehabilitation expenditures as defined by Section 47(c)(2),
16 Internal Revenue Code.

17 Sec. 171.902. ELIGIBILITY FOR CREDIT. An entity is
18 eligible to apply for a credit in the amount and under the
19 conditions and limitations provided by this subchapter against the
20 tax imposed under this chapter.

21 Sec. 171.903. QUALIFICATION. An entity is eligible for a
22 credit for eligible costs and expenses incurred in the certified
23 rehabilitation of a certified historic structure as provided by
24 this subchapter if:

25 (1) the rehabilitated certified historic structure is
26 placed in service on or after September 1, 2013;

27 (2) the entity has an ownership interest in the

1 certified historic structure in the year during which the structure
2 is placed in service after the rehabilitation; and

3 (3) the total amount of the eligible costs and
4 expenses incurred exceeds \$5,000.

5 Sec. 171.904. CERTIFICATION OF ELIGIBILITY. (a) Before
6 claiming, selling, or assigning a credit under this subchapter, the
7 entity that incurred the eligible costs and expenses in the
8 rehabilitation of a certified historic structure must request from
9 the commission a certificate of eligibility on which the commission
10 certifies that the work performed meets the definition of a
11 certified rehabilitation. The entity must include with the
12 entity's request:

13 (1) information on the property that is sufficient for
14 the commission to determine whether the property meets the
15 definition of a certified historic structure; and

16 (2) information on the rehabilitation, and
17 photographs before and after work is performed, sufficient for the
18 commission to determine whether the rehabilitation meets the United
19 States secretary of the interior's Standards for Rehabilitation as
20 defined in 36 C.F.R. Section 67.7.

21 (b) The commission shall issue a certificate of eligibility
22 to an entity that has incurred eligible costs and expenses as
23 provided by this subchapter. The certificate must:

24 (1) confirm that:

25 (A) the property to which the eligible costs and
26 expenses relate is a certified historic structure; and

27 (B) the rehabilitation qualifies as a certified

1 rehabilitation; and

2 (2) specify the date the certified historic structure
3 was first placed in service after the rehabilitation.

4 (c) The entity must forward the certificate of eligibility
5 and the following documentation to the comptroller to claim the tax
6 credit:

7 (1) an audited cost report issued by a certified
8 public accountant, as defined by Section 901.002, Occupations Code,
9 that itemizes the eligible costs and expenses incurred in the
10 certified rehabilitation of the certified historic structure by the
11 entity;

12 (2) the date the certified historic structure was
13 first placed in service after the rehabilitation and evidence of
14 that placement in service; and

15 (3) an attestation of the total eligible costs and
16 expenses incurred by the entity on the rehabilitation of the
17 certified historic structure.

18 (d) For purposes of approving the tax credit under
19 Subsection (c), the comptroller may rely on the audited cost report
20 provided by the entity that requested the tax credit.

21 (e) An entity that sells or assigns a credit under this
22 subchapter to another entity shall provide a copy of the
23 certificate of eligibility, together with the audited cost report,
24 to the purchaser or assignee.

25 Sec. 171.905. AMOUNT OF CREDIT; LIMITATIONS. (a) The total
26 amount of the credit under this subchapter with respect to the
27 rehabilitation of a single certified historic structure that may be

1 claimed may not exceed 25 percent of the total eligible costs and
2 expenses incurred in the certified rehabilitation of the certified
3 historic structure.

4 (b) The total credit claimed for a report, including the
5 amount of any carryforward under Section 171.906, may not exceed
6 the amount of franchise tax due for the report after any other
7 applicable tax credits.

8 (c) Eligible costs and expenses may only be counted once in
9 determining the amount of the tax credit available, and more than
10 one entity may not claim a credit for the same eligible costs and
11 expenses.

12 Sec. 171.906. CARRYFORWARD. (a) If an entity is eligible
13 for a credit that exceeds the limitation under Section 171.905(b),
14 the entity may carry the unused credit forward for not more than
15 five consecutive reports.

16 (b) A carryforward is considered the remaining portion of a
17 credit that cannot be claimed in the current year because of the
18 limitation under Section 171.905(b).

19 Sec. 171.907. APPLICATION FOR CREDIT. (a) An entity must
20 apply for a credit under this subchapter on or with the report for
21 the period for which the credit is claimed.

22 (b) An entity shall file with any report on which the credit
23 is claimed a copy of the certificate of eligibility issued by the
24 commission under Section 171.904 and any other information required
25 by the comptroller to sufficiently demonstrate that the entity is
26 eligible for the credit.

27 (c) The burden of establishing eligibility for and the value

1 of the credit is on the entity.

2 Sec. 171.908. SALE OR ASSIGNMENT OF CREDIT. (a) An entity
3 that incurs eligible costs and expenses may sell or assign all or
4 part of the credit that may be claimed for those costs and expenses
5 to one or more entities, and any entity to which all or part of the
6 credit is sold or assigned may sell or assign all or part of the
7 credit to another entity. There is no limit on the total number of
8 transactions for the sale or assignment of all or part of the total
9 credit authorized under this subchapter, however, collectively all
10 transfers are subject to the maximum total limits provided by
11 Section 171.905.

12 (b) An entity that sells or assigns a credit under this
13 section and the entity to which the credit is sold or assigned shall
14 jointly submit written notice of the sale or assignment to the
15 comptroller on a form promulgated by the comptroller not later than
16 the 30th day after the date of the sale or assignment. The notice
17 must include:

18 (1) the date of the sale or assignment;
19 (2) the amount of the credit sold or assigned;
20 (3) the names and federal tax identification numbers
21 of the entity that sold or assigned the credit or part of the credit
22 and the entity to which the credit or part of the credit was sold or
23 assigned; and

24 (4) the amount of the credit owned by the selling or
25 assigning entity before the sale or assignment, and the amount the
26 selling or assigning entity retained, if any, after the sale or
27 assignment.

1 (c) The sale or assignment of a credit in accordance with
2 this section does not extend the period for which a credit may be
3 carried forward and does not increase the total amount of the credit
4 that may be claimed. After an entity claims a credit for eligible
5 costs and expenses, another entity may not use the same costs and
6 expenses as the basis for claiming a credit.

7 (d) Notwithstanding the requirements of this subchapter, a
8 credit earned or purchased by, or assigned to, a partnership,
9 limited liability company, S corporation, or other pass-through
10 entity may be allocated to the partners, members, or shareholders
11 of that entity and claimed under this subchapter in accordance with
12 the provisions of any agreement among the partners, members, or
13 shareholders and without regard to the ownership interest of the
14 partners, members, or shareholders in the rehabilitated certified
15 historic structure, provided that the entity that claims the credit
16 must be subject to the tax imposed under this chapter.

17 Sec. 171.909. RULES. The commission and the comptroller
18 shall adopt rules necessary to implement this subchapter.

19 SECTION 20. (a) Chapter 325, Government Code, is amended by
20 adding Section 325.025 to read as follows:

21 Sec. 325.025. EVALUATION OF EXEMPTIONS FROM FRANCHISE TAX.

22 (a) The commission shall periodically evaluate each exemption
23 provided by Chapter 171, Tax Code, from the tax imposed under that
24 chapter to consider whether retaining the exemption is in the
25 public's best interest.

26 (b) At each regular legislative session, the commission
27 shall present to the governor and the legislature a report on the

1 evaluation and recommendations it makes under Subsection (a).

2 (c) The commission shall conduct the evaluation required by
3 Subsection (a) according to a schedule that the commission adopts.
4 The schedule must provide for the commission to evaluate each tax
5 exemption at an interval not to exceed six years. The commission
6 shall provide the schedule to the governor and the legislature.

7 (d) The evaluation described by this section does not apply
8 to a tax exemption that is:

9 (1) explicitly provided by the constitution of this
10 state; or

11 (2) related to an item or service that this state is
12 unable to tax under the United States Constitution or federal law.

13 (b) The Sunset Advisory Commission shall adopt a schedule
14 for evaluating exemptions from the tax imposed under Chapter 171,
15 Tax Code, as provided by Section 325.025, Government Code, as added
16 by this section, on or before January 1, 2014.

17 SECTION 21. Sections 171.0021, 171.1016(d), and 171.103(c)
18 and (d), Tax Code, are repealed.

19 SECTION 22. (a) Section 18, Chapter 1 (H.B. 3), Acts of the
20 79th Legislature, 3rd Called Session, 2006, is amended by adding
21 Subsections (h) and (i) to read as follows:

22 (h) In this subsection and Subsection (i) of this section,
23 "transfer" includes a sale. Notwithstanding Subsections (e) and
24 (f) of this section, a corporation that has unused, unexpired
25 credits carried forward under former Subchapter P or Q, Chapter
26 171, Tax Code, may transfer the credits to another taxpayer of this
27 state. To be eligible to transfer the credits, the corporation must

1 obtain a certificate of transfer of credit from the comptroller of
2 public accounts for the amount of the credits to be transferred.
3 Not later than the 30th day after the date of the transfer, the
4 corporation must submit to the comptroller a notice of the transfer
5 in a form prescribed by the comptroller. The notice must be
6 accompanied by a copy of the certificate of transfer issued by the
7 comptroller and specify:

8 (1) the number on the certificate of transfer;

9 (2) the amount of the corporation's unused, unexpired
10 credits preceding the transfer;

11 (3) the date of the transfer;

12 (4) the amount of credits transferred;

13 (5) the tax identification numbers of the corporation
14 and the taxpayer to which the credits were transferred;

15 (6) the corporation's remaining amount of unused,
16 unexpired credits after the transfer; and

17 (7) any other information the comptroller requires.

18 (i) The transfer of a credit under Subsection (h) of this
19 section is limited to a credit that was first reported on a report
20 originally due before January 1, 2008, and does not include credits
21 authorized under former Subchapter Q-1, Chapter 171, Tax Code, or
22 credits that were created under the terms of a written agreement
23 between a taxpayer and the Texas Department of Economic Development
24 or its successor that was entered into before June 1, 2006, and
25 which credits continue to accrue under the terms provided by
26 Section 19 of this Act. The transferee of a credit under this
27 section obtains the credit subject to the same rights and

1 privileges as the transferor. The transfer of a credit under
2 Subsection (h) of this section does not extend or lessen the period
3 during which the credit may be claimed. If a corporation transfers a
4 credit that the corporation was not entitled to claim at the time of
5 the transfer:

6 (1) the taxpayer to which the credit was transferred
7 may pursue any remedy authorized by law against the corporation and
8 may not pursue any remedy against the comptroller of public
9 accounts or this state; and

10 (2) the comptroller:

11 (A) may not allow the taxpayer to which the
12 credit was transferred to apply the credit on a report; or

13 (B) shall recover from the taxpayer the amount of
14 the credit the taxpayer claims on a report using any means
15 authorized by law.

16 (b) This section applies only to a credit transferred on or
17 after the effective date of this section.

18 (c) This section takes effect September 1, 2013.

19 SECTION 23. Section 1(c), Chapter 286 (H.B. 4765), Acts of
20 the 81st Legislature, Regular Session, 2009, as amended by Section
21 37.01, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called
22 Session, 2011, is repealed.

23 SECTION 24. Section 2, Chapter 286 (H.B. 4765), Acts of the
24 81st Legislature, Regular Session, 2009, as amended by Section
25 37.02, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called
26 Session, 2011, and which amended former Subsection (d), Section
27 171.002, Tax Code, is repealed.

1 SECTION 25. Section 3, Chapter 286 (H.B. 4765), Acts of the
2 81st Legislature, Regular Session, 2009, as amended by Section
3 37.03, Chapter 4 (S.B. 1), Acts of the 82nd Legislature, 1st Called
4 Session, 2011, and which amended former Subsection (a), Section
5 171.0021, Tax Code, is repealed.

6 SECTION 26. This Act applies only to a report originally due
7 on or after the effective date of this Act.

8 SECTION 27. Section 171.1011(y), Tax Code, as added by this
9 Act, takes effect January 1, 2016.

10 SECTION 28. Section 14 of this Act takes effect January 1,
11 2015.

12 SECTION 29. Section 171.1011(n), Tax Code, is amended to
13 read as follows:

14 (n) A [~~Except as provided by Subsection (o), a~~] taxable
15 entity that is a health care provider shall exclude from its total
16 revenue:

17 (1) to the extent included under Subsection (c)(1)(A),
18 (c)(2)(A), or (c)(3), the total amount of payments the health care
19 provider received:

20 (A) under the Medicaid program, Medicare
21 program, Indigent Health Care and Treatment Act (Chapter 61, Health
22 and Safety Code), and Children's Health Insurance Program (CHIP);

23 (B) for professional services provided in
24 relation to a workers' compensation claim under Title 5, Labor
25 Code; and

26 (C) for professional services provided to a
27 beneficiary rendered under the TRICARE military health system; and

1 (2) the actual cost to the health care provider for any
2 uncompensated care provided, but only if the provider maintains
3 records of the uncompensated care for auditing purposes and, if the
4 provider later receives payment for all or part of that care, the
5 provider adjusts the amount excluded for the tax year in which the
6 payment is received.

7 SECTION 30. Section 171.1011(o), Tax Code, is repealed.

8 SECTION 31. This Act applies only to a report originally due
9 on or after the effective date of this Act.

10 SECTION 32. This Act takes effect January 1, 2015.

11 SECTION 33. Except as otherwise provided by this Act, this
12 Act takes effect January 1, 2014.