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H.B. No. 3390

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the Texas Economic Development Act and the Tax
3 Increment Financing Act; authorizing a fee.

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

5 SECTION 1. Sections 313.002, 313.003, 313.004, and 313.007,
6 Tax Code, are amended to read as follows:

7 Sec. 313.002. FINDINGS. The legislature finds that:

8 (1) many states have enacted aggressive economic
9 development laws designed to attract large employers, create jobs,
10 and strengthen their economies;

11 (2) given Texas' relatively high ad valorem taxes, it
12 is difficult for the state to compete for new capital projects
13 without temporarily limiting ad valorem taxes imposed on new
14 capital investments [~~the State of Texas has slipped in its national~~
15 ~~ranking each year between 1993 and 2000 in terms of attracting major~~
16 ~~new manufacturing facilities to this state~~];

17 (3) a significant portion of the Texas economy
18 continues to be based in [~~the~~] manufacturing and other
19 capital-intensive industries [~~industry~~], and their [~~the~~] continued
20 growth and overall health serve [~~of the manufacturing sector~~
21 ~~serves~~] the Texas economy well;

22 (4) without a vibrant, strong manufacturing sector,
23 other sectors of the economy, especially the state's service
24 sector, will also suffer adverse consequences; and

1 (5) the current ad valorem [~~property~~] tax system of
2 this state does not favor capital-intensive businesses such as
3 manufacturers.

4 Sec. 313.003. PURPOSES. The purposes of this chapter are
5 to:

6 (1) encourage large-scale capital investments in this
7 state [~~, especially in school districts that have an ad valorem tax~~
8 ~~base that is less than the statewide average ad valorem tax base of~~
9 ~~school districts in this state~~];

10 (2) create new, high-paying jobs in this state;

11 (3) attract to this state [~~new,~~] large-scale
12 businesses that are exploring opportunities to locate in other
13 states or other countries;

14 (4) enable state and local government officials and
15 economic development professionals to compete with other states by
16 authorizing economic development incentives that are comparable to
17 [~~meet or exceed~~] incentives being offered to prospective employers
18 by other states and to provide state and local officials with an
19 effective means to attract large-scale investment;

20 (5) strengthen and improve the overall performance of
21 the economy of this state;

22 (6) expand and enlarge the ad valorem [~~property~~] tax
23 base of this state; and

24 (7) enhance this state's economic development efforts
25 by providing state and local officials [~~school districts~~] with an
26 effective [~~local~~] economic development tool [~~option~~].

27 Sec. 313.004. LEGISLATIVE INTENT. It is the intent of the

1 legislature in enacting this chapter that:

2 (1) economic development decisions involving school
3 district taxes should occur at the local level with oversight by the
4 state and should be consistent with identifiable statewide economic
5 development goals;

6 (2) this chapter should not be construed or
7 interpreted to allow:

8 (A) property owners to pool investments to create
9 sufficiently large investments to qualify for an ad valorem tax
10 benefit [~~or financial benefit~~] provided by this chapter;

11 (B) an applicant for an ad valorem tax benefit
12 [~~or financial benefit~~] provided by this chapter to assert that jobs
13 will be eliminated if certain investments are not made if the
14 assertion is not true; or

15 (C) an entity not subject to the tax imposed by
16 Chapter 171 [~~a sole proprietorship, partnership, or limited~~
17 ~~liability partnership~~] to receive an ad valorem tax benefit [~~or~~
18 ~~financial benefit~~] provided by this chapter; [~~and~~]

19 (3) in implementing this chapter, school districts
20 should:

21 (A) strictly interpret the criteria and
22 selection guidelines provided by this chapter; and

23 (B) approve only those applications for an ad
24 valorem tax benefit [~~or financial benefit~~] provided by this chapter
25 that:

26 (i) enhance the local community;

27 (ii) improve the local public education

1 system;

2 (iii) create high-paying jobs; and

3 (iv) advance the economic development goals
4 of this state; and

5 (4) in implementing this chapter, the comptroller
6 should:

7 (A) strictly interpret the criteria and
8 selection guidelines provided by this chapter; and

9 (B) issue certificates for limitations on
10 appraised value only for those applications for an ad valorem tax
11 benefit provided by this chapter that:

12 (i) create high-paying jobs;

13 (ii) provide a net benefit to the state over
14 the long term; and

15 (iii) advance the economic development
16 goals of this state [~~as identified by the Texas Strategic Economic~~
17 ~~Development Planning Commission~~].

18 Sec. 313.007. EXPIRATION. Subchapters B and [~~7~~] C [~~7~~ and ~~D~~]
19 expire December 31, 2024 [~~2014~~].

20 SECTION 2. Subchapter A, Chapter 313, Tax Code, is amended
21 by adding Section 313.010 to read as follows:

22 Sec. 313.010. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a)
23 Each year, the state auditor shall review at least three major
24 agreements, as determined by the state auditor, under this chapter
25 to determine whether:

26 (1) each agreement accomplishes the purposes of this
27 chapter as expressed in Section 313.003;

1 (2) each agreement complies with the intent of the
2 legislature in enacting this chapter as expressed in Section
3 313.004; and

4 (3) the terms of each agreement were executed in
5 compliance with the terms of this chapter.

6 (b) As part of the review, the state auditor shall make
7 recommendations relating to increasing the efficiency and
8 effectiveness of the administration of this chapter.

9 SECTION 3. Sections 313.021(1), (2), and (3), Tax Code, are
10 amended to read as follows:

11 (1) "Qualified investment" means:

12 (A) tangible personal property that is first
13 placed in service in this state during the applicable qualifying
14 time period that begins on or after January 1, 2002, without regard
15 to whether the property is affixed to or incorporated into real
16 property, and that is described as Section 1245 property by Section
17 1245(a), Internal Revenue Code of 1986;

18 (B) tangible personal property that is first
19 placed in service in this state during the applicable qualifying
20 time period that begins on or after January 1, 2002, without regard
21 to whether the property is affixed to or incorporated into real
22 property, and that is used in connection with the manufacturing,
23 processing, or fabrication in a cleanroom environment of a
24 semiconductor product, without regard to whether the property is
25 actually located in the cleanroom environment, including:

26 (i) integrated systems, fixtures, and
27 piping;

1 (ii) all property necessary or adapted to
2 reduce contamination or to control airflow, temperature, humidity,
3 chemical purity, or other environmental conditions or
4 manufacturing tolerances; and

5 (iii) production equipment and machinery,
6 moveable cleanroom partitions, and cleanroom lighting;

7 (C) tangible personal property that is first
8 placed in service in this state during the applicable qualifying
9 time period that begins on or after January 1, 2002, without regard
10 to whether the property is affixed to or incorporated into real
11 property, and that is used in connection with the operation of a
12 nuclear electric power generation facility, including:

13 (i) property, including pressure vessels,
14 pumps, turbines, generators, and condensers, used to produce
15 nuclear electric power; and

16 (ii) property and systems necessary to
17 control radioactive contamination;

18 (D) tangible personal property that is first
19 placed in service in this state during the applicable qualifying
20 time period that begins on or after January 1, 2002, without regard
21 to whether the property is affixed to or incorporated into real
22 property, and that is used in connection with operating an
23 integrated gasification combined cycle electric generation
24 facility, including:

25 (i) property used to produce electric power
26 by means of a combined combustion turbine and steam turbine
27 application using synthetic gas or another product produced by the

1 gasification of coal or another carbon-based feedstock; or

2 (ii) property used in handling materials to
3 be used as feedstock for gasification or used in the gasification
4 process to produce synthetic gas or another carbon-based feedstock
5 for use in the production of electric power in the manner described
6 by Subparagraph (i);

7 (E) tangible personal property that is first
8 placed in service in this state during the applicable qualifying
9 time period that begins on or after January 1, 2010, without regard
10 to whether the property is affixed to or incorporated into real
11 property, and that is used in connection with operating an advanced
12 clean energy project, as defined by Section 382.003, Health and
13 Safety Code; ~~or~~

14 (F) a building or a permanent, nonremovable
15 component of a building that is built or constructed during the
16 applicable qualifying time period that begins on or after January
17 1, 2002, and that houses tangible personal property described by
18 Paragraph (A), (B), (C), (D), or (E); or

19 (G) an existing building that, as part of a
20 discrete project that increases the value and productive capacity
21 of an existing property, is expanded.

22 (2) "Qualified property" means:

23 (A) land:

24 (i) that is located in an area designated as
25 a reinvestment zone under Chapter 311 or 312 or as an enterprise
26 zone under Chapter 2303, Government Code;

27 (ii) on which a person proposes to:

1 (a) construct a new building or erect
2 or affix a new improvement that does not exist before the date the
3 person submits a complete application [~~applies~~] for a limitation on
4 appraised value under this subchapter; or

5 (b) expand an existing building as
6 described by Subdivision (1)(G);

7 (iii) that is not subject to a tax abatement
8 agreement entered into by a school district under Chapter 312; and

9 (iv) on which, in connection with the new
10 building, ~~or~~ new improvement, or expanded building described by
11 Subparagraph (ii), the owner or lessee of, or the holder of another
12 possessory interest in, the land proposes to:

13 (a) make a qualified investment in an
14 amount equal to at least the minimum amount required by Section
15 313.023; and

16 (b) create at least 25 new qualifying
17 jobs;

18 (B) the new building, ~~or~~ other new improvement,
19 or expanded building described by Paragraph (A)(ii); and

20 (C) tangible personal property that:

21 (i) is not subject to a tax abatement
22 agreement entered into by a school district under Chapter 312; and

23 (ii) except for new equipment described in
24 Section 151.318(q) or (q-1), is first placed in service in the new
25 building, ~~or~~ in or on the new improvement, or in the expanded
26 building described by Paragraph (A)(ii), or on the land on which
27 that new building, ~~or~~ new improvement, or expanded building is

1 located, if the personal property is ancillary and necessary to the
2 business conducted in that new building, ~~[or]~~ in or on that new
3 improvement, or in that expanded building.

4 (3) "Qualifying job" means a permanent full-time job
5 that:

6 (A) requires at least 1,600 hours of work a year;

7 (B) is not transferred from one area in this
8 state to another area in this state;

9 (C) is not created to replace a previous
10 employee;

11 (D) is covered by a group health benefit plan for
12 which the business offers to pay at least 80 percent of the premiums
13 or other charges assessed for employee-only coverage under the
14 plan, regardless of whether an employee may voluntarily waive the
15 coverage; and

16 (E) pays at least 110 percent of ~~[+~~

17 ~~[(i) the county average weekly wage for
18 manufacturing jobs in the county where the job is located, or~~

19 ~~[(ii)] the county average weekly wage for
20 all jobs in the county where the job is located[, if the property
21 owner creates more than 1,000 jobs in that county].~~

22 (F) In determining whether a property owner has created the
23 number of qualifying jobs required under this chapter, operations,
24 services and other related jobs created in connection with the
25 project, including those employed by third parties under contract,
26 may satisfy the minimum qualifying jobs requirement for the project
27 if the Texas Workforce Commission determines that the cumulative

1 economic benefits to the state of these jobs is the same or greater
2 than that associated with the minimum number of qualified jobs
3 required to be created under this chapter. The Texas Workforce
4 Commission may adopt rules to implement this subsection.

5 SECTION 4. Section 313.023, Tax Code, is amended to read as
6 follows:

7 Sec. 313.023. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT AND
8 NUMBER OF NEW QUALIFYING JOBS TO BE CREATED. (a) For each category
9 of school district established by Section 313.022, the minimum
10 amount of a qualified investment under Section
11 313.021(2)(A)(iv)(a) is as follows:

CATEGORY	MINIMUM QUALIFIED INVESTMENT
I	\$100 million
II	\$80 million
III	\$60 million
IV	\$40 million
V	\$20 million

18 (b) Notwithstanding Section 313.021(2)(A)(iv)(b), if the
19 property owner makes a qualified investment in an amount equal to at
20 least:

21 (1) two times the minimum qualified investment for the
22 applicable category of school district but less than three times
23 that amount, the number of new qualifying jobs the property owner is
24 required to create is equal to 75 percent of the number required by
25 that sub-subparagraph;

26 (2) three times the minimum qualified investment for
27 the applicable category of school district but less than four times

1 that amount, the number of new qualifying jobs the property owner is
2 required to create is equal to 50 percent of the number required by
3 that sub-subparagraph;

4 (3) four times the minimum qualified investment for
5 the applicable category of school district but less than five times
6 that amount, the number of new qualifying jobs the property owner is
7 required to create is equal to 25 percent of the number required by
8 that sub-subparagraph; and

9 (4) five times the minimum qualified investment for
10 the applicable category of school district, the property owner is
11 not required to create any new qualifying jobs.

12 SECTION 5. Section 313.024, Tax Code, is amended by
13 amending Subsections (a), (b), and (d) and adding Subsection (d-2)
14 to read as follows:

15 (a) This subchapter and Subchapter [~~Subchapters~~] C [~~and D~~]
16 apply only to property owned by an entity subject to the tax imposed
17 by [~~which~~] Chapter 171 [~~applies~~].

18 (b) To be eligible for a limitation on appraised value under
19 this subchapter, the entity must use the property for [~~in~~
20 ~~connection with~~]:

- 21 (1) manufacturing;
- 22 (2) research and development;
- 23 (3) a clean coal project, as defined by Section 5.001,
24 Water Code;
- 25 (4) an advanced clean energy project, as defined by
26 Section 382.003, Health and Safety Code;
- 27 (5) renewable energy electric generation;

1 (6) electric power generation using integrated
2 gasification combined cycle technology;

3 (7) nuclear electric power generation; ~~[or]~~

4 (8) a data ~~[computer]~~ center; or ~~[primarily used in~~
5 ~~connection with one or more activities described by Subdivisions~~
6 ~~(1) through (7) conducted by the entity]~~

7 (9) a Texas priority project.

8 (d) To be eligible for a limitation on appraised value under
9 this subchapter, the property owner must create the required number
10 of new ~~[at least 80 percent of all the new jobs created by the~~
11 ~~property owner must be]~~ qualifying jobs as defined by Section
12 313.021(3).

13 (d-2) For purposes of determining whether a property owner
14 has created the number of new qualifying jobs required for
15 eligibility for a limitation on appraised value under this
16 subchapter, the new qualifying jobs created under an agreement
17 between the property owner and another school district may be
18 included in the total number of new qualifying jobs created in
19 connection with the project if the Texas Economic Development and
20 Tourism Office determines that the projects covered by the
21 agreements constitute a single unified project. The Texas Economic
22 Development and Tourism Office may adopt rules to implement this
23 subsection.

24 SECTION 6. Section 313.024(e), Tax Code, is amended by
25 amending Subdivision (6) and adding Subdivision (7) to read as
26 follows:

27 (6) "Data ~~[Computer]~~ center" means an establishment

1 primarily engaged in:

2 (A) data processing, hosting, and related
3 services described by industry code 518210 of the North American
4 Industry Classification System;

5 (B) an Internet activity described by industry
6 code 519130 of the North American Industry Classification System;

7 or

8 (C) computer software publishing and
9 reproduction described by industry code 511210 of the North
10 American Industry Classification System; or

11 (D) on-site management and operation of clients'
12 computer systems or data processing facilities described by
13 industry code 541513 of the North American Industry Classification
14 System;

15 (E) primarily used in connection with one or more
16 activities described by Subdivisions (1) through (7) conducted by
17 the entity [~~providing electronic data processing and information~~
18 ~~storage~~].

19 (7) "Texas priority project" means a project on which
20 the applicant has committed to expend or allocate a qualified
21 investment of more than \$1 billion.

22 SECTION 7. Sections 313.025(a), (a-1), (b), (b-1), (c),
23 (d), (d-1), (e), (f-1), (g), and (i), Tax Code, are amended to read
24 as follows:

25 (a) The owner or lessee of, or the holder of another
26 possessory interest in, any qualified property described by Section
27 313.021(2)(A), (B), or (C) may apply to the governing body of the

1 school district in which the property is located for a limitation on
2 the appraised value for school district maintenance and operations
3 ad valorem tax purposes of the person's qualified property. An
4 application must be made on the form prescribed by the comptroller
5 and include the information required by the comptroller, and it
6 must be accompanied by:

7 (1) the application fee established by the governing
8 body of the school district;

9 (2) information sufficient to show that the real and
10 personal property identified in the application as qualified
11 property meets the applicable criteria established by Section
12 313.021(2); and

13 (3) any information required by the comptroller for
14 the purposes of [~~relating to each applicable criterion listed in~~]
15 Section 313.026.

16 (a-1) Within seven days of the receipt of each document, the
17 school district shall submit to the comptroller a copy of the
18 application and the proposed agreement between the applicant and
19 the school district. If the applicant submits an economic analysis
20 of the proposed project [~~is submitted~~] to the school district, the
21 district shall submit a copy of the analysis to the comptroller. In
22 addition, the school district shall submit to the comptroller any
23 subsequent revision of or amendment to any of those documents
24 within seven days of its receipt. The comptroller shall publish
25 each document received from the school district under this
26 subsection on the comptroller's Internet website. If the school
27 district maintains a generally accessible Internet website, the

1 district shall provide on its website a link to the location of
2 those documents posted on the comptroller's website in compliance
3 with this subsection. This subsection does not require the
4 comptroller to post information that is confidential under Section
5 313.028.

6 (b) The governing body of a school district is not required
7 to consider an application for a limitation on appraised value
8 ~~[that is filed with the governing body under Subsection (a)]~~. If
9 the governing body of the school district elects ~~[does elect]~~ to
10 consider an application, the governing body shall deliver a copy
11 ~~[three copies]~~ of the application to the comptroller and request
12 that the comptroller conduct ~~[provide]~~ an economic impact
13 evaluation of the investment proposed by the application. The ~~[to~~
14 ~~the school district. Except as provided by Subsection (b-1), the]~~
15 comptroller shall conduct or contract with a third person to
16 conduct the economic impact evaluation, which shall be completed
17 and provided to the governing body of the school district, along
18 with the comptroller's certificate or written explanation under
19 Subsection (d), as soon as practicable but not later than the 90th
20 day after the date the comptroller receives the application. The
21 governing body shall provide to the comptroller or to a third person
22 contracted by the comptroller to conduct the economic impact
23 evaluation any requested information. A methodology to allow
24 comparisons of economic impact for different schedules of the
25 addition of qualified investment or qualified property may be
26 developed as part of the economic impact evaluation. The governing
27 body shall provide a copy of the economic impact evaluation to the

1 applicant on request. The comptroller may charge the applicant
2 ~~[and collect]~~ a fee sufficient to cover the costs of providing the
3 economic impact evaluation. The governing body of a school
4 district shall approve or disapprove an application not later than
5 the 150th ~~[before the 151st]~~ day after the date the application is
6 filed, unless the economic impact evaluation has not been received
7 or an extension is agreed to by the governing body and the
8 applicant.

9 (b-1) The comptroller shall promptly deliver a ~~[indicate on~~
10 ~~one]~~ copy of the application ~~[the date the comptroller received the~~
11 ~~application and deliver that copy]~~ to the Texas Education Agency.
12 The Texas Education Agency shall determine the effect that the
13 applicant's proposal will have on the number or size of the school
14 district's instructional facilities ~~[, as required to be included~~
15 ~~in the economic impact evaluation by Section 313.026(a)(9),]~~ and
16 submit a written report containing the agency's determination to
17 the school district ~~[comptroller]~~. The governing body of the
18 school district shall provide any requested information to the
19 Texas Education Agency. Not later than the 45th day after the date
20 the Texas Education Agency receives ~~[application indicates that the~~
21 ~~comptroller received]~~ the application, the Texas Education Agency
22 shall make the required determination and submit the agency's
23 written report to the governing body of the school district
24 ~~[comptroller. A third person contracted by the comptroller to~~
25 ~~conduct an economic impact evaluation of an application is not~~
26 ~~required to make a determination that the Texas Education Agency is~~
27 ~~required to make and report to the comptroller under this~~

1 subsection].

2 (c) In determining whether to approve [~~grant~~] an
3 application, the governing body of the school district is entitled
4 to request and receive assistance from:

- 5 (1) the comptroller;
- 6 (2) the Texas [~~Department of~~] Economic Development and
7 Tourism Office;
- 8 (3) the Texas Workforce Investment Council; and
- 9 (4) the Texas Workforce Commission.

10 (d) Not later than the 90th [~~Before the 91st~~] day after the
11 date the comptroller receives the copy of the application, the
12 comptroller shall issue a certificate for a limitation on appraised
13 value of the property and provide the certificate to the governing
14 body of the school district or provide the governing body a written
15 explanation of the comptroller's decision not to issue a
16 certificate [~~submit a recommendation to the governing body of the~~
17 ~~school district as to whether the application should be approved or~~
18 ~~disapproved~~].

19 (d-1) The governing body of a school district may not
20 approve an application unless [~~that~~] the comptroller submits to the
21 governing body a certificate for a limitation on appraised value of
22 the property [~~has recommended should be disapproved only if:~~

23 [~~(1) the governing body holds a public hearing the~~
24 ~~sole purpose of which is to consider the application and the~~
25 ~~comptroller's recommendation; and~~

26 [~~(2) at a subsequent meeting of the governing body~~
27 ~~held after the date of the public hearing, at least two-thirds of~~

1 ~~the members of the governing body vote to approve the application].~~

2 (e) Before approving or disapproving an application under
3 this subchapter that the governing body of the school district
4 elects to consider, the governing body [~~of the school district~~]
5 must make a written finding as to any criteria considered by the
6 comptroller in conducting the economic impact evaluation under
7 [~~each criterion listed in~~] Section 313.026. The governing body
8 shall deliver a copy of those findings to the applicant.

9 (f-1) Notwithstanding any other provision of this chapter
10 [~~to the contrary, including Section 313.003(2) or 313.004(3)(A) or~~
11 ~~(B)(iii)]~~, the governing body of a school district may waive or
12 reduce the new qualifying jobs creation requirement in Section
13 313.021(2)(A)(iv)(b) or 313.051(b) only [~~and approve an~~
14 ~~application~~] if the Texas Workforce Commission determines
15 [~~governing body makes a finding~~] that the jobs creation requirement
16 exceeds the industry standard for the number of employees
17 reasonably necessary for the operation of the facility of the
18 property owner that is described in the application and recommends
19 waiving or reducing the requirement. The governing body of a school
20 district may request that the Texas Workforce Commission provide a
21 recommendation as to whether the new qualifying jobs creation
22 requirement should be reduced or waived and, if reduced, the number
23 of new qualifying jobs that should be required to be created. If
24 the Texas Workforce Commission receives a request from the
25 governing body of a school district under this subsection, not
26 later than the 60th day after the date of receipt of the request the
27 commission shall submit to the governing body a recommendation as

1 to whether the new qualifying jobs creation requirement should be
2 reduced or waived and, if reduced, the number of new qualifying jobs
3 that should be required to be created.

4 (g) The Texas [~~Department of~~] Economic Development and
5 Tourism Office or its successor may recommend that a school
6 district approve an application [~~grant a person a limitation on~~
7 ~~appraised value~~] under this chapter. In determining whether to
8 approve [~~grant~~] an application, the governing body of the school
9 district shall consider any recommendation made by the Texas
10 [~~Department of~~] Economic Development and Tourism Office or its
11 successor.

12 (i) If the comptroller's determination under Subsection (h)
13 that the property does not meet the requirements of Section 313.024
14 for eligibility for a limitation on appraised value under this
15 subchapter becomes final, the comptroller is not required to
16 provide an economic impact evaluation of the application or to
17 submit a certificate for a limitation on appraised value of the
18 property or a written explanation of the decision not to issue a
19 certificate [~~recommendation to the school district as to whether~~
20 ~~the application should be approved or disapproved~~], and the
21 governing body of the school district may not grant the
22 application.

23 SECTION 8. Section 313.026, Tax Code, is amended to read as
24 follows:

25 Sec. 313.026. ECONOMIC IMPACT EVALUATION. (a) The
26 economic impact evaluation of the application must include any
27 information the comptroller determines is necessary or helpful to:

1 (1) the governing body of the school district in
2 determining whether to approve the application under Section
3 313.025; or

4 (2) the comptroller in determining whether to issue a
5 certificate for a limitation on appraised value of the property
6 under Section 313.025 [the following:

7 ~~[(1) the recommendations of the comptroller,~~

8 ~~[(2) the name of the school district,~~

9 ~~[(3) the name of the applicant,~~

10 ~~[(4) the general nature of the applicant's investment,~~

11 ~~[(5) the relationship between the applicant's industry~~
12 ~~and the types of qualifying jobs to be created by the applicant to~~
13 ~~the long-term economic growth plans of this state as described in~~
14 ~~the strategic plan for economic development submitted by the Texas~~
15 ~~Strategic Economic Development Planning Commission under Section~~
16 ~~481.033, Government Code, as that section existed before February~~
17 ~~1, 1999,~~

18 ~~[(6) the relative level of the applicant's investment~~
19 ~~per qualifying job to be created by the applicant,~~

20 ~~[(7) the number of qualifying jobs to be created by the~~
21 ~~applicant,~~

22 ~~[(8) the wages, salaries, and benefits to be offered~~
23 ~~by the applicant to qualifying job holders,~~

24 ~~[(9) the ability of the applicant to locate or~~
25 ~~relocate in another state or another region of this state,~~

26 ~~[(10) the impact the project will have on this state~~
27 ~~and individual local units of government, including:~~

1 ~~[(A) tax and other revenue gains, direct or~~
2 ~~indirect, that would be realized during the qualifying time period,~~
3 ~~the limitation period, and a period of time after the limitation~~
4 ~~period considered appropriate by the comptroller, and~~

5 ~~[(B) economic effects of the project, including~~
6 ~~the impact on jobs and income, during the qualifying time period,~~
7 ~~the limitation period, and a period of time after the limitation~~
8 ~~period considered appropriate by the comptroller,;~~

9 ~~[(11) the economic condition of the region of the~~
10 ~~state at the time the person's application is being considered,;~~

11 ~~[(12) the number of new facilities built or expanded~~
12 ~~in the region during the two years preceding the date of the~~
13 ~~application that were eligible to apply for a limitation on~~
14 ~~appraised value under this subchapter,;~~

15 ~~[(13) the effect of the applicant's proposal, if~~
16 ~~approved, on the number or size of the school district's~~
17 ~~instructional facilities, as defined by Section 46.001, Education~~
18 ~~Code,;~~

19 ~~[(14) the projected market value of the qualified~~
20 ~~property of the applicant as determined by the comptroller,;~~

21 ~~[(15) the proposed limitation on appraised value for~~
22 ~~the qualified property of the applicant,;~~

23 ~~[(16) the projected dollar amount of the taxes that~~
24 ~~would be imposed on the qualified property, for each year of the~~
25 ~~agreement, if the property does not receive a limitation on~~
26 ~~appraised value with assumptions of the projected appreciation or~~
27 ~~depreciation of the investment and projected tax rates clearly~~

1 ~~stated,~~

2 ~~[(17) the projected dollar amount of the taxes that~~
3 ~~would be imposed on the qualified property, for each tax year of the~~
4 ~~agreement, if the property receives a limitation on appraised value~~
5 ~~with assumptions of the projected appreciation or depreciation of~~
6 ~~the investment clearly stated,~~

7 ~~[(18) the projected effect on the Foundation School~~
8 ~~Program of payments to the district for each year of the agreement,~~

9 ~~[(19) the projected future tax credits if the~~
10 ~~applicant also applies for school tax credits under Section~~
11 ~~313.103, and~~

12 ~~[(20) the total amount of taxes projected to be lost or~~
13 ~~gained by the district over the life of the agreement computed by~~
14 ~~subtracting the projected taxes stated in Subdivision (17) from the~~
15 ~~projected taxes stated in Subdivision (16)].~~

16 (b) Except as provided by Subsections (c) and (d), the [The]
17 comptroller's determination whether to issue a certificate for a
18 limitation on appraised value under this chapter for property
19 described in the application [recommendations] shall be based on
20 the economic impact evaluation described by Subsection (a)
21 [criteria listed in Subsections (a)(5)-(20)] and on any other
22 information available to the comptroller, including information
23 provided by the governing body of the school district ~~[under~~
24 ~~Section 313.025(b)]~~.

25 (c) The comptroller may not issue a certificate for a
26 limitation on appraised value under this chapter for property
27 described in an application unless the comptroller determines that:

1 (1) the project proposed by the applicant is
2 reasonably likely to generate, before the 25th anniversary of the
3 beginning of the limitation period, tax revenue, including state
4 tax revenue, school district maintenance and operations ad valorem
5 tax revenue attributable to the project, and any other tax revenue
6 attributable to the effect of the project on the economy of the
7 state, in an amount sufficient to offset the school district
8 maintenance and operations ad valorem tax revenue lost as a result
9 of the agreement; and

10 (2) the limitation on appraised value is a significant
11 consideration by the applicant in determining whether to invest
12 capital and construct the project in this state.

13 (d) The comptroller shall state in writing the basis for the
14 determinations made under Subsections (c)(1) and (2).

15 (e) Notwithstanding Subsections (c) and (d), if the
16 comptroller makes a qualitative determination that other
17 considerations associated with the project result in a net positive
18 benefit to the state, the comptroller may issue the certificate.

19 SECTION 9. Section 313.0265(b), Tax Code, is amended to
20 read as follows:

21 (b) The comptroller shall designate the following as
22 substantive:

23 (1) each application requesting a limitation on
24 appraised value; and

25 (2) the economic impact evaluation made in connection
26 with the application [~~and~~

27 ~~[(3) each application requesting school tax credits~~

1 ~~under Section 313.103].~~

2 SECTION 10. Sections 313.027(a), (f), (h), and (i), Tax
3 Code, are amended to read as follows:

4 (a) If the person's application is approved by the governing
5 body of the school district, for each of the first 10 [~~eight~~] tax
6 years that begin after the applicable qualifying time period, the
7 appraised value for school district maintenance and operations ad
8 valorem tax purposes of the person's qualified property as
9 described in the agreement between the person and the district
10 entered into under this section in the school district may not
11 exceed the lesser of:

- 12 (1) the market value of the property; or
13 (2) subject to Subsection (b), the amount agreed to by
14 the governing body of the school district.

15 (f) In addition, the agreement:

16 (1) must incorporate each relevant provision of this
17 subchapter and, to the extent necessary, include provisions for the
18 protection of future school district revenues through the
19 adjustment of the minimum valuations, the payment of revenue
20 offsets, and other mechanisms agreed to by the property owner and
21 the school district;

22 (2) may provide that the property owner will protect
23 the school district in the event the district incurs extraordinary
24 education-related expenses related to the project that are not
25 directly funded in state aid formulas, including expenses for the
26 purchase of portable classrooms and the hiring of additional
27 personnel to accommodate a temporary increase in student enrollment

1 attributable to the project;

2 (3) must require the property owner to maintain a
3 viable presence in the school district for at least three years
4 after the date the limitation on appraised value of the owner's
5 property expires;

6 (4) must provide for the termination of the agreement,
7 the recapture of ad valorem tax revenue lost as a result of the
8 agreement if the owner of the property fails to comply with the
9 terms of the agreement, and payment of a penalty or interest, or
10 both, on that recaptured ad valorem tax revenue;

11 (5) may specify any conditions the occurrence of which
12 will require the district and the property owner to renegotiate all
13 or any part of the agreement; ~~and~~

14 (6) must specify the ad valorem tax years covered by
15 the agreement; and

16 (7) must be in a form approved by the comptroller.

17 (h) The agreement between the governing body of the school
18 district and the applicant may provide for a deferral of the date on
19 which the qualifying time period for the project is to commence or,
20 subsequent to the date the agreement is entered into, be amended to
21 provide for such a deferral. The agreement may not provide for the
22 deferral of the date on which the qualifying time period is to
23 commence to a date later than January 1 of the sixth tax year
24 beginning after the date the application is approved. This
25 subsection may not be construed to permit a qualifying time period
26 that has commenced to continue for more than the number of years
27 applicable to the project under Section 313.021(4).

1 (i) A person and the school district may not enter into an
2 agreement under which the person agrees to provide supplemental
3 payments to a school district or to an entity that exists primarily
4 to provide financial or material support to a school district in an
5 amount that exceeds an amount equal to the greater of \$100 per
6 student per year in average daily attendance, as defined by Section
7 42.005, Education Code, or \$50,000 per year, or for a period of more
8 than 14 years [~~for a period that exceeds the period beginning with~~
9 ~~the period described by Section 313.021(4) and ending with the~~
10 ~~period described by Section 313.104(2)(B) of this code~~]. This
11 subsection applies only to an agreement entered into in
12 anticipation of or in consideration for a school district's
13 approval of an application for a limitation on appraised value
14 under this subchapter. This subsection does not apply to a payment
15 under [~~limit does not apply to amounts described by~~] Subsection
16 (f)(1) or (2) [~~of this section~~].

17 SECTION 11. Section 313.0275, Tax Code, is amended by
18 adding Subsection (d) to read as follows:

19 (d) In the event of a casualty loss that prevents a person
20 from complying with Subsection (a), the person may request and the
21 comptroller may grant a waiver of the penalty imposed under
22 Subsection (b).

23 SECTION 12. Section 313.031, Tax Code, is amended to read as
24 follows:

25 Sec. 313.031. RULES AND FORMS; FEES. (a) The comptroller
26 shall:

27 (1) adopt rules and forms necessary for the

1 implementation and administration of this chapter, including rules
2 for determining whether a property owner's property qualifies as a
3 qualified investment under Section 313.021(1); and

4 (2) provide without charge one copy of the rules and
5 forms to any school district and to any person who states that the
6 person intends to apply for a limitation on appraised value under
7 this subchapter [~~or a tax credit under Subchapter D~~].

8 (a-1) The comptroller by official action may establish
9 reasonable nonrefundable fees to be paid by property owners who
10 apply to a school district for a limitation on the value of the
11 person's property under this subchapter. The amount of a fee must
12 be reasonable and may not exceed the estimated cost to the
13 comptroller of performing the comptroller's duties under this
14 chapter.

15 (b) The governing body of a school district by official
16 action shall establish reasonable nonrefundable application fees
17 to be paid by property owners who apply to the district for a
18 limitation on the appraised value of the person's property under
19 this subchapter. The amount of an application fee must be
20 reasonable and may not exceed the estimated cost to the district of
21 processing and acting on an application, including any cost to the
22 school district associated with [~~the cost of~~] the economic impact
23 evaluation required by Section [~~Sections~~] 313.025 [~~and 313.026~~].

24 SECTION 13. Section 313.032, Tax Code, is amended by
25 amending Subsections (a) and (c) and adding Subsections (b-1) and
26 (d) to read as follows:

27 (a) Before the beginning of each regular session of the

1 legislature, the comptroller shall submit to the lieutenant
2 governor, the speaker of the house of representatives, and each
3 other member of the legislature a report on the agreements entered
4 into under this chapter that includes:

5 (1) an assessment of the following with regard to the
6 agreements entered into under this chapter, considered in the
7 aggregate:

8 (A) the total number of jobs created, direct and
9 otherwise, in this state;

10 (B) the total effect on personal income, direct
11 and otherwise, in this state;

12 (C) the total amount of investment in this state;

13 (D) the total taxable value of property on the
14 tax rolls in this state, including property for which the
15 limitation period has expired;

16 (E) the total value of property not on the tax
17 rolls in this state as a result of agreements entered into under
18 this chapter; and

19 (F) the total fiscal effect on the state and
20 local governments; and

21 (2) an assessment of [assessing] the progress of each
22 agreement made under this chapter that states [~~The report must be~~
23 ~~based on data certified to the comptroller by each recipient of a~~
24 ~~limitation on appraised value under this subchapter and state] for
25 each agreement:~~

26 (A) [~~(1)~~] the number of qualifying jobs each
27 recipient of a limitation on appraised value committed to create;

1 (B) [~~(2)~~] the number of qualifying jobs each
2 recipient created;

3 (C) [~~(3)~~] the total amount of wages and the
4 median wage of the new qualifying jobs each recipient created;

5 (D) [~~(4)~~] the amount of the qualified investment
6 each recipient committed to spend or allocate for each project;

7 (E) [~~(5)~~] the amount of the qualified investment
8 each recipient spent or allocated for each project;

9 (F) [~~(6)~~] the market value of the qualified
10 property of each recipient as determined by the applicable chief
11 appraiser, including property that is no longer eligible for a
12 limitation on appraised value under the agreement;

13 (G) [~~(7)~~] the limitation on appraised value for
14 the qualified property of each recipient;

15 (H) [~~(8)~~] the dollar amount of the taxes that
16 would have been imposed on the qualified property if the property
17 had not received a limitation on appraised value; and

18 (I) [~~(9)~~] the dollar amount of the taxes imposed
19 on the qualified property[~~+~~

20 [~~(10)~~ ~~the number of new jobs created by each recipient~~
21 ~~in each sector of the North American Industry Classification~~
22 ~~System, and~~

23 [~~(11)~~ ~~of the number of new jobs each recipient~~
24 ~~created, the number of jobs created that provide health benefits~~
25 ~~for employees]~~.

26 (b-1) In preparing the portion of the report described by
27 Subsection (a)(1), the comptroller may use standard economic

1 estimation techniques, including economic multipliers.

2 (c) The portion of the report described by Subsection (a)(2)
3 must be based on data certified to the comptroller by each recipient
4 or former recipient of a limitation on appraised value under this
5 chapter.

6 (d) The comptroller may require a recipient or former
7 recipient of a limitation on appraised value under this chapter to
8 submit, on a form the comptroller provides, information required to
9 complete the report.

10 SECTION 14. The heading to Subchapter C, Chapter 313, Tax
11 Code, is amended to read as follows:

12 SUBCHAPTER C. LIMITATION ON APPRAISED VALUE OF PROPERTY IN
13 STRATEGIC INVESTMENT AREA OR CERTAIN RURAL SCHOOL DISTRICTS

14 SECTION 15. Section 313.051, Tax Code, is amended to read as
15 follows:

16 Sec. 313.051. APPLICABILITY. (a) In this section,
17 "strategic investment area" means an area the comptroller
18 determines under Subsection (a-3) is:

19 (1) a county within this state with unemployment above
20 the state average and per capita income below the state average;

21 (2) an area within this state that is a federally
22 designated urban enterprise community or an urban enhanced
23 enterprise community; or

24 (3) a defense economic readjustment zone designated
25 under Chapter 2310, Government Code.

26 (a-1) This subchapter applies only to a school district that
27 has territory in:

1 (1) an area that qualifies [~~qualified~~] as a strategic
2 investment area [~~under Subchapter O, Chapter 171, immediately~~
3 ~~before that subchapter expired~~]; or

4 (2) a county:

5 (A) that has a population of less than 50,000;
6 and

7 (B) in which, from 2000 [~~1990~~] to 2010 [~~2000~~],
8 according to the federal decennial census, the population:

9 (i) remained the same;

10 (ii) decreased; or

11 (iii) increased, but at a rate of not more
12 than the average rate of increase in the state during that period
13 [~~three percent per annum~~].

14 (a-2) [~~(a-1)~~] Notwithstanding Subsection (a-1) [~~(a)~~], if on
15 January 1, 2002, this subchapter applied to a school district in
16 whose territory is located a federal nuclear facility, this
17 subchapter continues to apply to the school district regardless of
18 whether the school district ceased or ceases to be described by
19 Subsection (a-1) [~~(a)~~] after that date.

20 (a-3) Not later than September 1 of each year, the
21 comptroller shall determine areas that qualify as a strategic
22 investment area using the most recently completed full calendar
23 year data available on that date and, not later than October 1,
24 shall publish a list and map of the designated areas. A
25 determination under this subsection is effective for the following
26 tax year for purposes of this subchapter.

27 (b) The governing body of a school district to which this

1 subchapter applies may enter into an agreement in the same manner as
 2 a school district to which Subchapter B applies may do so under
 3 Subchapter B, subject to Sections 313.052-313.054. Except as
 4 otherwise provided by this subchapter, the provisions of Subchapter
 5 B apply to a school district to which this subchapter applies. For
 6 purposes of this subchapter, a property owner is required to create
 7 ~~[only]~~ at least 10 new qualifying jobs as defined by Section
 8 313.021(3) on the owner's qualified property. Section 313.023(b)
 9 does not apply to a school district to which this subchapter
 10 applies. ~~[At least 80 percent of all the new jobs created must be~~
 11 ~~qualifying jobs as defined by Section 313.021(3), except that, for~~
 12 ~~a school district described by Subsection (a)(2), each qualifying~~
 13 ~~job must pay at least 110 percent of the average weekly wage for~~
 14 ~~manufacturing jobs in the region designated for the regional~~
 15 ~~planning commission, council of governments, or similar regional~~
 16 ~~planning agency created under Chapter 391, Local Government Code,~~
 17 ~~in which the district is located.]~~

18 SECTION 16. The heading to Subchapter E, Chapter 313, Tax
 19 Code, is amended to read as follows:

20 SUBCHAPTER E. AVAILABILITY OF TAX CREDIT AFTER PROGRAM
 21 EXPIRES OR IS REPEALED

22 SECTION 17. Section 313.171(b), Tax Code, is amended to
 23 read as follows:

24 (b) The repeal ~~[expiration]~~ of Subchapter D does not affect
 25 a property owner's entitlement to a tax credit granted under
 26 Subchapter D if the property owner qualified for the tax credit
 27 before the repeal ~~[expiration]~~ of Subchapter D.

1 SECTION 18. Section 311.014, Tax Code, is amended by adding
2 Subsection (f) to read as follows:

3 (f) Money in the tax increment fund for a reinvestment zone
4 may be transferred to the tax increment fund for an adjacent zone
5 if:

6 (1) the taxing units that participate in the zone from
7 which the money is to be transferred participate in the adjacent
8 zone and vice versa;

9 (2) each participating taxing unit has agreed to
10 deposit the same portion of its tax increment in the fund for each
11 zone;

12 (3) each participating taxing unit has agreed to the
13 transfer; and

14 (4) the holders of any tax increment bonds or notes
15 issued for the zone from which the money is to be transferred have
16 agreed to the transfer.

17 SECTION 19. Section 42.2515(a), Education Code, is amended
18 to read as follows:

19 (a) For each school year, a school district, including a
20 school district that is otherwise ineligible for state aid under
21 this chapter, is entitled to state aid in an amount equal to the
22 amount of all tax credits credited against ad valorem taxes of the
23 district in that year under former Subchapter D, Chapter 313, Tax
24 Code.

25 SECTION 20. Section 42.302(e), Education Code, is amended
26 to read as follows:

27 (e) For purposes of this section, school district taxes for

1 which credit is granted under former Subchapter D, Chapter 313, Tax
2 Code, are considered taxes collected by the school district as if
3 the taxes were paid when the credit for the taxes was granted.

4 SECTION 21. The following provisions of the Tax Code are
5 repealed:

6 (1) Sections 313.008, 313.009, and 313.021(5); and

7 (2) Subchapter D, Chapter 313.

8 SECTION 22. (a) Except as provided by Subsection (b) of
9 this section, Chapter 313, Tax Code, as amended by this Act, applies
10 only to an application filed under that chapter on or after the
11 effective date of this Act. An application filed under that chapter
12 before the effective date of this Act is governed by the law in
13 effect on the date the application was filed, and the former law is
14 continued in effect for that purpose.

15 (b) An agreement entered into on or after January 1, 2013,
16 pursuant to an application filed under Chapter 313, Tax Code,
17 before the effective date of this Act may condition eligibility for
18 a limitation on appraised value under Subchapter B or C of that
19 chapter, as applicable, on compliance with the provisions of that
20 chapter, as amended by this Act, relating to the creation of new
21 qualifying jobs, including Section 313.021(3), Tax Code, and
22 Section 313.024(d) or 313.051(b), Tax Code, as applicable.

23 SECTION 23. The comptroller shall make the initial
24 determination under Section 313.051(a-3), Tax Code, as added by
25 this Act, not later than September 1, 2014, and shall publish the
26 initial list and map required by that subsection not later than
27 October 1, 2014.

1 SECTION 24. This Act takes effect January 1, 2014.