

By: Blanco

H.B. No. 1230

A BILL TO BE ENTITLED

AN ACT

relating to franchise tax credits for businesses that employ veterans.

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

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapters X and Y to read as follows:

SUBCHAPTER X. TAX CREDITS FOR EMPLOYMENT OF VETERANS

Sec. 171.9281. DEFINITIONS. In this subchapter:

(1) "Agricultural processing" means an establishment primarily engaged in activities described in categories 0724, 2011-2099, or 3111-3199 of the 1987 Standard Industrial Classification Manual published by the United States Department of Labor.

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

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

(4) "Distribution" means an establishment primarily engaged in activities described in categories 5012-5199 of the 1987

1 Standard Industrial Classification Manual published by the United  
2 States Department of Labor.

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

4 (A) a health plan provided by a health  
5 maintenance organization established under Chapter 843, Insurance  
6 Code;

7 (B) a health benefit plan approved by the  
8 commissioner of insurance; or

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

13 (6) "Manufacturing" means an establishment primarily  
14 engaged in activities described in categories 2011-3999 of the 1987  
15 Standard Industrial Classification Manual published by the United  
16 States Department of Labor.

17 (7) "Qualified business" means an establishment  
18 primarily engaged in agricultural processing, central  
19 administrative offices, data processing, distribution,  
20 manufacturing, research and development, or warehousing.

21 (8) "Qualifying job" means a new permanent full-time  
22 job that:

23 (A) is held by a veteran;

24 (B) pays an annual wage of at least \$50,000,  
25 subject to Section 171.9282;

26 (C) is covered by a group health benefit plan for  
27 which the business pays at least 80 percent of the premiums or other

1 charges assessed under the plan for the employee; and

2 (D) is not created to replace a previous  
3 employee.

4 (9) "Research and development" means an establishment  
5 primarily engaged in activities described in category 8731 of the  
6 1987 Standard Industrial Classification Manual published by the  
7 United States Department of Labor.

8 (10) "Veteran" means a person who:

9 (A) has served in:

10 (i) the armed forces of the United States or  
11 the United States Public Health Service under 42 U.S.C. Section 201  
12 et seq.;

13 (ii) the Texas military forces, as defined  
14 by Section 437.001, Government Code; or

15 (iii) an auxiliary service of a branch of  
16 the armed forces described by Subparagraph (i) or (ii); and

17 (B) has been honorably discharged from the branch  
18 of the service in which the person served.

19 (11) "Warehousing" means an establishment primarily  
20 engaged in activities described in categories 4221-4226 of the 1987  
21 Standard Industrial Classification Manual published by the United  
22 States Department of Labor.

23 Sec. 171.9282. BIENNIAL ADJUSTMENT OF WAGE FOR QUALIFYING  
24 JOB. (a) In this section, "consumer price index" means the average  
25 over a state fiscal biennium of the Consumer Price Index for All  
26 Urban Consumers (CPI-U), U.S. City Average, published monthly by  
27 the United States Bureau of Labor Statistics, or its successor in

1 function.

2 (b) Beginning in 2020, on January 1 of each even-numbered  
3 year, the wage amount prescribed by Section 171.9281(8) is  
4 increased or decreased by an amount equal to the amount prescribed  
5 by that section on December 31 of the preceding year multiplied by  
6 the percentage increase or decrease during the preceding state  
7 fiscal biennium in the consumer price index and rounded to the  
8 nearest dollar.

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

12 (d) The comptroller shall make the determination required  
13 by this section and may adopt rules related to making that  
14 determination.

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

17 Sec. 171.9283. ELIGIBILITY. A taxable entity is eligible  
18 for a credit against the tax imposed under this chapter if the  
19 taxable entity:

20 (1) is a qualified business; and

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

22 Sec. 171.9284. AMOUNT OF CREDIT. A taxable entity may  
23 establish a credit equal to 25 percent of the total wages paid by  
24 the taxable entity for each qualifying job during each of the first  
25 12 months of employment of the person hired to perform the job that  
26 occur during the period on which the report is based.

27 Sec. 171.9285. LENGTH OF CREDIT. A credit established

1 shall be claimed in five equal installments of one-fifth the credit  
2 amount over consecutive reports beginning with the report based on  
3 the period during which the qualifying jobs were created.

4 Sec. 171.9286. LIMITATIONS. (a) The total credit claimed  
5 under this subchapter for a report, including the amount of any  
6 carryforward credit under Section 171.9287, may not exceed 50  
7 percent of the amount of franchise tax due for the report before any  
8 other applicable tax credits.

9 (b) The total credit claimed under this subchapter and  
10 Subchapter Y for a report, including the amount of any carryforward  
11 credits, may not exceed the amount of franchise tax due for the  
12 report after any other applicable credits.

13 Sec. 171.9287. CARRYFORWARD. (a) If a taxable entity is  
14 eligible for a credit that exceeds the limitations under Section  
15 171.9286, the taxable entity may carry the unused credit forward  
16 for not more than five consecutive reports.

17 (b) A carryforward is considered the remaining portion of an  
18 installment that cannot be claimed in the current year because of a  
19 limitation under Section 171.9286. A carryforward is added to the  
20 next year's installment of the credit in determining the limitation  
21 for that year. A credit carryforward from a previous report is  
22 considered to be used before the current year installment.

23 Sec. 171.9288. CERTIFICATION OF ELIGIBILITY. (a) For the  
24 initial and each succeeding report on which a credit is claimed  
25 under this subchapter, the taxable entity shall file with its  
26 report, on a form provided by the comptroller, information that  
27 sufficiently demonstrates that the taxable entity is eligible for

1 the credit.

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

4 (c) A credit expires under this subchapter and the taxable  
5 entity may not take any remaining installment of the credit if in  
6 one of the five years in which the installment of a credit accrues,  
7 the taxable entity fails to maintain the minimum number of  
8 qualifying jobs required to be created by Section 171.9283.

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  
12 171.9287.

13 Sec. 171.9289. 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. 171.9290. 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 number of jobs created by taxable  
24 entities that claim a credit under this subchapter and the average  
25 and median annual wage of those jobs;

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; and

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

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

11           (4) the geographical distribution of the credits  
12 claimed under this subchapter; and

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

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

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

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

27           (e) The comptroller shall provide notice to the members of

1 the legislature that the report required under this section is  
2 available on request.

3 Sec. 171.9291. COMPTROLLER POWERS AND DUTIES. The  
4 comptroller shall adopt rules and forms necessary to implement this  
5 subchapter.

6 Sec. 171.9292. EXPIRATION. (a) This subchapter expires  
7 December 31, 2027.

8 (b) The expiration of this subchapter does not affect the  
9 carryforward of a credit under Section 171.9287 or those credits  
10 for which a taxable entity is eligible before the date this  
11 subchapter expires. The provisions of this subchapter in effect  
12 immediately before this subchapter expires remain in effect for  
13 purposes of claiming a credit or carryforward after the date this  
14 subchapter expires.

15 SUBCHAPTER Y. TAX CREDITS FOR CERTAIN CAPITAL INVESTMENTS MADE BY  
16 BUSINESSES THAT EMPLOY VETERANS

17 Sec. 171.9301. DEFINITIONS. In this subchapter:

18 (1) "Agricultural processing," "group health benefit  
19 plan," "qualified business," "qualifying job," and "veteran" have  
20 the meanings assigned by Section 171.9281.

21 (2) "Qualified capital investment" means tangible  
22 personal property first placed in service in this state by a taxable  
23 entity primarily engaged in agricultural processing and that is  
24 described in Section 1245(a), Internal Revenue Code, such as  
25 engines, machinery, tools, and implements used in a trade or  
26 business or held for investment and subject to an allowance for  
27 depreciation, cost recovery under the accelerated cost recovery



1 system, or amortization. The term does not include real property or  
2 buildings and their structural components. Property that is leased  
3 under a capitalized lease is considered a "qualified capital  
4 investment," but property that is leased under an operating lease  
5 is not considered a "qualified capital investment." Property  
6 expensed under Section 179, Internal Revenue Code, is not  
7 considered a "qualified capital investment."

8 Sec. 171.9302. ELIGIBILITY. (a) A qualified business is  
9 eligible for a credit against the tax imposed under this chapter in  
10 the amount and under the conditions and limitations provided by  
11 this subchapter.

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

14 (1) pay an annual wage to each veteran employed by the  
15 qualified business of at least the amount required for a qualifying  
16 job for the period on which the report is based;

17 (2) offer health benefits coverage to all full-time  
18 employees at the location with respect to which the credit is  
19 claimed through a group health benefit plan for which the business  
20 pays at least 80 percent of the premiums or other charges assessed  
21 under the plan for the employees; and

22 (3) make a minimum \$500,000 qualified capital  
23 investment.

24 Sec. 171.9303. AMOUNT OF CREDIT. A taxable entity may  
25 establish a credit equal to 7.5 percent of the qualified capital  
26 investment during the period on which the report is based.

27 Sec. 171.9304. LENGTH OF CREDIT. The credit established

1 shall be claimed in five equal installments of one-fifth the credit  
2 amount over the five consecutive reports beginning with the report  
3 based on the period during which the qualified capital investment  
4 was made.

5 Sec. 171.9305. LIMITATIONS. (a) The total credit claimed  
6 under this subchapter for a report, including the amount of any  
7 carryforward credit under Section 171.9306, may not exceed 50  
8 percent of the amount of franchise tax due for the report before any  
9 other applicable tax credits.

10 (b) The total credit claimed under this subchapter and  
11 Subchapter X for a report, including the amount of any carryforward  
12 credits, may not exceed the amount of franchise tax due for the  
13 report after any other applicable tax credits.

14 Sec. 171.9306. CARRYFORWARD. (a) If a taxable entity is  
15 eligible for a credit from an installment that exceeds the  
16 limitation under Section 171.9305, the taxable entity may carry the  
17 unused credit forward for not more than five consecutive reports.

18 (b) A carryforward is considered the remaining portion of an  
19 installment that cannot be claimed in the current year because of a  
20 limitation under Section 171.9305. A carryforward is added to the  
21 next year's installment of the credit in determining the limitation  
22 for that year. A credit carryforward from a previous report is  
23 considered to be used before the current year installment.

24 Sec. 171.9307. CERTIFICATION OF ELIGIBILITY. (a) For the  
25 initial and each succeeding report on which a credit is claimed  
26 under this subchapter, the taxable entity shall file with its  
27 report, on a form provided by the comptroller, information that

1 sufficiently demonstrates that the taxable entity is eligible for  
2 the credit.

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

5 (c) A credit expires under this subchapter and the taxable  
6 entity may not take any remaining installment of the credit if in  
7 one of the five years in which the installment of a credit accrues,  
8 the taxable entity:

9 (1) disposes of the qualified capital investment;

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

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

14 (4) fails to pay in accordance with Section  
15 171.9302(b)(1) the annual wage required for a qualifying job for  
16 the period covered by the report on which the taxable entity would  
17 otherwise claim the credit.

18 (d) Notwithstanding Subsection (c), the taxable entity may  
19 take the portion of an installment that accrued in a previous year  
20 and was carried forward to the extent permitted under Section  
21 171.9306.

22 Sec. 171.9308. ASSIGNMENT PROHIBITED. A taxable entity may  
23 not convey, assign, or transfer the credit allowed under this  
24 subchapter to another entity unless all of the assets of the taxable  
25 entity are conveyed, assigned, or transferred in the same  
26 transaction.

27 Sec. 171.9309. BIENNIAL REPORT BY COMPTROLLER. (a) Before

1 the beginning of each regular session of the legislature, the  
2 comptroller shall submit to the governor, the lieutenant governor,  
3 and the speaker of the house of representatives a report that  
4 states:

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

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

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

13 (B) the average percentage reduction in  
14 franchise tax due by taxable entities claiming a credit under this  
15 subchapter; and

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

18 (3) the two-digit standard industrial classification  
19 of taxable entities claiming a credit under this subchapter;

20 (4) the geographical distribution of the qualified  
21 capital investments on which tax credit claims are made under this  
22 subchapter; and

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

26 (b) The final report issued before the expiration of this  
27 subchapter must include historical information on the credit

1 authorized under this subchapter.

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

4 (d) For purposes of this section, the comptroller may  
5 require a taxable entity that claims a credit under this subchapter  
6 to submit information, on a form provided by the comptroller, on the  
7 location of the taxable entity's capital investment in this state  
8 and any other information necessary to complete the report required  
9 under this section.

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

13 Sec. 171.9310. COMPTROLLER POWERS AND DUTIES. The  
14 comptroller shall adopt rules and forms necessary to implement this  
15 subchapter.

16 Sec. 171.9311. EXPIRATION. (a) This subchapter expires  
17 December 31, 2027.

18 (b) The expiration of this subchapter does not affect the  
19 carryforward of a credit under Section 171.9306 or those credits  
20 for which a taxable entity is eligible before the date this  
21 subchapter expires. The provisions of this subchapter in effect  
22 immediately before this subchapter expires remain in effect for  
23 purposes of claiming a credit or carryforward after the date this  
24 subchapter expires.

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

27 SECTION 3. This Act takes effect January 1, 2018.