

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/24/2013

Date

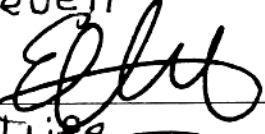
Honorable David Dewhurst
President of the Senate

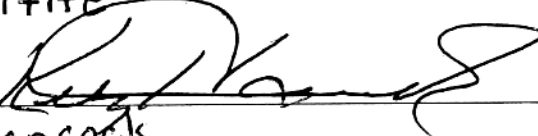
Honorable Joe Straus
Speaker of the House of Representatives

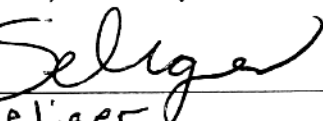
Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 3390 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

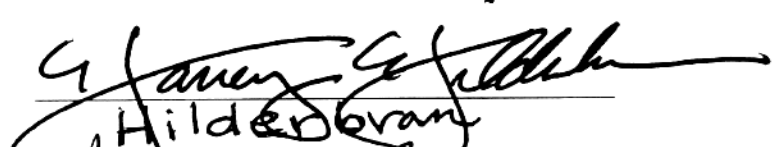

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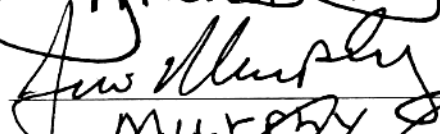

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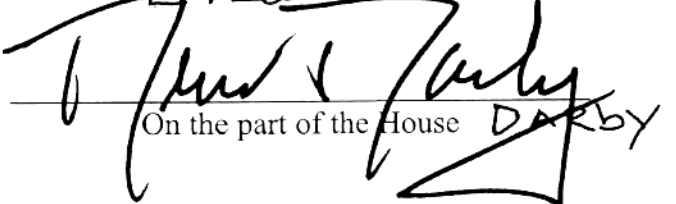
Watson On the part of the Senate


Hilderbran


MURPHY


F. DAVIS


Filand


On the part of the House DARBY

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 3390

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Economic Development Act; imposing a penalty.

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

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

Sec. 313.002. FINDINGS. The legislature finds that:

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

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

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

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

(5) the current ad valorem [~~property~~] tax system of

1 this state does not favor capital-intensive businesses such as
2 manufacturers.

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

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

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

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

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

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

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

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

26 Sec. 313.004. LEGISLATIVE INTENT. It is the intent of the
27 legislature in enacting this chapter that:

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

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

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

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

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

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

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

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

25 (i) enhance the local community;

26 (ii) improve the local public education
27 system;

1 (iii) create high-paying jobs; and
2 (iv) advance the economic development goals
3 of this state; and

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

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

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

11 (i) create high-paying jobs;

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

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

17 Sec. 313.007. EXPIRATION. Subchapters B and ~~[7]~~ C ~~[7 and D]~~
18 expire December 31, 2022 ~~[2014]~~.

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

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

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

27 (2) each agreement complies with the intent of the

1 legislature in enacting this chapter as expressed in Section
2 313.004; and

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

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

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

10 (2) "Qualified property" means:

11 (A) land:

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

15 (ii) on which a person proposes to
16 construct a new building or erect or affix a new improvement that
17 does not exist before the date the person submits a complete
18 application [~~applies~~] for a limitation on appraised value under
19 this subchapter;

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

22 (iv) on which, in connection with the new
23 building or new improvement described by Subparagraph (ii), the
24 owner or lessee of, or the holder of another possessory interest in,
25 the land proposes to:

26 (a) make a qualified investment in an
27 amount equal to at least the minimum amount required by Section

1 313.023; and

2 (b) create at least 25 new qualifying
3 jobs;

4 (B) the new building or other new improvement
5 described by Paragraph (A)(ii); and

6 (C) tangible personal property that:

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

9 (ii) except for new equipment described in
10 Section 151.318(q) or (q-1), is first placed in service in the new
11 building, in the newly expanded building, or in or on the new
12 improvement described by Paragraph (A)(ii), or on the land on which
13 that new building or new improvement is located, if the personal
14 property is ancillary and necessary to the business conducted in
15 that new building or in or on that new improvement.

16 (3) "Qualifying job" means a permanent full-time job
17 that:

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

19 (B) is not transferred from one area in this
20 state to another area in this state;

21 (C) is not created to replace a previous
22 employee;

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

1 (E) pays at least 110 percent of [+
2 [(i)] the county average weekly wage for
3 manufacturing jobs in the county where the job is located[, or
4 [(ii) the county average weekly wage for
5 all jobs in the county where the job is located, if the property
6 owner creates more than 1,000 jobs in that county].

7 (F) In determining whether a property owner has created the
8 number of qualifying jobs required under this chapter, operations,
9 services and other related jobs created in connection with the
10 project, including those employed by third parties under contract,
11 may satisfy the minimum qualifying jobs requirement for the project
12 if the Texas Workforce Commission determines that the cumulative
13 economic benefits to the state of these jobs is the same or greater
14 than that associated with the minimum number of qualified jobs
15 required to be created under this chapter. The Texas Workforce
16 Commission may adopt rules to implement this subsection.

17 SECTION 4. Section 313.024, Tax Code, is amended by
18 amending Subsections (a), (b), and (d) and adding Subsection (d-2)
19 to read as follows:

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

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

- 26 (1) manufacturing;
27 (2) research and development;

- 1 (3) a clean coal project, as defined by Section 5.001,
2 Water Code;
- 3 (4) an advanced clean energy project, as defined by
4 Section 382.003, Health and Safety Code;
- 5 (5) renewable energy electric generation;
- 6 (6) electric power generation using integrated
7 gasification combined cycle technology;
- 8 (7) nuclear electric power generation; ~~[or]~~
- 9 (8) a computer center primarily used in connection
10 with one or more activities described by Subdivisions (1) through
11 (7) conducted by the entity; or
- 12 (9) a Texas priority project.

13 (d) To be eligible for a limitation on appraised value under
14 this subchapter, the property owner must create the required number
15 of new ~~[at least 80 percent of all the new jobs created by the~~
16 ~~property owner must be]~~ qualifying jobs as defined by Section
17 313.021(3) and the average weekly wage for all jobs created by the
18 owner that are not qualifying jobs must exceed the county average
19 weekly wage for all jobs in the county where the jobs are located.

20 (d-2) For purposes of determining whether a property owner
21 has created the number of new qualifying jobs required for
22 eligibility for a limitation on appraised value under this
23 subchapter, the new qualifying jobs created under an agreement
24 between the property owner and another school district may be
25 included in the total number of new qualifying jobs created in
26 connection with the project if the Texas Economic Development and
27 Tourism Office determines that the projects covered by the

1 agreements constitute a single unified project. The Texas Economic
2 Development and Tourism Office may adopt rules to implement this
3 subsection.

4 SECTION 5. Section 313.024(e), Tax Code, is amended by
5 adding Subdivision (7) to read as follows:

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

9 SECTION 6. Sections 313.025(a), (a-1), (b), (b-1), (c),
10 (d), (d-1), (e), (g), and (i), Tax Code, are amended to read as
11 follows:

12 (a) The owner or lessee of, or the holder of another
13 possessory interest in, any qualified property described by Section
14 313.021(2)(A), (B), or (C) may apply to the governing body of the
15 school district in which the property is located for a limitation on
16 the appraised value for school district maintenance and operations
17 ad valorem tax purposes of the person's qualified property. An
18 application must be made on the form prescribed by the comptroller
19 and include the information required by the comptroller, and it
20 must be accompanied by:

21 (1) the application fee established by the governing
22 body of the school district;

23 (2) information sufficient to show that the real and
24 personal property identified in the application as qualified
25 property meets the applicable criteria established by Section
26 313.021(2); and

27 (3) any information required by the comptroller for

1 the purposes of [~~relating to each applicable criterion listed in~~]
2 Section 313.026.

3 (a-1) Within seven days of the receipt of each document, the
4 school district shall submit to the comptroller a copy of the
5 application and the proposed agreement between the applicant and
6 the school district. If the applicant submits an economic analysis
7 of the proposed project [~~is submitted~~] to the school district, the
8 district shall submit a copy of the analysis to the comptroller. In
9 addition, the school district shall submit to the comptroller any
10 subsequent revision of or amendment to any of those documents
11 within seven days of its receipt. The comptroller shall publish
12 each document received from the school district under this
13 subsection on the comptroller's Internet website. If the school
14 district maintains a generally accessible Internet website, the
15 district shall provide on its website a link to the location of
16 those documents posted on the comptroller's website in compliance
17 with this subsection. This subsection does not require the
18 comptroller to post information that is confidential under Section
19 313.028.

20 (b) The governing body of a school district is not required
21 to consider an application for a limitation on appraised value
22 [~~that is filed with the governing body under Subsection (a)~~]. If
23 the governing body of the school district elects [~~does elect~~] to
24 consider an application, the governing body shall deliver a copy
25 [~~three copies~~] of the application to the comptroller and request
26 that the comptroller conduct [~~provide~~] an economic impact
27 evaluation of the investment proposed by the application. The [~~to~~

1 ~~the school district. Except as provided by Subsection (b-1), the]~~
2 comptroller shall conduct or contract with a third person to
3 conduct the economic impact evaluation, which shall be completed
4 and provided to the governing body of the school district, along
5 with the comptroller's certificate or written explanation under
6 Subsection (d), as soon as practicable but not later than the 90th
7 day after the date the comptroller receives the application. The
8 governing body shall provide to the comptroller or to a third person
9 contracted by the comptroller to conduct the economic impact
10 evaluation any requested information. A methodology to allow
11 comparisons of economic impact for different schedules of the
12 addition of qualified investment or qualified property may be
13 developed as part of the economic impact evaluation. The governing
14 body shall provide a copy of the economic impact evaluation to the
15 applicant on request. The comptroller may charge the applicant
16 ~~[and collect]~~ a fee sufficient to cover the costs of providing the
17 economic impact evaluation. The governing body of a school
18 district shall approve or disapprove an application not later than
19 the 150th ~~[before the 151st]~~ day after the date the application is
20 filed, unless the economic impact evaluation has not been received
21 or an extension is agreed to by the governing body and the
22 applicant.

23 (b-1) The comptroller shall promptly deliver a ~~[indicate on~~
24 ~~one]~~ copy of the application ~~[the date the comptroller received the~~
25 ~~application and deliver that copy]~~ to the Texas Education Agency.
26 The Texas Education Agency shall determine the effect that the
27 applicant's proposal will have on the number or size of the school

1 district's instructional facilities [~~as required to be included~~
2 ~~in the economic impact evaluation by Section 313.026(a)(9),~~] and
3 submit a written report containing the agency's determination to
4 the school district [~~comptroller~~]. The governing body of the
5 school district shall provide any requested information to the
6 Texas Education Agency. Not later than the 45th day after the date
7 the Texas Education Agency receives [~~application indicates that the~~
8 ~~comptroller received~~] the application, the Texas Education Agency
9 shall make the required determination and submit the agency's
10 written report to the governing body of the school district
11 [~~comptroller. A third person contracted by the comptroller to~~
12 ~~conduct an economic impact evaluation of an application is not~~
13 ~~required to make a determination that the Texas Education Agency is~~
14 ~~required to make and report to the comptroller under this~~
15 ~~subsection~~].

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

- 19 (1) the comptroller;
- 20 (2) the Texas [~~Department of~~] Economic Development and
21 Tourism Office;
- 22 (3) the Texas Workforce Investment Council; and
- 23 (4) the Texas Workforce Commission.

24 (d) Not later than the 90th [~~Before the 91st~~] day after the
25 date the comptroller receives the copy of the application, the
26 comptroller shall issue a certificate for a limitation on appraised
27 value of the property and provide the certificate to the governing

1 body of the school district or provide the governing body a written
2 explanation of the comptroller's decision not to issue a
3 certificate [~~submit a recommendation to the governing body of the~~
4 ~~school district as to whether the application should be approved or~~
5 ~~disapproved~~].

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

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

13 [~~(2) at a subsequent meeting of the governing body~~
14 ~~held after the date of the public hearing, at least two-thirds of~~
15 ~~the members of the governing body vote to approve the application~~].

16 (e) Before approving or disapproving an application under
17 this subchapter that the governing body of the school district
18 elects to consider, the governing body [~~of the school district~~]
19 must make a written finding as to any criteria considered by the
20 comptroller in conducting the economic impact evaluation under
21 [~~each criterion listed in~~] Section 313.026. The governing body
22 shall deliver a copy of those findings to the applicant.

23 (g) The Texas [~~Department of~~] Economic Development and
24 Tourism Office or its successor may recommend that a school
25 district approve an application [~~grant a person a limitation on~~
26 ~~appraised value~~] under this chapter. In determining whether to
27 approve [~~grant~~] an application, the governing body of the school

1 district shall consider any recommendation made by the Texas
2 [~~Department of~~] Economic Development and Tourism Office or its
3 successor.

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

15 SECTION 7. Section 313.026, Tax Code, is amended to read as
16 follows:

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

20 (1) the governing body of the school district in
21 determining whether to approve the application under Section
22 313.025; or

23 (2) the comptroller in determining whether to issue a
24 certificate for a limitation on appraised value of the property
25 under Section 313.025 [~~the following:~~

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

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

- 1 ~~[(3) the name of the applicant,~~
- 2 ~~[(4) the general nature of the applicant's investment,~~
- 3 ~~[(5) the relationship between the applicant's industry~~
4 ~~and the types of qualifying jobs to be created by the applicant to~~
5 ~~the long-term economic growth plans of this state as described in~~
6 ~~the strategic plan for economic development submitted by the Texas~~
7 ~~Strategic Economic Development Planning Commission under Section~~
8 ~~481.033, Government Code, as that section existed before February~~
9 ~~1, 1999,~~
- 10 ~~[(6) the relative level of the applicant's investment~~
11 ~~per qualifying job to be created by the applicant,~~
- 12 ~~[(7) the number of qualifying jobs to be created by the~~
13 ~~applicant,~~
- 14 ~~[(8) the wages, salaries, and benefits to be offered~~
15 ~~by the applicant to qualifying job holders,~~
- 16 ~~[(9) the ability of the applicant to locate or~~
17 ~~relocate in another state or another region of this state,~~
- 18 ~~[(10) the impact the project will have on this state~~
19 ~~and individual local units of government, including:~~
 - 20 ~~[(A) tax and other revenue gains, direct or~~
21 ~~indirect, that would be realized during the qualifying time period,~~
22 ~~the limitation period, and a period of time after the limitation~~
23 ~~period considered appropriate by the comptroller, and~~
 - 24 ~~[(B) economic effects of the project, including~~
25 ~~the impact on jobs and income, during the qualifying time period,~~
26 ~~the limitation period, and a period of time after the limitation~~
27 ~~period considered appropriate by the comptroller,~~

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

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

7 ~~[(13) the effect of the applicant's proposal, if~~
8 ~~approved, on the number or size of the school district's~~
9 ~~instructional facilities, as defined by Section 46.001, Education~~
10 ~~Code,~~

11 ~~[(14) the projected market value of the qualified~~
12 ~~property of the applicant as determined by the comptroller,~~

13 ~~[(15) the proposed limitation on appraised value for~~
14 ~~the qualified property of the applicant,~~

15 ~~[(16) the projected dollar amount of the taxes that~~
16 ~~would be imposed on the qualified property, for each year of the~~
17 ~~agreement, if the property does not receive a limitation on~~
18 ~~appraised value with assumptions of the projected appreciation or~~
19 ~~depreciation of the investment and projected tax rates clearly~~
20 ~~stated,~~

21 ~~[(17) the projected dollar amount of the taxes that~~
22 ~~would be imposed on the qualified property, for each tax year of the~~
23 ~~agreement, if the property receives a limitation on appraised value~~
24 ~~with assumptions of the projected appreciation or depreciation of~~
25 ~~the investment clearly stated,~~

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

1 ~~[(19) the projected future tax credits if the~~
2 ~~applicant also applies for school tax credits under Section~~
3 ~~313.103, and~~

4 ~~[(20) the total amount of taxes projected to be lost or~~
5 ~~gained by the district over the life of the agreement computed by~~
6 ~~subtracting the projected taxes stated in Subdivision (17) from the~~
7 ~~projected taxes stated in Subdivision (16)].~~

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

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

20 (1) the project proposed by the applicant is
21 reasonably likely to generate, before the 25th anniversary of the
22 beginning of the limitation period, tax revenue, including state
23 tax revenue, school district maintenance and operations ad valorem
24 tax revenue attributable to the project, and any other tax revenue
25 attributable to the effect of the project on the economy of the
26 state, in an amount sufficient to offset the school district
27 maintenance and operations ad valorem tax revenue lost as a result

1 of the agreement; and

2 (2) the limitation on appraised value is a determining
3 factor in the applicant's decision to invest capital and construct
4 the project in this state.

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

7 (e) The applicant may submit information to the comptroller
8 that would provide a basis for an affirmative determination under
9 Subsection (c)(2).

10 (f) Notwithstanding Subsections (c) and (d), if the
11 comptroller makes a qualitative determination that other
12 considerations associated with the project result in a net positive
13 benefit to the state, the comptroller may issue the certificate.

14 SECTION 8. Section 313.0265(b), Tax Code, is amended to
15 read as follows:

16 (b) The comptroller shall designate the following as
17 substantive:

18 (1) each application requesting a limitation on
19 appraised value; and

20 (2) the economic impact evaluation made in connection
21 with the application [~~, and~~

22 ~~(3) each application requesting school tax credits~~
23 ~~under Section 313.103].~~

24 SECTION 9. Section 313.027, Tax Code, is amended by
25 amending Subsections (a), (f), (h), and (i) and adding Subsections
26 (a-1) and (j) to read as follows:

27 (a) If the person's application is approved by the governing

1 body of the school district, [~~for each of the first eight tax years~~
2 ~~that begin after the applicable qualifying time period,~~] the
3 appraised value for school district maintenance and operations ad
4 valorem tax purposes of the person's qualified property as
5 described in the agreement between the person and the district
6 entered into under this section in the school district may not
7 exceed the lesser of:

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

11 (a-1) The agreement must:

12 (1) provide that the limitation under Subsection (a)
13 applies for a period of 10 years; and

14 (2) specify the beginning date of the limitation,
15 which must be January 1 of the first tax year that begins after:

16 (A) the application date;

17 (B) the qualifying time period; or

18 (C) the date commercial operations begin at the
19 site of the project.

20 (f) In addition, the agreement:

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

27 (2) may provide that the property owner will protect

1 the school district in the event the district incurs extraordinary
2 education-related expenses related to the project that are not
3 directly funded in state aid formulas, including expenses for the
4 purchase of portable classrooms and the hiring of additional
5 personnel to accommodate a temporary increase in student enrollment
6 attributable to the project;

7 (3) must require the property owner to maintain a
8 viable presence in the school district for at least five [~~three~~]
9 years after the date the limitation on appraised value of the
10 owner's property expires;

11 (4) must provide for the termination of the agreement,
12 the recapture of ad valorem tax revenue lost as a result of the
13 agreement if the owner of the property fails to comply with the
14 terms of the agreement, and payment of a penalty or interest, or
15 both, on that recaptured ad valorem tax revenue;

16 (5) may specify any conditions the occurrence of which
17 will require the district and the property owner to renegotiate all
18 or any part of the agreement; [~~and~~]

19 (6) must specify the ad valorem tax years covered by
20 the agreement; and

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

22 (h) The agreement between the governing body of the school
23 district and the applicant may provide for a deferral of the date on
24 which the qualifying time period for the project is to commence or,
25 subsequent to the date the agreement is entered into, be amended to
26 provide for such a deferral. The agreement may not provide for the
27 deferral of the date on which the qualifying time period is to

1 commence to a date later than January 1 of the fourth tax year that
2 begins after the date the application is approved except that if the
3 agreement is one of a series of agreements related to the same
4 project, the agreement may provide for the deferral of the date on
5 which the qualifying time period is to commence to a date not later
6 than January 1 of the sixth tax year that begins after the date the
7 application is approved. This subsection may not be construed to
8 permit a qualifying time period that has commenced to continue for
9 more than the number of years applicable to the project under
10 Section 313.021(4).

11 (i) A person and the school district may not enter into an
12 agreement under which the person agrees to provide supplemental
13 payments to a school district or any other entity on behalf of a
14 school district in an amount that exceeds an amount equal to the
15 greater of \$100 per student per year in average daily attendance, as
16 defined by Section 42.005, Education Code, or \$50,000 per year, or
17 for a period that exceeds the period beginning with the period
18 described by Section 313.021(4) and ending December 31 of the third
19 tax year after the date the person's eligibility for a limitation
20 under this chapter expires [~~with the period described by Section~~
21 ~~313.104(2)(B) of this code~~]. This limit does not apply to amounts
22 described by Subsection (f)(1) or (2) [~~of this section~~].

23 (j) An agreement under this chapter must disclose any
24 consideration promised in conjunction with the application and the
25 limitation.

26 SECTION 10. Section 313.0275, Tax Code, is amended by
27 amending Subsection (a) and adding Subsection (d) to read as

1 follows:

2 (a) Notwithstanding any other provision of this chapter to
3 the contrary, a person with whom a school district enters into an
4 agreement under this subchapter must make the minimum amount of
5 qualified investment during the qualifying time period [~~and create~~
6 ~~the required number of qualifying jobs during each year of the~~
7 ~~agreement~~].

8 (d) In the event of a casualty loss that prevents a person
9 from complying with Subsection (a), the person may request and the
10 comptroller may grant a waiver of the penalty imposed under
11 Subsection (b).

12 SECTION 11. Subchapter B, Chapter 313, Tax Code, is amended
13 by adding Section 313.0276 to read as follows:

14 Sec. 313.0276. PENALTY FOR FAILURE TO COMPLY WITH
15 JOB-CREATION REQUIREMENTS. (a) The comptroller shall conduct an
16 annual review and issue a determination as to whether a person with
17 whom a school district has entered into an agreement under this
18 chapter satisfied in the preceding year the requirements of this
19 chapter regarding the creation of the required number of qualifying
20 jobs. If the comptroller makes an adverse determination in the
21 review, the comptroller shall notify the person of the cause of the
22 adverse determination and the corrective measures necessary to
23 remedy the determination.

24 (b) If a person who receives an adverse determination fails
25 to remedy the determination following notification of the
26 determination and the comptroller makes an adverse determination
27 with respect to the person's compliance in the following year, the

1 person must submit to the comptroller a plan for remedying the
2 determination and certify the person's intent to fully implement
3 the plan not later than December 31 of the year in which the
4 determination is made.

5 (c) If a person who receives an adverse determination under
6 Subsection (b) fails to comply with that subsection following
7 notification of the determination and receives an adverse
8 determination in the following year, the comptroller shall impose a
9 penalty on the person. The penalty is in an amount equal to the
10 amount computed by:

11 (1) subtracting from the number of qualifying jobs
12 required to be created the number of qualifying jobs actually
13 created; and

14 (2) multiplying the amount computed under Subdivision
15 (1) by the average annual wage for all jobs in the county during the
16 most recent four quarters for which data is available.

17 (d) Notwithstanding Subsection (c), if a person receives an
18 adverse determination and the comptroller has previously imposed a
19 penalty on the person under this section one or more times, the
20 comptroller shall impose a penalty on the person in an amount equal
21 to the amount computed by multiplying the amount computed under
22 Subsection (c)(1) by an amount equal to twice the amount computed
23 under Subsection (c)(2).

24 (e) Notwithstanding Subsections (c) and (d), a penalty
25 imposed under this section may not exceed an amount equal to the
26 difference between the amount of the ad valorem tax benefit
27 received by the person under the agreement in the preceding year and

1 the amount of any supplemental payments made to the school district
2 in that year.

3 (f) A job created by a person that is not a qualifying job
4 because the job does not meet a numerical requirement of Section
5 313.021(3)(A), (D), or (E) is considered for purposes of this
6 section to be a nonqualifying job only if the job fails to meet the
7 numerical requirement by at least 10 percent.

8 (g) An adverse determination under this section is a
9 deficiency determination under Section 111.008. A penalty imposed
10 under this section is an amount the comptroller is required to
11 collect, receive, administer, or enforce, and the determination is
12 subject to the payment and redetermination requirements of Sections
13 111.0081 and 111.009.

14 (h) A redetermination under Section 111.009 of an adverse
15 determination under this section is a contested case as defined by
16 Section 2001.003, Government Code.

17 (i) If a person on whom a penalty is imposed under this
18 section contends that the amount of the penalty is unlawful or that
19 the comptroller may not legally demand or collect the penalty, the
20 person may challenge the determination of the comptroller under
21 Subchapters A and B, Chapter 112.

22 (j) If the comptroller imposes a penalty on a person under
23 this section three times, the comptroller may rescind the agreement
24 between the person and the school district under this chapter.

25 (k) A person may contest a determination by the comptroller
26 to rescind an agreement between the person and a school district
27 under this chapter pursuant to Subsection (j) by filing suit

1 against the comptroller and the attorney general. The district
2 courts of Travis County have exclusive, original jurisdiction of a
3 suit brought under this subsection. This subsection prevails over
4 a provision of Chapter 25, Government Code, to the extent of any
5 conflict.

6 (l) If a person files suit under Subsection (k) and the
7 comptroller's determination to rescind the agreement is upheld on
8 appeal, the person shall pay to the comptroller any tax that would
9 have been due and payable to the school district during the pendency
10 of the appeal, including statutory interest and penalties imposed
11 on delinquent taxes under Sections 111.060 and 111.061.

12 (m) The comptroller shall deposit a penalty collected under
13 this section, including any interest and penalty applicable to the
14 penalty, to the credit of the foundation school fund.

15 SECTION 12. Section 313.031, Tax Code, is amended to read as
16 follows:

17 Sec. 313.031. RULES AND FORMS; FEES. (a) The comptroller
18 shall:

19 (1) adopt rules and forms necessary for the
20 implementation and administration of this chapter, including rules
21 for determining whether a property owner's property qualifies as a
22 qualified investment under Section 313.021(1); and

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

27 (b) The governing body of a school district by official

1 action shall establish reasonable nonrefundable application fees
2 to be paid by property owners who apply to the district for a
3 limitation on the appraised value of the person's property under
4 this subchapter. The amount of an application fee must be
5 reasonable and may not exceed the estimated cost to the district of
6 processing and acting on an application, including any cost to the
7 school district associated with [~~the cost of~~] the economic impact
8 evaluation required by Section [~~Sections~~] 313.025 [~~and 313.026~~].

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

12 (a) Before the beginning of each regular session of the
13 legislature, the comptroller shall submit to the lieutenant
14 governor, the speaker of the house of representatives, and each
15 other member of the legislature a report on the agreements entered
16 into under this chapter that includes:

17 (1) an assessment of the following with regard to the
18 agreements entered into under this chapter, considered in the
19 aggregate:

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

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

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

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

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

4 (F) the total fiscal effect on the state and
5 local governments; and

6 (2) an assessment of [assessing] the progress of each
7 agreement made under this chapter that states~~[. The report must be~~
8 ~~based on data certified to the comptroller by each recipient of a~~
9 ~~limitation on appraised value under this subchapter and state]~~ for
10 each agreement:

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

13 (B) [(2)] the number of qualifying jobs each
14 recipient created;

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

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

19 (E) [(5)] the amount of the qualified investment
20 each recipient spent or allocated for each project;

21 (F) [(6)] the market value of the qualified
22 property of each recipient as determined by the applicable chief
23 appraiser, including property that is no longer eligible for a
24 limitation on appraised value under the agreement;

25 (G) [(7)] the limitation on appraised value for
26 the qualified property of each recipient;

27 (H) [(8)] the dollar amount of the taxes that

1 would have been imposed on the qualified property if the property
2 had not received a limitation on appraised value; and

3 (I) [(9)] the dollar amount of the taxes imposed
4 on the qualified property[+

5 ~~[(10) the number of new jobs created by each recipient~~
6 ~~in each sector of the North American Industry Classification~~
7 ~~System; and~~

8 ~~[(11) of the number of new jobs each recipient~~
9 ~~created, the number of jobs created that provide health benefits~~
10 ~~for employees].~~

11 (b-1) In preparing the portion of the report described by
12 Subsection (a)(1), the comptroller may use standard economic
13 estimation techniques, including economic multipliers.

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

18 (d) The comptroller may require a recipient or former
19 recipient of a limitation on appraised value under this chapter to
20 submit, on a form the comptroller provides, information required to
21 complete the report.

22 SECTION 14. Subchapter B, Chapter 313, Tax Code, is amended
23 by adding Section 313.033 to read as follows:

24 Sec. 313.033. REPORT ON COMPLIANCE WITH JOB-CREATION
25 REQUIREMENTS. Each recipient of a limitation on appraised value
26 under this chapter shall submit to the comptroller an annual report
27 on a form provided by the comptroller that provides information

1 sufficient to document the number of qualifying jobs created.

2 SECTION 15. The heading to Subchapter C, Chapter 313, Tax
3 Code, is amended to read as follows:

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

6 SECTION 16. Section 313.051, Tax Code, is amended to read as
7 follows:

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

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

13 (2) an area within this state that is a federally
14 designated urban enterprise community or an urban enhanced
15 enterprise community; or

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

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

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

23 (2) a county:

24 (A) that has a population of less than 50,000;
25 and

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

1 (i) remained the same;
2 (ii) decreased; or
3 (iii) increased, but at a rate of not more
4 than the average rate of increase in the state during that period
5 [~~three percent per annum~~].

6 (a-2) [~~(a-1)~~] Notwithstanding Subsection (a-1) [~~(a)~~], if on
7 January 1, 2002, this subchapter applied to a school district in
8 whose territory is located a federal nuclear facility, this
9 subchapter continues to apply to the school district regardless of
10 whether the school district ceased or ceases to be described by
11 Subsection (a-1) [~~(a)~~] after that date.

12 (a-3) Not later than September 1 of each year, the
13 comptroller shall determine areas that qualify as a strategic
14 investment area using the most recently completed full calendar
15 year data available on that date and, not later than October 1,
16 shall publish a list and map of the designated areas. A
17 determination under this subsection is effective for the following
18 tax year for purposes of this subchapter.

19 (b) The governing body of a school district to which this
20 subchapter applies may enter into an agreement in the same manner as
21 a school district to which Subchapter B applies may do so under
22 Subchapter B, subject to Sections 313.052-313.054. Except as
23 otherwise provided by this subchapter, the provisions of Subchapter
24 B apply to a school district to which this subchapter applies. For
25 purposes of this subchapter, a property owner is required to create
26 [~~only~~] at least 10 new qualifying jobs as defined by Section
27 313.021(3) on the owner's qualified property. [~~At least 80 percent~~

1 ~~of all the new jobs created must be qualifying jobs as defined by~~
2 ~~Section 313.021(3), except that, for a school district described by~~
3 ~~Subsection (a)(2), each qualifying job must pay at least 110~~
4 ~~percent of the average weekly wage for manufacturing jobs in the~~
5 ~~region designated for the regional planning commission, council of~~
6 ~~governments, or similar regional planning agency created under~~
7 ~~Chapter 391, Local Government Code, in which the district is~~
8 ~~located.]~~

9 SECTION 17. Section 313.054(a), Tax Code, is amended to
10 read as follows:

11 (a) For a school district to which this subchapter applies,
12 the amount agreed to by the governing body of the district under
13 Section 313.027(a)(2) must be an amount in accordance with the
14 following, according to the category established by Section 313.052
15 to which the school district belongs:

16	CATEGORY	MINIMUM AMOUNT OF LIMITATION
17	I	\$30 million
18	II	<u>\$25</u> [\$20] million
19	III	<u>\$20</u> [\$10] million
20	IV	<u>\$15</u> [\$5] million
21	V	<u>\$10</u> [\$1] million

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

24 SUBCHAPTER E. AVAILABILITY OF TAX CREDIT AFTER PROGRAM
25 EXPIRES OR IS REPEALED

26 SECTION 19. Section 313.171(b), Tax Code, is amended to
27 read as follows:

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

5 SECTION 20. Section 42.2515(a), Education Code, is amended
6 to read as follows:

7 (a) For each school year, a school district, including a
8 school district that is otherwise ineligible for state aid under
9 this chapter, is entitled to state aid in an amount equal to the
10 amount of all tax credits credited against ad valorem taxes of the
11 district in that year under former Subchapter D, Chapter 313, Tax
12 Code.

13 SECTION 21. Section 42.302(e), Education Code, is amended
14 to read as follows:

15 (e) For purposes of this section, school district taxes for
16 which credit is granted under former Subchapter D, Chapter 313, Tax
17 Code, are considered taxes collected by the school district as if
18 the taxes were paid when the credit for the taxes was granted.

19 SECTION 22. The following provisions of the Tax Code are
20 repealed:

- 21 (1) Sections 313.008 and 313.009; and
- 22 (2) Subchapter D, Chapter 313.

23 SECTION 23. (a) Except as provided by Subsection (b) of
24 this section, Chapter 313, Tax Code, as amended by this Act, applies
25 only to an application filed under that chapter on or after the
26 effective date of this Act. An application filed under that chapter
27 before the effective date of this Act is governed by the law in

1 effect on the date the application was filed, and the former law is
2 continued in effect for that purpose.

3 (b) An agreement entered into on or after January 1, 2013,
4 pursuant to an application filed under Chapter 313, Tax Code,
5 before the effective date of this Act may condition eligibility for
6 a limitation on appraised value under Subchapter B or C of that
7 chapter, as applicable, on compliance with the provisions of that
8 chapter, as amended by this Act, relating to the creation of new
9 jobs, including Section 313.021(3), Tax Code, and Section
10 313.024(d) or 313.051(b), Tax Code, as applicable.

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

16 SECTION 25. This Act takes effect January 1, 2014.

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HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
No equivalent provision.	SECTION __. Subtitle B, Title 3, Government Code, is amended by adding Chapter 320A to read as follows: <u>CHAPTER 320A. REVIEW OF STATE AND LOCAL TAX PREFERENCES</u>	Same as House version.
No equivalent provision.	<u>SUBCHAPTER A. GENERAL PROVISIONS</u>	Same as House version.
No equivalent provision.	<u>Sec. 320A.001. DEFINITION. In this chapter, "tax preference" means a credit, discount, exclusion, exemption, refund, special valuation, special accounting treatment, special rate, or special method of reporting authorized by state law that relates to a state or local tax imposed in this state.</u>	Same as House version.
No equivalent provision.	<u>SUBCHAPTER B. SCHEDULE FOR PERIODIC REVIEW OF STATE AND LOCAL TAX PREFERENCES</u>	Same as House version.
No equivalent provision.	<u>Sec. 320A.051. DEVELOPMENT AND BIENNIAL MODIFICATION OF STATE AND LOCAL TAX PREFERENCE REVIEW SCHEDULE. (a) The comptroller shall:</u> <u>(1) identify each state tax preference and each type of local tax preference;</u> <u>(2) develop a state and local tax preference review schedule under which each identified tax preference is reviewed once during each 12-year period; and</u> <u>(3) specifically identify on the schedule each of the tax preferences the Legislative Budget Board must review for purposes of the next report due under Section 320A.151.</u> <u>(b) Except as provided in Subsection (c), in developing the schedule, the comptroller shall give priority to scheduling for review the tax preferences that result in the greatest reduction in revenue derived from the taxes to which the tax preferences</u>	Same as House version.

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HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

relate.

(c) In developing the schedule, the comptroller may:

(1) schedule for review at the same time all tax preferences authorized in the same chapter of the Tax Code; and

(2) schedule the initial review of a tax preference that has an expiration date for any date the comptroller determines is appropriate.

(d) The comptroller shall revise the schedule biennially only to:

(1) add to the schedule a tax preference that was enacted after the comptroller developed the most recent schedule;

(2) delete from the schedule a tax preference that was repealed or that expired after the comptroller developed the most recent schedule;

(3) update the review dates of the tax preferences for which reviews were conducted after the comptroller developed the most recent schedule; and

(4) update the tax preferences identified under Subsection (a)(3).

No equivalent provision.

Sec. 320A.052. PUBLIC COMMENT. The comptroller shall provide a process by which the public may comment on the state and local tax preference review schedule under Section 320A.051. The comptroller shall consider those comments in developing or revising the schedule.

Same as House version.

No equivalent provision.

Sec. 320A.053. SCHEDULE PROVIDED TO LEGISLATIVE BUDGET BOARD. Not later than December 1 of each odd-numbered year, the comptroller shall provide the state and local tax preference review schedule to the Legislative Budget Board.

Same as House version.

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Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
No equivalent provision.	<u>SUBCHAPTER C. CONDUCT OF REVIEW OF STATE AND LOCAL TAX PREFERENCES</u>	Same as House version.
No equivalent provision.	<u>Sec. 320A.101. PERIODIC REVIEW OF TAX PREFERENCES. The Legislative Budget Board shall periodically review each state tax preference and each type of local tax preference according to the state and local tax preference review schedule provided by the comptroller under Section 320A.053. In reviewing a tax preference, the board shall:</u> <u>(1) summarize the legislative history of the tax preference;</u> <u>(2) estimate the amount of lost tax revenue attributable to the tax preference during the preceding 12-year period, including the percent reduction in the tax revenue of the related state or local tax, using amounts reported by the comptroller under Section 403.014, if available;</u> <u>(3) determine the effect of the tax preference on the distribution of the tax burden by income class and industry or business class during the preceding 12-year period, using amounts reported and data analyzed by the comptroller under Sections 403.014 and 403.0141, if available; and</u> <u>(4) evaluate, for a tax preference that reduces by more than one percent the total revenue of the related state or local tax, the fiscal impact of the tax preference during the preceding and following 12-year periods, based on a cost-benefit analysis of the general effects of the tax preference on the overall state economy, including the effects on:</u> <u>(A) job creation by industry sector;</u> <u>(B) average wage by industry sector;</u> <u>(C) gross state product by industry sector;</u> <u>(D) business expenditures by industry sector; and</u> <u>(E) personal consumption by income class.</u>	Same as House version.

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No equivalent provision.

Sec. 320A.102. COOPERATION BY OTHER STATE ENTITIES. (a) The Legislative Budget Board may request assistance from the comptroller or any other state agency, department, or office if the board needs assistance to perform the review required by Section 320A.101. The comptroller or other agency, department, or office shall provide the requested assistance.
(b) Notwithstanding Section 111.006, Tax Code, or other law, the comptroller shall provide to the Legislative Budget Board complete electronic access to tax files maintained by the comptroller, as the staff of the board determines necessary to perform a review required by Section 320A.101. An employee of the board that accesses tax files maintained by the comptroller is subject to the same duties and requirements regarding confidentiality as an employee of the comptroller who accesses the files.

Same as House version.

No equivalent provision.

SUBCHAPTER D. REPORT ON TAX PREFERENCES

Same as House version.

No equivalent provision.

Sec. 320A.151. REPORT. Not later than September 1 of each even-numbered year, the Legislative Budget Board shall provide to the presiding officers of the senate finance committee, or its successor, and the house ways and means committee, or its successor, a report on the reviews of tax preferences identified under Section 320A.051(a)(3). The board shall post the report on the board's Internet website as soon as possible after the board provides the report to the presiding officers under this section. [FA8]

Same as House version.

No equivalent provision.

SECTION __. Notwithstanding Section 320A.053, Government Code, as added by this Act, the comptroller of

Same as House version.

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CONFERENCE

public accounts shall submit the initial state and local tax preference review schedule required by that section not later than January 15, 2014. [FA8]

No equivalent provision.

SECTION __. The Legislative Budget Board shall submit the initial report required by Section 320A.151, Government Code, as added by this Act, not later than September 1, 2014. [FA8]

Same as House version.

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

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

SECTION 1. Same as House version, except as follows:

Sec. 313.002. FINDINGS. The legislature finds that:

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

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

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

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

Sec. 313.002. FINDINGS. The legislature finds that:

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

(2) given Texas' relatively high ad valorem taxes, it is difficult for the state to compete for new capital projects without *some kind of temporary limit on* ad valorem taxes imposed on new capital investments [~~the State of Texas has slipped in its national ranking each year between 1993 and 2000 in terms of attracting major new manufacturing facilities to this state~~];

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

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

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

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

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

No equivalent provision.

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

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

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

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

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

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

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

Sec. 313.004. LEGISLATIVE INTENT. It is the intent of the legislature in enacting this chapter that:

Sec. 313.004. LEGISLATIVE INTENT. It is the intent of the legislature in enacting this chapter that:

(1) economic development decisions involving school district

(1) economic development decisions should occur at the local

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taxes should occur at the local level with oversight by the state and should be consistent with identifiable statewide economic development goals;

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

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

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

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

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

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

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

(i) enhance the local community;

(ii) improve the local public education system;

(iii) create high-paying jobs; and

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

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

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

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

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level and be consistent with identifiable statewide economic development goals;

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

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

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

(C) an entity not subject to the franchise tax imposed by Chapter 171 because of its form of business [~~a sole proprietorship, partnership, or limited liability partnership~~] to receive an ad valorem tax benefit or financial benefit provided by this chapter; and

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

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

(B) approve only those applications for an ad valorem tax benefit or financial benefit provided by this chapter that:

(i) enhance the local community;

(ii) improve the local public education system;

(iii) create high-paying jobs; and

(iv) advance the economic development goals of this state as identified by the Texas Strategic Economic Development Planning Commission or its successor.

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(i) create high-paying jobs;
(ii) provide a net benefit to the state over the long term; and
(iii) advance the economic development goals of this state
[as identified by the Texas Strategic Economic Development
Planning Commission].

Sec. 313.007. EXPIRATION. Subchapters B and [:] C [~~and~~
∅] expire December 31, 2024 [2014].

No equivalent provision.

SECTION 4. Section 313.007, Tax Code, is amended to read as follows:

Sec. 313.007. EXPIRATION. Subchapters A-I, B, and C [:
and ∅] expire **December 31, 2020** [2014].

SECTION __. (a) Section 311.005(a), Tax Code, is amended to read as follows:

- (a) To be designated as a reinvestment zone, an area must:
- (1) substantially arrest or impair the sound growth of the municipality or county designating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
 - (A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
 - (B) the predominance of defective or inadequate sidewalk or street layout;
 - (C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
 - (D) unsanitary or unsafe conditions;
 - (E) the deterioration of site or other improvements;
 - (F) tax or special assessment delinquency exceeding the fair value of the land;
 - (G) defective or unusual conditions of title;
 - (H) conditions that endanger life or property by fire or other

Sec. 313.007. EXPIRATION. Subchapters B and [:] C [~~and~~
∅] expire **December 31, 2022** [2014].

Same as House version.

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cause; or

(1) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more;

(2) be predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county;

(3) be in a federally assisted new community located in the municipality or county or in an area immediately adjacent to a federally assisted new community; ~~[øø]~~

(4) be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located; or

(5) be substantially undeveloped and be located in:

(A) a municipality with a population of less than 20,000; and

(B) a county with a population of more than 660,000 and less than 690,000 that borders a county with a population of two million or more.

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2013. [FA7]

SECTION 2. Subchapter A, Chapter 313, Tax Code, is

SECTION __. Substantially the same as House version.

SECTION 2. Same as House version.

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amended by adding Section 313.010 to read as follows:

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

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

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

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

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

No equivalent provision.

No equivalent provision.

[FA6]

SECTION __. Subchapter A-1, Tax Code, as added by this Act, is amended by adding Sections 313.0146 and 313.019 to read as follows:

Sec. 313.0146. PENALTY FOR FAILURE TO COMPLY WITH JOB-CREATION REQUIREMENTS. (a) The comptroller shall conduct an annual review and issue a determination as to whether a person with whom a school district has entered into an agreement under this chapter satisfied in the preceding year the requirements of this chapter regarding the creation of the required number of qualifying jobs. If the comptroller makes an adverse determination in the review:

(1) the comptroller shall notify the person of the cause of the adverse determination and the corrective measures necessary to remedy the determination; and

SECTION 11. Subchapter B, Chapter 313, Tax Code, is amended by adding Section 313.0276 to read as follows:

Sec. 313.0276. PENALTY FOR FAILURE TO COMPLY WITH JOB-CREATION REQUIREMENTS. (a) The comptroller shall conduct an annual review and issue a determination as to whether a person with whom a school district has entered into an agreement under this chapter satisfied in the preceding year the requirements of this chapter regarding the creation of the required number of qualifying jobs. If the comptroller makes an adverse determination in the review, the comptroller shall notify the person of the cause of the adverse determination and the corrective measures necessary to remedy the determination.

(b) If a person who receives an adverse determination fails

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(2) the person must submit to the comptroller a plan for remedying the determination and certify the person's intent to fully implement the plan not later than December 31 of the year in which the determination is made.

(b) If a person who receives an adverse determination fails to comply with Subsection (a)(2) following notification of the determination and receives an adverse determination in the following year, the comptroller shall impose a penalty on the person. The penalty is in an amount equal to the amount computed by:

(1) subtracting from the number of qualifying jobs required to be created the number of qualifying jobs actually created; and

(2) multiplying the amount computed under Subdivision (1) by:

(A) the average annual wage for all jobs in the county during the most recent four quarters for which data is available, ***if the penalty is being imposed on the person for the first time; or***
(B) twice the average annual wage for all jobs in the county during the most recent four quarters for which data is available, if the penalty has previously been imposed on the person.

to remedy the determination following notification of the determination and the comptroller makes an adverse determination with respect to the person's compliance in the following year, the person must submit to the comptroller a plan for remedying the determination and certify the person's intent to fully implement the plan not later than December 31 of the year in which the determination is made.

(c) If a person who receives an adverse determination under Subsection (b) fails to comply with that subsection following notification of the determination and receives an adverse determination in the following year, the comptroller shall impose a penalty on the person. The penalty is in an amount equal to the amount computed by:

(1) subtracting from the number of qualifying jobs required to be created the number of qualifying jobs actually created; and

(2) multiplying the amount computed under Subdivision (1) by the average annual wage for all jobs in the county during the most recent four quarters for which data is available.

(d) Notwithstanding Subsection (c), if a person receives an adverse determination and the comptroller has previously imposed a penalty on the person under this section one or more times, the comptroller shall impose a penalty on the person in an amount equal to the amount computed by multiplying the amount computed under Subsection (c)(1) by

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(c) Notwithstanding *Subsection (b)*, the penalty may not exceed an amount equal to the difference between the amount of the ad valorem tax benefit received by the person under the agreement in the preceding year and the amount of any supplemental payments made to the school district in that year.

(d) A job created by a person that is not a qualifying job because the job does not meet a numerical requirement of Section 313.0045(a)(3)(A), (D), or (E) is considered for purposes of this section to be a nonqualifying job only if the job fails to meet the numerical requirement by at least 10 percent.

(e) An adverse determination under this section is a deficiency determination under Section 111.008. A penalty imposed under this section is an amount the comptroller is required to collect, receive, administer, or enforce, and the determination is subject to the payment and redetermination requirements of Sections 111.0081 and 111.009.

(f) A redetermination under Section 111.009 of an adverse determination under this section is a contested case as defined by Section 2001.003, Government Code.

(g) If a person on whom a penalty is imposed under this section contends that the amount of the penalty is unlawful or that the comptroller may not legally demand or collect the penalty, the person may challenge the determination of the comptroller under Subchapters A and B, Chapter 112.

(h) If the comptroller imposes a penalty on a person under this section three times, the comptroller may rescind the agreement between the person and the school district under

an amount equal to twice the amount computed under Subsection (c)(2).

(e) Notwithstanding *Subsections (c) and (d)*, a penalty imposed under this section may not exceed an amount equal to the difference between the amount of the ad valorem tax benefit received by the person under the agreement in the preceding year and the amount of any supplemental payments made to the school district in that year.

(f) Same as Senate version.

(g) Same as Senate version.

(h) Same as Senate version.

(i) Same as Senate version.

(j) Same as Senate version.

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this chapter.

(i) A determination by the comptroller to rescind an agreement between a person and a school district under this chapter pursuant to Subsection (h) is a contested case as defined by Section 2001.003, Government Code.

(j) If a person *appeals a final decision of the comptroller to rescind an agreement between a person and a school district under this chapter pursuant to Subsection (h) and* that decision is upheld on appeal, the person shall pay to the comptroller any tax that would have been due and payable to the school district during the pendency of the appeal, including statutory interest and penalties imposed on delinquent taxes under Sections 111.060 and 111.061.

(k) The comptroller shall deposit a penalty collected under this section, including any interest and penalty applicable to the penalty, to the credit of the foundation school fund.

Sec. 313.019. REPORT ON COMPLIANCE WITH JOB-CREATION REQUIREMENTS. Each recipient of a limitation on appraised value under this chapter shall submit

No equivalent provision, but see Subsec. (k) below.

(k) A person may contest a determination by the comptroller to rescind an agreement between the person and a school district under this chapter pursuant to Subsection (j) by filing suit against the comptroller and the attorney general. The district courts of Travis County have exclusive, original jurisdiction of a suit brought under this subsection. This subsection prevails over a provision of Chapter 25, Government Code, to the extent of any conflict.

(l) If a person *files suit under Subsection (k) and the comptroller's determination to rescind the agreement* is upheld on appeal, the person shall pay to the comptroller any tax that would have been due and payable to the school district during the pendency of the appeal, including statutory interest and penalties imposed on delinquent taxes under Sections 111.060 and 111.061.

(m) Same as Senate version.

Same as House version.

No equivalent provision.

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to the comptroller an annual report on a form provided by the comptroller that provides information sufficient for the comptroller to determine whether the applicant is creating the number of new qualifying jobs required by this chapter.
[FA5]

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

- (1) "Qualified investment" means:
- (A) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;
- (B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:
- (i) integrated systems, fixtures, and piping;
- (ii) all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing

SECTION 2. Section 313.021, Tax Code, is transferred to Subchapter A, Chapter 313, Tax Code, redesignated as Section 313.0045, Tax Code, and amended to read as follows:

Sec. 313.0045 [~~313.021~~]. DEFINITIONS. (a) In this chapter [~~subchapter~~]:

- (1) "Qualified investment" means:
- (A) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;
- (B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:
- (i) integrated systems, fixtures, and piping;
- (ii) all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing

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

No equivalent provision.

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tolerances; and

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

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

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

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

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

(i) property used to produce electric power by means of a combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification of coal or another carbon-based feedstock; or

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

(E) tangible personal property that is first placed in service in this state during the applicable qualifying time period *that*

tolerances; and

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

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

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

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

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

(i) property used to produce electric power by means of a combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification of coal or another carbon-based feedstock; or

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

(E) tangible personal property that is first placed in service in this state during the applicable qualifying time period ~~that~~

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begins on or after January 1, 2010, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an advanced clean energy project, as defined by Section 382.003, Health and Safety Code; [Ø]

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

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

(2) "Qualified property" means:

(A) land:

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

(ii) on which a person proposes to:

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

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

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

(iv) on which, in connection with the new building, [Ø] new improvement, **or expanded building** described by Subparagraph (ii), the owner or lessee of, or the holder of another possessory interest in, the land proposes to:

(a) make a qualified investment in an amount equal to at least

~~*begins on or after January 1, 2010*~~, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an advanced clean energy project, as defined by Section 382.003, Health and Safety Code; or [FA1(1)]

(F) a building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by Paragraph (A), (B), (C), or (E). [FA1(2)]

(2) "Qualified property" means:

(A) land:

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

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person ***applies*** for a limitation on appraised value under this subchapter;

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

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

(a) make a qualified investment in an amount equal to at least

(2) "Qualified property" means:

(A) land:

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

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person **submits a complete application** [applies] for a limitation on appraised value under this subchapter;

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

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

(a) make a qualified investment in an amount equal to at least

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the minimum amount required by Section 313.023; and
(b) create at least 25 *new qualifying jobs*;
(B) the new building, ~~or~~ other new improvement, or expanded building described by Paragraph (A)(ii); and
(C) tangible personal property that:
(i) is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and
(ii) except for new equipment described in Section 151.318(q) or (q-1), is first placed in service in the new building, ~~or~~ in or on the new improvement, or in the expanded building described by Paragraph (A)(ii), or on the land on which that new building, ~~or~~ new improvement, or expanded building is located, if the personal property is ancillary and necessary to the business conducted in that new building, ~~or~~ in or on that new improvement, or in that expanded building.
(3) "Qualifying job" means a permanent full-time job that:
(A) requires at least 1,600 hours of work a year;
(B) is not transferred from one area in this state to another area in this state;
(C) is not created to replace a previous employee;
(D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and
(E) pays at least 110 percent of:
~~[(i) the county average weekly wage for manufacturing jobs in the county where the job is located; or~~
~~[(ii) the county average weekly wage for all jobs in the county where the job is located], if the property owner creates more than 1,000 jobs in that county].~~

the minimum amount required by Section 313.023; and
(b) create at least 25 *new jobs*;
(B) the new building or other new improvement described by Paragraph (A)(ii); and
(C) tangible personal property that:
(i) is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and
(ii) except for new equipment described in Section 151.318(q) or (q-1), is first placed in service in the new building or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.
(3) "Qualifying job" means a permanent full-time job that:
(A) requires at least 1,600 hours of work a year;
(B) is not transferred from one area in this state to another area in this state;
(C) is not created to replace a previous employee;
(D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and [FA1(3)]
(E) pays at least 110 percent of the lesser of:
(i) *the county average weekly wage for manufacturing jobs in the county where the job is located; or*
(ii) *the county average weekly wage for all jobs in the county where the job is located, if the property owner creates more than 1,000 jobs in that county.*

the minimum amount required by Section 313.023; and
(b) create at least 25 *new qualifying jobs*;
(B) the new building or other new improvement described by Paragraph (A)(ii); and
(C) tangible personal property that:
(i) is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and
(ii) except for new equipment described in Section 151.318(q) or (q-1), is first placed in service in the new building, in the newly expanded building, or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.
(3) "Qualifying job" means a permanent full-time job that:
(A) requires at least 1,600 hours of work a year;
(B) is not transferred from one area in this state to another area in this state;
(C) is not created to replace a previous employee;
(D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and
(E) pays at least 110 percent of:
~~[(i) the county average weekly wage for manufacturing jobs in the county where the job is located; or~~
~~[(ii) the county average weekly wage for all jobs in the county where the job is located, if the property owner creates more than 1,000 jobs in that county].~~

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No equivalent provision.

(4) "Qualifying time period" means:
(A) the period that begins on the date that a person's application for a limitation on appraised value under this ~~chapter~~ ~~[subchapter]~~ is approved by the governing body of the school district and ends on December 31 of the second tax year that begins after that date, except as provided by Paragraph (B) or (C) of this subdivision or Section 313.014(h) ~~[313.027(h)]~~;
(B) in connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this ~~chapter~~ ~~[subchapter]~~, unless a shorter time period is agreed to by the governing body of the school district and the property owner; or
(C) in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, the first five tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this ~~chapter~~ ~~[subchapter]~~, unless a shorter time period is agreed to by the governing body of the school district and the property owner.
(5) "County average weekly wage for manufacturing jobs" means:
(A) the average weekly wage in a county for manufacturing jobs during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this ~~chapter~~ ~~[subchapter]~~, as computed by the Texas Workforce Commission; or

Same as House version.

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(B) the average weekly wage for manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, in which the county is located during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this chapter ~~subchapter~~, as computed by the Texas Workforce Commission.

(6) [Deleted by FA1(4)]

No equivalent provision.

(b) Unless this chapter defines a word or phrase used in this chapter, Section 1.04 or any other section of Title 1 or this title that defines the word or phrase or ascribes a meaning to the word or phrase applies to the word or phrase used in this chapter.

Same as House version.

(F) In determining whether a property owner has created the number of qualifying jobs required under this chapter, operations, services and other related jobs created in connection with the project, including those employed by third parties under contract, may satisfy the minimum qualifying jobs requirement for the project if the Texas Workforce Commission determines that the cumulative economic benefits to the state of these jobs is the same or greater than that associated with the minimum number of qualified jobs required to be created under this chapter. The Texas Workforce Commission may adopt rules to implement this subsection.

No equivalent provision.

(F) Same as House version.

No equivalent provision.

SECTION 3. Section 313.006(a), Tax Code, is amended to read as follows:

Same as House version.

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(a) In this section, "impact fee" means a charge or assessment imposed against a qualified property [~~as defined by Section 313.021,~~] in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions for water, wastewater, or storm water services or for roads necessitated by or attributable to property that receives a limitation on appraised value under this chapter.

No equivalent provision.

SECTION 5. Chapter 313, Tax Code, is amended by adding Subchapter A-1, and a heading is added to that subchapter to read as follows:

Same as House version.

SUBCHAPTER A-1. ELIGIBILITY, APPLICATION, AND REPORTING

(See SECTIONS 5, 7, 8, 9, 10, 11, 12, and 13.)

SECTION 6. Sections 313.024, 313.025, 313.026, 313.0265, 313.027, 313.0275, 313.028, 313.030, 313.031, and 313.032, Tax Code, are transferred to Subchapter A-1, Chapter 313, Tax Code, as added by this Act, redesignated as Sections 313.011, 313.012, 313.013, 313.0135, 313.014, 313.0145, 313.015, 313.016, 313.017, and 313.018, Tax Code, and amended to read as follows:

Same as House version.

No equivalent provision.

Sec. 313.015 [~~313.028~~]. CERTAIN BUSINESS INFORMATION CONFIDENTIAL. Information provided to a school district in connection with an application for a limitation on appraised value under this chapter [~~subchapter~~] that describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application shall be segregated in the application from other information in the application and is confidential and not subject to public disclosure unless the governing body of the school district

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approves the application. Other information in the custody of a school district or the comptroller in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility under this chapter, such as the nature and amount of the projected investment, employment, wages, and benefits, may not be considered confidential business information if the governing body of the school district agrees to consider the application. Information in the custody of a school district or the comptroller if the governing body approves the application is not confidential under this section.

No equivalent provision.

Sec. 313.016 [~~313.030~~]. PROPERTY NOT ELIGIBLE FOR TAX ABATEMENT. Property subject to a limitation on appraised value in a tax year under this chapter [~~subchapter~~] is not eligible for tax abatement by a school district under Chapter 312 in that tax year.

Same as House version.

No equivalent provision.

SECTION 7. The heading to Subchapter B, Chapter 313, Tax Code, is amended to read as follows:
SUBCHAPTER B. GENERAL LIMITATION ON APPRAISED VALUE OF CERTAIN PROPERTY USED TO CREATE JOBS

Same as House version.

No equivalent provision.

SECTION 8. Section 313.022(b), Tax Code, is amended to read as follows:
(b) For purposes of determining the required minimum amount of a qualified investment under Section 313.0045(a)(2)(A)(iv)(a) [~~313.021(2)(A)(iv)(a)~~], and the minimum amount of a limitation on appraised value under this subchapter [~~Section 313.027(b)~~], school districts to which this subchapter applies are categorized according to the taxable

Same as House version.

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value of property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code, as follows:

CATEGORY TAXABLE VALUE OF PROPERTY

- I \$10 billion or more
- II \$1 billion or more but less than \$10 billion
- III \$500 million or more but less than \$1 billion
- IV \$100 million or more but less than \$500 million
- V less than \$100 million

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

Sec. 313.023. **MINIMUM AMOUNTS OF QUALIFIED INVESTMENT AND NUMBER OF NEW QUALIFYING JOBS TO BE CREATED.** (a) For each category of school district established by Section 313.022, the minimum amount of a qualified investment under Section *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

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

(1) two times the minimum qualified investment for the applicable category of school district but less than three times

SECTION 9. Section 313.023, Tax Code, is amended to read as follows:

Sec. 313.023. **MINIMUM AMOUNTS OF QUALIFIED INVESTMENT.** For each category of school district established by Section 313.022, the minimum amount of a qualified investment under Section *313.0045(a)(2)(A)(iv)(a)* [~~*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

No equivalent provision.

No equivalent provision.

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that amount, the number of new qualifying jobs the property owner is required to create is equal to 75 percent of the number required by that sub-subparagraph;

(2) three times the minimum qualified investment for the applicable category of school district but less than four times that amount, the number of new qualifying jobs the property owner is required to create is equal to 50 percent of the number required by that sub-subparagraph;

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

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

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

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

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

- (1) manufacturing;
- (2) research and development;
- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) an advanced clean energy project, as defined by Section

SECTION 6. *(part.)*

Sec. 313.011 [~~313.024~~]. ELIGIBLE PROPERTY.

(a) This chapter applies [subchapter and Subchapters C and D apply] only to property owned by an entity to which Chapter 171 applies.

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

- (1) manufacturing;
- (2) research and development;
- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) an advanced clean energy project, as defined by Section

SECTION 4. Same as House version, except as follows:

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

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

- (1) manufacturing;
- (2) research and development;
- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) an advanced clean energy project, as defined by Section

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382.003, Health and Safety Code:

- (5) renewable energy electric generation;
- (6) electric power generation using integrated gasification combined cycle technology;
- (7) nuclear electric power generation; [Ø#]
- ~~(8) a data [computer] center; or [primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity]~~
- (9) a Texas priority project.

No equivalent provision.

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

382.003, Health and Safety Code:

- (5) renewable energy electric generation;
- (6) electric power generation using integrated gasification combined cycle technology;
- (7) nuclear electric power generation; or [FA1(5)]
- ~~(8) a computer center primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity.~~ [FA1(6)]

(c) For purposes of determining an applicant's eligibility for a limitation under this *chapter* [*subchapter*]:

- (1) the land on which a building or component of a building described by Section ~~313.0045(a)(1)(E)~~ [~~313.021(1)(E)~~] is located is not considered a qualified investment;
- (2) property that is leased under a capitalized lease may be considered a qualified investment;
- (3) property that is leased under an operating lease may not be considered a qualified investment; and
- (4) property that is owned by a person other than the applicant and that is pooled or proposed to be pooled with property owned by the applicant may not be included in determining the amount of the applicant's qualifying investment.

(d) To be eligible for a limitation on appraised value under this *chapter* [*subchapter*], at least 80 percent of all the new jobs created by the property owner must be qualifying jobs [as defined by Section 313.021(3)].

382.003, Health and Safety Code:

- (5) renewable energy electric generation;
- (6) electric power generation using integrated gasification combined cycle technology;
- (7) nuclear electric power generation; [Ø#]
- ~~(8) a computer center primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity; or~~
- (9) a Texas priority project.

(d) To be eligible for a limitation on appraised value under this *subchapter*, the property owner must create the required number of new [at least 80 percent of all the new jobs created by the property owner must be] qualifying jobs as defined by Section 313.021(3) and the average weekly wage for all jobs created by the owner that are not qualifying jobs must exceed the county average weekly wage for all jobs in the county where the jobs are located.

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

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

No equivalent provision.

No equivalent provision.

(e) In this section:

- (1) "Manufacturing" means an establishment primarily engaged in activities described in sectors 31-33 of the 2007 North American Industry Classification System.
- (2) "Renewable energy electric generation" means an establishment primarily engaged in activities described in category 221119 of the 1997 North American Industry Classification System.
- (3) "Integrated gasification combined cycle technology" means technology used to produce electricity in a combined combustion turbine and steam turbine application using synthetic gas or another product produced from the gasification of coal or another carbon-based feedstock, including related activities such as materials-handling and gasification of coal or another carbon-based feedstock.

(d-2) Same as House version.

SECTION 5. Section 313.024(e), Tax Code, is amended by adding Subdivision (7) to read as follows:

Same as House version.

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(6) "~~Data [Computer]~~ center" means an establishment primarily engaged in:

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

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

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

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

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

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

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

(4) "Nuclear electric power generation" means activities described in category 221113 of the 2002 North American Industry Classification System.

(5) "Research and development" means an establishment primarily engaged in activities described in category 541710 of the 2002 North American Industry Classification System.

(6) "~~Computer~~ center" means an establishment primarily engaged in *providing electronic data processing and information storage*.

No equivalent provision.

SECTION 6. *(part.)*

Sec. 313.012 [343.025]. APPLICATION; ACTION ON

No equivalent provision.

(7) Same as House version.

SECTION 6. Same as House version, except as follows:

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(a) The owner or lessee of, or the holder of another possessory interest in, any qualified property *described by Section 313.021(2)(A), (B), or (C)* may apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property. An application must be made on the form prescribed by the comptroller and include the information required by the comptroller, and it must be accompanied by:

- (1) the application fee established by the governing body of the school district;
- (2) information sufficient to show that the real and personal property identified in the application as qualified property meets the applicable criteria established by Section 313.021(2); *and*
- (3) any information required by the comptroller for the purposes of [relating to each applicable criterion listed in] Section 313.026.

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

APPLICATION. (a) The owner or lessee of, or the holder of another possessory interest in, any qualified property ~~[described by Section 313.021(2)(A), (B), or (C)]~~ may apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property. An application must be made on the form prescribed by the comptroller and include the information required by the comptroller, and it must be accompanied by:

- (1) the application fee established by the governing body of the school district;
- (2) information sufficient to show that the real and personal property identified in the application as qualified property meets the applicable criteria established by Section 313.0045(a)(2) [313.021(2)]; *and*
- (3) *information relating to each applicable criterion listed in Section 313.013 [313.026].*

(a-1) Within seven days of the receipt of each document, the school district shall submit to the comptroller a copy of the application and the agreement between the applicant and the school district. If an economic analysis of the proposed project *is submitted* to the school district, the district shall submit a copy of the analysis to the comptroller. In addition, the school district shall submit to the comptroller any subsequent revision of or amendment to any of those documents within seven days of its receipt. The comptroller shall publish each document received from the school district under this subsection on the comptroller's Internet website. If the school district maintains a generally accessible Internet

(a) Same as House version.

(a-1) Same as House version.

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

website, the district shall provide on its website a link to the location of those documents posted on the comptroller's website in compliance with this subsection. This subsection does not require the comptroller to post information that is confidential under Section 313.015 ~~[313.028]~~.

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value ~~[that is filed with the governing body under Subsection (a)]~~. If the governing body of the school district elects ~~[does elect]~~ to consider an application, the governing body shall deliver a copy ~~[three copies]~~ of the application to the comptroller and request that the comptroller conduct ~~[provide]~~ an economic impact evaluation of the investment proposed by the application. ~~The [to the school district. Except as provided by Subsection (b-1), the]~~ comptroller shall conduct or contract with a third person to conduct the economic impact evaluation, which shall be completed and provided to the governing body of the school district, along with the comptroller's certificate or written explanation under Subsection (d), as soon as practicable but not later than the 90th day after the date the comptroller receives the application. The governing body shall provide to the comptroller or to a third person contracted by the comptroller to conduct the economic impact evaluation any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the economic impact evaluation to the applicant on request. The comptroller may charge the applicant ~~[and collect]~~ a fee sufficient to cover the costs of

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value that is filed with the governing body under Subsection (a). If the governing body of the school district does elect to consider an application, the governing body shall deliver three copies of the application to the comptroller and request that the comptroller provide an economic impact evaluation of the application to the school district. Except as provided by Subsection (b-1), the comptroller shall conduct or contract with a third person to conduct the evaluation, which shall be completed and provided to the governing body of the school district as soon as practicable. The governing body shall provide to the comptroller or third person any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the evaluation to the applicant on request. The comptroller may charge and collect a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application before the 151st day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(b) Same as House version.

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providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application not later than the 150th ~~[before the 151st]~~ day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

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

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

(b-1) The comptroller shall *indicate on one* copy of the application *the date the comptroller received the application and deliver that copy* to the Texas Education Agency. The Texas Education Agency shall determine the effect that the applicant's proposal will have on the number or size of the school district's instructional facilities, *as required to be included in the economic impact evaluation by Section 313.013(a)(11)* ~~[313.026(a)(9)]~~, and submit a written report containing the agency's determination to the *comptroller*. The governing body of the school district shall provide any requested information to the Texas Education Agency. Not later than the 45th day after the date the *application indicates that the comptroller received* the application, the Texas Education Agency shall make the required determination and submit the agency's written report to the comptroller. *A third person contracted by the comptroller to conduct an economic impact evaluation of an application is not required to make a determination that the Texas Education Agency is required to make and report to the comptroller under this subsection.*

(c) In determining whether to *grant* an application, the governing body of the school district is entitled to request and receive assistance from:

(b-1) Same as House version.

(c) Same as House version.

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(1) the comptroller;
(2) the Texas [~~Department of~~] Economic Development and Tourism Office;
(3) the Texas Workforce Investment Council; and
(4) the Texas Workforce Commission.
(d) Not later than the 90th [~~Before the 91st~~] day after the date the comptroller receives the copy of the application, the comptroller shall issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the comptroller's decision not to issue a certificate [~~submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved~~].

(1) the comptroller;
(2) the Texas [~~Department of~~] Economic Development and Tourism Office;
(3) the Texas Workforce Investment Council; and
(4) the Texas Workforce Commission.
(d) Before the 91st day after the date the comptroller receives the copy of the application, the comptroller shall submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved.

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

(d-1) The governing body of a school district may not approve an application unless [~~that~~] the comptroller recommends approval of the application [~~has recommended should be disapproved only if~~];

(d-1) Same as House version.

[(1) the governing body holds a public hearing the sole purpose of which is to consider the application and the comptroller's recommendation; and
[(2) at a subsequent meeting of the governing body held after the date of the public hearing, at least two-thirds of the members of the governing body vote to approve the application].

[(1) the governing body holds a public hearing the sole purpose of which is to consider the application and the comptroller's recommendation; and
[(2) at a subsequent meeting of the governing body held after the date of the public hearing, at least two-thirds of the members of the governing body vote to approve the application]. [FA3(1)]

(e) Before approving or disapproving an application under this subchapter that the governing body of the school district elects to consider, the governing body [~~of the school district~~] must make a written finding as to any criteria considered by

(e) Before approving or disapproving an application under this chapter [~~subchapter~~] that the governing body elects to consider, the governing body of the school district must make a written finding as to each criterion listed in Section 313.013

(e) Same as House version.

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~~the comptroller in conducting the economic impact evaluation under [each criterion listed in] Section 313.026.~~

The governing body shall deliver a copy of those findings to the applicant.

No equivalent provision.

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

~~[313.026]~~. The governing body shall deliver a copy of those findings to the applicant.

(f) The governing body may approve an application only if the governing body finds that the information in the application is true and correct, finds that the applicant is eligible for the limitation on the appraised value of the person's qualified property, and determines that granting the application is in the best interest of the school district and this state.

(f-1) Notwithstanding any other provision of this chapter to the contrary, including Section 313.003(2) or 313.004(3)(A) or (B)(iii), the governing body of a school district may waive the new jobs creation requirement in Section 313.0045(a)(2)(A)(iv)(b) ~~[313.021(2)(A)(iv)(b)]~~ or 313.051(b) and approve an application if the governing body makes a finding that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

Same as House version.

No equivalent provision.

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after the date of receipt of the request the commission shall submit to the governing body a recommendation as to whether the new qualifying jobs creation requirement should be reduced or waived and, if reduced, the number of new qualifying jobs that should be required to be created.

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

No equivalent provision.

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

(h) After receiving a copy of the application, the comptroller shall determine whether the property meets the requirements of Section 313.011 [~~313.024~~] for eligibility for a limitation on appraised value under this chapter [~~subchapter~~]. The comptroller shall notify the governing body of the school district of the comptroller's determination and provide the applicant an opportunity for a hearing before the determination becomes final. A hearing under this subsection is a contested case hearing and shall be conducted by the State Office of Administrative Hearings in the manner provided by Section 2003.101, Government Code. The applicant has the burden of proof on each issue in the hearing. The applicant may seek judicial review of the comptroller's determination in a Travis County district court under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.

(g) Same as House version.

Same as House version.

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

(i) If the comptroller's determination under Subsection (h) that the property does not meet the requirements of Section *313.011* [~~*313.024*~~] for eligibility for a limitation on appraised value under this *chapter* [~~*subchapter*~~] becomes final, the comptroller is not required to provide an economic impact evaluation of the application or to submit a *recommendation to the school district as to whether the application should be approved or disapproved*, and the governing body of the school district may not grant the application.

(i) Same as House version.

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

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

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

or

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

~~*(1) the recommendations of the comptroller;*~~

~~*(2) the name of the school district;*~~

~~*(3) the name of the applicant;*~~

~~*(4) the general nature of the applicant's investment;*~~

~~*(5) the relationship between the applicant's industry and the types of qualifying jobs to be created by the applicant to the long-term economic growth plans of this state as described in the strategic plan for economic development submitted by the*~~

SECTION 6. (*part.*)

Sec. *313.013* [~~*313.026*~~]. ECONOMIC IMPACT EVALUATION. (a) The economic impact evaluation of the application must include the following:

~~*(1) the recommendations of the comptroller;*~~

~~*(2) the name of the school district;*~~

~~*(3) the name of the applicant;*~~

~~*(4) a description of the general nature of the applicant's investment;*~~

~~*(5) the relationship between the applicant's industry and the types of qualifying jobs to be created by the applicant to the long-term economic growth plans of this state as described in the strategic plan for economic development submitted by the*~~

SECTION 7. Same as House version, except as follows:

(a) Same as House version.

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Texas Strategic Economic Development Planning Commission under Section 481.033, Government Code, as that section existed before February 1, 1999:

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

~~[(7) the number of qualifying jobs to be created by the applicant;~~

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

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

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

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

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

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

~~[(12) the number of new facilities built or expanded in the region during the two years preceding the date of the application that were eligible to apply for a limitation on~~

Texas Strategic Economic Development Planning Commission under Section 481.033, Government Code, as that section existed before February 1, 1999:

[(6)] the amount [relative level] of the applicant's intended investment [per qualifying job to be created by the applicant];

[(6) [(7)] the number of qualifying, construction, and operations jobs to be created by the applicant;

[(7) [(8)] the wages, salaries, and benefits to be offered by the applicant to qualifying, construction, and operations job holders;

[(8) [(9)] the ability of the applicant to locate or relocate in another state or another region of this state;

[(9) [(10)] the fiscal impact the project will have on this state and individual local units of government, including:

(A) tax and other revenue gains, direct and otherwise [or indirect], that would be realized during the construction and operation of the facility, including [qualifying time period,] the limitation period [;] and a period of time after the limitation period considered appropriate by the comptroller; and

(B) economic effects of the project, including the impact on jobs and income, direct and otherwise, during the construction and operation of the facility, including [qualifying time period,] the limitation period [;] and a period of time after the limitation period considered appropriate by the comptroller;

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

[(11) [(12)] the number of new facilities built or expanded in the region during the two years preceding the date of the application that were eligible to apply for a limitation on

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appraised value under this subchapter;

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

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

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

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

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

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

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

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

(b) Except as provided by Subsections (c) and (d), the [The] comptroller's *determination whether to issue a certificate for a limitation on appraised value under this chapter for*

appraised value under this subchapter;

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

(12) ~~[(14)]~~ the projected market value of the qualified property of the applicant as determined by the comptroller;

(13) ~~[(15)]~~ the proposed limitation on appraised value for the qualified property of the applicant;

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

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

(16) ~~[(18)]~~ the projected effect on the Foundation School Program of payments to the district for each year of the agreement; and

(17) ~~[(19)]~~ the projected future tax credits if the applicant also applies for school tax credits under Section 313.103; and

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

(b) Except as provided by Subsection (c), the [The] comptroller's *recommendations* shall be based on the *criteria listed in Subsection (a)* [Subsections (a)(5)-(20)] and on any

(b) Same as House version.

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property described in the application [recommendations] shall be based on the economic impact evaluation described by Subsection (a) [criteria listed in Subsections (a)(5)-(20)] and on any other information available to the comptroller, including information provided by the governing body of the school district [~~under Section 313.025(b)~~].

other information available to the comptroller, including information provided by the governing body of the school district under Section 313.012(b) [313.025(b)]

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

(c) The comptroller shall conduct a study to determine the net present value of any tax revenue anticipated to be generated, directly or otherwise, as a result of the project before the 25th anniversary of the beginning of the limitation period, including tax revenue anticipated to be generated during the construction of the project, and the net present value of the ad valorem tax benefit provided for the project under the proposed agreement. The comptroller may request that an applicant provide information necessary for the comptroller to make the determination. The comptroller may not recommend approval of the application unless the comptroller certifies that:

(c) Same as House version except in Subdivision (2) provides that the limitation on appraised value is a determining **factor in the applicant's decision** to invest capital and construct the project in this state.

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

(1) the net present value of any tax revenue anticipated to be generated, directly or otherwise, as a result of the project before the 25th anniversary of the beginning of the limitation period, including tax revenue anticipated to be generated during the construction of the project, is likely to exceed the net present value of the ad valorem tax benefit provided for the project under the proposed agreement; and [FA3(2)]

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

(2) on the basis of tangible evidence submitted by the applicant that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state. [FA3(2),FA4]

(d) The comptroller shall state in writing the basis for the

No equivalent provision.

(d) Same as House version.

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determinations made under Subsections (c)(1) and (2).

No equivalent provision.

↓

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

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

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

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

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

~~[(3) each application requesting school tax credits under Section 313.103].~~

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

(a)

If the person's application is approved by the governing body of the school district, *for each of the first 10 [eight] tax years that begin after the applicable qualifying time period,* the

No equivalent provision.

No equivalent provision.

SECTION 6. *(part.)* Substantially the same as House version.

SECTION 6. *(part.)*

Sec. 313.014 [~~313.027~~]. LIMITATION ON APPRAISED VALUE; AGREEMENT.

(a)

If the person's application is approved by the governing body of the school district, [~~for each of the first eight tax years that begin after the applicable qualifying time period,~~] the

(e) The applicant may submit information to the comptroller that would provide a basis for an affirmative determination under Subsection (c)(2).

(f) Same as House version.

SECTION 8. Same as House version.

SECTION 9. Section 313.027, Tax Code, is amended by amending Subsections (a), (f), (h), and (i) and adding Subsections (a-1) and (j) to read as follows:

(a) Same as House version except as follows:

If the person's application is approved by the governing body of the school district, [~~for each of the first eight tax years that begin after the applicable qualifying time period,~~] the

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appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property as described in the agreement between the person and the district entered into under this section in the school district may not exceed the lesser of:

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

No equivalent provision.

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appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property as described in the agreement between the person and the district entered into under this section in the school district may not exceed the lesser of:

- (1) the market value of the property; or
- (2) ~~[subject to Subsection (b),]~~ the amount agreed to by the governing body of the school district under Subchapter B or C, as applicable.

(b) The agreement must:

- (1) provide that the limitation under Subsection (a) applies for a period of 10 years; and
- (2) specify the beginning date of the limitation, which must be January 1 of the first tax year that begins after:

(A) the application date;

(B) the qualifying time period; or

(C) the date commercial operations begin at the site of the project. ~~[amount agreed to by the governing body of a school district under Subsection (a)(2) must be an amount in accordance with the following, according to the category established by Section 313.022 to which the school district belongs:~~

CATEGORY MINIMUM AMOUNT OF LIMITATION

IS100 million

HS80 million

HHS60 million

IV\$40 million

V\$20 million]

- (c) The limitation amounts prescribed under Subchapter B or C, as applicable, [listed in Subsection (b)] are minimum

No equivalent provision.

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appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property as described in the agreement between the person and the district entered into under this section in the school district may not exceed the lesser of:

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

(a-1) The agreement must:

- (1) provide that the limitation under Subsection (a) applies for a period of 10 years; and
- (2) specify the beginning date of the limitation, which must be January 1 of the first tax year that begins after:

(A) the application date;

(B) the qualifying time period; or

(C) the date commercial operations begin at the site of the project.

Same as House version.

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amounts. A school district, regardless of category, may agree to a greater amount than those amounts.

No equivalent provision.

(d) The governing body of the school district and the property owner shall enter into a written agreement for the implementation of the limitation on appraised value under this chapter [~~subchapter~~] on the owner's qualified property.

Same as House version.

No equivalent provision.

(e) The agreement must describe with specificity the qualified investment that the person will make on or in connection with the person's qualified property that is subject to the limitation on appraised value under this chapter [~~subchapter~~]. Other property of the person that is not specifically described in the agreement is not subject to the limitation unless the governing body of the school district, by official action, provides that the other property is subject to the limitation.

Same as House version.

(f)

(f)

(f) Same as House version except as follows:

In addition, the agreement:

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

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

In addition, the agreement:

(1) must incorporate each relevant provision of this *chapter* [~~subchapter~~] and, to the extent necessary, include provisions for the protection of future school district revenues through the adjustment of the minimum valuations, the payment of revenue offsets, and other mechanisms agreed to by the property owner and the school district;

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

In addition, the agreement:

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

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

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student enrollment attributable to the project;

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

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

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

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

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

No equivalent provision.

(h) The agreement between the governing body of the school district and the applicant may provide for a deferral of the date on which the qualifying time period for the project is to commence or, subsequent to the date the agreement is entered into, be amended to provide for such a deferral. The agreement may not provide for the deferral of the date on which the qualifying time period is to commence to a date later than January 1 of the *sixth tax year beginning after the date the application is approved.* This subsection may not be

student enrollment attributable to the project;

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

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

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

(6) must specify the ad valorem tax years covered by the agreement.

(g) When appraising a person's qualified property subject to a limitation on appraised value under this section, the chief appraiser shall determine the market value of the property and include both the market value and the appropriate value under Subsection (a) in the appraisal records.

(h) The agreement between the governing body of the school district and the applicant may provide for a deferral of the date on which the qualifying time period for the project is to commence or, subsequent to the date the agreement is entered into, be amended to provide for such a deferral. The agreement may not provide for the deferral of the date on which the qualifying time period is to commence to a date later than January 1 of the *fourth tax year that begins after the date the application is approved except that if the*

student enrollment attributable to the project;

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

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

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

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

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

No equivalent provision.

(h) Substantially the same as Senate version.

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construed to permit a qualifying time period that has commenced to continue for more than the number of years applicable to the project under *Section 313.021(4)*.

agreement is one of a series of agreements related to the same project, the agreement may provide for the deferral of the date on which the qualifying time period is to commence to a date not later than January 1 of the sixth tax year that begins after the date the application is approved. This subsection may not be construed to permit a qualifying time period that has commenced to continue for more than the number of years applicable to the project under Section *313.0045(a)(4) [313.021(4)]*.

(i)

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

No equivalent provision.

(i)

A person and the school district may not enter into an agreement under which the person agrees to provide supplemental payments to a school district *or any other entity on behalf of a school district* in an amount that exceeds an amount equal to \$100 per student per year in average daily attendance, as defined by Section 42.005, Education Code, or for a period that exceeds the period beginning with the period described by Section *313.0045(a)(4) [313.021(4)] and ending December 31 of the third tax year after the date the person's eligibility for a limitation under this chapter expires* [with the period described by Section 313.104(2)(B) of this code]. This *limit does not apply to amounts described by* Subsection (f)(1) or (2) [of this section].

(j) An agreement under this chapter must disclose any consideration promised in conjunction with the application

(i) Same as Senate version except as follows:

A person and the school district may not enter into an agreement under which the person agrees to provide supplemental payments to a school district *or any other entity on behalf of a school district* in an amount that exceeds an amount equal to *the greater of* \$100 per student per year in average daily attendance, as defined by Section 42.005, Education Code, *or \$50,000 per year, or* for a period that exceeds the period beginning with the period described by *Section 313.021(4)* and ending *December 31 of the third tax year after the date the person's eligibility for a limitation under this chapter expires* [with the period described by Section 313.104(2)(B) of this code]. This *limit does not apply to amounts described by* Subsection (f)(1) or (2) [of this section].

(j) Same as Senate version.

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

No equivalent provision.

No equivalent provision.

No equivalent provision.

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

SECTION 12. Section 313.031, Tax Code, is amended to

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and the limitation.

SECTION 6. *(part.)*

Sec. 313.0145 [~~313.0275~~]. RECAPTURE OF AD VALOREM TAX REVENUE LOST.

(a) Notwithstanding any other provision of this chapter to the contrary, a person with whom a school district enters into an agreement under this chapter [~~subchapter~~] must make the minimum amount of qualified investment [~~during the qualifying time period~~] and create the required number of qualifying jobs during each year of the agreement.

(b) If in any tax year a property owner fails to comply with Subsection (a), the property owner is liable to this state for a penalty equal to the amount computed by subtracting from the market value of the property for that tax year the value of the property as limited by the agreement and multiplying the difference by the maintenance and operations tax rate of the school district for that tax year.

(c) A penalty imposed under Subsection (b) becomes delinquent if not paid on or before February 1 of the following tax year. Section 33.01 applies to the delinquent penalty in the manner that section applies to delinquent taxes.

(d) In the event of a casualty loss, a person with whom a school district enters into an agreement under this chapter may request and the school district may grant a waiver of the requirements of this section.

SECTION 6. *(part.)*

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SECTION 10. Substantially the same as Senate version, except as follows:

(d) Same as House version.

SECTION 12. Same as House version, except as follows:

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read as follows:

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

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

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

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

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

Sec. ~~313.017~~ [~~313.034~~]. RULES AND FORMS: FEES. (a) The comptroller shall:

(1) adopt rules and forms necessary for the implementation and administration of this chapter, including rules for determining whether a property owner's property qualifies as a qualified investment under Section 313.0045(a)(1) [~~313.021(1)~~]; and

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

No equivalent provision.

(b) The governing body of a school district by official action shall establish reasonable nonrefundable application fees to be paid by property owners who apply to the district for a limitation on the appraised value of the person's property under this chapter [subchapter]. The amount of an application fee must be reasonable and may not exceed the estimated cost to the district of processing and acting on an application, including the cost of the economic impact evaluation required by Sections 313.012 [313.025] and 313.013 [~~313.026~~].

Sec. 313.031. Same as House version except as follows:.

Same as Senate version.

(b) Same as House version.

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

(a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on the agreements entered into under this chapter that includes:

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

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

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

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

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

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

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

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

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

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SECTION 6. *(part.)*

Sec. 313.018 [~~313.032~~]. REPORT ON COMPLIANCE WITH AGREEMENTS. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on the agreements entered into under this chapter that includes:

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

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

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

(C) *the effect, direct and otherwise, on* the total amount of investment in this state;

(D) *the effect, direct and otherwise, on* the total taxable value of property on the tax rolls in this state, including property for which the limitation period has expired;

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

(F) the total fiscal effect, *direct and otherwise*, on the state and local governments; and

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

(A) [(+)] the number of *new* qualifying jobs each recipient of a limitation on appraised value committed to create;

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SECTION 13. Same as House version.

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

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

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

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

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

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

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

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

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

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

No equivalent provision.

(b-1) In preparing the portion of the report described by Subsection (a)(1), the comptroller may use standard economic estimation techniques, including economic multipliers.

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

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

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

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

~~(F) [(6)]~~ the market value of the qualified property of each recipient as determined by the applicable chief appraiser, including property *for which the limitation period has expired*;

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

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

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

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

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

(b) The report may not include information that is confidential by law.

(b-1) In preparing the portion of the report described by Subsection (a)(1), the comptroller may use standard economic estimation techniques, including economic multipliers.

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

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

No equivalent provision.

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

The comptroller may require a recipient to submit, on a form the comptroller provides, information required to *prepare [complete]* the *portion of the* report *described by that subdivision.*

SECTION 10. Subchapter B, Chapter 313, Tax Code, is amended by adding Section 313.0235 to read as follows:
Sec. 313.0235. LIMITATION ON APPRAISED VALUE.
For a school district to which this subchapter applies, the amount agreed to by the governing body of the school district must be an amount in accordance with the following, according to the category established by Section 313.022 to which the school district belongs:

CATEGORY MINIMUM AMOUNT OF LIMITATION

- I\$100 million
- II\$90 million
- III\$80 million
- IV\$70 million
- V\$60 million [FA2(1)]

No equivalent provision.

No equivalent provision.

Same as House version.

SECTION 14. Subchapter B, Chapter 313, Tax Code, is amended by adding Section 313.033 to read as follows:

Sec. 313.033. REPORT ON COMPLIANCE WITH JOB-CREATION REQUIREMENTS. Each recipient of a limitation on appraised value under this chapter shall submit to the comptroller an annual report on a form provided by the comptroller that provides information sufficient to document

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SECTION 14. The heading to Subchapter C, Chapter 313, Tax Code, is amended to read as follows:
SUBCHAPTER C. LIMITATION ON APPRAISED VALUE OF PROPERTY IN STRATEGIC INVESTMENT AREA OR CERTAIN RURAL SCHOOL DISTRICTS

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

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

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

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

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

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

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

(2) a county:

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

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

(i) remained the same;

(ii) decreased; or

SECTION 11. The heading to Subchapter C, Chapter 313, Tax Code, is amended to read as follows:
SUBCHAPTER C. LIMITATION ON APPRAISED VALUE OF PROPERTY IN CERTAIN [RURAL] SCHOOL DISTRICTS

SECTION 12. Sections 313.051(a) and (b), Tax Code, are amended to read as follows:

(a) This subchapter applies only to a school district that has territory in:

(1) an area located in:

(A) a county with unemployment above the state average and per capita income below the state average;

(B) a federally designated urban enterprise community or an urban enhanced enterprise community; or

(C) a defense economic readjustment zone designated under Chapter 2310, Government Code [that qualified as a strategic investment area under Subchapter O, Chapter 171, immediately before that subchapter expired]; or

(2) a county:

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

(B) in which, during the decade preceding [from 1990 to 2000, according to] the most recent federal decennial census, the population:

(i) remained the same;

(ii) decreased; or

the number of qualifying jobs created.

SECTION 15. Same as House version.

SECTION 16. Same as House version, except as follows:

(a) Same as House version.

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

(iii) increased, but at a rate of not more than three percent per annum.

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

No equivalent provision.

(a-2) Same as House version.

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

No equivalent provision.

(a-3) Same as House version.

(b) *The governing body of a school district to which this subchapter applies may enter into an agreement in the same manner as a school district to which Subchapter B applies may do so under Subchapter B, subject to Sections 313.052-313.054.* Except as otherwise provided by this subchapter, the provisions of Subchapter B apply to a school district to which this subchapter applies. For purposes of this subchapter, a property owner is required to create ~~only~~ at least 10 new qualifying jobs as defined by Section 313.021(3) on the owner's qualified property. Section 313.023(b) does not apply to a school district to which this subchapter applies. ~~[At least 80 percent of all the new jobs created must be qualifying jobs as defined by Section 313.021(3), except that,~~

(b) ~~[The governing body of a school district to which this subchapter applies may enter into an agreement in the same manner as a school district to which Subchapter B applies may do so under Subchapter B, subject to Sections 313.052-313.054.]~~ Except as otherwise provided by this subchapter, the provisions of Subchapter A-1 [B] apply to a school district to which this subchapter applies. For purposes of this subchapter, a property owner is required to create only at least 10 new jobs on the owner's qualified property. At least 80 percent of all the new jobs created must be qualifying jobs [as defined by Section 313.021(3)], except that, for a school district described by Subsection (a)(2), each qualifying job must pay at least 110 percent of the average weekly wage for

(b) Same as House version, except omits the exemption from Section 313.023(b) for a school district to which Subchapter C, Chapter 313, Tax Code, applies.

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~~for a school district described by Subsection (a)(2), each qualifying job must pay at least 110 percent of the average weekly wage for manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, in which the district is located.]~~

manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, in which the district is located.

No equivalent provision.

SECTION 13. Sections 313.052 and 313.053, Tax Code, are amended to read as follows:

Same as House version.

Sec. 313.052. CATEGORIZATION OF SCHOOL DISTRICTS. For purposes of determining the required minimum amount of a qualified investment under Section ~~313.0045(a)(2)(A)(iv)(a)~~ ~~[313.021(2)(A)(iv)(a)]~~ and the ~~minimum amount of a limitation on appraised value under this subchapter~~, school districts to which this subchapter applies are categorized according to the taxable value of industrial property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code, as follows: [FA2(2)]

CATEGORY	TAXABLE VALUE	OF INDUSTRIAL PROPERTY
I	\$200 million or more	
II	\$90 million or more but less than \$200 million	
III	\$1 million or more but less than \$90 million	
IV	\$100,000 or more but less than \$1 million	
V	less than \$100,000	

No equivalent provision.

Sec. 313.053. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT. For each category of school district established by Section 313.052, the minimum amount of a

Same as House version.

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qualified investment under Section 313.0045(a)(2)(A)(iv)(a)
[~~313.021(2)(A)(iv)(a)~~] is as follows:

CATEGORY	MINIMUM	QUALIFIED INVESTMENT
I	\$30 million	
II	\$20 million	
III	\$10 million	
IV	\$5 million	
V	\$1 million	

No equivalent provision.

SECTION 14. Section 313.054, Tax Code, is amended to read as follows:

Sec. 313.054. LIMITATION ON APPRAISED VALUE.

(a) For a school district to which this subchapter applies, the amount agreed to by the governing body of the district ~~[under Section 313.027(a)(2)]~~ **must be at least \$60 million. [an amount in accordance with the following, according to the category established by Section 313.052 to which the school district belongs:**

CATEGORY	MINIMUM	AMOUNT	OF
LIMITATION			
		/\$30 million	
		/\$20 million	
		/\$10 million	
		/\$5 million	
		/\$1 million	

No equivalent provision.

(b) The limitation amount[~~amounts~~] listed in Subsection (a) is a [are] minimum amount[~~amounts~~]. A school district[~~;~~ regardless of category.] may agree to a greater amount than that amount [~~those amounts~~]. [FA2(3)]

SECTION 17. Section 313.054(a), Tax Code, is amended to read as follows:

(a) For a school district to which this subchapter applies, the amount agreed to by the governing body of the district **under Section 313.027(a)(2) must be an amount in accordance with the following, according to the category established by Section 313.052 to which the school district belongs:**

CATEGORY	MINIMUM	AMOUNT	OF
LIMITATION			
I	\$30	million	
II	\$25 [\$20]	million	
III	\$20 [\$10]	million	
IV	\$15 [\$5]	million	
V	\$10 [\$1]	million	

Same as House version.

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

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

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

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

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

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

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

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

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

(4) the holders of any tax increment bonds or notes issued for

SECTION 15. The heading to Subchapter E, Chapter 313, Tax Code, is amended to read as follows:

SUBCHAPTER E. **EFFECT [AVAILABILITY] OF [TAX CREDIT AFTER] PROGRAM EXPIRATION OR REPEAL [EXPIRES]**

SECTION 16. Section 313.171, Tax Code, is amended to read as follows:

Sec. 313.171. SAVING PROVISIONS. *(a) A limitation on appraised value approved under Subchapter A-1, B₂ or C before the expiration of that subchapter continues in effect according to that subchapter as that subchapter existed immediately before its expiration, and that law is continued in effect for purposes of the limitation on appraised value.*

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

No equivalent provision.

SECTION 18. Same as House version.

SECTION 19. Same as House version.

Same as Senate version.

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the zone from which the money is to be transferred have agreed to the transfer.

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

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

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

(e) For purposes of this section, school district taxes for which credit is granted under former Subchapter D, Chapter 313, Tax Code, are considered taxes collected by the school district as if the taxes were paid when the credit for the taxes was granted.

No equivalent provision.

SECTION 17. Same as House version.

SECTION 18. Same as House version.

SECTION __. Section 382.003(1-a), Health and Safety code, is amended to read as follows:

(1-a) "Advanced clean energy project" means a project for which an application for a permit or for an authorization to use a standard permit under this chapter is received by the commission on or after January 1, 2008, and before January 1, 2020, and that:

(A) involves the use of coal, biomass, petroleum coke, solid waste, natural gas, or fuel cells using hydrogen derived from such fuels, in the generation of electricity, or the creation of liquid fuels outside of the existing fuel production infrastructure while co-generating electricity, whether the

SECTION 20. Same as House version.

SECTION 21. Same as House version.

Same as House version.

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project is implemented in connection with the construction of a new facility or in connection with the modification of an existing facility and whether the project involves the entire emissions stream from the facility or only a portion of the emissions stream from the facility;

(B) with regard to the portion of the emissions stream from the facility that is associated with the project, is capable of achieving:

(i) on an annual basis:

(a) a 99 percent or greater reduction of sulfur dioxide emissions;

(b) ~~0.04~~ if the project is designed for the use of feedstock, substantially all of which is subbituminous coal, an emission rate of 0.04 pounds or less of sulfur dioxide per million British thermal units as determined by a 30-day average; or

(c) if the project is designed for the use of one or more combustion turbines that burn natural gas, a sulfur dioxide emission rate that meets best available control technology requirements as determined by the commission;

(ii) on an annual basis:

(a) a 95 percent or greater reduction of mercury emissions; or

(b) if the project is designed for the use of one or more combustion turbines that burn natural gas, a mercury emission rate that complies with applicable federal requirements;

(iii) an annual average emission rate for nitrogen oxides of:

(a) 0.05 pounds or less per million British thermal units; ~~0.05~~

(b) if the project uses gasification technology, 0.034 pounds or less per million British thermal units; or

(c) if the project is designed for the use of one or more combustion turbines that burn natural gas, two parts per million per volume; and

(iv) an annual average emission rate for filterable particulate

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matter of 0.015 pounds or less per million British thermal units; and

(C) captures not less than 50 percent of the carbon dioxide in the portion of the emissions stream from the facility that is associated with the project and sequesters that captured carbon dioxide by geologic storage or other means. [FA10]

No equivalent provision.

SECTION __. Subchapter B, Chapter 35, Utilities Code, is amended by adding Section 35.004 (f) to read as follows:

Sec. 35.004 (f) AMOUNTS PAID IN LIEU OF AD VALOREM TAX.

(a) A municipally owned utility that owns and operates a transmission facility that is constructed under section 39.904(g)(2) may apply to the governing body of a school district, municipality, or county in which the utility owns or operates a transmission facility to make payments in lieu of ad valorem taxes on the transmission facility.

(b) A school district, municipality, or county may approve the application and enter into an agreement under Subsection (a), provided that the amount paid may not exceed the amount the utility would have to pay on that transmission facility if the facility were subject to ad valorem taxation.

(c) A municipally owned utility that agrees to make payments in lieu of ad valorem taxes under this section may recover, as part of the utility's cost of service, the amount paid to a municipality, county, or school district under the agreement.

(d) A municipally owned utility that agrees to make payments in lieu of ad valorem taxes under this section shall provide a copy of the agreement to the commission. [FA9]

Same as House version.

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

SECTION 19. The following provisions of the Tax Code are repealed:

SECTION 22. Same as House version.

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- (1) Sections 313.008, 313.009, and *313.021(5)*; and
(2) Subchapter D, Chapter 313.

- (1) Sections *313.005*, 313.008, and 313.009; and
(2) Subchapter D, Chapter 313.

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

SECTION 20. Chapter 313, Tax Code, as amended by this Act, applies only to an application filed under that chapter on or after the effective date of this Act. An application filed under that chapter before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 23. Same as House version.

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

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

No equivalent provision.

SECTION 24. Same as House version.

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

SECTION 21. Same as House version.

SECTION 25. Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 25, 2013

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3390 by Hilderbran (Relating to the Texas Economic Development Act; imposing a penalty.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3390, Conference Committee Report: a negative impact of (\$3,072,330) through the biennium ending August 31, 2015.

State costs would increase significantly after the 2014-15 biennium.

General Revenue-Related Funds, Ten-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	(\$1,683,165)
2015	(\$1,389,165)
2016	(\$26,489,165)
2017	(\$93,789,165)
2018	(\$83,989,165)
2019	(\$133,989,165)
2020	(\$179,789,165)
2021	(\$225,289,165)
2022	(\$267,089,165)
2023	(\$305,989,165)

All Funds, Ten-Year Impact:

Fiscal Year	Probable (Cost) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>Foundation School</i> <i>Fund</i> 193	Probable Revenue (Loss) from <i>School Districts</i>	Change in Number of State Employees from FY 2013
2014	(\$1,683,165)	\$0	\$0	14.5
2015	(\$1,389,165)	\$0	\$0	12.6
2016	(\$1,389,165)	(\$25,100,000)	(\$38,677,581)	12.6
2017	(\$1,389,165)	(\$92,400,000)	(\$82,590,119)	12.6
2018	(\$1,389,165)	(\$82,600,000)	(\$132,598,225)	12.6
2019	(\$1,389,165)	(\$132,600,000)	(\$178,372,072)	12.6
2020	(\$1,389,165)	(\$178,400,000)	(\$223,858,687)	12.6
2021	(\$1,389,165)	(\$223,900,000)	(\$265,712,626)	12.6
2022	(\$1,389,165)	(\$265,700,000)	(\$304,625,382)	12.6
2023	(\$1,389,165)	(\$304,600,000)	(\$340,578,025)	12.6

Fiscal Analysis

The bill would amend Chapter 313 of the Tax Code, relating to the Texas Economic Development Act.

Section 1 of the bill would amend legislative "Findings" in Tax Code, Section 313.002. Section 1 of the bill would also amend "Purposes" in Tax Code, Section 313.003.

Section 1 of the bill would also amend Tax Code, Section 313.004 to clarify that only entities subject to Chapter 171 are eligible for benefits under the chapter. The bill would clarify that economic development decisions involving school district taxes should occur at the local level with oversight by the state and should be consistent with identifiable statewide economic development goals. The bill would also clarify that, in implementing Chapter 313, the comptroller should strictly interpret the criteria and selection guidelines provided by this chapter and issue certificates for limitations on appraised value only for those applications for an ad valorem tax benefit provided that they create high-paying jobs, provide a net benefit to the state over the long term, and advance the economic goals of this state.

Section 1 of the bill would also amend Tax Code, Section 313.007 to extend the expiration date of Subchapters B and C, Chapter 313, Tax Code from December 31, 2014 to December 31, 2022. Subchapter D, related to tax credits, is repealed in Section 21 of the bill.

Section 2 of the bill would add a new Tax Code, Section 313.010 to require the State Auditor to review at least three major limitation agreements annually, and make recommendations to increase the efficiency and effectiveness of the administration of the chapter.

Section 3 of the bill would amend the definition of qualified property under 313.021(2) to permit tangible personal property placed in service in a newly expanded building to be qualified property.

Section 3 of the bill would amend the definition of "qualifying job" in Tax Code, Section 313.021(3) to delete language that currently allows the minimum required wage standard for qualifying jobs to be 110 percent of the county average weekly wage for all jobs in a county if the project creates more than 1,000 jobs. The requirement that a Subchapter B applicant create at least 25 "new jobs" would be changed to at least 25 "new qualifying jobs" in an amended Section

313.021(2)(A)(iv)(b) in Section 3 of the bill. The requirement that a Subchapter C applicant create at least 10 "new jobs" would be changed to at least 10 "new qualifying jobs" in an amended Section 313.051(b) in Section 16 of the bill. The current law provision that "at least 80 percent of all the new jobs created by the property owner must be qualifying jobs" would be deleted in both Subchapters B and C, in amended Sections 313.024(d) and 313.051(b).

Section 3 of the bill would add a new subsection 313.021(3)(F) to allow both Subchapter B and Subchapter C applicants to alternatively satisfy their minimum "new qualifying job" requirement if the Texas Workforce Commission (TWC) determines that the cumulative economic benefit of related jobs created in connection with the project is the same or greater than that associated with the minimum number of required jobs. The TWC would be given rule-making authority to implement this provision.

Section 3 of the bill adds language that requires that the average wage for all jobs that are not qualifying jobs exceed the average weekly wage for all jobs in the county.

Section 4 of the bill would create a new subsection 313.024(d-2) to allow the Governor's Office of Texas Economic Development and Tourism to determine that two or more projects in different school districts, covered by two or more limitation agreements, may constitute a "single unified project." The new qualifying jobs created in each agreement in a unified project could be considered together when determining if the minimum new qualifying jobs requirement has been satisfied. The Office of Texas Economic Development and Tourism would be given rule-making authority to implement this provision.

Section 4 of the bill would amend Tax Code, 313.024(b) to expand the types of properties eligible for a value limitation to include a "Texas priority project." Section 5 of the bill would amend Tax Code, Section 313.024(e) to define a Texas priority project as a project on which the applicant has committed to expend or allocate a qualified investment of more than \$1 billion.

Section 6 of the bill would amend Tax Code, Section 313.025 to require the governing board of a school district to submit a copy of the application to the comptroller and request the comptroller conduct an economic impact evaluation of the investment proposed by the application. The bill would require the comptroller to provide the school board with an economic impact evaluation along with the comptroller's certificate or written explanation and recommendation, if requested, not later than the 90th day after the date the comptroller receives the application.

Section 6 of the bill would also amend Tax Code, Section 313.025 to require the Texas Education Agency to determine the effect that the applicant's proposal would have on the number or size of the school district's instructional facilities and submit a written report to the school district instead of the comptroller.

Section 6 of the bill would also amend Tax Code, Section 313.025 to require the comptroller, no later than 90 days after the receipt of the application, to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district, or provide the governing body a written explanation of the comptroller's decision not to issue a certificate.

Section 6 of the bill would also amend Tax Code, Section 313.025 to require that a governing body of a school district may not approve an application unless the comptroller submits to the governing body a certificate for a limitation on appraised value of the property.

Section 7 of the bill would amend Tax Code, Section 313.026 to require the economic impact evaluation to include any information the comptroller determines is necessary or helpful to the

governing body of the school district in determining whether to approve the application. The itemized list of criteria required to be included in the economic impact evaluation under current law would be deleted [Section 313.026(a)(1) through Section 313.026(a)(20)]. The bill would require the comptroller to not issue a certificate for a limitation on appraised value unless the comptroller determines that "the project proposed by the applicant is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue, including state tax revenue, school district maintenance and operations ad valorem tax revenue attributable to the project, and any other tax revenue attributable to the effect of the project on the economy of the state, in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement." Before issuing a certificate of limitation, the comptroller would also be required to determine that the limitation on appraised value is a determining factor by the applicant in determining whether to invest capital and construct the project in this state. The bill would authorize the comptroller to make a "qualitative determination" that "other considerations associated with the project result in a net positive benefit to the state," and issue the certificate.

Section 8 of the bill would amend Tax Code, Section 313.0265 to make conforming changes related to the repeal of Subchapter D.

Section 9 of the bill would create 313.027 (a-1) to provide that a limitation period applies for a period of 10 years, and specifies three options for the start date of the limitation.

Section 9 of the bill would amend Tax Code, Section 313.027 to limit the deferral date on which a qualifying time period could begin to a date not later than January 1 of the sixth tax year after the date the application is approved. The bill would prohibit any supplemental payments from property owners to school districts, or to an entity that exists primarily to provide financial or material support to the school district, in an amount that exceeds an amount equal to the greater of \$100 per student per year in average daily attendance or \$50,000 per year, or for a period ending 3 years after the limitation period.

Section 10 of the bill would amend Tax Code, Section 313.0275 to allow a person to request and the comptroller to grant a waiver of a penalty imposed in the event of casualty loss. Section 10 also strikes language that requires recipients to create the number of qualifying jobs in each year of the agreement.

Section 11 of the bill would create an annual review process by the comptroller and penalty provisions by the applicant for failing to meet the requirements for creating qualifying jobs.

Section 12 of the bill would amend Tax Code, Section 313.031 to clarify that the amount of the application fee may not exceed the estimated cost to the district of processing and acting on an application, including any costs to the school district associated with the economic impact evaluation.

Section 13 of the bill would amend Tax Code, Section 313.032 to modify the types of data the comptroller must include in the required "Report on Compliance with Agreements." The bill would require the report to include an assessment of agreements considered in the aggregate. The bill would authorize the comptroller to use standard economic estimation techniques, including economic multipliers in preparing the report. The bill would require that data must be based on data certified to the comptroller by each recipient, or former recipient of a limitation on appraised value.

Section 14 of the bill would create a report on compliance with job-creation requirements due

annually by limitation recipients. The report would be submitted to the comptroller.

Section 15 of the bill would change Subchapter C's title to "Limitation on Appraised Value of Property in Strategic Investment Area or Certain Rural Districts."

Section 16 the bill would amend Tax Code, Section 313.051 to create a definition of a strategic investment area as an area the comptroller determines is a county within this state with unemployment above the state average and per capita income below the state average, an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community, or a defense economic readjustment zone designated under Chapter 2310, Government Code.

Section 16 of the bill would amend Tax Code, 313.051 to require the comptroller to determine demographic eligibility under Subchapter C using the latest two federal censuses, and to also consider the average rate of population increase in the state during the same period.

Section 16 of the bill would also amend Tax Code, Section 313.051 to require the comptroller, not later than September 1 of each year, to determine areas that qualify as a strategic investment area using the most recently completed full calendar year data available on that date and, not later than October 1, publish a list and map of the designated areas. The determination would be effective for the following tax year.

Section 17 of the bill would amend 313.0054(a) to require, under subchapter C, the amount the limitation on appraised value to increase from a range of \$1,000,000 to \$30,000,000 to a range of \$10,000,000 to \$30,000,000.

Section 19 of the bill would amend Tax Code, Section 313.171 to state the repeal of Subchapter D does not affect a property owner's entitlement to a tax credit granted prior to the repeal.

Sections 20 and 21 of the bill would amend Education Code, Sections 42.2515 and 42.302 to make conforming changes related to repeal of Subchapter D.

Section 22 of the bill would repeal Tax Code, Sections 313.008 and 313.009 regarding redundant reporting requirements, as well as Subchapter D, "School Tax Credits." Future Chapter 313 project owners would receive a ten-year benefit from the limitation on appraised value, with no benefit through a tax credit.

Section 23 of the bill states that changes within this Act would only apply to applications filed on or after the effective date of this Act, with certain exceptions for projects with agreements entered into after January 1, 2013. Such projects could be exempted from current law wage and jobs requirements and allowed to access the amended, more flexible job and wage requirements proposed in this bill, which if enacted, would otherwise take effect January 1, 2014.

Section 24 of the bill clarifies the comptroller shall make the initial determinations of areas that qualify as a strategic investment not later than September 1, 2014 and shall publish the initial list and map required not later than October 1, 2014.

The bill would take effect January 1, 2014.

Methodology

Currently, Subchapters B, C, and D of Tax Code, Chapter 313 expire December 31, 2014.

The estimate assumes a 10 year limitation period but no tax credit benefit.

Extending the expiration of Subchapters B and C of the Act would allow eight more years, or "classes," of applicant projects. Investment and taxable value estimates for each model project were derived using data from existing Chapter 313 agreements executed in 2012. Different distributions of project investment amounts or locations would result in different estimated school district Maintenance and Operation (M&O) property tax levy losses. This estimate assumes no significant avoidance of wage and job requirements through the hiring of contract personnel.

The state would incur cost under the Foundation School Program (FSP) corresponding to local M&O revenue losses. Costs of \$25.1 million are estimated beginning in FY 2016, increasing to \$82.6 million by FY 2018 and \$304.6 million by FY 2023. Different distributions of project investment amounts or locations from that estimate described in the preceding paragraphs would affect state costs under the FSP.

The proposed reduction in the wage standard, the reduced "new qualifying jobs" requirement, and the elimination of the requirement that 80 percent of all jobs be qualifying jobs would allow more applicants to access the program.

The fiscal impact for the addition of eligibility for "priority projects" cannot be determined.

A provision for the Governor's Office to allow projects with multiple limitation agreements in different school districts to be considered "a single unified project" for the purposes of meeting the minimum "new qualifying jobs" requirement would not have a significant fiscal impact.

The General Revenue Costs for the Comptroller of Public Accounts reflect the funds that would be necessary to hire 7 (Full-time Equivalents) FTEs to handle the new duties outlined in this legislation including expanded economic impact evaluations and data collection, additional applications due to amended eligibility requirements, and to conduct job and wage compliance audits.

The General Revenue costs for the State Auditor's Office reflect the funds needed to hire an estimated 7.5 FTEs in fiscal year 2014 and 5.6 FTEs in every year thereafter to complete the audits required by Section 2 of the bill.

Local Government Impact

School districts entering into Chapter 313 agreements would benefit from additional Foundation School Program aid or reductions in recapture corresponding to losses in local M&O revenue resulting from the limitation on taxable value of affected property. Estimated losses in local M&O revenue are noted in the tables above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: UP, RB, SD, KK, JSp

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

83RD LEGISLATIVE REGULAR SESSION

May 25, 2013

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3390** by Hilderbran (Relating to the Texas Economic Development Act; imposing a penalty.), **Conference Committee Report**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

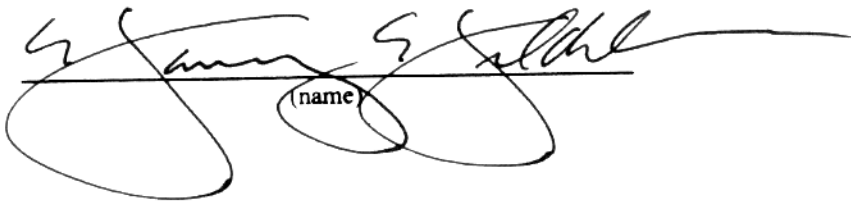
Source Agencies:

LBB Staff: UP, KK

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 3390 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.


(name)

5/25/13
(date)