concealed handgun under Subchapter H, Chapter 411, Government Code, as amended by this Act.

SECTION 16. This Act takes effect immediately if it 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 Act takes effect September 1, 2013.

Passed by the House on May 8, 2013: Yeas 147, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3142 on May 23, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 3142 on May 28, 2013: Yeas 143, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 21, 2013: Yeas 28, Nays 3; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 3142 on May 26, 2013: Yeas 28, Nays 2.

Approved June 14, 2013.
Effective June 14, 2013.

CHAPTER 1303

H.B. No. 3209

AN ACT relating to creating a recognition day in honor of Willie Velasquez.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter C, Chapter 662, Government Code, is amended by adding Section 662.060 to read as follows:

Sec. 662.060. WILLIE VELASQUEZ DAY. (a) May 9 is Willie Velasquez Day in observance of the birthday of William "Willie" Cardenas Velasquez.

(b) Willie Velasquez Day shall be regularly observed by appropriate ceremonies and activities.

SECTION 2. This Act takes effect September 1, 2013.

Passed by the House on May 2, 2013: Yeas 143, Nays 4, 2 present, not voting; the House concurred in Senate amendments to H.B. No. 3209 on May 24, 2013: Yeas 143, Nays 2, 2 present, not voting; passed by the Senate, with amendments, on May 22, 2013: Yeas 27, Nays 4.

Approved June 14, 2013.
Effective September 1, 2013.

CHAPTER 1304

H.B. No. 3390

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:
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 1992 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 this state does not favor capital-
-intensive businesses such as manufacturers.

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

(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 [now,] 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:

(1) 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;

(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:

(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 expire December 31, 2022 [2014].

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

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

(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 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.

(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.

SECTION 4. 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 [Subchapter 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:

(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 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; [and]
(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 90 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.

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

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

(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 313.025.

(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 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.

(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 applicant. 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 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 313.025(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:

(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 31st] 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].

(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:

(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].

(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 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.

(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.

(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.

SECTION 7. 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 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 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 property described in the application [recommendations] shall be based on the economic impact evaluation described by Subsection (a) [criteria listed in Subsections (a)(3) (20)] and 3323.
on any other information available to the comptroller, including information provided by the
governing body of the school district [under Section 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:

(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

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

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

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

(f) 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 8. 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 313.100].

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) 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
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.

(f) 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
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 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.

(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 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 313.021.

(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 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 described by Section 313.021 and ending December 31 of the third tax year after the date the person's eligibility for a limitation under this chapter expires. This limit does not apply to amounts described by Section 313.0275 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 and the limitation.

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

(a) Notwithstanding any other provision of this chapter to the contrary, a person with whom a school district enters into an agreement under this subchapter must make the minimum amount of qualified investment during the qualifying time period.

(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 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 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 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) A job created by a person that is not a qualifying job because the job does not meet a numerical requirement of Section 313.021(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.

(g) 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.

(h) 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.

(i) 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.

(j) 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 this chapter.

(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) 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.

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

(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 economic impact evaluation required by Section [Sections] 313.025 (and 312.026).

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 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) [44] the number of qualifying jobs each recipient of a limitation on appraised value committed to create;
(B) [29] the number of qualifying jobs each recipient created;
(C) [33] the total amount of wages and the median wage of the new qualifying jobs each recipient created;
(D) [44] the amount of the qualified investment each recipient committed to spend or allocate for each project;
(E) [55] the amount of the qualified investment each recipient spent or allocated for each project;
(F) [66] 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) [47] the limitation on appraised value for the qualified property of each recipient;
(H) [66] 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) [69] 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
[(I) of the number of new jobs each recipient created, the number of jobs created that provide health benefits for employees].

(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.

(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.

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 the number of qualifying jobs created.

SECTION 15. 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 16. 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 C, Chapter 171, immediately before this 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

(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].

(a-2) [ (a-4)] 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.

(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.
(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 at least 10 new qualifying jobs as defined by Section 313.021(3) 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 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.

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:

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>MINIMUM AMOUNT OF LIMITATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>$30 million</td>
</tr>
<tr>
<td>II</td>
<td>$25 [$20] million</td>
</tr>
<tr>
<td>III</td>
<td>$20 [$15] million</td>
</tr>
<tr>
<td>IV</td>
<td>$15 [§10] million</td>
</tr>
<tr>
<td>V</td>
<td>$10 [$5] million</td>
</tr>
</tbody>
</table>

SECTION 18. 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 19. 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 20. 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 21. 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.

SECTION 22. The following provisions of the Tax Code are repealed:
(1) Sections 313.008 and 313.009; and
(2) Subchapter D, Chapter 313.
compliance with the provisions of that chapter, as amended by this Act, relating to the creation of new jobs, including Section 313.021(3), Tax Code, and Section 313.024(d) or 313.051(b), Tax Code, as applicable.

SECTION 24. 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.

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

Passed by the House on May 4, 2013: Yeas 129, Nays 7, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3390 on May 24, 2013, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 3390 on May 26, 2013: Yeas 138, Nays 6, 2 present, not voting; passed by the Senate, with amendments, on May 21, 2013: Yeas 29, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 3390 on May 26, 2013: Yeas 31, Nays 0.

Approved June 14, 2013.
Effective January 1, 2014.

CHAPTER 1305

H.B. No. 3536

AN ACT
relating to imposing a fee on the sale of cigarettes and cigarette tobacco products manufactured by certain companies; providing penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 161, Health and Safety Code, is amended by adding Subchapter V to read as follows:

SUBCHAPTER V. FEE ON CIGARETTES AND CIGARETTE TOBACCO PRODUCTS MANUFACTURED BY CERTAIN COMPANIES

Sec. 161.601. PURPOSE. The purpose of this subchapter is to:

(1) recover health care costs to the state imposed by non-settling manufacturers;

(2) prevent non-settling manufacturers from undermining this state's policy of reducing underage smoking by offering cigarettes and cigarette tobacco products at prices that are substantially below the prices of cigarettes and cigarette tobacco products of other manufacturers;

(3) protect the tobacco settlement agreement and funding, which has been reduced because of the growth of sales of non-settling manufacturer cigarettes and cigarette tobacco products, for programs that are funded wholly or partly by payments to this state under the tobacco settlement agreement and recoup for this state settlement payment revenue lost because of sales of non-settling manufacturer cigarettes and cigarette tobacco products;

(4) ensure evenhanded treatment of manufacturers and further protect the tobacco settlement agreement and funding by imposing a partial payment obligation on non-settling manufacturers that already make payments on Texas sales under the master settlement agreement until a credit amendment to that agreement that will provide those manufacturers with a credit for payments to Texas is effective; and

(5) provide funding for any purpose the legislature determines.

Sec. 161.602. DEFINITIONS. In this subchapter:

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