A BILL TO BE ENTITLED

AN ACT

relating to the use of certain surplus state revenue, in certain circumstances, to adjust franchise tax rates to phase out the franchise tax and to the expiration of that tax.

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

SECTION 1. Sections 171.002(a) and (b), Tax Code, are amended to read as follows:

(a) Subject to Sections 171.003, 171.004, and 171.1016 and except as provided by Subsection (b), the rate of the franchise tax is 0.75 percent of taxable margin.

(b) Subject to Sections 171.003, 171.004, and 171.1016, the rate of the franchise tax is 0.375 percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

SECTION 2. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.004 to read as follows:

Sec. 171.004. ADJUSTMENT OF TAX RATES. (a) As soon as practical after September 1, but before December 15, of each odd-numbered year, the comptroller shall determine:

(1) the ending balance of general revenue related funds available for certification for the preceding state fiscal biennium; and

(2) the tax rates for purposes of Sections 171.002(a) and (b) and Section 171.1016 that, if applied beginning January 1 of
the next year, are estimated to yield an amount of revenue for the
state fiscal biennium in which the determination is made equal to
the lesser of:
(A) the ending balance determined under
Subdivision (1); or
(B) $3.5 billion.
(b) Not later than December 15 of each odd-numbered year,
the comptroller shall:
(1) determine the adjusted tax rates, which are the
tax rates under Sections 171.002(a) and (b) and Section 171.1016 in
effect on the date the comptroller makes the determination under
Subsection (a)(2) less the tax rates determined under Subsection
(a)(2); and
(2) except as provided by Subsection (e):
(A) adopt the adjusted tax rates determined under
Subdivision (1);
(B) publish notice of the adjusted tax rates in
the Texas Register; and
(C) provide any other notice relating to the
adjusted tax rates that the comptroller considers appropriate.
(c) In determining the tax rates under Subsection (a)(2) and
the adjusted tax rates under Subsection (b)(1), the comptroller
shall ensure that the adjusted tax rates reflect proportional
reductions to the tax rates in effect under Sections 171.002(a) and
(b) and Section 171.1016 at the time the determinations are made.
(d) The adjusted tax rates adopted under Subsection (b):
(1) apply to a report originally due on or after
January 1 of the even-numbered year following the date the rates are
adopted; and

(2) are considered for purposes of this chapter to be
the rates provided by and imposed under Section 171.002 or
171.1016, as applicable.

(e) In the state fiscal year in which the adjusted tax rates
determined under Subsection (b)(1) are less than 15 percent of the
tax rates under Sections 171.002(a) and (b) and Section 171.1016 in
effect on September 1, 2017:

(1) this chapter expires on December 31 of that year;
and

(2) not later than December 15 of that year the
comptroller shall:

(A) publish notice in the Texas Register that an
entity previously subject to the tax imposed under this chapter is
not required to file or pay the tax in connection with a report that
would otherwise be originally due on or after January 1 of the next
year; and

(B) provide any other notice relating to the
expiration of the tax that the comptroller considers appropriate.

(f) An action taken by the comptroller under this section is
final and may not be appealed.

(g) The comptroller shall adopt rules to implement this
section.

SECTION 3. Sections 171.1016(b) and (e), Tax Code, are
amended to read as follows:

(b) The amount of the tax for which a taxable entity that
elects to pay the tax as provided by this section is liable is computed by:

(1) determining the taxable entity's total revenue from its entire business, as determined under Section 171.1011;

(2) apportioning the amount computed under Subdivision (1) to this state, as provided by Section 171.106, to determine the taxable entity's apportioned total revenue; and

(3) multiplying the amount computed under Subdivision (2) by the rate of 0.331 percent or, if applicable, an adjusted tax rate determined under Section 171.004.

(e) A reference in this chapter or other law to the rate of the franchise tax means, as appropriate:

(1) the rate under Section 171.002 or, for a taxable entity that elects to pay the tax as provided by this section, the rate under this section; or

(2) the adjusted rates under Section 171.004.

SECTION 4. Chapter 171, Tax Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. EXPIRATION

Sec. 171.9321. EXPIRATION. This chapter expires on the date provided by Section 171.004(e)(1).

SECTION 5. (a) After Chapter 171, Tax Code, expires as provided by Subchapter Z, Chapter 171, Tax Code, as added by this Act:

(1) the provisions of former Chapter 171 and the provisions of Subtitle B, Title 2, Tax Code, continue to apply to audits, deficiencies, redeterminations, and refunds of any tax due
or collected under former Chapter 171 until barred by limitations;
and

(2) former Sections 171.206 through 171.210, Tax Code, continue to apply to information described by those sections.

(b) The expiration of Chapter 171, Tax Code, does not affect:

(1) the status of a taxable entity that has had its corporate privileges, certificate of authority, certificate of organization, certificate of limited partnership, corporate charter, or registration revoked, a suit filed against it, or a receiver appointed under former Subchapter F, G, or H of that chapter;

(2) the ability of the comptroller of public accounts, secretary of state, or attorney general to take action against a taxable entity under former Subchapter F, G, or H of that chapter for actions that took place before the chapter expired; or

(3) the right of a taxable entity to contest a forfeiture, revocation, lawsuit, or appointment of a receiver under former Subchapter F, G, or H of that chapter.

SECTION 6. This Act applies only to a report originally due on or after January 1, 2020.

SECTION 7. This Act takes effect September 1, 2019.