

1-1 By: Nelson S.B. No. 17
 1-2 (In the Senate - Filed February 2, 2017; February 6, 2017,
 1-3 read first time and referred to Committee on Finance;
 1-4 March 6, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 12, Nays 2; March 6, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Nelson	X			
1-9 Hinojosa	X			
1-10 Bettencourt	X			
1-11 Birdwell	X			
1-12 Hancock	X			
1-13 Huffman	X			
1-14 Kolkhorst	X			
1-15 Nichols	X			
1-16 Schwertner	X			
1-17 Seliger	X			
1-18 Taylor of Galveston	X			
1-19 Uresti			X	
1-20 Watson		X		
1-21 West	X			
1-22 Whitmire		X		

1-24 COMMITTEE SUBSTITUTE FOR S.B. No. 17 By: Hinojosa

1-25 A BILL TO BE ENTITLED
 1-26 AN ACT

1-27 relating to the decrease of the rates of the franchise tax under
 1-28 certain circumstances and the expiration of that tax.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Sections 171.002(a) and (b), Tax Code, are
 1-31 amended to read as follows:

1-32 (a) Subject to Sections 171.003, 171.004, and 171.1016 and
 1-33 except as provided by Subsection (b), the rate of the franchise tax
 1-34 is 0.75 percent of taxable margin.

1-35 (b) Subject to Sections 171.003, 171.004, and 171.1016, the
 1-36 rate of the franchise tax is 0.375 percent of taxable margin for
 1-37 those taxable entities primarily engaged in retail or wholesale
 1-38 trade.

1-39 SECTION 2. Subchapter A, Chapter 171, Tax Code, is amended
 1-40 by adding Section 171.004 to read as follows:

1-41 Sec. 171.004. ADJUSTMENT OF TAX RATES. (a) In this
 1-42 section:

1-43 (1) "Biennial revenue estimate" means the estimate of
 1-44 anticipated revenue to this state for the succeeding biennium that
 1-45 the comptroller prepares in accordance with Section 49a(a), Article
 1-46 III, Texas Constitution.

1-47 (2) "Current biennium" means the state fiscal biennium
 1-48 in which a biennial revenue estimate is submitted to the governor
 1-49 and legislature.

1-50 (3) "Succeeding biennium" means the state fiscal
 1-51 biennium beginning after the current biennium.

1-52 (b) The comptroller shall determine and include with the
 1-53 biennial revenue estimate:

1-54 (1) the amount of total general revenue-related funds
 1-55 that would be available for certification for the succeeding
 1-56 biennium assuming a franchise tax rate adjustment under this
 1-57 section does not take effect in that biennium;

1-58 (2) the percentage change between the amount of total
 1-59 general revenue-related funds available for certification for the
 1-60 current biennium, as provided by the biennial revenue estimate, and

2-1 the amount provided by Subdivision (1) for the succeeding biennium;
 2-2 (3) if the percentage change under Subdivision (2) is
 2-3 greater than five percent, the amount of total general
 2-4 revenue-related funds that would be available for certification for
 2-5 the succeeding biennium assuming the franchise tax rate adjustment
 2-6 under this section takes effect in the succeeding biennium; and
 2-7 (4) if the percentage change under Subdivision (2) is
 2-8 greater than five percent, the percentage change between the amount
 2-9 of total general revenue-related funds available for certification
 2-10 for the current biennium, as provided by the biennial revenue
 2-11 estimate, and the amount provided by Subdivision (3) for the
 2-12 succeeding biennium.

2-13 (c) If the percentage change determined under Subsection
 2-14 (b)(2) is greater than five percent, the comptroller shall
 2-15 determine the amount of revenue available for franchise tax
 2-16 reduction, which is computed as follows:

$$2-17 \text{FTR} = 0.5 \times (\text{SBGR} - (\text{CBGR} \times 1.05))$$

2-18 where:

2-19 "FTR" is the amount of revenue available for franchise tax
 2-20 reduction;

2-21 "SBGR" is the amount provided by Subsection (b)(1) for the
 2-22 succeeding biennium; and

2-23 "CBGR" is the amount of total general revenue-related funds
 2-24 available for certification for the current biennium, as provided
 2-25 by the biennial revenue estimate.

2-26 (d) This subsection applies only if the percentage change
 2-27 determined under Subsection (b)(2) is greater than five percent.
 2-28 Not later than the last day of a state fiscal biennium, the
 2-29 comptroller shall determine the rates for purposes of Sections
 2-30 171.002(a) and (b) and Section 171.1016 that, if effective
 2-31 beginning January 1 of the even-numbered year occurring during the
 2-32 succeeding biennium, are estimated to reduce the amount of revenue
 2-33 collected under this chapter for the succeeding biennium, as
 2-34 compared to the amount of revenue that would be collected if the
 2-35 rates then in effect remained in effect, by the amount of revenue
 2-36 available for franchise tax reduction determined under Subsection
 2-37 (c). In determining the rates under this subsection, the
 2-38 comptroller shall proportionally reduce the rates under Sections
 2-39 171.002(a) and (b) and Section 171.1016 that are in effect on the
 2-40 date the comptroller makes the determination.

2-41 (e) Not later than the last day of a state fiscal biennium,
 2-42 the comptroller shall:

2-43 (1) adopt the adjusted tax rates determined under
 2-44 Subsection (d), if applicable;

2-45 (2) publish notice of the adjusted tax rates in the
 2-46 Texas Register; and

2-47 (3) provide any other notice relating to the adjusted
 2-48 tax rates that the comptroller considers appropriate.

2-49 (f) The tax rates adopted under Subsection (e):

2-50 (1) apply to a report originally due on or after
 2-51 January 1 of the even-numbered year described by Subsection (d);
 2-52 and

2-53 (2) are considered for purposes of this chapter to be
 2-54 the rates provided by and imposed under Section 171.002 or
 2-55 171.1016, as applicable.

2-56 (g) If the percentage change determined under Subsection
 2-57 (b)(2) is not greater than five percent, the rates of the franchise
 2-58 tax in effect when the biennial revenue estimate is submitted to the
 2-59 governor and legislature remain in effect for the succeeding
 2-60 biennium unless modified by other law.

2-61 (h) Notwithstanding Subsection (d), if an adjustment
 2-62 otherwise required by that subsection would reduce a rate of the
 2-63 franchise tax to less than zero, the rate is instead reduced to
 2-64 zero.

2-65 (i) Notwithstanding any other law, if the rates of the
 2-66 franchise tax are reduced to zero under Subsection (d) or (h), a
 2-67 taxable entity does not owe any tax and is not required to file a
 2-68 report that would otherwise be originally due on or after the date
 2-69 those rates are reduced to zero.

3-1 (j) The comptroller may adopt rules related to making the
3-2 determinations required by this section.

3-3 (k) In the state fiscal year in which the rates of the
3-4 franchise tax are reduced to zero under Subsection (d) or (h):

3-5 (1) this chapter expires as provided by Section
3-6 171.9321; and

3-7 (2) not later than January 15 of that year the
3-8 comptroller shall:

3-9 (A) publish notice in the Texas Register that an
3-10 entity previously subject to the tax imposed under this chapter is
3-11 no longer required to file a report or pay the tax; and

3-12 (B) provide any other notice relating to the
3-13 expiration of the tax that the comptroller considers appropriate.

3-14 (l) An action taken by the comptroller under this section is
3-15 final and may not be appealed.

3-16 SECTION 3. Sections 171.1016(b) and (e), Tax Code, are
3-17 amended to read as follows:

3-18 (b) The amount of the tax for which a taxable entity that
3-19 elects to pay the tax as provided by this section is liable is
3-20 computed by:

3-21 (1) determining the taxable entity's total revenue
3-22 from its entire business, as determined under Section 171.1011;

3-23 (2) apportioning the amount computed under
3-24 Subdivision (1) to this state, as provided by Section 171.106, to
3-25 determine the taxable entity's apportioned total revenue; and

3-26 (3) multiplying the amount computed under Subdivision
3-27 (2) by the rate of 0.331 percent or, if applicable, an adjusted tax
3-28 rate determined under Section 171.004.

3-29 (e) A reference in this chapter or other law to the rate of
3-30 the franchise tax means, as appropriate:

3-31 (1) ~~the~~ the rate under Section 171.002 or, for a
3-32 taxable entity that elects to pay the tax as provided by this
3-33 section, the rate under this section; or

3-34 (2) the adjusted rates under Section 171.004.

3-35 SECTION 4. Chapter 171, Tax Code, is amended by adding
3-36 Subchapter Z to read as follows:

3-37 SUBCHAPTER Z. EXPIRATION
3-38 Sec. 171.9321. EXPIRATION. This chapter expires on

3-39 December 31 of the year in which the rates of the franchise tax
3-40 under Sections 171.002 and 171.1016 are reduced to zero under
3-41 Section 171.004(d) or (h).

3-42 SECTION 5. (a) After Chapter 171, Tax Code, expires as
3-43 provided by Subchapter Z, Chapter 171, Tax Code, as added by this
3-44 Act:

3-45 (1) Chapter 171 and Subtitle B, Title 2, Tax Code,
3-46 continue to apply to audits, deficiencies, redeterminations, and
3-47 refunds of any tax due or collected under Chapter 171 until barred
3-48 by limitations; and

3-49 (2) Sections 171.206 through 171.210, Tax Code,
3-50 continue to apply to information described by those sections.

3-51 (b) The expiration of Chapter 171, Tax Code, does not
3-52 affect:

3-53 (1) the status of a taxable entity that has had its
3-54 corporate privileges, certificate of authority, certificate of
3-55 organization, certificate of limited partnership, corporate
3-56 charter, or registration revoked, a suit filed against it, or a
3-57 receiver appointed under Subchapter F, G, or H of that chapter;

3-58 (2) the ability of the comptroller of public accounts,
3-59 secretary of state, or attorney general to take action against a
3-60 taxable entity under Subchapter F, G, or H of that chapter for
3-61 actions that took place before the chapter expired; or

3-62 (3) the right of a taxable entity to contest a
3-63 forfeiture, revocation, lawsuit, or appointment of a receiver under
3-64 Subchapter F, G, or H of that chapter.

3-65 SECTION 6. This Act applies only to a report originally due
3-66 on or after January 1, 2020.

3-67 SECTION 7. This Act takes effect September 1, 2017.

3-68 * * * * *