

By: Keffer of Eastland

H.B. No. 2234

A BILL TO BE ENTITLED

1 AN ACT

2 relating to taxes, fees, and programs administered by the
3 Comptroller.

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

5 SECTION 1. Section 161.081, Health and Safety Code, is
6 amended to read as follows:

7 (1) "Attempt" means committing an act amounting to
8 more than mere preparation that tends but fails to effect the
9 commission of the offense intended.

10 (2) [~~(1)~~] "Cigarette" has the meaning assigned by
11 Section 154.001, Tax Code.

12 (3) [~~(2)~~] "Permit holder" has the meaning assigned by
13 Section 154.001 or 155.001, Tax Code, as applicable.

14 (4) [~~(3)~~] "Retail sale" means a transfer of possession
15 from a retailer to a consumer in connection with a purchase, sale,
16 or exchange for value of cigarettes or tobacco products.

17 (5) [~~(4)~~] "Retailer" has the meaning assigned by
18 Section 154.001 or 155.001, Tax Code, as applicable.

19 (6) [~~(5)~~] "Tobacco product" has the meaning assigned
20 by Section 155.001, Tax Code.

21 (7) [~~(6)~~] "Wholesaler" has the meaning assigned by
22 Section 154.001 or 155.001, Tax Code, as applicable.

23 SECTION 2. Subchapter H, Chapter 161, Health and Safety
24 Code, is amended by adding Section 161.0821 to read as follows:

1 Sec. 161.0821. PURCHASE OF CIGARETTES OR TOBACCO PRODUCTS
2 BY PERSONS YOUNGER THAN 18 YEARS OF AGE PROHIBITED. (a) A person
3 who is younger than 18 years of age commits an offense if the person
4 purchases or attempts to purchase cigarettes or tobacco products.

5 (b) An offense under this section is a Class C misdemeanor.

6 SECTION 3. Subsection (a) of Section 285.063, Health and
7 Safety Code, is amended to read as follows:

8 (a) The adoption or abolition of the tax or change in the tax
9 rate takes effect on the first day of the first calendar quarter
10 occurring after the expiration of the first complete calendar
11 quarter occurring after the date on which the comptroller receives
12 a notice of the results of the election. Following an election to
13 adopt the tax under this section, the district must submit to the
14 comptroller a description of the boundaries of the district and a
15 map of the district clearly showing the district's boundaries at
16 the same time it submits the results of the election held as
17 provided by this chapter.

18 SECTION 4. Section 775.0753, Health and Safety Code, is
19 amended by adding Subsection (d) to read as follows:

20 (d) The district must submit to the comptroller a
21 description of the boundaries of the district and a map of the
22 district clearly showing the district's boundaries at the same time
23 it submits the results of the election held as provided by this
24 chapter.

25 SECTION 5. Section 776.0753, Health and Safety Code, is
26 amended by adding Subsection (d) to read as follows:

27 (d) The district must submit to the comptroller a

1 description of the boundaries of the district and a map of the
2 district clearly showing the district's boundaries at the same time
3 it submits the results of the election held as provided by this
4 chapter.

5 SECTION 6. Article 1.16(b), Insurance Code, is amended to
6 read as follows:

7 (b) Assessments for the expenses of such domestic
8 examination which shall be sufficient to meet all the expenses and
9 disbursements necessary to comply with the provisions of the laws
10 of Texas relating to the examination of insurance companies and to
11 comply with the provisions of this Article and Articles 1.17 and
12 1.18 of this Code, shall be made by the State Board of Insurance
13 upon the corporations or associations to be examined taking into
14 consideration annual premium receipts, and/or admitted assets that
15 are not attributable to 90 percent of pension plan contracts as
16 defined in Section 818(a) of the Internal Revenue Code of 1986 (26
17 U.S.C. Section 818(a)), and/or insurance in force;

18 provided such assessments shall be made and collected as follows:

19 (1) expenses attributable directly to a specific examination
20 including employees' salaries and expenses and expenses provided by
21 Article 1.28 of this Code shall be collected at the time of
22 examination; (2) assessments calculated annually for each
23 corporation or association which take into consideration annual
24 premium receipts, and/or admitted assets that are not attributable
25 to 90 percent of pension plan contracts as defined in Section 818(a)
26 of the Internal Revenue Code of 1986 (26 U.S.C. Section 818(a)),
27 and/or insurance in force shall be assessed annually for each such

1 corporation or association. In computing the assessments, the
2 board may not consider insurance premiums for insurance contracted
3 for by a state or federal governmental entity to provide welfare
4 benefits to designated welfare recipients or contracted for in
5 accordance with or in furtherance of Title 2, Human Resources Code,
6 or the federal Social Security Act (42 U.S.C. Section 301 et seq.).
7 The amount of all examination and evaluation fees paid in each
8 taxable year to the State of Texas by an insurance carrier shall be
9 allowed as a credit on the amount of premium taxes due [~~under this~~
10 ~~article~~]. The limitations provided by Sections 803.007(1) and
11 (2)(B) of this code for domestic insurance companies apply to
12 foreign insurance companies.

13 SECTION 7. Sections 221.002(b) and (c), Insurance Code, are
14 amended to read as follows:

15 (b) Except as provided by Subsection (c), in determining an
16 insurer's taxable premiums [~~premium receipts~~], the insurer shall
17 include the total gross amounts of premiums, membership fees,
18 assessments, dues, revenues, and any other considerations on
19 insurance written by the insurer in a calendar year from any kind of
20 insurance written on each and every kind of property or risks
21 located in this state, including:

- 22 (1) fire insurance;
- 23 (2) ocean marine insurance;
- 24 (3) inland marine insurance;
- 25 (4) accident insurance;
- 26 (5) credit insurance;
- 27 (6) livestock insurance;

- 1 (7) fidelity insurance;
- 2 (8) guaranty insurance;
- 3 (9) surety insurance;
- 4 (10) casualty insurance;
- 5 (11) workers' compensation insurance;
- 6 (12) employers' liability insurance; [~~and~~]
- 7 (13) crop insurance written by a farm mutual insurance
- 8 company; and
- 9 (14) home warranty insurance.

10 (c) The following premium receipts are not included in
11 determining an insurer's taxable premium receipts:

12 (1) premium receipts received from the business of
13 title insurance;

14 (2) premium receipts received from the business of
15 life insurance, personal accident insurance, life and accident
16 insurance, or health and accident insurance for profit, written by
17 a life insurance company, life and accident insurance company,
18 health and accident insurance company, or for mutual benefit or
19 protection in this state;

20 (3) premium receipts received from another authorized
21 insurer for reinsurance;

22 (4) returned premiums and dividends paid to
23 policyholders; [~~and~~]

24 (5) premiums excluded by another law of this state;
25 and

26 (6) premium finance charges clearly identified in a
27 premium note or other evidence of premiums payable that are

1 separately stated to the policyholder in an invoice, billing or
2 contract.

3 SECTION 8. Section 222.002(b), Insurance Code, is amended
4 to read as follows:

5 (b) Except as otherwise provided by this section, in
6 determining an insurer's taxable gross premiums or a health
7 maintenance organization's taxable gross revenues, the insurer or
8 health maintenance organization shall include the total gross
9 amounts of premiums, membership fees, assessments, dues, revenues,
10 and other considerations received by the insurer or health
11 maintenance organization in a calendar year from any kind of health
12 maintenance organization certificate or contract or insurance
13 policy or contract covering risks on individuals or groups [~~a~~
14 ~~person~~] located in this state and arising from the business of a
15 health maintenance organization or the business of life insurance,
16 accident insurance, health insurance, life and accident insurance,
17 life and health insurance, health and accident insurance, life,
18 health, and accident insurance, including variable life insurance,
19 credit life insurance, and credit accident and health insurance for
20 profit or otherwise or for mutual benefit or protection.

21 SECTION 9. Section 223.003(a), Insurance Code, is amended
22 to read as follows:

23 (a) An annual tax is imposed on all [~~each title insurance~~
24 ~~company that receives~~] premiums from the business of title
25 insurance. The rate of the tax is 1.35 percent of [~~the~~] title
26 insurance [~~company's~~] taxable premiums for a calendar year,
27 including any premiums retained by a title insurance agent as

1 provided by Section 223.005. For purposes of this chapter, a person
2 engages in the business of title insurance if the person engages in
3 an activity described by Section 2501.005.

4 SECTION 10. Section 252.003, Insurance Code is amended to
5 read as follows:

6 Sec. 252.003. PREMIUMS SUBJECT TO TAXATION. An insurer
7 shall pay maintenance taxes under this chapter on the correctly
8 reported gross premiums [~~collected~~] from writing insurance in this
9 state against loss or damage by:

- 10 (1) bombardment;
- 11 (2) civil war or commotion;
- 12 (3) cyclone;
- 13 (4) earthquake;
- 14 (5) excess or deficiency of moisture;
- 15 (6) explosion as defined by Article 5.52;
- 16 (7) fire;
- 17 (8) flood;
- 18 (9) frost and freeze;
- 19 (10) hail;
- 20 (11) insurrection;
- 21 (12) invasion;
- 22 (13) lightning;
- 23 (14) military or usurped power;
- 24 (15) an order of a civil authority made to prevent the
25 spread of a conflagration, epidemic, or catastrophe;
- 26 (16) rain;
- 27 (17) riot;

1 (18) the rising of the waters of the ocean or its
2 tributaries;

3 (19) smoke or smudge;

4 (20) strike or lockout;

5 (21) tornado;

6 (22) vandalism or malicious mischief;

7 (23) volcanic eruption;

8 (24) water or other fluid or substance resulting from
9 the breakage or leakage of sprinklers, pumps, or other apparatus
10 erected for extinguishing fires, water pipes, or other conduits or
11 containers;

12 (25) weather or climatic conditions; [~~or~~]

13 (26) windstorm;

14 (27) an event covered under a home warranty insurance
15 policy; or

16 (28) an event covered under an inland marine insurance
17 policy.

18 SECTION 11. Section 271.002(a), Insurance Code, is amended
19 to read as follows:

20 (a) A maintenance fee is imposed on all [~~each insurer with~~
21 ~~gross~~] premiums subject to assessment under Section 271.006.

22 SECTION 12. Section 1502.053, Insurance Code, is amended to
23 read as follows:

24 Section 1502.053. EXEMPTION FROM CERTAIN TAXES. (a) A
25 children's health benefit plan issuer is not subject to the premium
26 tax or the tax on revenues imposed under Chapter 222 with respect to
27 money received for coverage provided under that plan.

1 (b) A children's health benefit plan issuer is not subject
2 to the retaliatory tax imposed under Chapter 281 with respect to
3 money received for coverage provided under that plan.

4 SECTION 13. Section 383.101, Local Government Code, is
5 amended by adding Subsection (d) to read as follows:

6 (d) The district must submit to the comptroller a
7 description of the boundaries of the district and a map of the
8 district clearly showing the district's boundaries at the same time
9 it submits the results of the election held as provided by this
10 chapter.

11 SECTION 14. Section 387.012, Local Government Code, is
12 amended to read as follows:

13 Section 387.012. EFFECTIVE DATE OF TAX. (a) The adoption
14 of the tax, the change of the tax rate, or the repeal of the tax
15 takes effect on the first day of the first calendar quarter
16 occurring after the expiration of the first complete quarter
17 occurring after the date the comptroller receives a notice of the
18 results of the election adopting, changing, or repealing the tax.

19 (b) The district must submit to the comptroller a
20 description of the boundaries of the district and a map of the
21 district clearly showing the district's boundaries at the same time
22 it submits the results of the election held as provided by this
23 chapter.

24 SECTION 15. Section 111.009, Tax Code, is amended by
25 amending subsection (a) and adding new subsections (e) and (f), to
26 read as follows:

27 (a) A person having a direct interest in a determination may

1 petition the comptroller for a redetermination and may assert legal
2 and factual grounds to challenge the assessment.

3 (e) The person filing the petition may assert credits or
4 claim a refund for the same tax type and same period to offset the
5 assessment. Any credits asserted or refund claimed must be
6 included in the petition or must be filed within the applicable
7 limitations period, except as otherwise provided by this section.
8 The comptroller shall promulgate procedural rules that ensure that
9 redetermination proceedings are expeditiously finalized and that
10 provide that all parties receive equal time to prepare and submit
11 their positions prior to the hearing.

12 (f) A credit or refund for the same tax type and same period
13 may be filed in the redetermination proceeding for all issues if the
14 credit is asserted or the refund is claimed within one (1) year from
15 the date of filing of the petition for redetermination. This
16 provision does not authorize the filing of a separate refund or
17 credit that is not authorized by Section 111.107(b).

18 SECTION 16. Section 111.010, Tax Code, is amended by adding
19 Subsection (e) to read as follows:

20 (e) A judgment in a suit arising under this section remains
21 valid and enforceable until satisfied and does not require periodic
22 renewal. The provisions of Section 34.001, Civil Practice and
23 Remedies Code, shall not apply to a judgment in a suit arising under
24 this section.

25 SECTION 17. Section 111.016, Tax Code, is amended by adding
26 Subsection (e) to read as follows:

27 (e) The Comptroller may assess the responsible individual

1 liable under subsection(b) of this section at any time before the
2 expiration of one year after the later of the date the tax liability
3 of the corporation, association, limited liability company,
4 limited partnership or other legal entity becomes final or the date
5 the bankruptcy proceeding is closed or dismissed.

6 SECTION 18. Subchapter B, Chapter 111, Tax Code, is amended
7 by adding Section 111.0511 to read as follows:

8 Sec. 111.0511. RESTRICTED OR CONDITIONAL PAYMENTS OF TAXES,
9 PENALTIES, AND INTEREST PROHIBITED. Unless the restriction or
10 condition is authorized by this title, a restriction or condition
11 placed on a check in payment of taxes by the maker that purports to
12 limit the amount of taxes owed to an amount less than that stated in
13 the comptroller's records, or a restriction or condition placed on
14 a check in payment of penalties and interest on delinquent taxes by
15 the maker that purports to limit the amount of the penalties and
16 interest to an amount less than the amount of penalties and interest
17 accrued on the delinquent taxes, is void.

18 SECTION 19. Section 111.0625. Tax Code, is amended to read
19 as follows:

20 Section 111.0625. ELECTRONIC TRANSFER OF CERTAIN PAYMENTS.

21 (a) The comptroller by rule shall require a taxpayer who paid
22 \$100,000 or more during the preceding fiscal year in a category of
23 payments required under this title to transfer payments in that
24 category by means of electronic funds transfer in accordance with
25 Section 404.095, Government Code, if the comptroller reasonably
26 anticipates the person will pay at least that amount during the
27 current fiscal year.

1 (b) The comptroller may by rule reduce the amount provided
2 in subsection (a) of this section to \$50,000 or more.

3 SECTION 20. Section 111.107(a), Tax Code, is amended to
4 read as follows:

5 (a) Except as otherwise expressly provided, a person may
6 request a refund or a credit or the comptroller may make a refund or
7 issue a credit for the overpayment of a tax imposed by this title at
8 any time before the expiration of the period during which the
9 comptroller may assess a deficiency for the tax and not thereafter
10 unless the refund or credit is requested:

11 (1) under Subchapter B of Chapter 112 and the refund is
12 made or the credit is issued under a court order;

13 (2) under the provision of Section 111.104(c)(3)
14 applicable to a refund claim filed after a jeopardy or deficiency
15 determination becomes final; or

16 (3) under Chapter 162 [~~153~~], except Section 162.126(f)
17 [~~153.1195(e)~~], 162.128(d) [~~153.121(d)~~], 162.228(f) [~~153.2225(e)~~],
18 or 162.230(d) [~~153.224(d)~~].

19 SECTION 21. Section 151.006, Tax Code, is amended to read as
20 follows:

21 Sec. 151.006. SALE FOR RESALE. "Sale for resale" means a
22 sale of:

23 (1) tangible personal property or a taxable service to
24 a purchaser who acquires the property or service for the purpose of
25 reselling it in the United States of America or a possession or
26 territory of the United States of America or in the United Mexican
27 States in the normal course of business in the form or condition in

1 which it is acquired or as an attachment to or integral part of
2 other tangible personal property or taxable service;

3 (2) tangible personal property to a purchaser for the
4 sole purpose of the purchaser's leasing or renting it in the United
5 States of America or a possession or territory of the United States
6 of America or in the United Mexican States in the normal course of
7 business to another person, but not if incidental to the leasing or
8 renting of real estate;

9 (3) tangible personal property to a purchaser who
10 acquires the property for the purpose of transferring it in the
11 United States of America or a possession or territory of the United
12 States of America or in the United Mexican States as an integral
13 part of a taxable service; or

14 (4) a taxable service performed on tangible personal
15 property that is held for sale by the purchaser of the taxable
16 service.

17 SECTION 22. Section 151.011(a), Tax Code, is amended to
18 read as follows:

19 (a) Except as provided by Subsection (c) of this section,
20 "use" means the exercise of a right or power incidental to the
21 ownership of tangible personal property over tangible personal
22 property, including tangible personal property other than printing
23 [~~printed~~] material that has been processed, fabricated, or
24 manufactured into other property or attached to or incorporated
25 into other property transported into this state, and, except as
26 provided by Section 151.056(b) of this code, includes the
27 incorporation of tangible personal property into real estate or

1 into improvements of real estate whether or not the real estate is
2 subsequently sold.

3 SECTION 23. Section 151.3111(b), Tax Code, is amended to
4 read as follows:

5 (b) Subsection (a) does not apply to the performance of a
6 service on:

7 (1) tangible personal property that would be exempted
8 solely because of the exempt status of the seller of the property;

9 (2) tangible personal property that is exempted solely
10 because of the application of Section 151.303, 151.304, or 151.306;

11 (3) motor vehicles, trailers, or semitrailers as
12 defined, taxed, or exempted by Chapter 152; ~~[or]~~

13 (4) a taxable boat or motor as defined by Section
14 160.001; ~~[or]~~

15 (5) ~~[(6)]~~ tangible ~~[Tangible]~~ personal property
16 exempt under Section 151.326; or

17 (6) through December 31, 2007, tangible personal
18 property that is exempted solely because of the application of
19 Section 151.3162.

20 SECTION 24. Section 151.3162(d), Tax Code, is amended to
21 read as follows:

22 (d) The exemption provided by Subsection (b) takes effect
23 January 1, 2008. Until that date, a person is entitled to an
24 exemption ~~[a credit or refund]~~ of a portion of the taxes paid under
25 this chapter on an item that after January 1, 2008, will be exempted
26 from the taxes imposed by this chapter under Subsection (b).

27 SECTION 25. Subsection (c)(1) of Section 151.318, Tax Code,

1 is amended to read as follows:

2 (c) The exemption does not include:

3 (1) intraplant transportation equipment, including
4 intraplant transportation equipment used to move a product or raw
5 material in connection with the manufacturing process and
6 specifically including all piping and conveyor systems, provided
7 that the following remain eligible for the exemption:

8 (A) piping or conveyor systems that are a
9 component part of a single item of manufacturing equipment or
10 pollution control equipment eligible for the exemption under
11 Subsection (a)(2), (a)(4), or (a)(5);

12 (B) piping or conveyor systems through which the
13 product or an intermediate or preliminary product that will become
14 an ingredient or component part of the product is recycled or
15 circulated in a loop between the single item of manufacturing
16 equipment and the ancillary equipment that supports only that
17 single item of manufacturing equipment if the single item of
18 manufacturing equipment and the ancillary equipment operate
19 together to perform a specific step in the manufacturing process;
20 and

21 (C) piping or conveyor systems through which the
22 product or an intermediate or preliminary product that will become
23 an ingredient or component part of the product is recycled back to
24 another single item of manufacturing equipment and its ancillary
25 equipment in the same manufacturing process;

26 (2) hand tools;

27 (3) maintenance supplies not otherwise exempted under

1 this section, maintenance equipment, janitorial supplies or
2 equipment, office equipment or supplies, equipment or supplies used
3 in sales or distribution activities, research or development of new
4 products, or transportation activities;

5 (4) machinery and equipment or supplies to the extent
6 not otherwise exempted under this section used to maintain or store
7 tangible personal property; or

8 (5) tangible personal property used in the
9 transmission or distribution of electricity, including
10 transformers, cable, switches, breakers, capacitor banks,
11 regulators, relays, reclosers, fuses, interruptors, reactors,
12 arrestors, resistors, insulators, instrument transformers, and
13 telemetry units not otherwise exempted under this section, and
14 lines, conduit, towers, and poles.

15 SECTION 26. Sec. 154.111(b), Tax Code, is amended to read
16 as follows:

17 (b) An application for a permit required by this chapter
18 must be accompanied by a fee of:

19 (1) \$300 for a bonded agent's permit;

20 (2) \$300 for a distributor's permit;

21 (3) \$200 for a wholesaler's permit;

22 (4) \$15 for each permit for a vehicle if the applicant
23 is also applying for a permit as a bonded agent, distributor, or
24 wholesaler or has received a current permit from the comptroller
25 under Sections 154.101 and 154.110; ~~and~~

26 (5) \$180 for a retailer's permit; and

27 (6) \$300 for a manufacturer's permit.

1 SECTION 27. Section 154.509, Tax Code, is amended to read as
2 follows:

3 Sec. 154.509. PERMITS. A person commits an offense if the
4 person:

5 (1) as a manufacturer, distributor, bonded agent,
6 importer, wholesaler, or retailer, receives or possesses
7 cigarettes without having a valid permit;

8 (2) as a manufacturer, distributor, bonded agent,
9 importer, wholesaler, or retailer, receives or possesses
10 cigarettes without having a permit posted where it can be easily
11 seen by the public;

12 (3) as a distributor or wholesaler, does not deliver
13 an invoice to the purchaser as required by Section 154.203;

14 (4) as a manufacturer, distributor, bonded agent,
15 importer, wholesaler, or retailer, sells cigarettes without having
16 a valid permit; or

17 (5) as a manufacturer, bonded agent, or importer,
18 stores, distributes, or delivers cigarettes in unstamped packages
19 without having a valid permit.

20 SECTION 28. Section 155.049(b), Tax Code, is amended to
21 read as follows:

22 (b) An application for a permit required by this chapter
23 must be accompanied by a fee of:

24 (1) \$300 for a bonded agent's permit;

25 (2) \$300 for a distributor's permit;

26 (3) \$200 for a wholesaler's permit;

27 (4) \$15 for each permit for a vehicle if the applicant

1 is also applying for a permit as a bonded agent, distributor, or
2 wholesaler or has received a current permit from the comptroller
3 under Sections 155.041 and 155.048; ~~and~~

4 (5) \$180 for a retailer's permit; and

5 (6) \$300 for a manufacturer's permit.

6 SECTION 29. Section 155.207, Tax Code, is amended to read as
7 follows:

8 Sec. 155.207. PERMITS. A person commits an offense if the
9 person:

10 (1) as a manufacturer, distributor, bonded agent,
11 importer, wholesaler, or retailer, receives or possesses tobacco
12 products without having a valid permit;

13 (2) as a manufacturer, distributor, bonded agent,
14 importer, wholesaler, or retailer, receives or possesses tobacco
15 products without having a permit posted where it can be easily seen
16 by the public;

17 (3) as a distributor or wholesaler, does not deliver
18 an invoice to the purchaser as required by Section 155.102;

19 (4) as a manufacturer, distributor, bonded agent,
20 importer, wholesaler, or retailer, sells tobacco products without
21 having a valid permit; or

22 (5) as a manufacturer, bonded agent, or importer,
23 stores, distributes, or delivers tobacco products on which the tax
24 has not been paid without having a valid permit.

25 SECTION 30. Section 156.051(b), Tax Code, is amended to
26 read as follows:

27 (b) The price of a room or space in a hotel does not include

1 the cost of food served by the hotel and the cost of personal
2 services performed by the hotel for the person except for those
3 services related to cleaning and readying the room or space for use
4 or possession.

5 SECTION 31. Section 156.052, Tax Code, is amended to read as
6 follows:

7 Sec. 156.052. RATE OF TAX. The rate of the tax imposed by
8 this chapter is six percent of the price paid for a room or space in
9 a hotel.

10 SECTION 32. Section 156.053, Tax Code, is amended to read as
11 follows:

12 Sec. 156.053. COLLECTION OF TAX. A person owning,
13 operating, managing, or controlling a hotel, or subletting a room
14 or space in a hotel, shall collect for the state the tax that is
15 imposed by this chapter and that is calculated on the amount paid
16 for the [a] room or space in the hotel.

17 SECTION 33. Section 162.001, Tax Code, is amended by adding
18 subdivision (63) to read as follows:

19 (63) "Dyed diesel fuel retail dealer" means a dealer
20 who acquires dyed diesel fuel from a licensed supplier, permissive
21 supplier, or distributor for resale and delivery by the dealer into
22 the fuel supply tanks of motorboats, refrigeration units or other
23 off-highway equipment at a retail location.

24 SECTION 34. Section 162.101(b), Tax Code, is amended to
25 read as follows:

26 (b) A tax is imposed at the time gasoline is imported into
27 this state, other than by a bulk transfer, for delivery to a

1 destination in this state. The supplier or permissive supplier
2 shall collect the tax imposed by this subchapter from the person who
3 imports the gasoline into this state. If the seller is not a
4 supplier or permissive supplier, then the person who imports the
5 gasoline into this state shall pay the tax.

6 SECTION 35. Section 162.101(c), Tax Code, is amended to
7 read as follows:

8 (c) A tax is imposed on the removal [~~sale or transfer~~] of
9 gasoline from [~~in~~] the bulk transfer/terminal system in this state
10 [~~by a supplier to a person who does not hold a supplier's license~~].
11 The supplier shall collect the tax imposed by this subchapter from
12 the person who orders the removal from [~~sale or transfer in~~] the
13 bulk transfer terminal system.

14 SECTION 36. Section 162.103(d), Tax Code, is amended to
15 read as follows:

16 (d) A person who sells gasoline in this state, other than by
17 a bulk transfer, on which tax has not been paid for any purpose
18 other than a purpose exempt under Section 162.104 shall at the time
19 of sale collect the tax from the purchaser or recipient of gasoline
20 in addition to the selling price and is liable to this state for the
21 taxes collected at the time and in the manner provided by this
22 chapter.

23 SECTION 37. Section 162.128(d), Tax Code, is amended to
24 read as follows:

25 (d) A supplier, [~~or~~] permissive supplier, distributor,
26 importer, exporter or blender that determines taxes were
27 erroneously reported and remitted or that paid more taxes than were

1 due this state because of a mistake of fact or law may take a credit
2 on the monthly tax report on which the error has occurred and tax
3 payment made to the comptroller. The credit must be taken before
4 the expiration of the applicable period of limitation as provided
5 by Chapter 111.

6 SECTION 38. Section 162.201(b), Tax Code, is amended to
7 read as follows:

8 (b) A tax is imposed at the time diesel fuel is imported into
9 this state, other than by a bulk transfer, for delivery to a
10 destination in this state. The supplier or permissive supplier
11 shall collect the tax imposed by this subchapter from the person who
12 imports the diesel fuel into this state. If the seller is not a
13 supplier or permissive supplier, the person who imports the diesel
14 fuel into this state shall pay the tax.

15 SECTION 39. Section 162.201(c), Tax Code, is amended to
16 read as follows:

17 (c) A tax is imposed on the removal [~~sale or transfer~~] of
18 diesel fuel from [~~in~~] the bulk transfer/terminal system [~~in this~~
19 ~~state by a supplier to a person who does not hold a supplier's~~
20 ~~license~~]. The supplier shall collect the tax imposed by this
21 subchapter from the person who orders the removal from [~~sale or~~
22 ~~transfer in~~] the bulk transfer/terminal system.

23 SECTION 40. Section 162.204(a), Tax Code, is amended to
24 read as follows:

25 (a) The tax imposed by this subchapter does not apply to:
26 (1) diesel fuel sold to the United States for its
27 exclusive use, provided that the exemption does not apply to diesel

1 fuel sold or delivered to a person operating under a contract with
2 the United States;

3 (2) diesel fuel sold to a public school district in
4 this state for the district's exclusive use;

5 (3) diesel fuel sold to a commercial transportation
6 company that provides public school transportation services to a
7 school district under Section 34.008, Education Code, and that uses
8 the diesel fuel only to provide those services;

9 (4) diesel fuel exported by either a licensed supplier
10 or a licensed exporter from this state to any other state, provided
11 that:

12 (A) for diesel fuel in a situation described by
13 Subsection (d), the bill of lading indicates the destination state
14 and the supplier collects the destination state tax; or

15 (B) for diesel fuel in a situation described by
16 Subsection (e), the bill of lading indicates the destination state,
17 the diesel fuel is subsequently exported, and the exporter is
18 licensed in the destination state to pay that state's tax and has an
19 exporter's license issued under this subchapter;

20 (5) diesel fuel moved by truck or railcar between
21 licensed suppliers or licensed permissive suppliers and in which
22 the diesel fuel removed from the first terminal comes to rest in the
23 second terminal, provided that the removal from the second terminal
24 rack is subject to the tax imposed by this subchapter;

25 (6) diesel fuel delivered or sold into a storage
26 facility of a licensed aviation fuel dealer from which the diesel
27 fuel will be delivered solely into the fuel supply tanks of aircraft

1 or aircraft servicing equipment, or sold from one licensed aviation
2 fuel dealer to another licensed aviation fuel dealer who will
3 deliver the diesel fuel exclusively into the fuel supply tanks of
4 aircraft or aircraft servicing equipment;

5 (7) diesel fuel exported to a foreign country if the
6 bill of lading indicates the foreign destination and the fuel is
7 actually exported to the foreign country;

8 (8) dyed diesel fuel sold or delivered by a supplier to
9 another supplier and dyed diesel fuel sold or delivered by a
10 supplier or distributor into the bulk storage facility of a dyed
11 diesel retail dealer, dyed diesel fuel bonded user or to a purchaser
12 who provides a signed statement as provided by Section 162.206;

13 (9) the volume of water, fuel ethanol, biodiesel, or
14 mixtures thereof that are blended together with taxable diesel fuel
15 when the finished product sold or used is clearly identified on the
16 retail pump, storage tank, and sales invoice as a combination of
17 diesel fuel and water, fuel ethanol, biodiesel, or mixtures
18 thereof;

19 (10) dyed diesel fuel sold by a supplier or permissive
20 supplier to a distributor, or by a distributor to another
21 distributor;

22 (11) dyed diesel fuel delivered by a license holder
23 into the fuel supply tanks of railway engines, motorboats, or
24 refrigeration units or other stationary equipment powered by a
25 separate motor from a separate fuel supply tank;

26 (12) dyed kerosene when delivered by a supplier,
27 distributor, or importer into a storage facility at a retail

1 business from which all deliveries are exclusively for heating,
2 cooking, lighting, or similar nonhighway use; or

3 (13) diesel fuel used by a person, other than a
4 political subdivision, who owns, controls, operates, or manages a
5 commercial motor vehicle as defined by Section 548.001,
6 Transportation Code, if the fuel:

7 (A) is delivered exclusively into the fuel supply
8 tank of the commercial motor vehicle; and

9 (B) is used exclusively to transport passengers
10 for compensation or hire between points in this state on a fixed
11 route or schedule.

12 SECTION 41. Section 162.205(a), Tax Code, is amended to
13 read as follows:

14 (a) A person shall obtain the appropriate license or
15 licenses issued by the comptroller before conducting the activities
16 of:

17 (1) a supplier, who may also act as a distributor,
18 importer, exporter, blender, motor fuel transporter, or aviation
19 fuel dealer without securing a separate license, but who is subject
20 to all other conditions, requirements, and liabilities imposed on
21 those license holders;

22 (2) a permissive supplier, who may also act as a
23 distributor, importer, exporter, blender, motor fuel transporter,
24 or aviation fuel dealer without securing a separate license but who
25 is subject to all other conditions, requirements, and liabilities
26 imposed on those license holders;

27 (3) a distributor, who may also act as an importer,

1 exporter, blender, or motor fuel transporter without securing a
2 separate license, but who is subject to all other conditions,
3 requirements, and liabilities imposed on those license holders;

4 (4) an importer, who may also act as an exporter,
5 blender, or motor fuel transporter without securing a separate
6 license, but who is subject to all other conditions, requirements,
7 and liabilities imposed on those license holders;

8 (5) a terminal operator;

9 (6) an exporter;

10 (7) a blender;

11 (8) a motor fuel transporter;

12 (9) an aviation fuel dealer;

13 (10) an interstate trucker; ~~[or]~~

14 (11) a dyed diesel fuel bonded user; or

15 (12) a dyed diesel fuel retail dealer.

16 SECTION 42. Section 162.206(k), Tax Code, is added to read
17 as follows:

18 (k) Properly completed signed statements should be in the
19 possession of the licensed supplier or distributor at the time the
20 sale of dyed diesel fuel occurs. If the licensed supplier or
21 distributor is not in possession of these signed statements within
22 60 days from the date written notice requiring possession of them is
23 given to the licensed supplier or distributor by the comptroller,
24 exempt sales claimed by the licensed supplier or distributor that
25 require delivery of the signed statements shall be disallowed. If
26 the licensed supplier or distributor delivers the signed statements
27 to the comptroller within the 60-day period, the comptroller may

1 verify the reason or basis for the signed statements before
2 allowing the exempt sales. An exempt sale may not be granted on the
3 basis of signed statements delivered to the comptroller after the
4 60-day period.

5 SECTION 43. Section 162.211(b), Tax Code, is amended to
6 read as follows:

7 (b) The license issued to an aviation fuel dealer or dyed
8 diesel fuel retail dealer is permanent and is valid until the
9 license is surrendered by the holder or canceled by the
10 comptroller.

11 SECTION 44. Subsections (a), (b), and (c), Section 162.213,
12 Tax Code, are amended to read as follows:

13 (a) The comptroller, on or before December 20 of each year,
14 shall make available to all license holders an alphabetical list of
15 licensed suppliers, permissive suppliers, distributors, aviation
16 fuel dealers, importers, exporters, blenders, terminal operators,
17 dyed diesel fuel retail dealers, and dyed diesel fuel bonded users.
18 A supplemental list of additions and deletions shall be made
19 available to the license holders each month. A current and
20 effective license or the list furnished by the comptroller is
21 evidence of the validity of the license until the comptroller
22 notifies license holders of a change in the status of a license
23 holder.

24 (b) A licensed supplier or permissive supplier who sells
25 diesel fuel tax-free to a supplier, ~~or~~ permissive supplier or
26 aviation fuel dealer whose license has been canceled or revoked
27 under this chapter, or who sells dyed diesel fuel to a distributor,

1 dyed diesel fuel retail dealer or dyed diesel fuel bonded user whose
2 license has been canceled or revoked under this chapter, is liable
3 for any tax due on diesel fuel sold after receiving notice of the
4 cancellation or revocation.

5 (c) The comptroller shall notify all license holders under
6 this chapter when a canceled or revoked license is subsequently
7 reinstated and include in the notice the effective date of the
8 reinstatement. Sales to a supplier, permissive supplier,
9 distributor, aviation fuel dealer, dyed diesel fuel retail dealer
10 or dyed diesel fuel bonded user after the effective date of the
11 reinstatement may be made tax-free.

12 SECTION 45. Section 162.215(d), Tax Code, is amended to
13 read as follows:

14 (d) An aviation fuel dealer and a dyed diesel fuel retail
15 dealer are ~~is~~ not required to file a return.

16 SECTION 46. Section 162.216, Tax Code, is amended by
17 redesignating existing Subsections (m) and (n) as (n) and (o), and
18 by adding new Subsection (m) to read as follows:

19 (m) A dyed diesel fuel retail dealer shall keep a record
20 showing the number of gallons of:

21 (1) dyed and undyed diesel fuel inventories on hand at
22 the first of each month;

23 (2) dyed and undyed diesel fuel purchased or received,
24 showing the name of the seller and the date of each purchase or
25 receipt;

26 (3) dyed and undyed diesel fuel sold or used, showing
27 the date of the sale or use;

1 (4) dyed and undyed diesel fuel lost by fire, theft, or
2 accident; and

3 (5) for dyed diesel fuel an invoice containing:

4 (A) the stamped or preprinted name and address of
5 the seller;

6 (B) the name of the purchaser;

7 (C) the date of delivery of the dyed diesel fuel;

8 (D) the number of gallons of dyed diesel fuel
9 delivered;

10 (E) the type or description of the off-highway
11 equipment into which the dyed diesel fuel is delivered; and

12 (F) a notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY,
13 PENALTY FOR TAXABLE USE".

14 (n) The comptroller may require selective schedules from a
15 supplier, permissive supplier, distributor, importer, exporter,
16 blender, terminal operator, motor fuel transporter, dealer,
17 aviation fuel dealer, dyed diesel fuel bonded user, and interstate
18 trucker for any purchase, sale, or delivery of diesel fuel if the
19 schedules are not inconsistent with the requirements of this
20 chapter.

21 (o) [~~(n)~~] The records required by this section must be kept
22 until the fourth anniversary of the date they are created and are
23 open to inspection at all times by the comptroller and the attorney
24 general.

25 SECTION 47. 162.230(d), Tax Code is amended to read as
26 follows:

27 (d) A supplier, ~~permissive~~ distributor,

1 importer, exporter or blender that determines taxes were
2 erroneously reported and remitted or that paid more taxes than were
3 due to this state because of a mistake of fact or law may take a
4 credit on the monthly tax report on which the error has occurred and
5 tax payment made to the comptroller. The credit must be taken
6 before the expiration of the applicable period of limitation as
7 provided by Chapter 111.

8 SECTION 48. Sections 162.409(a) and (d), Tax Code, are
9 amended to read as follows:

10 Section 162.409. ISSUANCE OF BAD CHECK TO LICENSED
11 DISTRIBUTOR, ~~[OR]~~ LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

12 (a) A person commits an offense if:

13 (1) the person issues or passes a check or similar
14 sight order for the payment of money knowing that the issuer does
15 not have sufficient funds in or on deposit with the bank or other
16 drawee for the payment in full of the check or order as well as all
17 other checks or orders outstanding at the time of issuance;

18 (2) the payee on the check or order is a licensed
19 distributor, ~~[or]~~ licensed supplier, or permissive supplier; and

20 (3) the payment is for an obligation or debt that
21 includes a tax under this chapter to be collected by the licensed
22 distributor, ~~[or]~~ licensed supplier, or permissive supplier.

23 (d) A person who makes payment on an obligation or debt that
24 includes a tax under this chapter and pays with an insufficient
25 funds check issued to a licensed distributor, ~~[or]~~ licensed
26 supplier, or permissive supplier may be held liable for a penalty
27 equal to the total amount of tax not paid to the licensed

1 distributor, ~~[or]~~ licensed supplier, or permissive supplier.

2 SECTION 49. Section 171.052, Tax Code, is amended to read as
3 follows:

4 An insurance organization~~[, title insurance company, or~~
5 ~~title insurance agent]~~ authorized to engage in insurance business
6 in this state now required to pay an annual tax under Chapter 221,
7 222, or 224 ~~[4 or 9]~~, Insurance Code, measured by its gross premium
8 receipts is exempted from the franchise tax. A nonadmitted
9 insurance organization that is required to pay a gross premium
10 receipts tax during a tax year is exempted from the franchise tax
11 for that same tax year. ~~[Farm mutuals, local mutual aid~~
12 ~~associations, and burial associations are not subject to the~~
13 ~~franchise tax.]~~

14 SECTION 50. Subsection (h) of Section 171.109, Tax Code, is
15 amended to read as follows:

16 (h) A parent or investor corporation must use the cost
17 method of accounting in reporting and calculating the franchise tax
18 on its investments in subsidiary corporations or other investees.
19 In calculating the historical cost of an investment in a subsidiary
20 under the cost method of accounting, the cost may not be adjusted by
21 the preacquisition retained earnings of the subsidiary corporation
22 or other investee ~~[The retained earnings of a subsidiary~~
23 ~~corporation or other investee before acquisition by the parent or~~
24 ~~investor corporation may not be excluded from the cost of the~~
25 ~~subsidiary corporation or investee to the parent or investor~~
26 ~~corporation and must be included by the parent or investor~~
27 ~~corporation in calculating its surplus].~~

1 SECTION 51. Section 171.110, Tax Code, is amended by adding
2 a Subsection (m) to read as follows:

3 (m) Except as otherwise provided by this section, in
4 computing taxable earned surplus, a corporation is deemed to have
5 made an election to use the same methods used in filing its federal
6 income tax return. The corporation shall report based on its own
7 financial condition. Consolidated reporting is prohibited.

8 SECTION 52. Subsection (b) of Section 171.1121, Tax Code,
9 is amended to read as follows:

10 (b) Except as otherwise provided by this section, a
11 corporation shall use the same accounting methods to apportion
12 taxable earned surplus as it used to compute taxable earned surplus
13 [in computing reportable federal taxable income].

14 SECTION 53. Section 183.053(b), Tax Code, is amended to
15 read as follows:

16 (b) The total of bonds, certificates of deposit, letters of
17 credit, or other security determined to be sufficient by the
18 comptroller of a permittee subject to the tax imposed by this
19 chapter shall be in an amount that the comptroller determines to be
20 sufficient to protect the fiscal interests of the state. The
21 comptroller may not set the amount of security at less than \$1,000
22 or more than the greater of \$100,000 or four times the amount of the
23 permittee's average monthly tax liability [~~\$50,000~~].

24 SECTION 54. Section 201.102, Tax Code, is amended to read as
25 follows:

26 Section 201.102. CASH SALES. If gas is sold for cash only,
27 the tax shall be computed on the producer's gross cash receipts.

1 Payments from a purchaser of gas to a producer for the purpose of
2 reimbursing the producer for taxes due under this chapter are not
3 part of the gross cash receipts [~~unless the reimbursement amount~~
4 ~~for taxes due under this chapter is separately stated in the sales~~
5 ~~contract~~].

6 SECTION 55. Section 201.352, Tax Code, is amended to read as
7 follows:

8 Sec. 201.352. UNLAWFUL PRODUCTION OR PURCHASE [~~REMOVAL~~] OF
9 GAS. On notice from the comptroller, no person may produce or make
10 payment for [~~remove~~] natural or casinghead gas from a lease in this
11 state if the owner or operator of the lease has failed to file a
12 report or pay a tax as required by this chapter. The comptroller
13 may request the railroad commission to place a seal on the well or
14 to otherwise disconnect the lease from any pipeline, metering or
15 custody transfer facility after notice to the operator of such
16 facility and the operator shall not reopen or otherwise reconnect
17 such facility until authorized to do so by the railroad commission.

18 SECTION 56. Section 321.203, Tax Code, is amended by
19 amending subsections (b), (c), (d), (e), and (g) and adding
20 subsection (n), to read as follows:

21 (b) If a retailer has only one place of business in this
22 state, all of the retailer's retail sales of taxable items
23 [~~tangible personal property~~] are consummated at that place of
24 business except as provided by Subsection (e).

25 (c) If a retailer has more than one place of business in this
26 state, a sale of a taxable item [~~tangible personal property~~] by the
27 retailer is consummated at the retailer's place of business:

1 (1) from which the retailer ships or delivers the item
2 [~~property~~], if the retailer ships or delivers the item [~~property~~]
3 to a point designated by the purchaser or lessee; or

4 (2) where the purchaser or lessee takes possession of
5 and removes the item [~~property~~], if the purchaser or lessee takes
6 possession of and removes the item [~~property~~] from a place of
7 business of the retailer.

8 (d) If neither the possession of a taxable item [~~tangible~~
9 ~~personal property~~] is taken at nor shipment or delivery of the item
10 [~~property~~] is made from the retailer's place of business in this
11 state, the sale is consummated at:

12 (1) the retailer's place of business in this state
13 where the order is received; or

14 (2) if the order is not received at a place of business
15 of the retailer, the place of business from which the retailer's
16 salesman who took the order operates.

17 (e) A sale of a taxable item [~~tangible personal property~~] is
18 consummated at the location in this state to which the item
19 [~~property~~] is shipped or delivered or at which possession is taken
20 by the customer if transfer of possession of the item [~~property~~]
21 occurs at, or shipment or delivery of the item [~~property~~]
22 originates from, a location in this state other than a place of
23 business of the retailer and if:

24 (1) the retailer is an itinerant vendor who has no
25 place of business;

26 (2) the retailer's place of business where the
27 purchase order is initially received or from which the retailer's

1 salesman who took the order operates is outside this state; or

2 (3) the purchaser places the order directly with the
3 retailer's supplier and the property is shipped or delivered
4 directly to the purchaser by the supplier.

5 (n) A sale of a service described in Section 151.0047 to
6 remodel, repair, or restore nonresidential real property is
7 consummated at the location of the job site. However, if the job
8 site includes areas in multiple municipalities then the sale is
9 consummated at:

10 (1) the retailer's place of business in this state
11 where the order is received; or

12 (2) if the order is not received at a place of business
13 of the retailer, the place of business from which the retailer's
14 salesman who took the order operates.

15 SECTION 57. Section 321.302(c), Tax Code, is amended to
16 read as follows:

17 (c) If a municipality determines that a person doing
18 business in the municipality is not included in a comptroller's
19 report, the municipality shall report to the comptroller the name
20 and address of the person. Within 90 days after receiving the
21 report from a municipality, the comptroller shall send to the
22 municipality:

23 (1) an explanation as to why the person is not
24 obligated for the municipal tax;

25 (2) a statement that the person is obligated for the
26 municipal tax and the tax is delinquent; or

27 (3) a certification that the person is obligated for

1 the municipal tax and that the full amount of the tax due has been
2 credited to the municipality's account. In this section the phrase
3 'full amount of the tax due' means the amount of municipal tax to be
4 allocated that can be determined without a comptroller's audit of
5 the person's records.

6 SECTION 58. Section 321.503, Tax Code, is amended to read as
7 follows:

8 Section 321.503. STATE'S SHARE. Before sending any money
9 to a municipality under this subchapter the comptroller shall
10 deduct two percent of the amount of the taxes collected within the
11 municipality during the period for which a distribution is made as
12 the state's charge for its services under this chapter and shall~~[~~
13 ~~subject to the premiums payments under Section 321.501(c),~~~~]~~ credit
14 the money deducted to the general revenue fund.

15 SECTION 59. Section 323.102(c), Tax Code, is amended to
16 read as follows:

17 (c) A tax imposed under Section 323.105 of this code or
18 Chapter 326 or 383, Local Government Code, takes effect on the first
19 day of the first calendar quarter after the expiration of the first
20 complete calendar quarter occurring after the date on which the
21 comptroller receives a notice of the action as required by Section
22 323.405(b).

23 SECTION 60. Section 323.203, Tax Code, is amended by
24 amending Subsections (b), (c), (d), (e), and (g) and adding
25 Subsection (m), to read as follows:

26 (b) If a retailer has only one place of business in this
27 state, all of the retailer's retail sales of taxable items

1 ~~[tangible personal property]~~ are consummated at that place of
2 business except as provided by Subsection (e).

3 (c) If a retailer has more than one place of business in this
4 state, a sale of a taxable item ~~[tangible personal property]~~ by the
5 retailer is consummated at the retailer's place of business:

6 (1) from which the retailer ships or delivers the item
7 ~~[property]~~, if the retailer ships or delivers the item ~~[property]~~
8 to a point designated by the purchaser or lessee; or

9 (2) where the purchaser or lessee takes possession of
10 and removes the item ~~[property]~~, if the purchaser or lessee takes
11 possession of and removes the item ~~[property]~~ from a place of
12 business of the retailer.

13 (d) If neither the possession of a taxable item ~~[tangible~~
14 ~~personal property]~~ is taken at nor shipment or delivery of the item
15 ~~[property]~~ is made from the retailer's place of business in this
16 state, the sale is consummated at:

17 (1) the retailer's place of business in this state
18 where the order is received; or

19 (2) if the order is not received at a place of business
20 of the retailer, the place of business from which the retailer's
21 salesman who took the order operates.

22 (e) A sale of a taxable item ~~[tangible personal property]~~ is
23 consummated at the location in this state to which the item
24 ~~[property]~~ is shipped or delivered or at which possession is taken
25 by the customer if transfer of possession of the item ~~[property]~~
26 occurs at, or shipment or delivery of the item ~~[property]~~
27 originates from, a location in this state other than a place of

1 business of the retailer and if:

2 (1) the retailer is an itinerant vendor who has no
3 place of business;

4 (2) the retailer's place of business where the
5 purchase order is initially received or from which the retailer's
6 salesman who took the order operates is outside this state; or

7 (3) the purchaser places the order directly with the
8 retailer's supplier and the property is shipped or delivered
9 directly to the purchaser by the supplier.

10 (m) A sale of a service described in Section 151.0047 to
11 remodel, repair, or restore nonresidential real property is
12 consummated at the location of the job site. However, if the job
13 site includes areas in multiple municipalities then the sale is
14 consummated at:

15 (1) the retailers place of business in this state
16 where the order is received; or

17 (2) if the order is not received at a place of business
18 of the retailer, the place of business from which the retailer's
19 salesman who took the order operates.

20 SECTION 61. Section 323.503, Tax Code, is amended to read as
21 follows:

22 Section 323.503. STATE'S SHARE. Before sending any money
23 to a county under this subchapter the comptroller shall deduct two
24 percent of the amount of the taxes collected within the county
25 during the period for which a distribution is made as the state's
26 charge for its services under this chapter and shall[~~, subject to~~
27 ~~premiums payments under Section 323.501(c),~~] credit the money

1 deducted to the general revenue fund.

2 SECTION 62. Section 16.001(a) and (b), Utilities Code, are
3 amended to read as follows:

4 Section 16.001. ASSESSMENT ON UTILITY GROSS RECEIPTS
5 [~~PUBLIC UTILITIES~~].

6 (a) To defray the expenses incurred in the administration of
7 this title, an assessment is imposed on each telecommunications
8 utility, electric [~~public~~] utility, retail electric provider, and
9 electric cooperative within the jurisdiction of the commission that
10 serves the ultimate consumer, including each interexchange
11 telecommunications carrier.

12 (b) An assessment under this section is equal to one sixth
13 of one percent of the telecommunications utility's electric
14 [~~public~~] utility's, retail electric provider's, or electric
15 cooperative's gross receipts from rates charged to the ultimate
16 consumer in this state.

17 SECTION 63. Section 16.002(b), Utilities Code, is amended
18 to read as follows:

19 (b) A telecommunications utility, electric [~~public~~]
20 utility, retail electric provider, or electric cooperative may
21 instead make quarterly payments due August 15, November 15,
22 February 15, and May 15.

23 SECTION 64. The following sections of the Tax Code are
24 repealed:

- 25 (1) Section 151.103(d);
26 (2) Section 151.202(c);
27 (3) Section 321.203(1), Tax Code, as added by Section

1 115, Chapter 1310, Acts of the 78th Legislature, 2003. and

2 (4) Section 323.203(1).

3 SECTION 65. The changes made by this Act to Section 201.102,
4 Tax Code, apply to a refund claim or determination under Chapter
5 111, Tax Code, without regard to whether the taxes that are the
6 subject of the refund claim or determination were due before, on, or
7 after the effective date of this Act.

8 SECTION 66. The changes made by this Act to Section 111.009,
9 Tax Code, apply to a petition for redetermination filed on or after
10 the effective date of this Act.

11 SECTION 67. Effective date. This Act takes effect October
12 1, 2005.