

1-1 By: Ogden S.B. No. 1863  
1-2 (In the Senate - Filed April 19, 2005; April 19, 2005, read  
1-3 first time and referred to Committee on Finance; May 16, 2005,  
1-4 reported adversely, with favorable Committee Substitute by the  
1-5 following vote: Yeas 9, Nays 5; May 16, 2005, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1863 By: Ogden

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to certain fiscal matters affecting governmental  
1-10 entities.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 ARTICLE 1. AUTHORITY OF LEGISLATURE TO TAKE

1-13 CERTAIN ACTIONS WITH RESPECT TO APPROPRIATED FUNDS

1-14 SECTION 1.01. Notwithstanding any statute to the contrary,  
1-15 the legislature, in its discretion, may determine the amount of  
1-16 each appropriation of state funds. The amounts required by statute  
1-17 for entities that receive state funds under the General  
1-18 Appropriations Act, 79th Legislature, Regular Session, 2005, may be  
1-19 reduced or eliminated in order to achieve a balanced budget.

1-20 SECTION 1.02. This article expires September 1, 2007.

1-21 ARTICLE 2. REGISTRATION FEE FOR CERTAIN LOBBYISTS

1-22 SECTION 2.01. Subsection (c), Section 305.005, Government  
1-23 Code, is amended to read as follows:

1-24 (c) The registration fee and registration renewal fee are:

1-25 (1) \$100 for a registrant employed by an organization  
1-26 exempt from federal income tax under Section 501(c)(3) or  
1-27 501(c)(4), Internal Revenue Code of 1986; or

1-28 (2) \$1,000 [~~\$300~~] for any other registrant.

1-29 SECTION 2.02. This article takes effect December 1, 2005.

1-30 ARTICLE 3. FEES FOR CERTAIN INSPECTIONS CONDUCTED

1-31 BY THE COMMISSION ON JAIL STANDARDS

1-32 SECTION 3.01. Section 511.0091, Government Code, is amended  
1-33 by adding Subsection (c-1) and amending Subsection (d) to read as  
1-34 follows:

1-35 (c-1) In addition to the other fees authorized by this  
1-36 section, the commission may set and collect a reasonable fee to  
1-37 cover the cost of performing any reinspection of a municipal or  
1-38 county jail that is conducted by the commission:

1-39 (1) following a determination by the commission that  
1-40 the jail is not in compliance with minimum standards;

1-41 (2) in response to a request by the operator of the  
1-42 jail; and

1-43 (3) before the operator of the jail has taken actions  
1-44 as necessary to ensure that the jail is in compliance with minimum  
1-45 standards.

1-46 (d) All money paid to the commission under this chapter is  
1-47 subject to Subchapter F, Chapter 404. Fees collected under  
1-48 Subsection (c-1) shall be deposited to the credit of a special  
1-49 account in the general revenue fund to be appropriated only to pay  
1-50 costs incurred by the commission in performing services under this  
1-51 section.

1-52 SECTION 3.02. This article takes effect September 1, 2005.

1-53 ARTICLE 4. CERTAIN AUDITS OF STATE AGENCY EXPENDITURES

1-54 SECTION 4.01. Subtitle C, Title 10, Government Code, is  
1-55 amended by adding Chapter 2115 to read as follows:

1-56 CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

1-57 Sec. 2115.001. DEFINITIONS. In this chapter:

1-58 (1) "Overpayment" includes a duplicate payment made to  
1-59 a vendor for a single invoice and a payment made to a vendor:

1-60 (A) when an available discount from the vendor  
1-61 was not applied;

1-62 (B) for a late payment penalty that was  
1-63 improperly applied by the vendor;

2-1 (C) for shipping costs that were computed  
2-2 incorrectly or incorrectly included in an invoice;  
2-3 (D) for state sales tax; or  
2-4 (E) for a good or service the vendor did not  
2-5 provide.

2-6 (2) "State agency" means a department, commission,  
2-7 board, office, or other agency, including a university system or an  
2-8 institution of higher education other than a public junior college,  
2-9 that:

2-10 (A) is in the executive branch of state  
2-11 government;

2-12 (B) is created by statute; and

2-13 (C) does not have statutory geographical  
2-14 boundaries limited to a part of the state.

2-15 Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR  
2-16 CERTAIN OVERPAYMENTS. (a) The comptroller shall contract with one  
2-17 or more consultants to conduct recovery audits of payments made by  
2-18 state agencies to vendors. The audits must be designed to detect  
2-19 and recover overpayments to the vendors and to recommend improved  
2-20 state agency accounting operations.

2-21 (b) A contract under this section:

2-22 (1) may provide for reasonable compensation for  
2-23 services provided under the contract, including compensation  
2-24 determined by the application of a specified percentage of the  
2-25 total amount recovered because of the consultant's audit activities  
2-26 or recommendations as a fee for services;

2-27 (2) may permit or require the consultant to pursue a  
2-28 judicial action in a court inside or outside this state to recover  
2-29 an overpaid amount; and

2-30 (3) to allow time for the performance of existing  
2-31 state payment auditing procedures, may not allow a recovery audit  
2-32 of a payment during the 180-day period after the date the payment  
2-33 was made.

2-34 (c) The comptroller or a state agency whose payments are  
2-35 being audited may provide a person acting under a contract  
2-36 authorized by this section with any confidential information in the  
2-37 custody of the comptroller or state agency that is necessary for the  
2-38 performance of the audit or the recovery of an overpayment, to the  
2-39 extent the comptroller and state agency are not prohibited from  
2-40 sharing the information under an agreement with another state or  
2-41 the federal government. A person acting under a contract  
2-42 authorized by this section, and each employee or agent of the  
2-43 person, is subject to all prohibitions against the disclosure of  
2-44 confidential information obtained from the state in connection with  
2-45 the contract that apply to the comptroller or applicable state  
2-46 agency or an employee of the comptroller or applicable state  
2-47 agency. A person acting under a contract authorized by this section  
2-48 or an employee or agent of the person who discloses confidential  
2-49 information in violation of a prohibition made applicable to the  
2-50 person under this subsection is subject to the same sanctions and  
2-51 penalties that would apply to the comptroller or applicable state  
2-52 agency or an employee of the comptroller or applicable state agency  
2-53 for that disclosure.

2-54 Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY  
2-55 AUDITS. (a) The comptroller shall require that recovery audits be  
2-56 performed on the payments to vendors made by each state agency that  
2-57 has total expenditures during a state fiscal biennium in an amount  
2-58 that exceeds \$100 million. Each state agency described by this  
2-59 subsection shall provide the recovery audit consultant with all  
2-60 information necessary for the audit.

2-61 (b) The comptroller may exempt from the mandatory recovery  
2-62 audit process a state agency that has a low proportion of its  
2-63 expenditures made to vendors, according to criteria the comptroller  
2-64 adopts by rule after consideration of the likely costs and benefits  
2-65 of performing recovery audits for agencies that make relatively few  
2-66 or small payments to vendors.

2-67 Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) A state agency  
2-68 shall pay, from recovered money appropriated for the purpose, the  
2-69 recovery audit consultant responsible for obtaining for the agency

3-1 a reimbursement from a vendor.

3-2 (b) A state agency shall expend or return to the federal  
3-3 government any federal money that is recovered through a recovery  
3-4 audit conducted under this chapter. The state agency shall expend  
3-5 or return the federal money in accordance with the rules of the  
3-6 federal program through which the agency received the federal  
3-7 money.

3-8 Sec. 2115.005. FORWARDING REPORTS. (a) The comptroller  
3-9 shall provide copies, including electronic form copies, of any  
3-10 reports received from a consultant contracting under Section  
3-11 2115.002 to:

- 3-12 (1) the governor;
- 3-13 (2) the state auditor's office; and
- 3-14 (3) the Legislative Budget Board.

3-15 (b) The comptroller shall provide the copies required by  
3-16 Subsection (a) not later than the seventh day after the date the  
3-17 comptroller receives the consultant's report.

3-18 (c) Not later than January 1 of each odd-numbered year, the  
3-19 comptroller shall issue a report to the legislature summarizing the  
3-20 contents of all reports received under this chapter during the  
3-21 state fiscal biennium ending August 31 of the previous year.

3-22 SECTION 4.02. The comptroller of public accounts shall  
3-23 adopt rules under Chapter 2115, Government Code, as added by this  
3-24 article, in a timely manner so that the comptroller may begin  
3-25 contracting with a consultant under that chapter not later than  
3-26 January 1, 2006.

3-27 ARTICLE 5. FISCAL MATTERS

3-28 PERTAINING TO REGULATION OF OIL-RELATED AND GAS-RELATED ACTIVITIES

3-29 SECTION 5.01. Section 40.152, Natural Resources Code, is  
3-30 amended by adding Subsection (c) to read as follows:

3-31 (c) Notwithstanding Subsection (a)(9), the legislature may  
3-32 appropriate to the General Land Office for erosion response  
3-33 projects under Subchapter H, Chapter 33, and for implementation of  
3-34 the coastal management program under Subchapter F, Chapter 33,  
3-35 money from the fund in an amount that exceeds the amount of interest  
3-36 accruing to the fund annually.

3-37 SECTION 5.02. Section 85.2021, Natural Resources Code, is  
3-38 amended to read as follows:

3-39 Sec. 85.2021. DRILLING PERMIT FEE. (a) With each  
3-40 application or materially amended application for a permit to  
3-41 drill, deepen, plug back, or reenter a well, the applicant shall  
3-42 submit to the commission a nonrefundable fee of:

3-43 (1) \$300 [~~\$200~~] if the total depth of the well is 2,000  
3-44 feet or less, of which the commission shall deposit:

3-45 (A) \$200 to the credit of the oil-field cleanup  
3-46 fund; and

3-47 (B) \$100 to the credit of the general revenue  
3-48 fund to be used only for the administration of this state's oil and  
3-49 gas conservation laws;

3-50 (2) \$350 [~~\$225~~] if the total depth of the well is  
3-51 greater than 2,000 feet but less than or equal to 4,000 feet, of  
3-52 which the commission shall deposit:

3-53 (A) \$225 to the credit of the oil-field cleanup  
3-54 fund; and

3-55 (B) \$125 to the credit of the general revenue  
3-56 fund to be used only for the administration of this state's oil and  
3-57 gas conservation laws;

3-58 (3) \$400 [~~\$250~~] if the total depth of the well is  
3-59 greater than 4,000 feet but less than or equal to 9,000 feet, of  
3-60 which the commission shall deposit:

3-61 (A) \$250 to the credit of the oil-field cleanup  
3-62 fund; and

3-63 (B) \$150 to the credit of the general revenue  
3-64 fund to be used only for the administration of this state's oil and  
3-65 gas conservation laws; and

3-66 (4) \$500 [~~\$300~~] if the total depth of the well is  
3-67 greater than 9,000 feet, of which the commission shall deposit:

3-68 (A) \$300 to the credit of the oil-field cleanup  
3-69 fund; and

4-1 (B) \$200 to the credit of the general revenue  
4-2 fund to be used only for the administration of this state's oil and  
4-3 gas conservation laws.

4-4 (b) An applicant shall submit an additional nonrefundable  
4-5 fee of \$200 when a Rule 37 spacing or a Rule 38 density exception  
4-6 review is requested. The commission shall deposit the entire  
4-7 amount of the fee to the credit of the oil-field cleanup fund.

4-8 (c) An applicant shall submit an additional nonrefundable  
4-9 fee of \$225 [~~\$150~~] when requesting that the commission expedite the  
4-10 application for a permit to drill, deepen, plug back, or reenter a  
4-11 well. The commission shall deposit:

4-12 (1) \$150 of the fee to the credit of the oil-field  
4-13 cleanup fund; and

4-14 (2) \$75 of the fee to the credit of the general revenue  
4-15 fund to be used only for the administration of this state's oil and  
4-16 gas conservation laws.

4-17 (d) The deposit of fees to the credit of the general revenue  
4-18 fund under this section is subject to Section 91.111(b-1) [All fees  
4-19 collected under this section shall be deposited in the state  
4-20 oil-field cleanup fund].

4-21 SECTION 5.03. Subchapter F, Chapter 85, Natural Resources  
4-22 Code, is amended by adding Section 85.2022 to read as follows:

4-23 Sec. 85.2022. INACTIVE WELL FEE. (a) If two-thirds or  
4-24 more of the wells of an operator with five or more wells have been  
4-25 inactive for three years or more, the operator shall submit to the  
4-26 commission a nonrefundable inactive well fee of \$100 for each well  
4-27 that has been inactive for three years or more.

4-28 (b) The inactive well fee shall be paid annually at the time  
4-29 an operator's organization report is due. An organization report  
4-30 may not be approved until any inactive well fee due under this  
4-31 section has been paid.

4-32 (c) Fees collected under this section shall be deposited to  
4-33 the credit of the oil-field cleanup fund.

4-34 SECTION 5.04. Section 91.1013, Natural Resources Code, is  
4-35 amended to read as follows:

4-36 Sec. 91.1013. APPLICATION FEES. (a)(1) With each  
4-37 application for a fluid injection well permit, the applicant shall  
4-38 submit to the commission a nonrefundable fee of \$300, of which the  
4-39 commission shall deposit:

4-40 (A) \$200 to the credit of the oil-field cleanup  
4-41 fund; and

4-42 (B) \$100 to the credit of the general revenue  
4-43 fund to be used only for the administration of this state's oil and  
4-44 gas conservation laws, except as provided by Section 91.111(b-1).

4-45 (2) In this section, "fluid injection well" means any  
4-46 well used to inject fluid or gas into the ground in connection with  
4-47 the exploration or production of oil or gas other than an oil and  
4-48 gas waste disposal well regulated by the commission pursuant to  
4-49 Chapter 27, Water Code.

4-50 (b) With each application for a permit to discharge to  
4-51 surface water under this chapter and commission rules, other than a  
4-52 permit for a discharge that meets National Pollutant Discharge  
4-53 Elimination System requirements for agricultural or wildlife use,  
4-54 the applicant shall submit to the commission a nonrefundable fee of  
4-55 \$500, of which the commission shall deposit:

4-56 (1) \$300 to the credit of the oil-field cleanup fund;  
4-57 and

4-58 (2) \$200 to the credit of the general revenue fund to  
4-59 be used only for the administration of this state's oil and gas  
4-60 conservation laws, except as provided by Section 91.111(b-1).

4-61 ~~[(c) Fees collected under this section shall be deposited in~~  
4-62 ~~the state oil-field cleanup fund.]~~

4-63 SECTION 5.05. Section 91.111, Natural Resources Code, is  
4-64 amended by amending Subsection (c) and adding Subsection (b-1) to  
4-65 read as follows:

4-66 (b-1) Notwithstanding Sections 85.2021, 91.1013, and 91.605  
4-67 and notwithstanding Section 27.0321, Water Code, when during a  
4-68 state fiscal year the commission deposits a total of \$2.9 million of  
4-69 fees collected under those sections to the credit of the general

5-1 revenue fund for the administration of this state's oil and gas  
 5-2 conservation laws, the commission shall deposit to the credit of  
 5-3 the oil-field cleanup fund any additional amounts collected under  
 5-4 those sections during the remainder of that state fiscal year that  
 5-5 those sections direct to be deposited in the general revenue fund.

5-6 (c) The fund consists of:

5-7 (1) penalties imposed under Section 85.381 for  
 5-8 violation of a law, order, or rule relating to well plugging  
 5-9 requirements;

5-10 (2) proceeds from bonds and other financial assurances  
 5-11 required by this chapter, subject to the refund provisions of  
 5-12 Section 91.1091;

5-13 (3) private contributions, including contributions  
 5-14 made under Section 89.084;

5-15 (4) expenses collected under Section 89.083;

5-16 (5) money deposited to the credit of the fund [fees  
 5-17 imposed] under Section 85.2021;

5-18 (6) civil penalties collected for violations of  
 5-19 Chapter 89 or of rules or orders relating to plugging that are  
 5-20 adopted under this code;

5-21 (7) proceeds collected under Sections 89.085 and  
 5-22 91.115;

5-23 (8) interest earned on the funds deposited in the  
 5-24 fund;

5-25 (9) fees collected under Section 91.104;

5-26 (10) civil penalties or costs recovered under Section  
 5-27 91.457 or 91.459;

5-28 (11) oil and gas waste hauler permit application fees  
 5-29 collected under Section 29.015, Water Code;

5-30 (12) costs recovered under Section 91.113(f);

5-31 (13) money deposited to the credit of the fund  
 5-32 [hazardous oil and gas waste generation fees collected] under  
 5-33 Section 91.605;

5-34 (14) oil-field cleanup regulatory fees on oil  
 5-35 collected under Section 81.116;

5-36 (15) oil-field cleanup regulatory fees on gas  
 5-37 collected under Section 81.117;

5-38 (16) fees for a reissued certificate collected under  
 5-39 Section 85.167;

5-40 (17) money deposited to the credit of the fund [fees  
 5-41 collected] under Section 91.1013;

5-42 (18) fees collected under Section 89.088;

5-43 (19) penalties collected under Section 81.0531;

5-44 (20) fees collected under Section 91.142;

5-45 (21) fees collected under Section 91.654;

5-46 (22) costs recovered under Sections 91.656 and 91.657;

5-47 (23) fees collected under Section 85.2022;

5-48 (24) money deposited to the credit of the fund under  
 5-49 Section 27.0321, Water Code;

5-50 (25) two-thirds of the fees collected under Section  
 5-51 81.0521;

5-52 (26) amounts required to be deposited in the fund  
 5-53 under Subsection (b-1); and

5-54 (27) [~~24~~] legislative appropriations.

5-55 SECTION 5.06. Section 91.142, Natural Resources Code, is  
 5-56 amended by adding Subsections (i) and (j) to read as follows:

5-57 (i) If an entity does not pay to the commission the fee  
 5-58 required by Subsection (g) on or before the fifth business day after  
 5-59 the due date as determined by the commission, the commission shall  
 5-60 suspend the organization report of the entity until the entity pays  
 5-61 to the commission the fee required by that subsection and a penalty  
 5-62 in an amount equal to the fee.

5-63 (j) All fees and penalties collected under this section  
 5-64 shall be deposited in the oil-field cleanup fund.

5-65 SECTION 5.07. Subsection (e), Section 91.605, Natural  
 5-66 Resources Code, is amended to read as follows:

5-67 (e) The fees collected under this section shall be deposited  
 5-68 to the credit of [in] the general revenue fund to be used only for  
 5-69 the administration of this state's oil and gas conservation laws,

6-1 except as provided by Section 91.111(b-1) [~~oil-field cleanup fund~~].  
6-2 SECTION 5.08. Section 27.0321, Water Code, is amended to  
6-3 read as follows:

6-4 Sec. 27.0321. APPLICATION FEE. With each application for  
6-5 an oil and gas waste disposal well permit, the applicant shall  
6-6 submit to the railroad commission a nonrefundable fee of \$300, of  
6-7 which the railroad commission shall deposit:

6-8 (1) \$100 to the credit of the oil-field cleanup fund;  
6-9 and

6-10 (2) \$200 to the credit of the general revenue fund to  
6-11 be used only for the administration of this state's oil and gas  
6-12 conservation laws, except as provided by Section 91.111(b-1),  
6-13 Natural Resources Code.

6-14 SECTION 5.09. This article takes effect September 1, 2005.

6-15 ARTICLE 6. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE  
6-16 EMPLOYEES

6-17 SECTION 6.01. Subsection (a), Section 1551.104, Insurance  
6-18 Code, is amended to read as follows:

6-19 (a) Subject to Sections 1551.101 and 1551.102, each  
6-20 full-time employee is covered automatically by the basic coverage  
6-21 plan for employees and each annuitant is covered by the basic  
6-22 coverage plan for annuitants unless:

6-23 (1) participation is specifically waived as provided  
6-24 by Section 1551.1045;

6-25 (2) the employee or annuitant is expelled from the  
6-26 program under Section 1551.351; or

6-27 (3) eligibility is otherwise limited by this chapter.

6-28 SECTION 6.02. Subchapter C, Chapter 1551, Insurance Code,  
6-29 is amended by adding Section 1551.1045 to read as follows:

6-30 Sec. 1551.1045. WAIVER. (a) Subject to Subsection (b), an  
6-31 employee or annuitant may waive in writing any coverage provided  
6-32 under this chapter.

6-33 (b) To waive coverage under the basic coverage plan, a  
6-34 full-time employee must demonstrate, in the manner required by the  
6-35 board of trustees, that the employee is covered by another health  
6-36 benefit plan that provides substantially equivalent coverage, as  
6-37 determined by the board of trustees, to the coverage provided by the  
6-38 basic coverage plan.

6-39 SECTION 6.03. Subchapter E, Chapter 1551, Insurance Code,  
6-40 is amended by adding Section 1551.222 to read as follows:

6-41 Sec. 1551.222. INCENTIVE PAYMENTS. (a) The board of  
6-42 trustees may allow an incentive payment under this section to an  
6-43 employee who elects to waive coverage under the basic coverage plan  
6-44 for employees as provided by Section 1551.1045(b).

6-45 (b) The incentive payment authorized by this section is in  
6-46 the amount authorized by the General Appropriations Act and may be  
6-47 used by the employee, in the manner prescribed by the board of  
6-48 trustees, only to pay for other group coverage plans provided under  
6-49 the group benefits program.

6-50 (c) The board of trustees, at the time of initial enrollment  
6-51 in the group benefits program and during subsequent open enrollment  
6-52 periods, shall inform employees that they may make an election  
6-53 described by Subsection (a), if eligible, and receive any  
6-54 authorized incentive payment.

6-55 SECTION 6.04. Subchapter G, Chapter 1551, Insurance Code,  
6-56 is amended by adding Section 1551.324 to read as follows:

6-57 Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE  
6-58 EMPLOYEES; INCENTIVE PAYMENTS. (a) Notwithstanding any other  
6-59 provision of this subchapter, the state contribution for an  
6-60 employee's coverage under this subchapter may be reduced, as  
6-61 provided in the General Appropriations Act, to reflect the reduced  
6-62 cost of coverage for an employee who elects to waive basic coverage  
6-63 as provided by Section 1551.1045(b).

6-64 (b) Instead of the full state contribution for an employee  
6-65 who makes an election described by Subsection (a), the state may  
6-66 contribute, as specified by the General Appropriations Act, an  
6-67 amount for the incentive payment authorized by Section 1551.222.

6-68 ARTICLE 7. COLLECTION OF MOTOR FUELS TAXES

6-69 SECTION 7.01. Subdivisions (20) and (43), Section 162.001,

7-1 Tax Code, are amended to read as follows:

7-2 (20) "Distributor" means a person who acquires motor  
7-3 fuel from a licensed supplier, permissive supplier, or another  
7-4 licensed distributor and who makes sales at wholesale and whose  
7-5 activities may also include sales at retail. The term includes a  
7-6 person engaged in the tax-free sale of dyed diesel fuel to marine  
7-7 vessels.

7-8 (43) "Motor fuel transporter" means a person who  
7-9 transports gasoline, diesel fuel, or gasoline blended fuel for hire  
7-10 outside the bulk transfer/terminal system by means of a transport  
7-11 vehicle, a railroad tank car, or a marine vessel.

7-12 SECTION 7.02. Subsection (b), Section 162.004, Tax Code, is  
7-13 amended to read as follows:

7-14 (b) The shipping document issued by the terminal operator or  
7-15 operator of a bulk plant shall contain the following information  
7-16 and any other information required by the comptroller:

7-17 (1) the terminal control number of the terminal or  
7-18 physical address of the bulk plant from which the motor fuel was  
7-19 received;

7-20 (2) the name [~~and license number~~] of the purchaser;

7-21 (3) the date the motor fuel was loaded;

7-22 (4) the net gallons loaded, or the gross gallons  
7-23 loaded if the fuel was purchased from a bulk plant;

7-24 (5) the destination state of the motor fuel, as  
7-25 represented by the purchaser of the motor fuel or the purchaser's  
7-26 agent; and

7-27 (6) a description of the product being transported.

7-28 SECTION 7.03. Subsection (a), Section 162.016, Tax Code, is  
7-29 amended to read as follows:

7-30 (a) A person may not import motor fuel to a destination in  
7-31 this state or export motor fuel to a destination outside this state  
7-32 by any means unless the person possesses a shipping document for  
7-33 that fuel created by the terminal or bulk plant at which the fuel  
7-34 was received. The shipping document must include:

7-35 (1) the name and physical address of the terminal or  
7-36 bulk plant from which the motor fuel was received for import or  
7-37 export;

7-38 (2) the name [~~and federal employer identification~~  
7-39 ~~number, or the social security number if the employer~~  
7-40 ~~identification number is not available,~~] of the carrier  
7-41 transporting the motor fuel;

7-42 (3) the date the motor fuel was loaded;

7-43 (4) the type of motor fuel;

7-44 (5) the number of gallons:

7-45 (A) in temperature-adjusted gallons if purchased  
7-46 from a terminal for export or import; or

7-47 (B) in temperature-adjusted gallons or in gross  
7-48 gallons if purchased from a bulk plant;

7-49 (6) the destination of the motor fuel as represented  
7-50 by the purchaser of the motor fuel and the number of gallons of the  
7-51 fuel to be delivered, if delivery is to only one state;

7-52 (7) the name [~~, federal employer identification~~  
7-53 ~~number, license number, and physical address~~] of the purchaser of  
7-54 the motor fuel;

7-55 (8) the name of the person responsible for paying the  
7-56 tax imposed by this chapter, as given to the terminal by the  
7-57 purchaser if different from the licensed supplier or distributor;  
7-58 and

7-59 (9) any other information that, in the opinion of the  
7-60 comptroller, is necessary for the proper administration of this  
7-61 chapter.

7-62 SECTION 7.04. Subsection (d), Section 162.113, Tax Code, is  
7-63 amended to read as follows:

7-64 (d) The supplier or permissive supplier shall [~~has the~~  
7-65 ~~right~~], after notifying the comptroller of the licensed  
7-66 distributor's or licensed importer's failure to remit taxes under  
7-67 this section, [~~to~~] terminate the ability of the licensed  
7-68 distributor or licensed importer to defer the payment of gasoline  
7-69 tax. The supplier or permissive supplier shall reinstate without

8-1 delay the right of the licensed distributor or licensed importer to  
8-2 defer the payment of gasoline tax after the comptroller provides to  
8-3 the supplier or permissive supplier notice that the licensed  
8-4 distributor or licensed importer is in good standing with the  
8-5 comptroller for the purposes of the gasoline tax imposed under this  
8-6 subchapter.

8-7 SECTION 7.05. Section 162.115, Tax Code, is amended by  
8-8 adding Subsection (m-1) to read as follows:

8-9 (m-1) In addition to the records specifically required by  
8-10 this section, a license holder shall keep any other record required  
8-11 by the comptroller.

8-12 SECTION 7.06. Subsections (a) and (d), Section 162.116, Tax  
8-13 Code, are amended to read as follows:

8-14 (a) The monthly return and supplements of each supplier and  
8-15 permissive supplier shall contain for the period covered by the  
8-16 return:

8-17 (1) [~~the number of net gallons of gasoline received by~~  
8-18 ~~the supplier or permissive supplier during the month, sorted by~~  
8-19 ~~product code, seller, point of origin, destination state, carrier,~~  
8-20 ~~and receipt date,~~

8-21 [~~2~~] the number of net gallons of gasoline removed at  
8-22 a terminal rack during the month from the account of the supplier,  
8-23 sorted by product code, person receiving the gasoline, terminal  
8-24 code, and carrier;

8-25 (2) [~~3~~] the number of net gallons of gasoline  
8-26 removed during the month for export, sorted by product code, person  
8-27 receiving the gasoline, terminal code, destination state, and  
8-28 carrier;

8-29 (3) [~~4~~] the number of net gallons of gasoline  
8-30 removed during the month from a terminal located in another state  
8-31 for conveyance to this state, as indicated on the shipping document  
8-32 for the gasoline, sorted by product code, person receiving the  
8-33 gasoline, terminal code, and carrier;

8-34 (4) [~~5~~] the number of net gallons of gasoline the  
8-35 supplier or permissive supplier sold during the month in  
8-36 transactions exempt under Section 162.104, sorted by [~~product code,~~  
8-37 ~~carrier,~~] purchaser[, ~~and terminal code,~~

8-38 [~~6~~] ~~the number of net gallons of gasoline sold in the~~  
8-39 ~~bulk transfer/terminal system in this state to any person not~~  
8-40 ~~holding a supplier's or permissive supplier's license]; and~~

8-41 (5) [~~7~~] any other information required by the  
8-42 comptroller.

8-43 (d) For purposes of Subsection (c), all payments or credits  
8-44 in reduction of a customer's account must be applied ratably  
8-45 between motor fuels and other goods sold to the customer, and the  
8-46 credit allowed will be the tax on the number of gallons represented  
8-47 by the motor fuel portion of the credit. The comptroller may not  
8-48 require a supplier or permissive supplier to remit from a payment or  
8-49 credit in reduction of a customer's account any tax for which the  
8-50 supplier or permissive supplier was allowed to take a credit.

8-51 SECTION 7.07. Section 162.118, Tax Code, is amended to read  
8-52 as follows:

8-53 Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S  
8-54 RETURN. The monthly return and supplements of each distributor  
8-55 shall contain for the period covered by the return:

8-56 (1) the number of net gallons of gasoline received by  
8-57 the distributor during the month, sorted by product code and[~~7~~  
8-58 ~~seller[, point of origin, destination state, carrier, and receipt~~  
8-59 ~~date]~~];

8-60 (2) the number of net gallons of gasoline removed at a  
8-61 terminal rack by the distributor during the month, sorted by  
8-62 product code, seller, and terminal code[~~, and carrier]~~];

8-63 (3) the number of net gallons of gasoline removed by  
8-64 the distributor during the month for export, sorted by product  
8-65 code, terminal code, bulk plant address, destination state, and  
8-66 carrier;

8-67 (4) the number of net gallons of gasoline removed by  
8-68 the distributor during the month from a terminal located in another  
8-69 state for conveyance to this state, as indicated on the shipping



document for the gasoline, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of gasoline the distributor sold during the month in transactions exempt under Section 162.104, sorted by product code and purchaser; and

(6) any other information required by the comptroller.

SECTION 7.08. Section 162.123, Tax Code, is amended to read as follows:

Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN. The monthly return and supplements of each blender shall contain for the period covered by the return:

~~(1) [the number of net gallons of gasoline received by the blender during the month, sorted by product code, seller, point of origin, carrier, and receipt date;~~

~~[(2)]~~ the number of net gallons of product blended with gasoline during the month, sorted by product code, type of blending agent if no product code exists, seller, and carrier;

~~[(3) the number of net gallons of blended gasoline sold during the month and the license number or name and address of the entity receiving the blended gasoline;]~~ and

(2) ~~[(4)]~~ any other information required by the comptroller.

SECTION 7.09. Section 162.127, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) The comptroller shall issue a refund warrant to a distributor not later than the 60th day after the date the comptroller receives a valid refund claim from the distributor. If the comptroller does not issue the refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.060 beginning on the 61st day after the date the comptroller receives the valid refund claim and ending on the date the comptroller issues the refund warrant.

SECTION 7.10. Section 162.206, Tax Code, is amended by amending Subsection (c) and adding Subsections (c-1) and (h-1) to read as follows:

(c) A person may not make a tax-free purchase and a licensed supplier or distributor may not make a tax-free sale to a purchaser of any dyed diesel fuel under this section using a signed statement~~[-~~

~~[(1) for the purchase or the sale of more than 7,400 gallons of dyed diesel fuel in a single delivery; or~~

~~[(2)]~~ in a calendar month in which the person has previously purchased from all sources or in which the licensed supplier has previously sold to that purchaser more than:

(1) [(A)] 10,000 gallons of dyed diesel fuel;

(2) [(B)] 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in the original production of, or to increase the production of, oil or gas and furnishes the supplier with a letter of exception issued by the comptroller; or

(3) [(C)] 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in agricultural off-highway equipment.

(c-1) The monthly limitations prescribed by Subsection (c) apply regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month.

(h-1) For purposes of this section, the purchaser is considered to have furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end user number issued by the comptroller. The licensed supplier or distributor shall use the comptroller's Internet website or other materials provided or produced by the comptroller to verify this information.

SECTION 7.11. Subsection (d), Section 162.214, Tax Code, is amended to read as follows:

(d) The supplier or permissive supplier shall ~~[has the right]~~, after notifying the comptroller of the licensed

distributor's or licensed importer's failure to remit taxes under this section, ~~to~~ terminate the ability of the licensed distributor or licensed importer to defer the payment of diesel fuel tax. The supplier or permissive supplier shall reinstate without delay the right of the licensed distributor or licensed importer to defer the payment of diesel fuel tax after the comptroller provides to the supplier or permissive supplier notice that the licensed distributor or licensed importer is in good standing with the comptroller for the purposes of diesel fuel tax imposed under this subchapter.

SECTION 7.12. Section 162.216, Tax Code, is amended by adding Subsection (m-1) to read as follows:

(m-1) In addition to the records specifically required by this section, a license holder shall keep any other record required by the comptroller.

SECTION 7.13. Subsections (a) and (d), Section 162.217, Tax Code, are amended to read as follows:

(a) The monthly return and supplements of each supplier and permissive supplier shall contain for the period covered by the return:

(1) ~~[the number of net gallons of diesel fuel received by the supplier or permissive supplier during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;~~

~~[(2)]~~ the number of net gallons of diesel fuel removed at a terminal rack during the month from the account of the supplier, sorted by product code, person receiving the diesel fuel, terminal code, and carrier;

(2) ~~[(3)]~~ the number of net gallons of diesel fuel removed during the month for export, sorted by product code, person receiving the diesel fuel, terminal code, destination state, and carrier;

(3) ~~[(4)]~~ the number of net gallons of diesel fuel removed during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the diesel fuel, sorted by product code, person receiving the diesel fuel, terminal code, and carrier;

(4) ~~[(5)]~~ the number of net gallons of diesel fuel the supplier or permissive supplier sold during the month in transactions exempt under Section 162.204, sorted by ~~[product code, carrier,]~~ purchaser~~[, and terminal code,]~~

~~[(6) the number of net gallons of diesel fuel sold in the bulk transfer/terminal system in this state to any person not holding a supplier's or permissive supplier's license]; and~~

(5) ~~[(7)]~~ any other information required by the comptroller.

(d) For the purpose of Subsection (c), all payments or credits in reduction of a customer's account must be applied ratably between motor fuels and other goods sold to the customer, and the credit allowed will be the tax on the number of gallons represented by the motor fuel portion of the credit. The comptroller may not require a supplier or permissive supplier to remit from a payment or credit in reduction of a customer's account any tax for which the supplier or permissive supplier was allowed to take a credit.

SECTION 7.14. Section 162.219, Tax Code, is amended to read as follows:

Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN. The monthly return and supplements of each distributor shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel received by the distributor during the month, sorted by product code and~~[7]~~ seller~~[, point of origin, destination state, carrier, and receipt date];~~

(2) the number of net gallons of diesel fuel removed at a terminal rack by the distributor during the month, sorted by product code, seller, and terminal code~~[, and carrier];~~

(3) the number of net gallons of diesel fuel removed by the distributor during the month for export, sorted by product

code, terminal code, bulk plant address, destination state, and carrier;

(4) the number of net gallons of diesel fuel removed by the distributor during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the diesel fuel, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of diesel fuel the distributor sold during the month in transactions exempt under Section 162.204, sorted by product code and by the entity receiving the diesel fuel;

(6) the number of net gallons of ~~[-]~~ dyed diesel fuel sold to a purchaser under a signed statement ~~[-]~~ or dyed diesel fuel sold to a dyed diesel fuel bonded user, sorted by product code and by the entity receiving the diesel fuel; and

(7) ~~[-]~~ any other information required by the comptroller.

SECTION 7.15. Section 162.224, Tax Code, is amended to read as follows:

Sec. 162.224. INFORMATION REQUIRED ON BLENDER'S RETURN. The monthly return and supplements of each blender shall contain for the period covered by the return:

~~(1) [the number of net gallons of diesel fuel received by the blender during the month, sorted by product code, seller, point of origin, carrier, and receipt date,~~

~~[-]~~ the number of net gallons of product blended with diesel fuel during the month, sorted by product code, type of blending agent if no product code exists, seller, and carrier;

~~[-]~~ the number of net gallons of blended diesel fuel sold during the month and the license number or name and address of the entity receiving the blended diesel fuel;] and

(2) ~~[-]~~ any other information required by the comptroller.

SECTION 7.16. Section 162.227, Tax Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state:

(1) as a feedstock or other component in the further manufacturing of tangible personal property for resale not as a motor fuel; or

(2) in the original production of oil or gas or to increase the production of oil or gas.

SECTION 7.17. Section 162.229, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) The comptroller shall issue a refund warrant to a distributor not later than the 60th day after the date the comptroller receives a valid refund claim from the distributor. If the comptroller does not issue the refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.060 beginning on the 61st day after the date the comptroller receives the valid refund claim and ending on the date the comptroller issues the refund warrant.

SECTION 7.18. Subsection (d), Section 162.230, Tax Code, is amended to read as follows:

(d) A supplier, ~~or~~ permissive supplier, or distributor that determines taxes were erroneously reported and remitted or that paid more taxes than were due to this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

SECTION 7.19. Subsections (c) and (d), Section 162.404, Tax Code, are amended to read as follows:

(c) The prohibition under Section 162.403(32) does not apply to the tax-free sale or distribution of diesel fuel authorized by Section 162.204(a)(1) ~~[-]~~, (2), or (3).

(d) The prohibition under Section 162.403(33) does not apply to the tax-free sale or distribution of gasoline under Section 162.104(a)(1) [~~162.104(1)~~], (2), or (3).

SECTION 7.20. Subsection (h), Section 162.016, Tax Code, is repealed.

SECTION 7.21. This article applies only to taxes imposed on or after the effective date of this article. Taxes imposed before the effective date of this article are governed by the law in effect on the date the taxes were imposed, and that law is continued in effect for that purpose.

SECTION 7.22. This article takes effect September 1, 2005.

ARTICLE 8. ELIGIBILITY FOR MEDICAL ASSISTANCE AND CHILDREN'S HEALTH INSURANCE PROGRAMS

SECTION 8.01. Notwithstanding other law, during the state fiscal biennium beginning September 1, 2005, the executive commissioner of the Health and Human Services Commission may provide for periods of continuous eligibility under the state Medicaid program and the children's health insurance program that are designed to provide savings to the state without imposing unreasonably onerous burdens on persons who are eligible to receive services or coverage under those programs.

SECTION 8.02. If the executive commissioner of the Health and Human Services Commission determines that under federal law or as a condition of receiving federal funding a waiver or authorization from a federal agency is necessary to provide for a desired period of continuous eligibility, the executive commissioner may seek the waiver or authorization.

ARTICLE 9. EFFECTIVE DATE

SECTION 9.01. Except as otherwise provided by this Act, 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, except as otherwise provided by this Act, this Act takes effect on the 91st day after the last day of the legislative session.

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