

By: Carona, et al.

S.B. No. 855

Substitute the following for S.B. No. 855:

By: Phillips

C.S.S.B. No. 855

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a county motor fuels tax in certain counties for  
3 mobility improvement projects; providing authority to impose the  
4 tax, issue bonds, and impose penalties.

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

6 SECTION 1. Subtitle B, Title 14, Local Government Code, is  
7 amended by adding Chapter 616 to read as follows:

8 CHAPTER 616. COUNTY MOTOR FUELS TAX FOR MOBILITY IMPROVEMENT  
9 PROJECTS

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 616.001. SHORT TITLE. This chapter may be cited as the  
12 Texas Local Option Transportation Act.

13 Sec. 616.002. DEFINITIONS. In this chapter:

14 (1) "Dealer," "diesel fuel," "gasoline," "motor  
15 fuel," "motor vehicle," "public highway," and "sale" have the  
16 meanings assigned by Section 162.001, Tax Code.

17 (2) "Department" means the Texas Department of  
18 Transportation.

19 (3) "Intermodal hub" and "transit system" have the  
20 meanings assigned by Section 370.003, Transportation Code.

21 (4) "Metropolitan planning organization" has the  
22 meaning assigned by Section 472.031, Transportation Code.

23 (5) "Mobility improvement project" means a capital  
24 improvement or set of related capital improvements in a geographic

1 area, including maintenance and operation of the improvements,  
2 designed to relieve traffic congestion, increase mobility and the  
3 movement of traffic or individuals, expand transportation  
4 capacity, promote traffic or pedestrian safety, or improve air  
5 quality. The term includes passenger rail systems and related  
6 infrastructure; freight rail systems; transit systems; intermodal  
7 hubs; pedestrian facilities; streets, roadways, highways, and  
8 additional roadway or highway lanes, such as turning lanes and  
9 managed or high occupancy vehicle lanes; and bridges, tunnels,  
10 interchanges, overpasses, underpasses, service roads, ramps,  
11 entrance plazas, parking areas or structures, and traffic signal  
12 systems.

13 (6) "Transit authority" or "transportation authority"  
14 means an authority operating under Chapter 370, 451, 452, or 460,  
15 Transportation Code.

16 Sec. 616.003. REDUCTION PROHIBITED. (a) A county,  
17 municipality, or metropolitan planning organization may not be  
18 penalized with a reduction in state or federal transportation  
19 funding, including funding from the state highway fund, the Texas  
20 mobility fund, the Texas highway beautification fund, general  
21 obligation bonds, or any other method of state or federal  
22 transportation financing, because of the imposition of a county  
23 motor fuels tax under this chapter.

24 (b) The department may not reduce any allocation of state or  
25 federal transportation funding to a department district because the  
26 district contains a county that imposes a county motor fuels tax  
27 under this chapter.

1       Sec. 616.004. RESTRICTIONS ON LOBBYING. A county that  
2 imposes a county motor fuels tax under this chapter may not use  
3 revenue from the tax to pay a person or entity that is required to  
4 register with the Texas Ethics Commission under Chapter 305,  
5 Government Code.

6       Sec. 616.005. LIBERAL CONSTRUCTION. This chapter shall be  
7 liberally construed to effect its purposes.

8       Sec. 616.006. EXPIRATION OF CHAPTER. (a) This chapter  
9 expires January 1, 2019. The expiration of this chapter precludes  
10 the holding of an election or the imposition of a county motor fuels  
11 tax not authorized under this chapter before its expiration.

12       (b) The expiration of this chapter does not affect:

13           (1) the enforcement of bonds, obligations, covenants,  
14 or other legal instruments issued or executed under this chapter  
15 before its expiration;

16           (2) the continued imposition and collection of a  
17 county motor fuels tax authorized at an election held under this  
18 chapter necessary to fulfill an obligation or other instrument  
19 described by Subdivision (1) before its expiration;

20           (3) the performance of any mobility improvement  
21 project, including maintenance and operation of a project; or

22           (4) the administration of a county mobility  
23 improvement fund established under this chapter for county motor  
24 fuels tax revenue.

25       Sec. 616.007. PROHIBITIONS ON USE OF REVENUE. A county may  
26 not use revenue from a county motor fuels tax imposed under this  
27 chapter:

1           (1) to acquire, construct, maintain, or otherwise  
2 directly fund a toll project;

3           (2) for an approved mobility improvement project if  
4 the revenue is used in order to reallocate other revenue toward a  
5 toll project; or

6           (3) to directly or indirectly hold, promote, or oppose  
7 an election under this chapter, including paying for promotional,  
8 educational, or advocacy materials.

9           Sec. 616.008. INTERLOCAL CONTRACTING AUTHORITY. (a) A  
10 political subdivision may contract or agree with another political  
11 subdivision to perform governmental functions and services in  
12 accordance with this chapter.

13           (b) A party to an interlocal contract may contract with an  
14 agency, as that term is defined by Section 771.002, Government  
15 Code.

16           (c) In this section, "interlocal contract" has the meaning  
17 assigned by Section 791.003, Government Code.

18           Sec. 616.009. ANNUAL REPORT AND AUDIT. (a) On or before  
19 the 90th day following the end of the fiscal year of a county that  
20 imposes a motor fuels tax under this chapter, the commissioners  
21 court must submit a report to the executive director of the  
22 department and to the state auditor. The report must include:

23           (1) the amount of revenue collected in the county  
24 under this chapter;

25           (2) the amount and purpose of expenditures related to  
26 mobility improvement projects; and

27           (3) a description of the progress made toward

1 completion of mobility improvement projects.

2 (b) The county must publish the report required under  
3 Subsection (a) on the county's Internet website at the time the  
4 report is submitted to the department.

5 (c) Based on a risk assessment process in accordance with  
6 Chapter 321, Government Code, the financial transactions of a  
7 county regarding a motor fuels tax imposed under this chapter and  
8 related mobility improvement projects are subject to audit by the  
9 state auditor. A county audited under this subsection shall  
10 reimburse the state auditor for the expense of the audit.

11 [Sections 616.010-616.050 reserved for expansion]

12 SUBCHAPTER B. ELECTIONS; PROJECT SELECTION; EQUITY

13 Sec. 616.051. CALLING OF ELECTION. (a) All of the  
14 commissioners courts of those counties that are wholly or partly  
15 located in the boundaries of the same metropolitan planning  
16 organization by order shall call an election on the issue of  
17 imposing a motor fuels tax under this chapter if:

18 (1) at least 240 days before a uniform election date in  
19 November, a resolution or resolutions requesting that an election  
20 be called are adopted by the commissioners courts of one or more of  
21 those counties that contain at least 66 percent of the total  
22 population of those counties; or

23 (2) at least 210 days before a uniform election date in  
24 November, a petition is submitted to those commissioners courts  
25 requesting that the election be called that is signed by the number  
26 of registered voters of those counties equal to at least 10 percent  
27 of the total number of votes cast in those counties for all

1 candidates for governor in the most recent gubernatorial general  
2 election.

3 (b) An election called under this section by the  
4 commissioners courts of more than one county in the boundaries of  
5 the same metropolitan planning organization must be held on the  
6 same date.

7 (c) A commissioners court may adopt an order under this  
8 section only after holding three public hearings on the issue.

9 (d) An election called under this section must be held on a  
10 uniform election date in November.

11 (e) Section 334.025 applies to an election called under this  
12 section.

13 (f) For the purposes of Subsection (a):

14 (1) only the portion of a municipality's population  
15 that is located in the county may be used to determine municipal  
16 population; and

17 (2) municipal and county population is based on the  
18 most recent estimate published by the metropolitan planning  
19 organization in which the county or municipality is wholly or  
20 partly located.

21 Sec. 616.052. SUBSEQUENT ELECTIONS. (a) This section  
22 applies only to a county in which the majority of voters did not  
23 approve the imposition of a county motor fuels tax at an election  
24 held under Section 616.051.

25 (b) The commissioners court by order may call a subsequent  
26 election to impose the motor fuels tax authorized under this  
27 chapter using the procedures described by this subchapter.

1       (c) The commissioners court of a county may not call a  
2 subsequent election under this section before the second  
3 anniversary of a previously held election.

4       Sec. 616.053. REQUIRED BALLOT LANGUAGE. (a) An order under  
5 this subchapter calling an election must:

6           (1) list and generally describe the nature and scope  
7 of the proposed mobility improvement projects to be constructed;  
8 and

9           (2) list the estimated cost, or portion of the cost,  
10 and the estimated completion date for the capital construction of  
11 each proposed mobility improvement project.

12       (b) The ballot at an election held under this subchapter  
13 must be printed as follows: "Authorizing \_\_\_\_\_ (insert name of  
14 county) to construct the following mobility improvement  
15 projects:\_\_\_\_\_ (insert, on four separate lines, a general and  
16 brief description of each proposed mobility improvement project, an  
17 estimated total cost of each project, the estimated date of  
18 expiration of any necessary bonds, and the estimated date the  
19 project will be operational to the public). The construction,  
20 maintenance, and operation of the project or projects listed above  
21 will be funded with a 10 cent tax imposed on the sale of a gallon of  
22 gasoline and diesel fuel. By voting "yes," you authorize the county  
23 to begin imposing a 10 cent motor fuels tax on the sale of a gallon  
24 of gasoline and diesel fuel. Do you authorize the construction of  
25 the mobility improvement projects listed above and the collection  
26 of a county motor fuels tax in \_\_\_\_\_ County?"

27       (c) The estimated cost of construction of a mobility

1 improvement project listed on a ballot is not a legally binding  
2 restriction on the actual and ultimate cost of financing the  
3 project.

4 (d) A ballot may not permit individual mobility improvement  
5 projects to be voted on as separate options. All mobility  
6 improvement projects included on a ballot must be approved or  
7 rejected as a group.

8 (e) In addition to other applicable ballot requirements, a  
9 ballot proposed in a county primarily served by a transit authority  
10 subject to Subchapter O, Chapter 452, Transportation Code, that  
11 proposes to use funds collected in the jurisdiction of the  
12 authority to finance the construction of a mobility improvement  
13 project related to a rail project located outside of the  
14 jurisdiction of the authority must specify, in regard to each of  
15 those proposed projects:

16 (1) a general description of the proposed rail-related  
17 project;

18 (2) a list of estimated costs of the proposed project,  
19 including maintenance and operating costs;

20 (3) an estimate of any increased cost of service in the  
21 jurisdiction of the authority resulting from the proposed project;  
22 and

23 (4) a limit on the amount of revenue raised through a  
24 motor fuels tax imposed under this chapter that may be spent on the  
25 project.

26 Sec. 616.054. AUTHORIZED PROJECTS. (a) A county may  
27 propose for funding by a motor fuels tax imposed under this chapter:



1           (1) the construction of a new mobility improvement  
2 project and related maintenance and operations;

3           (2) the expansion, reconstruction, or rehabilitation  
4 of an existing mobility improvement project;

5           (3) improvements in the maintenance and operation of  
6 an existing mobility improvement project; or

7           (4) the retirement of existing debt of a transit  
8 agency related to a mobility improvement project.

9           (b) A county may only use funds collected from a motor fuels  
10 tax imposed under this chapter to fund mobility improvement  
11 projects consistent with the transportation plans and programs of  
12 the metropolitan planning organization in which the county is  
13 wholly or partly located.

14           (c) A county shall consider passenger rail corridors in  
15 selecting projects for funding under this chapter.

16           (d) On or before the 30th day before the date described in  
17 Subsection (e), the metropolitan planning organization in which the  
18 county is wholly or partly located shall submit to the county a list  
19 of eligible mobility improvement projects with a primary emphasis  
20 on passenger rail and major roadway improvements.

21           (e) On or before the 180th day before an election is held  
22 under this subchapter, the commissioners court shall, by order and  
23 in consultation with municipalities and transit agencies located or  
24 operating in the county, determine in a public hearing which  
25 projects from the list submitted under Subsection (d) shall be  
26 proposed for funding from a motor fuels tax imposed under this  
27 chapter.

1 (f) At the discretion of the county, employees of the  
2 department, the county, a municipality, a metropolitan planning  
3 organization, an airport, or a transit authority or transportation  
4 authority located or operating in the county may be asked to provide  
5 staff support services to the county to determine the projects to be  
6 proposed and constructed.

7 Sec. 616.055. COMMITMENT TO EQUITY. (a) This section  
8 applies only to a county or municipality that is located in a region  
9 served by a metropolitan planning organization that serves two  
10 adjacent counties that each have a population of one million or  
11 more.

12 (b) A commissioners court must use its best efforts to ensure  
13 that mobility improvement projects selected for funding under  
14 Section 616.054 benefit each municipality and unincorporated area  
15 in the county in approximate proportion to the amount of tax revenue  
16 generated in each municipality and unincorporated area.

17 (c) Revenue from a motor fuels tax imposed under this  
18 chapter and collected within any municipality having territory  
19 located in a transportation authority funded by a dedicated sales  
20 tax and governed by a subregional board under Subchapter O, Chapter  
21 452, Transportation Code, shall be maintained in a single  
22 segregated account separate from tax revenue collected elsewhere in  
23 the county.

24 (d) Revenue maintained in the account described by  
25 Subsection (c) may not be used outside the boundaries of the  
26 territory of that authority or the county unless the governing body  
27 of each municipality in the county with territory in the authority

1 and the governing body of the transportation authority consent to  
2 the use.

3 (e) Tax revenue collected in an area outside the territory  
4 of a transportation authority funded by a dedicated sales tax and  
5 governed by a subregional board under Subchapter O, Chapter 452,  
6 Transportation Code, may not be used in the territory of that  
7 authority or outside the county unless the commissioners court of  
8 the county or the governing bodies of two or more municipalities  
9 representing 60 percent or more of the population of the county  
10 outside of the territory of the authority consent to the use.

11 (f) Before the commissioners court selects a mobility  
12 improvement project under Section 616.054, the governing body of  
13 any authority, county, or municipality required under this section  
14 to provide its consent regarding the use of revenue collected under  
15 this chapter shall indicate by order, resolution, or other formal  
16 action whether the consent is granted. On final approval of the  
17 project by the commissioners court, the governing body of a  
18 municipality or authority may not rescind its consent if it has been  
19 given.

20 [Sections 616.056-616.100 reserved for expansion]

21 SUBCHAPTER C. COUNTY MOTOR FUELS TAX

22 Sec. 616.101. COUNTY MOTOR FUELS TAX AUTHORIZED;  
23 EXPIRATION. (a) If approved by a majority of the votes cast in a  
24 county at an election held under Subchapter B, the county shall  
25 impose and collect a tax at a rate of 10 cents per gallon on the sale  
26 of gasoline and diesel fuel that is sold in the county by a person,  
27 including a dealer, distributor, supplier, or permissive supplier,

1 engaged in the sale of motor fuels used to propel a motor vehicle on  
2 the public highways of the state. The tax is added to the selling  
3 price of the gasoline or diesel fuel and is part of the gasoline or  
4 diesel fuel price, is a debt owed to the seller, and is recoverable  
5 at law in the same manner as the fuel charge for gasoline or diesel  
6 fuel.

7 (b) The tax authorized by this section is in addition to the  
8 tax imposed by Chapter 162, Tax Code, and shall be collected in  
9 conjunction with that tax when gasoline or diesel fuel is removed  
10 from a terminal using the terminal rack, other than by bulk  
11 transfer, to be sold or delivered into a county that has imposed the  
12 tax authorized by this section.

13 (c) A county shall discontinue the collection of a motor  
14 fuels tax under this chapter if:

15 (1) all of the mobility improvement projects approved  
16 by the voters of a county are accepted by the governmental entity  
17 that contracted for the projects;

18 (2) all of the bonds issued for mobility improvement  
19 projects are paid in full; and

20 (3) additional revenue from the continued collection  
21 of the tax is not necessary for ongoing maintenance and operation of  
22 mobility improvement projects, including the financial impact a new  
23 mobility improvement project may have on an existing transit system  
24 as specified by an interlocal agreement.

25 Sec. 616.102. IMPOSITION OF COUNTY MOTOR FUELS TAX. (a)  
26 The comptroller shall administer, collect, and enforce a tax  
27 imposed on the sale of gasoline or diesel fuel approved in

1 accordance with the provisions of this chapter. The tax shall be  
2 exclusively administered, collected, and enforced in conformance  
3 with Chapter 162, Tax Code, governing the tax assessed on the sale  
4 of gasoline and diesel fuel. References in Chapter 162, Tax Code,  
5 to taxes imposed under that chapter also include taxes imposed  
6 under this section.

7 (b) The definitions in Chapter 162, Tax Code, apply to this  
8 section.

9 (c) The exemptions provided by Sections 162.104 and  
10 162.204, Tax Code, apply to the tax authorized by this section.

11 (d) Subject to Section 616.1025, the comptroller may adopt  
12 reasonable rules and prescribe forms that are consistent with this  
13 chapter and Chapter 162, Tax Code, for the administration,  
14 collection, reporting, and enforcement of this section.

15 (e) Except as provided by Subsection (f), the tax authorized  
16 by this section takes effect on the first day of the first calendar  
17 quarter following the expiration of the first complete quarter  
18 occurring after the date of election authorizing the order imposing  
19 the tax under Subchapter B.

20 (f) If the comptroller determines that an effective date  
21 provided by Subsection (e) will occur before the comptroller can  
22 reasonably take the action required to begin collecting the tax,  
23 the comptroller may delay the effective date until the first day of  
24 the first calendar quarter following the date the comptroller  
25 declares that the comptroller is ready to begin collecting the tax.

26 (g) Except as otherwise provided by this chapter, a county  
27 shall adopt rules and prescribe forms for the collection of a tax

1 authorized by this section. A person required to collect a tax  
2 authorized by this section shall report and send the tax to the  
3 county as provided by the county.

4 (h) A county imposing a tax under this chapter may prescribe  
5 monetary penalties, including interest charges, for failure to keep  
6 records required by rules adopted under this section, failure to  
7 report when required, or failure to pay the tax when due.

8 (i) A county attorney, criminal district attorney, or  
9 district attorney may bring suit against a person to enforce the  
10 provisions of this section.

11 (j) Before making a distribution to a county under Section  
12 616.104, the comptroller shall deduct any costs incurred by the  
13 comptroller related to the comptroller's preparations to  
14 administer, collect, and enforce a tax on the sale of gasoline or  
15 diesel fuel approved in accordance with this chapter. Each county  
16 that approves the imposition of a tax on the sale of gasoline or  
17 diesel fuel shall be charged a pro rata amount for the comptroller's  
18 costs in preparing to administer, collect, and enforce the tax. If  
19 only one county elects to approve the imposition of a tax on the  
20 sale of gasoline or diesel fuel in its jurisdiction, that county  
21 shall bear all of the costs incurred by the comptroller but may  
22 recover pro rata shares of this cost from other counties that  
23 approve the imposition of the tax.

24 Sec. 616.1025. ADOPTION OF RULES RELATING TO MOTOR FUELS  
25 TAX. (a) Before the comptroller may adopt rules under Section  
26 616.102, the comptroller must consult with representatives of:

27 (1) the entities that would be required to:

1           (A) collect and remit a motor fuels tax imposed  
2 under this chapter; and

3           (B) file reports with the comptroller relating to  
4 a motor fuels tax imposed under this chapter; and

5           (2) counties in which the voters have approved the  
6 imposition of a motor fuels tax under this chapter.

7           (b) Rules adopted under Section 616.102 must provide for the  
8 uniform administration and reporting of all motor fuels taxes  
9 imposed by a county under this chapter. A county may not impose  
10 requirements on an entity required to collect a motor fuels tax  
11 under this chapter that are not specifically authorized by the  
12 rules adopted under Section 616.102.

13           (c) Rules adopted under Section 616.102:

14           (1) may require the comptroller to report sufficient  
15 information to each county imposing a motor fuels tax under this  
16 chapter to ensure proper allocation of revenue by the county under  
17 this chapter;

18           (2) may not require the comptroller to report  
19 proprietary information collected from an individual taxpayer in a  
20 way that would be subject to public disclosure; and

21           (3) may not authorize a county imposing a motor fuels  
22 tax under this chapter to contract with a private entity to perform  
23 any duty or responsibility associated with the collection,  
24 enforcement, or administration of the tax.

25           Sec. 616.103. TRUST ACCOUNT. The comptroller shall deposit  
26 the county taxes collected by the comptroller under this chapter  
27 and Chapter 162, Tax Code, in trust in the separate suspense account

1 of the county for which the taxes were collected.

2 Sec. 616.104. DISTRIBUTION OF TRUST FUNDS. The comptroller  
3 shall each month distribute to the county treasurer, payable to the  
4 county and for deposit in the county mobility improvement fund, the  
5 county's share of the taxes collected by the comptroller under this  
6 chapter and Chapter 162, Tax Code.

7 Sec. 616.105. STATE'S SHARE. Before making a distribution  
8 to a county under Section 616.104, the comptroller also shall  
9 deduct an amount not to exceed two percent of the amount of the  
10 taxes collected for the county during the period for which a  
11 distribution is made as the state's charge for its services. The  
12 comptroller shall credit the amount deducted to the general revenue  
13 fund. The comptroller shall adjust the percentage of the amount  
14 deducted each state fiscal year considering the projected  
15 expenditures necessary for the collection, administrative, and  
16 enforcement functions related to the county motor fuels tax.

17 Sec. 616.106. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The  
18 comptroller may retain in the suspense account of a county a portion  
19 of the county's share of the tax collected for the county under this  
20 chapter and Chapter 162, Tax Code, not to exceed five percent of the  
21 amount distributed to the county. If the county has abolished the  
22 tax, the amount that may be retained may not exceed five percent of  
23 the final distribution to the county at the time of the termination  
24 of the collection of the tax.

25 (b) From the amounts retained in a county's suspense  
26 account, the comptroller may correct erroneous deposits to the  
27 account, make refunds for overpayments to the account, and redeem



1 dishonored checks and drafts deposited to the credit of the  
2 account.

3 (c) Before the fourth anniversary of the effective date of  
4 the abolition of a county tax collected under this chapter and  
5 Chapter 162, Tax Code, the comptroller shall send to the county the  
6 remainder of the money in the county's account and shall close the  
7 account.

8 Sec. 616.107. INTEREST ON TRUST ACCOUNT. Interest earned  
9 on all deposits made by the comptroller under this subchapter shall  
10 be credited to the suspense account of the county.

11 [Sections 616.108-616.150 reserved for expansion]

12 SUBCHAPTER D. FUND

13 Sec. 616.151. COUNTY MOBILITY IMPROVEMENT FUND. (a) The  
14 commissioners court of each county that imposes a motor fuels tax  
15 under this chapter shall, by order, establish a county mobility  
16 improvement fund that is separate and apart from the county's  
17 general fund account.

18 (b) The county shall deposit in the fund money distributed  
19 to the county under Section 616.104.

20 (c) The county shall establish segregated accounts in the  
21 fund:

22 (1) for each approved mobility improvement project;  
23 and

24 (2) for funds collected in the jurisdiction of a  
25 transit authority or transportation authority that is funded  
26 through a dedicated sales tax and that operates under Subchapter O,  
27 Chapter 452, or Chapter 460, Transportation Code.

1       (d) Money in the fund, including any interest earned, is the  
2 property of the county depositing the money and may be spent only as  
3 provided by Section 616.152.

4       Sec. 616.152. USE OF MONEY IN FUND; ISSUANCE OF BONDS.

5       (a) A county may use money in its county mobility improvement fund  
6 to:

7               (1) reimburse or pay, without issuing bonds or other  
8 obligations or otherwise creating debt, the costs of planning,  
9 acquiring, establishing, developing, constructing, or renovating  
10 mobility improvement projects in the county that were approved at  
11 an election under this subchapter;

12               (2) pay the principal of, interest on, or other costs  
13 relating to bonds or other obligations the county issues for the  
14 purpose of financing mobility improvement projects in the county  
15 that were approved at an election under this subchapter;

16               (3) pay amounts due and owing to a transit authority or  
17 transportation authority under a contract or interlocal agreement  
18 between the county and the authority under which the authority  
19 agrees to provide, develop, construct, install, and operate  
20 passenger rail facilities and services inside and outside the  
21 county and to issue bonds and other obligations that are secured by  
22 and payable from the amounts due from the county under the contract  
23 or interlocal agreement for the purpose of financing the capital  
24 costs of the facilities, if a county motor fuels tax was approved  
25 for that purpose at an election under this chapter;

26               (4) pay amounts due and owing to a municipality under a  
27 contract or interlocal agreement between the county and the

1 municipality under which the municipality agrees to provide,  
2 develop, or construct mobility improvement projects located inside  
3 the municipality;

4 (5) pay amounts owed to a transit agency to accelerate  
5 the retirement of outstanding debt; and

6 (6) reimburse or pay the actual and customary costs of  
7 financial administration of the fund.

8 (b) A contract or interlocal agreement entered into between  
9 a county and a transit authority or transportation authority for  
10 the purposes described by Subsection (a)(3) may have those terms  
11 and provisions, and may impose and contain requirements, grants,  
12 and limitations, as the county and the transit authority or  
13 transportation authority may mutually agree, including the power of  
14 the transit authority or transportation authority to pledge as  
15 security for its bonds all amounts, less agreed costs of  
16 collection, deposited to the county's local option transportation  
17 fund, if such a pledge was approved at an election under this  
18 subchapter.

19 (c) Bonds or other obligations issued by a county under this  
20 section may be made payable from money in the county's county  
21 mobility improvement fund, subject to any limitations contained in  
22 a contract or interlocal agreement between the county and a transit  
23 authority or transportation authority, and from any other sources  
24 of revenue of the county that are lawfully available. Bonds or  
25 other obligations issued by a transit authority or transportation  
26 authority under a contract or interlocal agreement shall be payable  
27 from and secured by the money in the county's county mobility

1 improvement fund and the revenue received from the operation of the  
2 passenger rail services financed by the bonds or other obligations  
3 and may not include any revenue the transit authority or  
4 transportation authority receives from a dedicated sales tax or the  
5 operation of any other passenger rail or bus system or related  
6 services.

7 (d) Bonds or other obligations issued by a county under this  
8 section or by a transit authority or transportation authority under  
9 a contract or interlocal agreement may mature serially or otherwise  
10 not more than 30 years after the date of issuance.

11 (e) Any bonds or other obligations issued by a county or by a  
12 transit authority or transportation authority under this section,  
13 and the proceedings authorizing the bonds or other obligations,  
14 must be submitted to the attorney general for review and approval  
15 under Chapter 1202, Government Code.

16 (f) A county may not:

17 (1) use money in the fund to finance the construction  
18 of a mobility improvement project not approved by the voters in an  
19 election under this chapter; or

20 (2) use funds approved for a particular mobility  
21 improvement project to fund a different project.

22 [Sections 616.153-616.200 reserved for expansion]

23 SUBCHAPTER E. TRANSIT AND TRANSPORTATION AUTHORITIES

24 Sec. 616.201. USE OF SALES TAX BY TRANSPORTATION AUTHORITY.

25 A subregion of a transportation authority governed by a subregional  
26 board described by Subchapter O, Chapter 452, Transportation Code,  
27 may not use any proceeds from a sales and use tax imposed under that

1 chapter, or any other revenue of the authority under that chapter,  
2 for a mobility improvement project under this chapter without the  
3 favorable vote of four-fifths of the members of the subregional  
4 board.

5 Sec. 616.202. TRANSIT AUTHORITY OR TRANSPORTATION  
6 AUTHORITY SERVICES NOT AUTHORIZED. (a) A county acting under this  
7 chapter may not directly operate or provide passenger rail services  
8 or any service expressly reserved by a transit authority or a  
9 transportation authority that serves the county.

10 (b) A motor fuels tax imposed by a county under this chapter  
11 may not be used to establish or fund services of a transit authority  
12 or a transportation authority created on or after January 1, 2009.

13 (c) This chapter does not authorize the creation of a  
14 transit authority or a transportation authority.

15 SECTION 2. Subchapter C, Chapter 791, Government Code, is  
16 amended by adding Section 791.034 to read as follows:

17 Sec. 791.034. CONTRACTS RELATED TO COUNTY MOTOR FUELS  
18 TAXES. (a) The comptroller may enter into an interlocal contract  
19 with one or more local governments or political subdivisions to  
20 collect, administer, and enforce a county motor fuels tax enacted  
21 under Chapter 616, Local Government Code, and any other related  
22 law.

23 (b) This section expires January 1, 2012.

24 SECTION 3. Section 162.001, Tax Code, is amended by adding  
25 Subdivisions (16-a), (16-b), (56-a), (56-b), and (57-a) to read as  
26 follows:

27 (16-a) "County diesel fuel tax" means the tax imposed

1 by Section 162.2011 or 162.2035.

2 (16-b) "County gasoline tax" means the tax imposed by  
3 Section 162.1011 or 162.1035.

4 (56-a) "State diesel fuel tax" means the tax imposed  
5 by Section 162.201 or 162.203.

6 (56-b) "State gasoline tax" means the tax imposed by  
7 Section 162.101 or 162.103.

8 (57-a) "Taxing county" means a destination county that  
9 has adopted the tax on motor vehicle fuel authorized by Chapter 616,  
10 Local Government Code.

11 SECTION 4. Sections 162.004(e) and (g), Tax Code, are  
12 amended to read as follows:

13 (e) A person to whom a shipping document was issued shall:

14 (1) carry the shipping document in the barge, vessel,  
15 railroad tank car, or other transport vehicle for which the  
16 document was issued when transporting the motor fuel described in  
17 the document;

18 (2) show the shipping document on request to any law  
19 enforcement officer, representative of the comptroller, or other  
20 authorized individual, when transporting the motor fuel described;

21 (3) deliver the motor fuel to the destination state  
22 printed on the shipping document unless the person:

23 (A) notifies the comptroller and the destination  
24 state, if a diversion program is in place, before transporting the  
25 motor fuel into a state other than the printed destination state,  
26 that the person has received instructions after the shipping  
27 document was issued to deliver the motor fuel to a different

1 destination state;

2 (B) receives from the comptroller and  
3 destination state, if a diversion program is in place, a diversion  
4 number authorizing the diversion; and

5 (C) writes on the shipping document the change in  
6 destination state and the diversion number; ~~and~~

7 (4) if delivering the motor fuel into a county in this  
8 state, denote on the shipping document the county to which the motor  
9 fuel will be delivered or, in the case of a split load, each county  
10 in which a portion of the motor fuel will be delivered; and

11 (5) give a copy of the shipping document to the person  
12 to whom the motor fuel is delivered.

13 (g) The person to whom motor fuel is delivered by barge,  
14 vessel, railroad tank car, or transport vehicle may not accept  
15 delivery of the motor fuel if the destination state shown on the  
16 shipping document for the motor fuel is a state other than this  
17 state, except that the person may accept the ~~that~~ delivery if the  
18 document contains a diversion number authorized by the comptroller  
19 and destination state, if applicable, and has received a properly  
20 completed shipping document listing the county in this state in  
21 which the person accepts delivery. The person to whom the motor  
22 fuel is delivered shall examine the shipping document to determine  
23 that the destination state is this state and the county in this  
24 state is the county in which the person accepts delivery, and shall  
25 retain a copy of the shipping document at the delivery location or  
26 another place until the fourth anniversary of the date of delivery.

27 SECTION 5. Section 162.005(e), Tax Code, is amended to read

1 as follows:

2 (e) The comptroller may revoke a license if the license  
3 holder:

4 (1) purchases for export motor fuel on which the tax  
5 was not paid under this chapter and subsequently diverts or causes  
6 the motor fuel to be diverted to a destination in this state or to  
7 any destination other than the originally designated state or  
8 country without first obtaining a diversion number; or

9 (2) delivers motor fuel on which the county gasoline  
10 tax or county diesel fuel tax is due without issuing a properly  
11 completed shipping document listing the taxing county in which the  
12 delivery occurred.

13 SECTION 6. Section 162.012, Tax Code, is amended to read as  
14 follows:

15 Sec. 162.012. PRESUMPTIONS. (a) A person licensed under  
16 this chapter or required to be licensed under this chapter, or other  
17 user, who fails to keep a record, issue an invoice, or file a return  
18 or report required by this chapter is presumed to have sold or used  
19 for taxable purposes all motor fuel shown by an audit by the  
20 comptroller to have been sold to the license holder or other user.  
21 Motor fuel unaccounted for is presumed to have been sold or used for  
22 taxable purposes.

23 (b) If an exporter claims an exemption under Section  
24 162.104(a)(4)(B) or 162.204(a)(4)(B) and fails to produce proof of  
25 payment of tax to the destination state or proof that the  
26 transaction was exempt in the destination state, the exporter is  
27 presumed to have not paid the destination state's tax or this



1 state's tax on the exported motor fuel and the comptroller shall  
2 assess the tax imposed by this chapter on the exported motor fuel  
3 against the exporter.

4 (c) If a person claims an exemption from the county motor  
5 fuels tax and fails to produce proof of delivery to a nontaxing  
6 county, the person is presumed to have delivered the motor fuel to a  
7 taxing county that imposes the tax on motor vehicle fuels  
8 authorized by Chapter 616, Local Government Code.

9 (d) The comptroller may fix or establish the amount of  
10 taxes, penalties, and interest due this state from the records of  
11 deliveries or from any records or information available. If a tax  
12 claim, as developed from this procedure, is not paid, after the  
13 opportunity to request a redetermination, the claim and any audit  
14 made by the comptroller or any report filed by the license holder or  
15 other user is evidence in any suit or judicial proceedings filed by  
16 the attorney general and is prima facie evidence of the correctness  
17 of the claim or audit. A prima facie presumption of the correctness  
18 of the claim may be overcome at the trial by evidence adduced by the  
19 license holder or other user.

20 (e) [~~(b)~~] In the absence of records showing the number of  
21 miles actually operated per gallon of motor fuel consumed, it is  
22 presumed that not less than one gallon of motor fuel was consumed  
23 for every four miles traveled. An interstate trucker may produce  
24 evidence of motor fuel consumption to establish another mileage  
25 factor. If an examination or audit made by the comptroller from the  
26 records of an interstate trucker shows that a greater amount of  
27 motor fuel was consumed than was reported by the interstate trucker

1 for tax purposes, the interstate trucker is liable for the tax,  
2 penalties, and interest on the additional amount shown or the  
3 trucker is entitled to a credit or refund on overpayments of tax  
4 established by the audit.

5 SECTION 7. Section 162.015, Tax Code, is amended to read as  
6 follows:

7 Sec. 162.015. ADDITIONAL TAX APPLIES TO INVENTORIES. (a)  
8 On the effective date of an increase in the rate [~~rates~~] of a tax  
9 [~~the taxes~~] imposed by this chapter, a distributor or dealer that  
10 possesses for the purpose of sale 2,000 or more gallons of gasoline  
11 or diesel fuel at each business location on which a tax [~~the taxes~~]  
12 imposed by this chapter at a previous rate has [~~have~~] been paid  
13 shall report to the comptroller the volume of that gasoline and  
14 diesel fuel, and at the time of the report shall pay a tax on that  
15 gasoline and diesel fuel at a rate equal to the rate of the tax  
16 increase.

17 (b) On the effective date of a reduction of the rate [~~rates~~]  
18 of a tax [~~taxes~~] imposed by this chapter, a distributor or dealer  
19 that possesses for the purpose of sale 2,000 or more gallons of  
20 gasoline or diesel fuel at each business location on which a tax  
21 [~~the taxes~~] imposed by this chapter at the previous rate has [~~have~~]  
22 been paid becomes entitled to a refund in an amount equal to the  
23 difference in the amount of the tax [~~taxes~~] paid on that gasoline or  
24 diesel fuel at the previous rate and at the rate in effect on the  
25 effective date of the reduction in the tax rate [~~rates~~]. The rules  
26 of the comptroller shall provide for the method of claiming a refund  
27 under this chapter and may require that the refund for the dealer be

1 paid through the distributor or supplier from whom the dealer  
2 received the fuel.

3 SECTION 8. Section 162.016, Tax Code, is amended by  
4 amending Subsection (a) and adding Subsection (g-1) to read as  
5 follows:

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

11 (1) the name and physical address of the terminal or  
12 bulk plant from which the motor fuel was received for import or  
13 export;

14 (2) the name and federal employer identification  
15 number, or the social security number if the employer  
16 identification number is not available, of the carrier transporting  
17 the motor fuel;

18 (3) the date the motor fuel was loaded;

19 (4) the type of motor fuel;

20 (5) the number of gallons:

21 (A) in temperature-adjusted gallons if purchased  
22 from a terminal for export or import; or

23 (B) in temperature-adjusted gallons or in gross  
24 gallons if purchased from a bulk plant;

25 (6) the destination state and, if the destination  
26 state is this state, the county in this state to which the gasoline  
27 or diesel fuel will be delivered [~~of the motor fuel~~] as represented

1 by the purchaser of the motor fuel and the number of gallons of the  
2 fuel to be delivered, if delivery is to only one state;

3 (7) the name, federal employer identification number,  
4 license number, and physical address of the purchaser of the motor  
5 fuel;

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

10 (9) any other information that, in the opinion of the  
11 comptroller, is necessary for the proper administration of this  
12 chapter.

13 (g-1) An importer or exporter who wants to deliver a single  
14 cargo tank of motor fuel to a county in this state must issue a  
15 properly completed shipping document denoting the county to which  
16 the motor fuel will be delivered or, in the case of a split load,  
17 each county to which a portion of the motor fuel will be delivered.

18 SECTION 9. The heading to Section 162.101, Tax Code, is  
19 amended to read as follows:

20 Sec. 162.101. POINT OF IMPOSITION OF STATE GASOLINE TAX.

21 SECTION 10. Sections 162.101(a), (b), (c), and (f), Tax  
22 Code, are amended to read as follows:

23 (a) A tax is imposed on the removal of gasoline from the  
24 terminal using the terminal rack, other than by bulk transfer. The  
25 supplier or permissive supplier shall collect the tax imposed by  
26 this section [~~subchapter~~] from the person who orders the withdrawal  
27 at the terminal rack.

1 (b) A tax is imposed at the time gasoline is imported into  
2 this state, other than by a bulk transfer, for delivery to a  
3 destination in this state. The permissive supplier shall collect  
4 the tax imposed by this section [~~subchapter~~] from the person who  
5 imports the gasoline into this state. If the seller is not a  
6 permissive supplier, then the person who imports the gasoline into  
7 this state shall pay the tax.

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

14 (f) A terminal operator in this state is considered a  
15 supplier for the purpose of the tax imposed by [~~under~~] this section  
16 [~~subchapter~~] unless at the time of removal:

17 (1) the terminal operator has a terminal operator's  
18 license issued for the facility from which the gasoline is  
19 withdrawn;

20 (2) the terminal operator verifies that the person who  
21 removes the gasoline has a supplier's license; and

22 (3) the terminal operator does not have a reason to  
23 believe that the supplier's license is not valid.

24 SECTION 11. Subchapter B, Chapter 162, Tax Code, is amended  
25 by adding Section 162.1011 to read as follows:

26 Sec. 162.1011. IMPOSITION OF COUNTY GASOLINE TAX; POINT OF  
27 COLLECTION. (a) In a county that imposes the tax on motor vehicle

1 fuels authorized by Chapter 616, Local Government Code, a tax is  
2 imposed on the delivery of gasoline into the taxing county.

3 (b) The distributor shall collect the tax imposed by this  
4 section from each person on delivery of gasoline into a taxing  
5 county.

6 (c) In each subsequent sale of gasoline on which the tax has  
7 been paid, the tax imposed by this section shall be collected from  
8 the purchaser so that the tax is paid ultimately by the person who  
9 uses the gasoline. Gasoline is considered to be used when it is  
10 delivered into a fuel supply tank.

11 SECTION 12. Section 162.102, Tax Code, is amended to read as  
12 follows:

13 Sec. 162.102. TAX RATES [~~RATE~~]. (a) The state gasoline  
14 tax rate is 20 cents for each net gallon or fractional part of a net  
15 gallon on which the tax is imposed under Section 162.101.

16 (b) In a taxing county, the county gasoline tax rate for  
17 each net gallon or fractional part of a net gallon is the rate  
18 established by Chapter 616, Local Government Code.

19 SECTION 13. The heading to Section 162.103, Tax Code, is  
20 amended to read as follows:

21 Sec. 162.103. BACKUP STATE GASOLINE TAX; LIABILITY.

22 SECTION 14. Sections 162.103(a) and (c), Tax Code, are  
23 amended to read as follows:

24 (a) A backup tax is imposed at the rate prescribed by  
25 Section 162.102(a) [~~162.102~~] on:

26 (1) a person who obtains a refund of tax on gasoline by  
27 claiming the gasoline was used for an off-highway purpose, but

1 actually uses the gasoline to operate a motor vehicle on a public  
2 highway;

3 (2) a person who operates a motor vehicle on a public  
4 highway using gasoline on which tax has not been paid; and

5 (3) a person who sells to the ultimate consumer  
6 gasoline on which tax has not been paid and who knew or had reason to  
7 know that the gasoline would be used for a taxable purpose.

8 (c) The tax imposed by [~~under~~] Subsection (a)(3) is also  
9 imposed on the ultimate consumer.

10 SECTION 15. Subchapter B, Chapter 162, Tax Code, is amended  
11 by adding Section 162.1035 to read as follows:

12 Sec. 162.1035. BACKUP COUNTY GASOLINE TAX; LIABILITY. (a)  
13 A backup tax is imposed at the rate prescribed by Section 162.102(b)  
14 on:

15 (1) a person who, in a county that imposes the tax  
16 authorized by Chapter 616, Local Government Code:

17 (A) delivers gasoline into the fuel supply tank  
18 of a motor vehicle;

19 (B) purchases or receives gasoline from another  
20 person; or

21 (C) sells or delivers gasoline to another person;  
22 and

23 (2) a person who obtains a refund of the tax imposed by  
24 Section 162.1011 for gasoline that the person delivered into the  
25 fuel supply tank of a motor vehicle, purchased or acquired, or sold  
26 or delivered in a county that imposes the tax authorized by Chapter  
27 616, Local Government Code.

1       (b) A person who sells gasoline subject to the tax imposed  
2 by this section shall at the time of sale collect the tax from the  
3 purchaser or recipient of the gasoline in addition to the selling  
4 price and is liable to this state for the taxes collected at the  
5 time and in the manner provided by this chapter.

6       (c) The following are exempt from the tax imposed by this  
7 section:

8           (1) gasoline on which the tax imposed by Section  
9 162.1011 has been paid; and

10           (2) gasoline exempt under Section 162.104.

11       (d) The tax imposed by this section is in addition to any  
12 penalty imposed under this chapter.

13       SECTION 16. Sections 162.104(a) and (c), Tax Code, are  
14 amended to read as follows:

15       (a) The taxes [~~tax~~] imposed by this subchapter do [~~does~~] not  
16 apply to gasoline:

17           (1) sold to the United States for its exclusive use,  
18 provided that the exemption does not apply with respect to fuel sold  
19 or delivered to a person operating under a contract with the United  
20 States;

21           (2) sold to a public school district in this state for  
22 the district's exclusive use;

23           (3) sold to a commercial transportation company or a  
24 metropolitan rapid transit authority operating under Chapter 451,  
25 Transportation Code, that provides public school transportation  
26 services to a school district under Section 34.008, Education Code,  
27 and that uses the gasoline only to provide those services;



1           (4) exported by either a licensed supplier or a  
2 licensed exporter from this state to any other state, provided  
3 that:

4           (A) for gasoline in a situation described by  
5 Subsection (d), the bill of lading indicates the destination state  
6 and the supplier collects the destination state tax; or

7           (B) for gasoline in a situation described by  
8 Subsection (e), the bill of lading indicates the destination state,  
9 the gasoline is subsequently exported, and the exporter is licensed  
10 in the destination state to pay that state's tax and has an  
11 exporter's license issued under this subchapter;

12           (5) moved by truck or railcar between licensed  
13 suppliers or licensed permissive suppliers and in which the  
14 gasoline removed from the first terminal comes to rest in the second  
15 terminal, provided that the removal from the second terminal rack  
16 is subject to the state gasoline tax imposed by this subchapter;

17           (6) delivered or sold into a storage facility of a  
18 licensed aviation fuel dealer from which gasoline will be delivered  
19 solely into the fuel supply tanks of aircraft or aircraft servicing  
20 equipment, or sold from one licensed aviation fuel dealer to  
21 another licensed aviation fuel dealer who will deliver the aviation  
22 fuel exclusively into the fuel supply tanks of aircraft or aircraft  
23 servicing equipment; or

24           (7) exported to a foreign country if the bill of lading  
25 indicates the foreign destination and the fuel is actually exported  
26 to the foreign country.

27           (c) If an exporter described by Subsection (a)(4)(B) does

1 not have an exporter's license issued under this subchapter, the  
2 supplier must collect the state gasoline tax imposed by [~~under~~]  
3 this subchapter.

4 SECTION 17. Section 162.105, Tax Code, is amended to read as  
5 follows:

6 Sec. 162.105. PERSONS REQUIRED TO BE LICENSED. A person  
7 shall obtain the appropriate license or licenses issued by the  
8 comptroller before conducting the activities of:

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

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

19 (3) a distributor, who may also act as an importer,  
20 exporter, blender, [~~or~~] motor fuel transporter, or dealer without  
21 securing a separate license, but who is subject to all other  
22 conditions, requirements, and liabilities imposed on those license  
23 holders;

24 (4) an importer, who may also act as an exporter,  
25 blender, [~~or~~] motor fuel transporter, or dealer without securing a  
26 separate license, but who is subject to all other conditions,  
27 requirements, and liabilities imposed on those license holders;

- 1 (5) a terminal operator;
- 2 (6) an exporter;
- 3 (7) a blender;
- 4 (8) a motor fuel transporter;
- 5 (9) an aviation fuel dealer; [~~or~~]
- 6 (10) an interstate trucker; or
- 7 (11) a dealer.

8 SECTION 18. Sections 162.107(a) and (b), Tax Code, are  
9 amended to read as follows:

10 (a) A person may elect to obtain a permissive supplier  
11 license to collect the state gasoline tax imposed by [~~under~~] this  
12 subchapter for gasoline that is removed at a terminal in another  
13 state and has this state as the destination state.

14 (b) With respect to gasoline that is removed by the licensed  
15 permissive supplier at a terminal located in another state and that  
16 has this state as the destination state, a licensed permissive  
17 supplier shall:

18 (1) collect the state gasoline tax due to this state on  
19 the gasoline;

20 (2) waive any defense that this state lacks  
21 jurisdiction to require the supplier to collect the state gasoline  
22 tax due to this state on the gasoline under this subchapter;

23 (3) report and pay the state gasoline tax and the  
24 county gasoline tax due on the gasoline in the same manner as if the  
25 removal had occurred at a terminal located in this state;

26 (4) keep records of the removal of the gasoline and  
27 submit to audits concerning the gasoline as if the removal had

1 occurred at a terminal located in this state; and

2 (5) report sales by the permissive supplier to a  
3 person who is not licensed in this state.

4 SECTION 19. Section 162.108, Tax Code, is amended by adding  
5 Subsection (a-1) to read as follows:

6 (a-1) In addition to the information required by Subsection  
7 (a), an applicant for a license as a dealer must list on the  
8 application:

9 (1) the street address, city, county, and zip code of  
10 the location for which the applicant seeks a license to sell or  
11 dispense motor fuel at retail;

12 (2) the applicant's social security number, driver's  
13 license number, and federal employer identification number if the  
14 applicant is a natural person who is not licensed as a supplier,  
15 permissive supplier, or terminal operator; and

16 (3) if the applicant is a corporation, limited  
17 liability company, professional association, partnership, or other  
18 entity that is not licensed as a supplier, permissive supplier, or  
19 terminal operator and is not wholly owned by an entity that is  
20 licensed as a supplier, permissive supplier, or terminal operator,  
21 the physical address, mailing address, social security number, and  
22 driver's license number of:

23 (A) each natural person responsible for the  
24 purchase of motor fuel for sale by the applicant; and

25 (B) each officer, director, manager, member,  
26 shareholder, and partner of the applicant.

27 SECTION 20. Section 162.110(a), Tax Code, is amended to

1 read as follows:

2 (a) The license issued to a supplier, permissive supplier,  
3 distributor, importer, exporter, terminal operator, blender, [~~or~~]  
4 motor fuel transporter, or dealer is permanent and is valid during  
5 the period the license holder has in force and effect the required  
6 bond or security and furnishes timely reports and supplements as  
7 required, or until the license is surrendered by the holder or  
8 canceled by the comptroller. The comptroller shall cancel a  
9 license under this subsection if a purchase, sale, or use of  
10 gasoline has not been reported by the license holder during the  
11 previous nine months.

12 SECTION 21. Section 162.111(a), Tax Code, is amended to  
13 read as follows:

14 (a) The comptroller shall determine the amount of security  
15 required of a supplier, permissive supplier, distributor,  
16 exporter, importer, dealer, or blender, taking into consideration  
17 the amount of tax that has or is expected to become due from the  
18 person, any past history of the person as a license holder under  
19 this chapter or its predecessor, and the necessity to protect this  
20 state against the failure to pay the tax as the tax becomes due.

21 SECTION 22. Section 162.112(a), Tax Code, is amended to  
22 read as follows:

23 (a) The comptroller, on or before December 20 of each year,  
24 shall make available to all license holders an alphabetical list of  
25 licensed suppliers, permissive suppliers, distributors, aviation  
26 fuel dealers, importers, exporters, blenders, dealers, and  
27 terminal operators. A supplemental list of additions and deletions

1 shall be made available to the license holders each month. A  
2 current and effective license or the list furnished by the  
3 comptroller is evidence of the validity of the license until the  
4 comptroller notifies license holders of a change in the status of a  
5 license holder.

6 SECTION 23. Sections 162.113(a), (d), and (e), Tax Code,  
7 are amended to read as follows:

8 (a) Each [~~licensed~~] distributor and [~~licensed~~] importer  
9 shall remit to the supplier or permissive supplier, as applicable,  
10 the tax imposed by Section 162.101 for gasoline removed at a  
11 terminal rack. A licensed distributor or licensed importer may  
12 elect to defer payment of the tax to the supplier or permissive  
13 supplier until two days before the date the supplier or permissive  
14 supplier is required to remit the tax to this state. The  
15 distributor or importer shall pay the taxes by electronic funds  
16 transfer.

17 (d) The supplier or permissive supplier has the right, after  
18 notifying the comptroller of the licensed distributor's or licensed  
19 importer's failure to remit taxes under this section, to terminate  
20 the ability of the licensed distributor or licensed importer to  
21 defer the payment of gasoline tax. The supplier or permissive  
22 supplier shall reinstate without delay the right of the licensed  
23 distributor or licensed importer to defer the payment of gasoline  
24 tax after the comptroller provides to the supplier or permissive  
25 supplier notice that the licensed distributor or licensed importer  
26 is in good standing with the comptroller for the purposes of the  
27 taxes [~~gasoline tax~~] imposed by [~~under~~] this subchapter.

1 (e) A licensed distributor or licensed importer who makes  
2 timely payments of the state gasoline tax imposed by [~~under~~] this  
3 subchapter is entitled to retain an amount equal to 1.75 percent of  
4 the total state gasoline tax [~~taxes~~] to be paid to the supplier or  
5 permissive supplier to cover administrative expenses.

6 SECTION 24. Section 162.114(a), Tax Code, is amended to  
7 read as follows:

8 (a) Except as provided by Subsection (b), each person who is  
9 liable for the taxes [~~tax~~] imposed by this subchapter, a terminal  
10 operator, a dealer, and a [~~licensed~~] distributor shall file a  
11 return on or before the 25th day of the month following the end of  
12 each calendar month.

13 SECTION 25. Sections 162.115(b), (c), (e), (g), and (h),  
14 Tax Code, are amended to read as follows:

15 (b) A distributor shall keep:

16 (1) a record showing the number of gallons of:

17 (A) all gasoline inventories on hand at the first  
18 of each month;

19 (B) all gasoline blended;

20 (C) all gasoline purchased or received, showing  
21 the name of the seller and the date of each purchase or receipt;

22 (D) all gasoline sold, distributed, or used,  
23 showing:

24 (i) the name of the purchaser;

25 (ii) the county in this state to which the  
26 gasoline was delivered;

27 (iii) the amount of county gasoline tax

1 collected from the purchaser; and

2 (iv) the date of the sale, distribution, or  
3 use; and

4 (E) all gasoline lost by fire, theft, or  
5 accident;

6 (2) an itemized statement showing by load the number  
7 of gallons of all gasoline:

8 (A) received during the preceding calendar month  
9 for export and the location of the loading;

10 (B) sold, distributed, or used, showing:

11 (i) the name of the purchaser;

12 (ii) the county or counties in this state;

13 (iii) the amount of county gasoline tax

14 collected from the purchaser; and

15 (iv) the date of the sale, distribution, or  
16 use;

17 (C) exported from this state by destination state  
18 or country; and

19 (D) [~~(C)~~] imported during the preceding calendar  
20 month by state or country of origin; [~~and~~]

21 (3) for gasoline exported from this state, proof of  
22 payment of tax to the destination state in a form acceptable to the  
23 comptroller; and

24 (4) all shipping documents.

25 (c) An importer shall keep:

26 (1) a record showing the number of gallons of:

27 (A) all gasoline inventories on hand at the first



1 of each month;

2 (B) all gasoline compounded or blended;

3 (C) all gasoline purchased or received, showing  
4 the name of the seller and the date of each purchase or receipt;

5 (D) all gasoline sold, distributed, or used,  
6 showing the name of the purchaser, the county in this state, and the  
7 date of the sale, distribution, or use; and

8 (E) all gasoline lost by fire, theft, or  
9 accident; and

10 (2) an itemized statement showing by load the number  
11 of gallons of all gasoline:

12 (A) received during the preceding calendar month  
13 for export and the location of the loading;

14 (B) sold, distributed, or used, showing the name  
15 of the purchaser, the county or counties in this state, and the date  
16 of the sale, distribution, or use;

17 (C) exported from this state by destination state  
18 or country; and

19 (D) [~~(C)~~] imported during the preceding calendar  
20 month by state or country of origin.

21 (e) A blender shall keep a record showing the number of  
22 gallons of:

23 (1) all gasoline inventories on hand at the first of  
24 each month;

25 (2) all gasoline compounded or blended;

26 (3) all gasoline purchased or received, showing the  
27 name of the seller and the date of each purchase or receipt;

1           (4) all gasoline sold, distributed, or used, showing  
2 the name of the purchaser, the county in this state, and the date of  
3 the sale or use; and

4           (5) all gasoline lost by fire, theft, or accident.

5           (g) A motor fuel transporter shall keep a complete and  
6 separate record of each intrastate and interstate transportation of  
7 gasoline, showing:

8           (1) the date of transportation;

9           (2) the name of the consignor and consignee;

10          (3) the means of transportation;

11          (4) the quantity and kind of gasoline transported;

12          (5) full data concerning the diversion of shipments,  
13 including the county in this state and the number of gallons  
14 diverted from interstate to intrastate and intrastate to interstate  
15 commerce; and

16          (6) the points of origin and destination, the county  
17 in this state, the number of gallons shipped or transported, the  
18 date, the consignee and the consignor, and the kind of gasoline that  
19 has been diverted.

20          (h) A dealer shall keep a record showing the number of  
21 gallons of:

22          (1) gasoline inventories on hand at the first of each  
23 month;

24          (2) all gasoline purchased or received, showing the  
25 name of the seller and the date of each purchase or receipt;

26          (3) all gasoline sold or used, showing the date of the  
27 sale or use; [~~and~~]

- 1           (4) all gasoline lost by fire, theft, or accident; and  
2           (5) the shipping documents.

3           SECTION 26. Section 162.116(c), Tax Code, is amended to  
4 read as follows:

5           (c) A supplier or permissive supplier may take a credit for  
6 any state gasoline tax [~~taxes~~] that was [~~were~~] not remitted in a  
7 previous period to the supplier or permissive supplier by a  
8 licensed distributor or licensed importer as required by Section  
9 162.113. The supplier or permissive supplier is eligible to take  
10 the credit if the comptroller is notified of the default within 60  
11 days after the default occurs. If a license holder pays to a  
12 supplier or permissive supplier the tax owed, but the payment  
13 occurs after the supplier or permissive supplier has taken a credit  
14 on its return, the supplier or permissive supplier shall remit the  
15 payment to the comptroller with the next monthly return after  
16 receipt of the tax, plus a penalty of 10 percent of the amount of  
17 unpaid taxes and interest at the rate provided by Section 111.060  
18 beginning on the date the credit was taken.

19           SECTION 27. Section 162.118, Tax Code, is amended to read as  
20 follows:

21           Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S  
22 RETURN; PAYMENT OF TAXES AND ALLOWANCES. (a) The monthly return  
23 and supplements of each distributor shall contain for the period  
24 covered by the return:

25           (1) the number of net gallons of gasoline received by  
26 the distributor during the month, sorted by product code, seller,  
27 point of origin, destination state, carrier, and receipt date;

1           (2) the number of net gallons of gasoline removed at a  
2 terminal rack by the distributor during the month, sorted by  
3 product code, seller, terminal code, and carrier;

4           (3) the number of net gallons of gasoline removed by  
5 the distributor during the month for export, sorted by product  
6 code, terminal code, bulk plant address, destination state, and  
7 carrier;

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

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

16           (6) the number of net gallons delivered into a taxing  
17 county sorted by taxing county and purchaser; and

18           (7) any other information required by the comptroller.

19           (b) A distributor or importer who makes timely payments of  
20 the county tax imposed by this subchapter is entitled to retain an  
21 amount equal to two percent of the total county gasoline taxes  
22 remitted to the comptroller to cover administrative expenses.

23           SECTION 28. Section 162.123, Tax Code, is amended to read as  
24 follows:

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

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

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

7           (3) the number of net gallons of blended gasoline sold  
8 during the month and the license number or name, ~~and~~ address, and  
9 county in this state of the entity receiving the blended gasoline;  
10 and

11           (4) any other information required by the comptroller.

12           SECTION 29. Subchapter B, Chapter 162, Tax Code, is amended  
13 by adding Section 162.1235 to read as follows:

14           Sec. 162.1235. INFORMATION REQUIRED ON DEALER'S RETURN.  
15 The monthly return and supplements of each dealer shall contain for  
16 the period covered by the return:

17           (1) the number of gallons of gasoline inventories on  
18 hand at the first of each month, sorted by product code;

19           (2) the number of gallons of gasoline received by the  
20 dealer during the month, sorted by seller;

21           (3) the number of gallons of gasoline inventories on  
22 hand at the end of each month; and

23           (4) any other information required by the comptroller.

24           SECTION 30. Sections 162.127(a) and (d), Tax Code, are  
25 amended to read as follows:

26           (a) A refund claim must be filed on a form provided by the  
27 comptroller, be supported by the original invoice issued by the

1 seller, and contain:

2 (1) the stamped or preprinted name and address,  
3 including county in this state, of the seller;

4 (2) the name and address of the purchaser;

5 (3) the date of delivery of the gasoline;

6 (4) the date of the issuance of the invoice, if  
7 different from the date of fuel delivery;

8 (5) the number of gallons of gasoline delivered;

9 (6) the amount of state or county gasoline taxes paid  
10 [~~tax~~], either separately stated from the selling price or stated  
11 with a notation that both state and county taxes are included if  
12 both apply [~~the selling price includes the tax~~]; and

13 (7) the type of vehicle or equipment, such as a  
14 motorboat, railway engine, motor vehicle, off-highway vehicle, or  
15 refrigeration unit or stationary engine, into which the fuel is  
16 delivered.

17 (d) A distributor or person who does not hold a license who  
18 files a valid refund claim with the comptroller shall be paid by a  
19 warrant issued by the comptroller. For purposes of this section, a  
20 distributor meets the requirement of filing a valid refund claim  
21 for state and county gasoline taxes if the distributor designates  
22 the gallons of gasoline sold or used that are the subject of the  
23 refund claim on the monthly report submitted by the distributor to  
24 the comptroller.

25 SECTION 31. The heading to Section 162.201, Tax Code, is  
26 amended to read as follows:

27 Sec. 162.201. POINT OF IMPOSITION OF STATE DIESEL FUEL TAX.

1 SECTION 32. Sections 162.201(a), (b), and (c), Tax Code,  
2 are amended to read as follows:

3 (a) A tax is imposed on the removal of diesel fuel from the  
4 terminal using the terminal rack other than by bulk transfer. The  
5 supplier or permissive supplier shall collect the tax imposed by  
6 this section [~~subchapter~~] from the person who orders the withdrawal  
7 at the terminal rack.

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 permissive supplier shall collect  
11 the tax imposed by this section [~~subchapter~~] from the person who  
12 imports the diesel fuel into this state. If the seller is not a  
13 permissive supplier, the person who imports the diesel fuel into  
14 this state shall pay the tax.

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

21 SECTION 33. Subchapter C, Chapter 162, Tax Code, is amended  
22 by adding Section 162.2011 to read as follows:

23 Sec. 162.2011. COUNTY DIESEL FUEL TAX IMPOSED; POINT OF  
24 COLLECTION. (a) In a county that imposes the tax on motor vehicle  
25 fuels authorized by Chapter 616, Local Government Code, a tax is  
26 imposed on the delivery of diesel fuel into the taxing county.

27 (b) The distributor shall collect the tax imposed by this

1 section from each person on delivery of diesel fuel into a taxing  
2 county.

3 (c) In each subsequent sale of diesel fuel on which the tax  
4 has been paid, the tax imposed by this section shall be collected  
5 from the purchaser so that the tax is paid ultimately by the person  
6 who uses the diesel fuel. Diesel fuel is considered to be used when  
7 it is delivered into a fuel supply tank.

8 SECTION 34. Section 162.202, Tax Code, is amended to read as  
9 follows:

10 Sec. 162.202. TAX RATES [~~RATE~~]. (a) The state diesel  
11 fuel tax rate is 20 cents for each net gallon or fractional part of a  
12 net gallon on which the tax is imposed under Section 162.201.

13 (b) In a taxing county, the county diesel fuel tax rate for  
14 each net gallon or fractional part of a net gallon is the rate  
15 established by Chapter 616, Local Government Code.

16 SECTION 35. The heading to Section 162.203, Tax Code, is  
17 amended to read as follows:

18 Sec. 162.203. BACKUP STATE DIESEL FUEL TAX; LIABILITY.

19 SECTION 36. Sections 162.203(a) and (c), Tax Code, are  
20 amended to read as follows:

21 (a) A backup tax is imposed at the rate prescribed by  
22 Section 162.202(a) [~~162.202~~] on:

23 (1) a person who obtains a refund of tax on diesel fuel  
24 by claiming the diesel fuel was used for an off-highway purpose, but  
25 actually uses the diesel fuel to operate a motor vehicle on a public  
26 highway;

27 (2) a person who operates a motor vehicle on a public



1 highway using diesel fuel on which tax has not been paid; and

2 (3) a person who sells to the ultimate consumer diesel  
3 fuel on which a tax has not been paid and who knew or had reason to  
4 know that the diesel fuel would be used for a taxable purpose.

5 (c) The tax imposed by [~~under~~] Subsection (a)(3) is also  
6 imposed on the ultimate consumer.

7 SECTION 37. Subchapter C, Chapter 162, Tax Code, is amended  
8 by adding Section 162.2035 to read as follows:

9 Sec. 162.2035. BACKUP COUNTY DIESEL FUEL TAX; LIABILITY.

10 (a) A backup tax is imposed at the rate prescribed by Section  
11 162.202(b) on:

12 (1) a person who, in a county that imposes the tax  
13 authorized by Chapter 616, Local Government Code:

14 (A) delivers diesel fuel into the fuel supply  
15 tank of a motor vehicle;

16 (B) purchases or receives diesel fuel from  
17 another person; or

18 (C) sells or delivers diesel fuel to another  
19 person; and

20 (2) a person who obtains a refund of the tax imposed by  
21 Section 162.2011 for diesel fuel that the person delivered into the  
22 fuel supply tank of a motor vehicle, purchased or acquired, or sold  
23 or delivered in a county that imposes the tax authorized by Chapter  
24 616, Local Government Code.

25 (b) A person who sells diesel fuel subject to the tax  
26 imposed by this section shall at the time of sale collect the tax  
27 from the purchaser or recipient of the diesel fuel in addition to

1 the selling price and is liable to this state for the taxes  
2 collected at the time and in the manner provided by this chapter.

3 (c) The following are exempt from the tax imposed by this  
4 section:

5 (1) diesel fuel on which the tax imposed by Section  
6 162.2011 had been paid; and

7 (2) diesel fuel exempt under Section 162.204.

8 (d) The tax imposed by this section is in addition to any  
9 penalty imposed under this chapter.

10 SECTION 38. Sections 162.204(a) and (c), Tax Code, are  
11 amended to read as follows:

12 (a) The taxes [~~tax~~] imposed by this subchapter do [~~does~~] not  
13 apply to:

14 (1) diesel fuel sold to the United States for its  
15 exclusive use, provided that the exemption does not apply to diesel  
16 fuel sold or delivered to a person operating under a contract with  
17 the United States;

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

20 (3) diesel fuel sold to a commercial transportation  
21 company or a metropolitan rapid transit authority operating under  
22 Chapter 451, Transportation Code, that provides public school  
23 transportation services to a school district under Section 34.008,  
24 Education Code, and that uses the diesel fuel only to provide those  
25 services;

26 (4) diesel fuel exported by either a licensed supplier  
27 or a licensed exporter from this state to any other state, provided

1 that:

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

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

10 (5) diesel fuel moved by truck or railcar between  
11 licensed suppliers or licensed permissive suppliers and in which  
12 the diesel fuel removed from the first terminal comes to rest in the  
13 second terminal, provided that the removal from the second terminal  
14 rack is subject to the state diesel tax imposed by this subchapter;

15 (6) diesel fuel delivered or sold into a storage  
16 facility of a licensed aviation fuel dealer from which the diesel  
17 fuel will be delivered solely into the fuel supply tanks of aircraft  
18 or aircraft servicing equipment, or sold from one licensed aviation  
19 fuel dealer to another licensed aviation fuel dealer who will  
20 deliver the diesel fuel exclusively into the fuel supply tanks of  
21 aircraft or aircraft servicing equipment;

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

25 (8) dyed diesel fuel sold or delivered by a supplier to  
26 another supplier and dyed diesel fuel sold or delivered by a  
27 supplier or distributor into the bulk storage facility of a dyed

1 diesel fuel bonded user or to a purchaser who provides a signed  
2 statement as provided by Section 162.206;

3 (9) the volume of water, fuel ethanol, biodiesel, or  
4 mixtures thereof that are blended together with taxable diesel fuel  
5 when the finished product sold or used is clearly identified on the  
6 retail pump, storage tank, and sales invoice as a combination of  
7 diesel fuel and water, fuel ethanol, biodiesel, or mixtures  
8 thereof;

9 (10) dyed diesel fuel sold by a supplier or permissive  
10 supplier to a distributor, or by a distributor to another  
11 distributor;

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

16 (12) dyed kerosene when delivered by a supplier,  
17 distributor, or importer into a storage facility at a retail  
18 business from which all deliveries are exclusively for heating,  
19 cooking, lighting, or similar nonhighway use; or

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

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

26 (B) is used exclusively to transport passengers  
27 for compensation or hire between points in this state on a fixed

1 route or schedule.

2 (c) If an exporter described by Subsection (a)(4)(B) does  
3 not have an exporter's license issued under this subchapter, the  
4 supplier must collect the state diesel fuel tax imposed by [~~under~~]  
5 this subchapter.

6 SECTION 39. Section 162.205(a), Tax Code, is amended to  
7 read as follows:

8 (a) A person shall obtain the appropriate license or  
9 licenses issued by the comptroller before conducting the activities  
10 of:

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

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

21 (3) a distributor, who may also act as an importer,  
22 exporter, blender, [~~or~~] motor fuel transporter, or dealer without  
23 securing a separate license, but who is subject to all other  
24 conditions, requirements, and liabilities imposed on those license  
25 holders;

26 (4) an importer, who may also act as an exporter,  
27 blender, [~~or~~] motor fuel transporter, or dealer without securing a

1 separate license, but who is subject to all other conditions,  
2 requirements, and liabilities imposed on those license holders;

3 (5) a terminal operator;

4 (6) an exporter;

5 (7) a blender;

6 (8) a motor fuel transporter;

7 (9) an aviation fuel dealer;

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

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

10 (12) a dealer.

11 SECTION 40. Section 162.206(d), Tax Code, is amended to  
12 read as follows:

13 (d) Any gallons purchased or sold in excess of the  
14 limitations prescribed by Subsection (c) constitute a [~~taxable~~]  
15 purchase or sale subject to the taxes imposed by this subchapter.

16 The purchaser paying the tax on dyed diesel fuel in excess of the  
17 limitations prescribed by Subsection (c) may claim a refund of the  
18 tax paid on any dyed diesel fuel used for nonhighway purposes under  
19 Section 162.227. A purchaser that exceeds the limitations  
20 prescribed by Subsection (c) shall be required to obtain a dyed  
21 diesel fuel bonded user license.

22 SECTION 41. Sections 162.208(a) and (b), Tax Code, are  
23 amended to read as follows:

24 (a) A person may elect to obtain a permissive supplier  
25 license to collect the state diesel fuel tax imposed by [~~under~~]  
26 this subchapter for diesel fuel that is removed at a terminal in another  
27 state and has this state as the destination state.

1 (b) With respect to diesel fuel that is removed by the  
2 licensed permissive supplier at a terminal located in another state  
3 and that has this state as the destination state, a licensed  
4 permissive supplier shall:

5 (1) collect the state diesel fuel tax due to this state  
6 on the diesel fuel;

7 (2) waive any defense that this state lacks  
8 jurisdiction to require the supplier to collect the state diesel  
9 fuel tax due to this state on the diesel fuel under this subchapter;

10 (3) report and pay the state diesel fuel tax due on the  
11 diesel fuel in the same manner as if the removal had occurred at a  
12 terminal located in this state;

13 (4) keep records of the removal of the diesel fuel and  
14 submit to audits concerning the diesel fuel as if the removal had  
15 occurred at a terminal located in this state; and

16 (5) report sales by the permissive supplier to a  
17 person who is not licensed in this state.

18 SECTION 42. Section 162.209, Tax Code, is amended by adding  
19 Subsection (a-1) to read as follows:

20 (a-1) In addition to the information required by Subsection  
21 (a), an applicant for a license as a dealer must list on the  
22 application:

23 (1) the street address, city, county, and zip code of  
24 the location for which the applicant seeks a license to sell or  
25 dispense motor fuel at retail;

26 (2) the applicant's social security number, driver's  
27 license number, and federal employer identification number if the

1 applicant is a natural person who is not licensed as a supplier,  
2 permissive supplier, or terminal operator; and

3 (3) if the applicant is a corporation, limited  
4 liability company, professional association, partnership or other  
5 entity that is not licensed as a supplier, permissive supplier, or  
6 terminal operator and is not wholly owned by an entity that is  
7 licensed as a supplier, permissive supplier, or terminal operator,  
8 the physical address, mailing address, social security number, and  
9 driver's license number of:

10 (A) each natural person responsible for the  
11 purchase of motor fuel for sale by the applicant; and

12 (B) each officer, director, manager, member,  
13 shareholder, and partner of the applicant.

14 SECTION 43. Section 162.211(a), Tax Code, is amended to  
15 read as follows:

16 (a) The license issued to a supplier, permissive supplier,  
17 distributor, importer, terminal supplier, exporter, blender,  
18 dealer, motor fuel transporter, or dyed diesel fuel bonded user is  
19 permanent and is valid during the period the license holder has in  
20 force and effect the required bond or security and furnishes timely  
21 reports and supplements as required, or until the license is  
22 surrendered by the holder or canceled by the comptroller. The  
23 comptroller shall cancel a license under this subsection if a  
24 purchase, sale, or use of diesel fuel has not been reported by the  
25 license holder during the previous nine months.

26 SECTION 44. Section 162.212(a), Tax Code, is amended to  
27 read as follows:



1 (a) The comptroller shall determine the amount of security  
2 required of a supplier, permissive supplier, distributor,  
3 exporter, importer, dealer, blender, or dyed diesel fuel bonded  
4 user, taking into consideration the amount of tax that has or is  
5 expected to become due from the person, any past history of the  
6 person as a license holder under this chapter and its predecessor,  
7 and the necessity to protect this state against the failure to pay  
8 the tax as the tax becomes due.

9 SECTION 45. Section 162.213(a), Tax Code, is amended to  
10 read as follows:

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

21 SECTION 46. Sections 162.214(a) and (e), Tax Code, are  
22 amended to read as follows:

23 (a) Each [~~licensed~~] distributor and [~~licensed~~] importer  
24 shall remit to the supplier or permissive supplier, as applicable,  
25 the tax imposed by Section 162.201 for diesel fuel removed at a  
26 terminal rack. A licensed distributor or licensed importer may  
27 elect to defer payment of the tax to the supplier or permissive

1 supplier until two days before the date the supplier or permissive  
2 supplier is required to remit the tax to this state. The  
3 distributor or importer shall pay the taxes by electronic funds  
4 transfer.

5 (e) A licensed distributor or licensed importer who makes  
6 timely payments of the state diesel fuel tax imposed by ~~under~~ this  
7 subchapter is entitled to retain an amount equal to 1.75 percent of  
8 the total state diesel fuel tax ~~taxes~~ to be paid to the supplier  
9 or permissive supplier to cover administrative expenses.

10 SECTION 47. Section 162.215(a), Tax Code, is amended to  
11 read as follows:

12 (a) Except as provided by Subsection (b), each person who is  
13 liable for the taxes ~~tax~~ imposed by this subchapter, a terminal  
14 operator, a dealer, and a ~~licensed~~ distributor shall file a  
15 return on or before the 25th day of the month following the end of  
16 each calendar month.

17 SECTION 48. Sections 162.216(b), (c), (e), (g), and (h),  
18 Tax Code, are amended to read as follows:

19 (b) A distributor shall keep:

20 (1) a record showing the number of gallons of:

21 (A) all diesel fuel inventories on hand at the  
22 first of each month;

23 (B) all diesel fuel blended;

24 (C) all diesel fuel purchased or received,  
25 showing the name of the seller and the date of each purchase or  
26 receipt;

27 (D) all diesel fuel sold, distributed, or used,

1 showing:

2 (i) the name of the purchaser;

3 (ii) the county or counties in this state;

4 (iii) the amount of county diesel fuel  
5 collected from the purchaser; and

6 (iv) the date of the sale, distribution, or  
7 use; and

8 (E) all diesel fuel lost by fire, theft, or  
9 accident;

10 (2) an itemized statement showing by load the number  
11 of gallons of all diesel fuel:

12 (A) received during the preceding calendar month  
13 for export and the location of the loading;

14 (B) sold, distributed, or used, showing:

15 (i) the name of the purchaser;

16 (ii) the destination county or counties in  
17 this state;

18 (iii) the amount of county diesel fuel tax  
19 collected from the purchaser; and

20 (iv) the date of the sale, distribution, or  
21 use;

22 (C) exported from this state by destination state  
23 or country; and

24 (D) [~~C~~] imported during the preceding calendar  
25 month, by state or country of origin; [~~and~~]

26 (3) for diesel fuel exported outside this state, proof  
27 of payment of tax to the destination state, in a form acceptable to

1 the comptroller; and

2 (4) all shipping documents.

3 (c) An importer shall keep:

4 (1) a record showing the number of gallons of:

5 (A) all diesel fuel inventories on hand at the  
6 first of each month;

7 (B) all diesel fuel compounded or blended;

8 (C) all diesel fuel purchased or received,  
9 showing the name of the seller and the date of each purchase or  
10 receipt;

11 (D) all diesel fuel sold, distributed, or used,  
12 showing the name of the purchaser, the county in this state, and the  
13 date of the sale, distribution, or use; and

14 (E) all diesel fuel lost by fire, theft, or  
15 accident; and

16 (2) an itemized statement showing by load the number  
17 of gallons of all diesel fuel:

18 (A) received during the preceding calendar month  
19 for export and the location of the loading;

20 (B) sold, distributed, or used, showing the name  
21 of the purchaser, the county or counties in this state, and the date  
22 of sale, distribution, or use;

23 (C) exported from this state, by destination  
24 state or country; and

25 (D) [~~(C)~~] imported during the preceding calendar  
26 month, by state or country of origin.

27 (e) A blender shall keep a record showing the number of

1 gallons of:

2 (1) all diesel fuel inventories on hand at the first of  
3 each month;

4 (2) all diesel fuel compounded or blended;

5 (3) all diesel fuel purchased or received, showing the  
6 name of the seller and the date of each purchase or receipt;

7 (4) all diesel fuel sold, distributed, or used,  
8 showing the name of the purchaser, the county in this state, and the  
9 date of the sale, distribution, or use; and

10 (5) all diesel fuel lost by fire, theft, or accident.

11 (g) A motor fuel transporter shall keep a complete and  
12 separate record of each intrastate and interstate transportation of  
13 diesel fuel, showing:

14 (1) the date of transportation;

15 (2) the name of the consignor and consignee;

16 (3) the method of transportation;

17 (4) the quantity and kind of diesel fuel transported;

18 (5) full data concerning the diversion of shipments,  
19 including the county in this state and the number of gallons  
20 diverted from interstate to intrastate and intrastate to interstate  
21 commerce; and

22 (6) the points of origin and destination, the county  
23 in this state, the number of gallons shipped or transported, the  
24 date, the consignee and the consignor, and the kind of diesel fuel  
25 that has been diverted.

26 (h) A dealer shall keep a record showing the number of  
27 gallons of:

- 1           (1) diesel fuel inventories on hand at the first of  
2 each month;
- 3           (2) all diesel fuel purchased or received, showing the  
4 name of the seller and the date of each purchase or receipt;
- 5           (3) all diesel fuel sold or used, showing the date of  
6 the sale or use; ~~and~~
- 7           (4) all diesel fuel lost by fire, theft, or accident;  
8 and
- 9           (5) all shipping documents.

10           SECTION 49. Section 162.217(c), Tax Code, is amended to  
11 read as follows:

12           (c) A supplier or permissive supplier may take a credit for  
13 any state gasoline tax ~~taxes~~ that was ~~were~~ not remitted in a  
14 previous period to the supplier or permissive supplier by a  
15 licensed distributor or licensed importer as required by Section  
16 162.214. The supplier or permissive supplier is eligible to take  
17 this credit if the comptroller is notified of the default within 60  
18 days after the default occurs. If a license holder pays to a  
19 supplier or permissive supplier the tax owed, but the payment  
20 occurs after the supplier or permissive supplier has taken a credit  
21 on its return, the supplier or permissive supplier shall remit the  
22 payment to the comptroller with the next monthly return after  
23 receipt of the tax, plus a penalty of 10 percent of the amount of  
24 unpaid taxes and interest at the rate provided by Section 111.060  
25 beginning on the date the credit is taken.

26           SECTION 50. Section 162.219, Tax Code, is amended to read as  
27 follows:

1           Sec. 162.219.   INFORMATION   REQUIRED   ON   DISTRIBUTOR'S  
2   RETURN; PAYMENT OF TAXES AND ALLOWANCES.   (a) The monthly return and  
3   supplements of each distributor shall contain for the period  
4   covered by the return:

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

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

12          (3)   the number of net gallons of diesel fuel removed by  
13   the distributor during the month for export, sorted by product  
14   code, terminal code, bulk plant address, destination state, and  
15   carrier;

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

21          (5)   the number of net gallons of diesel fuel the  
22   distributor sold during the month in transactions exempt under  
23   Section 162.204, dyed diesel fuel sold to a purchaser under a signed  
24   statement, or dyed diesel fuel sold to a dyed diesel fuel bonded  
25   user, sorted by product code and by the entity receiving the diesel  
26   fuel; [~~and~~]

27          (6)   the number of net gallons delivered into a taxing

1 county sorted by taxing county and purchaser; and

2 (7) any other information required by the comptroller.

3 (b) A distributor or importer who makes timely payments of  
4 the county tax imposed by this subchapter is entitled to retain an  
5 amount equal to two percent of the total county diesel fuel taxes  
6 remitted to the comptroller to cover administrative expenses.

7 SECTION 51. Section 162.224, Tax Code, is amended to read as  
8 follows:

9 Sec. 162.224. INFORMATION REQUIRED ON BLENDER'S RETURN.

10 The monthly return and supplements of each blender shall contain  
11 for the period covered by the return:

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

15 (2) the number of net gallons of product blended with  
16 diesel fuel during the month, sorted by product code, type of  
17 blending agent if no product code exists, seller, and carrier;

18 (3) the number of net gallons of blended diesel fuel  
19 sold during the month and the license number or name, ~~and~~ address,  
20 and county in this state of the entity receiving the blended diesel  
21 fuel; and

22 (4) any other information required by the comptroller.

23 SECTION 52. Subchapter C, Chapter 162, Tax Code, is amended  
24 by adding Section 162.2245 to read as follows:

25 Sec. 162.2245. INFORMATION REQUIRED ON DEALER'S RETURN. The  
26 monthly return and supplements of each dealer shall contain for the  
27 period covered by the return:



1           (1) the number of gallons of diesel fuel inventories  
2 on hand at the first of each month, sorted by product code;

3           (2) the number of gallons of diesel fuel received by  
4 the dealer during the month, sorted by seller;

5           (3) the number of gallons of diesel fuel inventories  
6 on hand at the end of each month; and

7           (4) any other information required by the comptroller.

8           SECTION 53. Sections 162.229(a) and (d), Tax Code, are  
9 amended to read as follows:

10           (a) A refund claim must be filed on a form provided by the  
11 comptroller, be supported by the original invoice issued by the  
12 seller, and contain:

13           (1) the stamped or preprinted name and address,  
14 including county, of the seller;

15           (2) the name and address of the purchaser;

16           (3) the date of delivery of the diesel fuel;

17           (4) the date of the issuance of the invoice, if  
18 different from the date of fuel delivery;

19           (5) the number of gallons of diesel fuel delivered;

20           (6) the amount of state or county diesel fuel taxes  
21 paid [~~tax~~], either separately stated from the selling price or  
22 stated with a notation that both state and county taxes are included  
23 if both apply [~~the selling price includes the tax~~]; and

24           (7) the type of vehicle or equipment into which the  
25 fuel is delivered.

26           (d) A distributor or person who does not hold a license who  
27 files a valid refund claim with the comptroller shall be paid by a

1 warrant issued by the comptroller. For purposes of this section, a  
2 distributor meets the requirement of filing a valid refund claim  
3 for state and county diesel fuel taxes if the distributor  
4 designates the gallons of diesel fuel sold or used that are the  
5 subject of the refund claim on the monthly report submitted by the  
6 distributor to the comptroller.

7 SECTION 54. Sections 162.402(a), (c), and (d), Tax Code,  
8 are amended to read as follows:

9 (a) A person forfeits to the state a civil penalty of not  
10 less than \$25 and not more than \$200 if the person:

11 (1) refuses to stop and permit the inspection and  
12 examination of a motor vehicle transporting or using motor fuel on  
13 demand of a peace officer or the comptroller;

14 (2) operates a motor vehicle in this state without a  
15 valid interstate trucker's license or a trip permit when the person  
16 is required to hold one of those licenses or permits;

17 (3) operates a liquefied gas-propelled motor vehicle  
18 that is required to be licensed in this state, including motor  
19 vehicles equipped with dual carburetion, and does not display a  
20 current liquefied gas tax decal or multistate fuels tax agreement  
21 decal;

22 (4) makes a tax-free sale or delivery of liquefied gas  
23 into the fuel supply tank of a motor vehicle that does not display a  
24 current Texas liquefied gas tax decal;

25 (5) makes a taxable sale or delivery of liquefied gas  
26 without holding a valid dealer's license;

27 (6) makes a tax-free sale or delivery of liquefied gas

1 into the fuel supply tank of a motor vehicle bearing out-of-state  
2 license plates;

3 (7) makes a delivery of liquefied gas into the fuel  
4 supply tank of a motor vehicle bearing Texas license plates and no  
5 Texas liquefied gas tax decal, unless licensed under a multistate  
6 fuels tax agreement;

7 (8) transports gasoline or diesel fuel in any cargo  
8 tank that has a connection by pipe, tube, valve, or otherwise with  
9 the fuel injector or carburetor of, or with the fuel supply tank  
10 feeding the fuel injector or carburetor of, the motor vehicle  
11 transporting the product;

12 (9) sells or delivers gasoline or diesel fuel from any  
13 fuel supply tank connected with the fuel injector or carburetor of a  
14 motor vehicle;

15 (10) owns or operates a motor vehicle for which  
16 reports or mileage records are required by this chapter without an  
17 operating odometer or other device in good working condition to  
18 record accurately the miles traveled;

19 (11) furnishes to a supplier a signed statement for  
20 purchasing diesel fuel tax-free and then uses the tax-free diesel  
21 fuel to operate a diesel-powered motor vehicle on a public highway;

22 (12) fails or refuses to comply with or violates a  
23 provision of this chapter;

24 (13) fails or refuses to comply with or violates a  
25 comptroller's rule for administering or enforcing this chapter;

26 (14) is an importer who does not obtain an import  
27 verification number when required by this chapter; [~~or~~]

1           (15) purchases motor fuel for export, on which the  
2 taxes [~~tax~~] imposed by this chapter have [~~has~~] not been paid, and  
3 subsequently diverts or causes the motor fuel to be diverted to a  
4 destination in this state or any other state or country other than  
5 the originally designated state or country without first obtaining  
6 a diversion number; or

7           (16) transports motor fuel to a county in this state  
8 other than the county stated on the shipping document.

9           (c) A person receiving motor fuel who accepts a shipping  
10 document that does not conform with the requirements of Section  
11 162.004 or 162.016(a) is liable to this state for a civil penalty of  
12 \$2,000 or five times the amount of the unpaid tax, whichever is  
13 greater, for each occurrence.

14           (d) A person operating a bulk plant or terminal who issues a  
15 shipping document that does not conform with the requirements of  
16 Section 162.004 or 162.016(a) is liable to this state for a civil  
17 penalty of \$2,000 or five times the amount of the unpaid tax,  
18 whichever is greater, for each occurrence.

19           SECTION 55. Section 162.403, Tax Code, is amended to read as  
20 follows:

21           Sec. 162.403. CRIMINAL OFFENSES. Except as provided by  
22 Section 162.404, a person commits an offense if the person:

23           (1) refuses to stop and permit the inspection and  
24 examination of a motor vehicle transporting or using motor fuel on  
25 the demand of a peace officer or the comptroller;

26           (2) is required to hold a valid trip permit or  
27 interstate trucker's license, but operates a motor vehicle in this

1 state without a valid trip permit or interstate trucker's license;

2 (3) operates a liquefied gas-propelled motor vehicle  
3 that is required to be licensed in this state, including a motor  
4 vehicle equipped with dual carburetion, and does not display a  
5 current liquefied gas tax decal or multistate fuels tax agreement  
6 decal;

7 (4) transports gasoline or diesel fuel in any cargo  
8 tank that has a connection by pipe, tube, valve, or otherwise with  
9 the fuel injector or carburetor or with the fuel supply tank feeding  
10 the fuel injector or carburetor of the motor vehicle transporting  
11 the product;

12 (5) sells or delivers gasoline or diesel fuel from a  
13 fuel supply tank that is connected with the fuel injector or  
14 carburetor of a motor vehicle;

15 (6) owns or operates a motor vehicle for which reports  
16 or mileage records are required by this chapter without an  
17 operating odometer or other device in good working condition to  
18 record accurately the miles traveled;

19 (7) sells or delivers dyed diesel fuel for the  
20 operation of a motor vehicle on a public highway;

21 (8) uses dyed diesel fuel for the operation of a motor  
22 vehicle on a public highway except as allowed under Section  
23 162.235;

24 (9) makes a tax-free sale or delivery of liquefied gas  
25 into the fuel supply tank of a motor vehicle that does not display a  
26 current Texas liquefied gas tax decal;

27 (10) makes a sale or delivery of liquefied gas on which

1 the person knows the tax is required to be collected, if at the time  
2 the sale is made the person does not hold a valid dealer's license;

3 (11) makes a tax-free sale or delivery of liquefied  
4 gas into the fuel supply tank of a motor vehicle bearing  
5 out-of-state license plates;

6 (12) makes a delivery of liquefied gas into the fuel  
7 supply tank of a motor vehicle bearing Texas license plates and no  
8 Texas liquefied gas tax decal, unless licensed under a multistate  
9 fuels tax agreement;

10 (13) refuses to permit the comptroller or the attorney  
11 general to inspect, examine, or audit a book or record required to  
12 be kept by a license holder, other user, or any person required to  
13 hold a license under this chapter;

14 (14) refuses to permit the comptroller or the attorney  
15 general to inspect or examine any plant, equipment, materials, or  
16 premises where motor fuel is produced, processed, blended, stored,  
17 sold, delivered, or used;

18 (15) refuses to permit the comptroller, the attorney  
19 general, an employee of either of those officials, a peace officer,  
20 an employee of the Texas Commission on Environmental Quality, or an  
21 employee of the Department of Agriculture to measure or gauge the  
22 contents of or take samples from a storage tank or container on  
23 premises where motor fuel is produced, processed, blended, stored,  
24 sold, delivered, or used;

25 (16) is a license holder, a person required to be  
26 licensed, or another user and fails or refuses to make or deliver to  
27 the comptroller a report required by this chapter to be made and

1 delivered to the comptroller;

2 (17) is an importer who does not obtain an import  
3 verification number when required by this chapter;

4 (18) purchases motor fuel for export, on which the  
5 taxes [~~tax~~] imposed by this chapter have [~~has~~] not been paid, and  
6 subsequently diverts or causes the motor fuel to be diverted to a  
7 destination in this state or any other state or country other than  
8 the originally designated state or country without first obtaining  
9 a diversion number;

10 (18-a) transports motor fuel to a county in this state  
11 other than the county stated on the shipping document;

12 (19) conceals motor fuel with the intent of engaging  
13 in any conduct proscribed by this chapter or refuses to make sales  
14 of motor fuel on the volume-corrected basis prescribed by this  
15 chapter;

16 (20) refuses, while transporting motor fuel, to stop  
17 the motor vehicle the person is operating when called on to do so by  
18 a person authorized to stop the motor vehicle;

19 (21) refuses to surrender a motor vehicle and cargo  
20 for impoundment after being ordered to do so by a person authorized  
21 to impound the motor vehicle and cargo;

22 (22) mutilates, destroys, or secretes a book or record  
23 required by this chapter to be kept by a license holder, other user,  
24 or person required to hold a license under this chapter;

25 (23) is a license holder, other user, or other person  
26 required to hold a license under this chapter, or the agent or  
27 employee of one of those persons, and makes a false entry or fails

1 to make an entry in the books and records required under this  
2 chapter to be made by the person or fails to retain a document as  
3 required by this chapter;

4 (24) transports in any manner motor fuel under a false  
5 cargo manifest or shipping document, or transports in any manner  
6 motor fuel to a location without delivering at the same time a  
7 shipping document relating to that shipment;

8 (25) engages in a motor fuel transaction that requires  
9 that the person have a license under this chapter without then and  
10 there holding the required license;

11 (26) makes and delivers to the comptroller a report  
12 required under this chapter to be made and delivered to the  
13 comptroller, if the report contains false information;

14 (27) forges, falsifies, or alters an invoice  
15 prescribed by law;

16 (28) makes any statement, knowing said statement to be  
17 false, in a claim for a tax refund filed with the comptroller;

18 (29) furnishes to a supplier a signed statement for  
19 purchasing diesel fuel tax-free and then uses the tax-free diesel  
20 fuel to operate a diesel-powered motor vehicle on a public highway;

21 (30) holds an aviation fuel dealer's license and makes  
22 a taxable sale or use of any gasoline or diesel fuel;

23 (31) fails to remit any tax funds collected by a  
24 license holder, another user, or any other person required to hold a  
25 license under this chapter;

26 (32) makes a sale of diesel fuel tax-free into a  
27 storage facility of a person who:



1 (A) is not licensed as a distributor, as an  
2 aviation fuel dealer, or as a dyed diesel fuel bonded user; or

3 (B) does not furnish to the licensed supplier or  
4 distributor a signed statement prescribed in Section 162.206;

5 (33) makes a sale of gasoline tax-free to any person  
6 who is not licensed as an aviation fuel dealer;

7 (34) is a dealer who purchases any motor fuel tax-free  
8 when not authorized to make a tax-free purchase under this chapter;

9 (35) is a dealer who purchases motor fuel with the  
10 intent to evade any tax imposed by this chapter or who accepts a  
11 delivery of motor fuel by any means and does not at the same time  
12 accept or receive a shipping document relating to the delivery;

13 (36) transports motor fuel for which a cargo manifest  
14 or shipping document is required to be carried without possessing  
15 or exhibiting on demand by an officer authorized to make the demand  
16 a cargo manifest or shipping document containing the information  
17 required to be shown on the manifest or shipping document;

18 (37) imports, sells, uses, blends, distributes, or  
19 stores motor fuel within this state on which a tax [~~the taxes~~]  
20 imposed by this chapter is [~~are~~] owed but has [~~have~~] not been first  
21 paid to or reported by a license holder, another user, or any other  
22 person required to hold a license under this chapter;

23 (38) blends products together to produce a blended  
24 fuel that is offered for sale, sold, or used and that expands the  
25 volume of the original product to evade paying applicable motor  
26 fuel taxes; or

27 (39) evades or attempts to evade in any manner a tax

1 imposed on motor fuel by this chapter.

2 SECTION 56. Section 162.405(d), Tax Code, is amended to  
3 read as follows:

4 (d) An offense under Section 162.403(7), (18-a), (22),  
5 (23), (24), (25), (26), (27), (28), or (29) is a felony of the third  
6 degree.

7 SECTION 57. (a) The comptroller of public accounts' duties  
8 and responsibilities for the collection, administration, and  
9 enforcement of a county motor fuels tax as authorized by Chapter  
10 616, Local Government Code, as added by this Act, are specifically  
11 contingent on the comptroller receiving sufficient funding in  
12 advance of the effective date of any motor fuels tax imposed by a  
13 county to adequately cover the comptroller's initial  
14 implementation costs.

15 (b) The legislature intends that the initial implementation  
16 costs be funded through an interlocal agreement between the  
17 comptroller of public accounts and one or more local entities. The  
18 comptroller's duties and responsibilities under this Act are  
19 specifically contingent on the approval and execution of this  
20 agreement by the parties in a manner that results in funding being  
21 available to the comptroller on or before September 1, 2009. If the  
22 comptroller does not receive funding in a timely manner as  
23 determined by the comptroller, the comptroller is not required to  
24 enforce the provisions of this Act related to a county motor fuels  
25 tax.

26 SECTION 58. (a) A county may not impose a motor fuels tax  
27 under Chapter 616, Local Government Code, as added by this Act,

1 before the effective date of rules adopted by the comptroller of  
2 public accounts under Section 616.102, Local Government Code, as  
3 added by this Act.

4 (b) The comptroller of public accounts shall adopt the rules  
5 required by Section 616.102, Local Government Code, as added by  
6 this Act, before the first anniversary of the date on which an  
7 agreement described by Section 57(b) of this Act is entered into.

8 SECTION 59. (a) Unless otherwise authorized by the  
9 constitution of this state, money collected from a county motor  
10 fuels tax authorized by this Act may be used only for acquiring  
11 rights-of-way, for constructing, maintaining, and policing public  
12 roadways, and for administering laws related to the supervision of  
13 traffic and safety on those roads.

14 (b) If the constitution of this state does not authorize the  
15 use of money collected under the county motor fuel tax authorized by  
16 this Act for transportation uses other than those described by  
17 Subsection (a) of this section, the county shall deposit such money  
18 into an account separate from the money collected under other  
19 provisions of Chapter 616, Local Government Code, as added by this  
20 Act, and may use the money only for the purposes described by  
21 Subsection (a) of this section.

22 (c) If the constitution of this state requires that  
23 one-fourth of the county motor fuels tax authorized by this Act be  
24 allocated to the available school fund, the county shall deposit  
25 such money into an account separate from the money collected under  
26 other provisions of this Act and shall allocate the money to the  
27 comptroller of public accounts for deposit in the state treasury

1 for the purpose required by the constitution.

2           SECTION 60. (a) This section and Section 57 of this Act take  
3 effect immediately if this Act receives a vote of two-thirds of all  
4 the members elected to each house, as provided by Section 39,  
5 Article III, Texas Constitution. If this Act does not receive the  
6 vote necessary for immediate effect, this section and Section 57 of  
7 this Act take effect August 31, 2009.

8           (b) Except as provided by Subsection (a) of this section,  
9 this Act takes effect September 1, 2009.