

By: Rodriguez

H.B. No. 3518

A BILL TO BE ENTITLED

1 AN ACT

2 relating to local funding for mobility improvement and  
3 transportation projects; providing authority to impose a tax, issue  
4 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. LOCAL OPTIONS FOR MOBILITY IMPROVEMENT PROJECTS

9 SUBCHAPTER A. GENERAL PROVISIONS

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

12 Sec. 616.002. DEFINITIONS. In this chapter:

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

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

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

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

22 (5) "Mobility improvement project" means a capital  
23 improvement or set of related capital improvements in a geographic  
24 area, including maintenance and operation of the improvements,

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

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

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

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

27 Sec. 616.004. RESTRICTIONS ON LOBBYING. A county that

1 imposes a method of local option funding under this chapter may not  
2 use the funds to pay a person or entity that is required to register  
3 with the Texas Ethics Commission under Chapter 305, Government  
4 Code.

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

7 Sec. 616.006. EXPIRATION OF CHAPTER. (a) This chapter  
8 expires January 1, 2021. The expiration of this chapter precludes  
9 the holding of an election or the imposition of a method of local  
10 option funding not authorized under this chapter before its  
11 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 method of local option funding authorized at an election held under  
18 this 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 revenue from a  
24 method of local option funding.

25 Sec. 616.007. PROHIBITIONS ON USE OF REVENUE. A county may  
26 not use revenue from a method of local option funding imposed under  
27 this 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 after the end of the fiscal year of a county that  
20 imposes a method of local option funding under this chapter, the  
21 commissioners court must submit a report to the executive director  
22 of the department and to the state auditor. The report must  
23 include:

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

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

1           (3) a description of the progress made toward  
2 completion of mobility improvement projects.

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

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

13           Sec. 616.010. METHODS OF LOCAL OPTION FUNDING. (a) A  
14 county may include on a ballot proposition under this chapter any  
15 combination of the following methods of local option funding:

16           (1) a tax on the retail sale of gasoline or diesel fuel  
17 in the county as described by Subchapter C; or

18           (2) a mobility improvement fee, in an amount not less  
19 than \$1 or more than \$60, imposed on a person registering a motor  
20 vehicle in the county at the time of registration, except that the  
21 fee is not imposed on a person registering a motor vehicle in the  
22 manner provided by Section 501.0234, Transportation Code.

23           (b) The mobility improvement fee authorized by Subsection  
24 (a)(2) is not a motor vehicle registration fee and may not be  
25 construed to be a motor vehicle registration fee for any legal or  
26 constitutional purpose.

27           (c) Except as otherwise provided by this subchapter, a

1 county shall adopt rules and prescribe forms for the collection of a  
2 tax or fee authorized by this section. A person required to collect  
3 a tax or fee authorized by this section shall report and send the  
4 tax or fee to the county as provided by the county.

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

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

13 Sec. 616.011. COUNTY AUTHORITY TO IMPOSE METHOD OF FUNDING.

14 (a) A county may impose and collect a method of local option  
15 funding approved by a majority of the voters of the county voting at  
16 an election held under this chapter and may enter into a contract or  
17 interlocal agreement as provided by Section 616.008 to implement  
18 the imposition or collection.

19 (b) A method of local option funding implemented under this  
20 chapter:

21 (1) may not be used to raise funds in excess of the  
22 amount required to fund approved mobility improvement projects; and

23 (2) must expire when the approved mobility improvement  
24 projects are accepted by the governmental entity that contracted  
25 for the projects or when the bonds are paid, whichever is later,  
26 unless continued funding for maintenance and operation of a  
27 project, including the impact to an existing system as specified by

1 an interlocal agreement, was authorized at an election held under  
2 this chapter.

3 Sec. 616.012. LOW-INCOME RELIEF. (a) For each method of  
4 local option funding implemented by a county under this chapter,  
5 except a motor fuel tax, the commissioners court of the county  
6 shall, by order issued before January 10, 2012, establish an  
7 exemption, waiver, or partial reduction for individuals of low or  
8 moderate income who demonstrate significant financial hardship,  
9 based on income guidelines adopted by the Texas Commission on  
10 Environmental Quality under Section 382.210, Health and Safety  
11 Code. Before issuing an order under this section, the  
12 commissioners court must hold a public hearing regarding the  
13 proposed exemption, waiver, or partial reduction.

14 (b) The commissioners court shall qualify for the  
15 exemption, waiver, or partial reduction established under this  
16 section any person who is eligible to participate in the low-income  
17 vehicle repair assistance, retrofit, and accelerated vehicle  
18 retirement program authorized under Chapter 382, Health and Safety  
19 Code.

20 Sec. 616.013. IMPOSITION OF METHOD OF LOCAL OPTION FUNDING.  
21 (a) If a majority of the votes cast in an election held in a county  
22 under this chapter approve any method or combination of methods of  
23 local option funding, the commissioners court of the county by  
24 order shall, except in regard to a motor fuel tax, impose and begin  
25 the collection of the approved method or methods of funding before  
26 the 91st day after the election date.

27 (b) At a minimum, the order imposing the method or methods

1 of local option funding must specify:

2 (1) the rate or amount of the method or methods  
3 approved at the election; and

4 (2) the manner in which each method will be  
5 administered, collected, and enforced.

6 (c) Sections 502.102, 502.1025, and 502.108, Transportation  
7 Code, do not apply to money collected under this chapter.

8 [Sections 616.014-616.050 reserved for expansion]

9 SUBCHAPTER B. ELECTIONS; PROJECT SELECTION; EQUITY

10 Sec. 616.051. CALLING OF ELECTION. (a) All of the  
11 commissioners courts of those counties that are wholly or partly  
12 located in the boundaries of the same metropolitan planning  
13 organization by order shall call an election on the issue of  
14 imposing a method of local option funding under this chapter if:

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

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

27 (b) Elections called under this section by the



1 commissioners courts of counties in the boundaries of the same  
2 metropolitan planning organization must be held on the same date.

3 (c) A commissioners court may adopt an order calling an  
4 election under this section only after holding three public  
5 hearings on the issue.

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

8 (e) Section 334.025 applies to an election called under this  
9 section.

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

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

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

18 Sec. 616.052. SUBSEQUENT ELECTIONS. (a) This section  
19 applies only to a county in which the majority of voters did not  
20 approve the imposition of a method of local option funding at an  
21 election held under Section 616.051.

22 (b) The commissioners court by order may call a subsequent  
23 election to impose a method of local option funding authorized  
24 under this chapter using the procedures described by this  
25 subchapter except for Section 615.051(a).

26 (c) The commissioners court of a county may not call a  
27 subsequent election under this section before the second

1 anniversary of a previously held election.

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

4 (1) specify each proposed method of local option  
5 funding authorized by this chapter that the county intends to use to  
6 fund each proposed mobility improvement project or a portion of the  
7 project;

8 (2) for each specified method of funding, list the  
9 proposed rate or amount to be used to fund capital construction of  
10 mobility improvement projects;

11 (3) list and generally describe the nature and scope  
12 of the proposed mobility improvement projects to be constructed  
13 with each specified method of local option funding; and

14 (4) list the estimated cost, or portion of the cost,  
15 and the estimated completion date for the capital construction of  
16 each proposed mobility improvement project.

17 (b) The ballot at an election held under this subchapter  
18 must be printed to permit voting for or against the proposition:  
19 "Authorizing \_\_\_\_\_ (insert name of county) to undertake the  
20 following mobility improvement projects funded by the following  
21 sources of revenue in amounts and rates as shown: \_\_\_\_\_ (insert a  
22 general and brief description of each mobility improvement project  
23 proposed, an estimated total cost of each project, a description of  
24 each method of funding proposed, including the rate or amount, the  
25 estimated date of expiration of any bonds, and the estimated date  
26 the project will be operational to the public)."

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 transportation  
10 authority subject to Subchapter O, Chapter 452, Transportation  
11 Code, that proposes to use funds collected in the jurisdiction of  
12 the 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 method of local option funding imposed under this chapter that may  
25 be spent on the project.

26 Sec. 616.054. AUTHORIZED PROJECTS. (a) A county may  
27 propose for funding by a method of local option funding imposed

1 under this chapter:

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

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

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

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

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

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

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

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

1 imposed under this chapter.

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

7 [Sections 616.055-616.100 reserved for expansion]

8 SUBCHAPTER C. COUNTY MOTOR FUELS TAX

9 Sec. 616.101. COUNTY MOTOR FUELS TAX AUTHORIZED;  
10 EXPIRATION. (a) If approved by a majority of the votes cast in a  
11 county at an election held under Subchapter B, the county shall  
12 impose and collect a tax at a rate of 10 cents per gallon on the sale  
13 of gasoline and diesel fuel that is sold in the county by a person,  
14 including a dealer, distributor, supplier, or permissive supplier,  
15 engaged in the sale of motor fuels used to propel a motor vehicle on  
16 the public highways of the state. The tax is added to the selling  
17 price of the gasoline or diesel fuel and is part of the gasoline or  
18 diesel fuel price, is a debt owed to the seller, and is recoverable  
19 at law in the same manner as the fuel charge for gasoline or diesel  
20 fuel.

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

27 (c) A county shall discontinue the collection of a motor

1 fuels tax under this chapter if:

2 (1) all of the mobility improvement projects approved  
3 by the voters of a county are accepted by the governmental entity  
4 that contracted for the projects;

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

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

12 (d) Notwithstanding Subsection (a), the county shall impose  
13 the tax authorized by this section on gasoline and diesel fuel at  
14 the following rates for each net gallon or fractional part on which  
15 taxes are imposed:

16 (1) beginning on the date described by Section  
17 616.102(e), 4 cents;

18 (2) beginning on the first anniversary of the date  
19 described by Section 616.102(e), 6 cents;

20 (3) beginning on the second anniversary of the date  
21 described by Section 616.102(e), 8 cents; and

22 (4) beginning on the third anniversary of the date  
23 described by Section 616.102(e), 10 cents.

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

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

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

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

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

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

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

25 (g) Except as otherwise provided by this chapter, a county  
26 shall adopt rules and prescribe forms for the collection of a tax  
27 authorized by this section. A person required to collect a tax

1 authorized by this section shall report and send the tax to the  
2 county as provided by the county.

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

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

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

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

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

27 (A) collect and remit a motor fuels tax imposed



1 under this chapter; and

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

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

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

12 (c) Rules adopted under Section 616.102:

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

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

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

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

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

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

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

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

1 account.

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

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

10 [Sections 616.108-616.150 reserved for expansion]

11 SUBCHAPTER D. FUND

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

17 (b) The county shall deposit in the fund money distributed  
18 to the county under Section 616.104 or collected by the county under  
19 Section 616.013.

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 that is funded through a dedicated sales tax and  
26 that operates under Subchapter O, Chapter 452, or Chapter 460,  
27 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 chapter;

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 chapter;

16               (3) pay amounts due and owing to a transit authority  
17 under a contract or interlocal agreement between the county and the  
18 authority under which the authority agrees to provide, develop,  
19 construct, install, and operate passenger rail facilities and  
20 services inside and outside the county and to issue bonds and other  
21 obligations that are secured by and payable from the amounts due  
22 from the county under the contract or interlocal agreement for the  
23 purpose of financing the capital costs of the facilities, if a  
24 method of local option funding was approved for that purpose at an  
25 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 authority to  
5 accelerate 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 for the purposes described by  
10 Subsection (a)(3) may have those terms and provisions, and may  
11 impose and contain requirements, grants, and limitations, as the  
12 county and the transit authority may mutually agree, including the  
13 power of the transit authority to pledge as security for its bonds  
14 all amounts, less agreed costs of collection, deposited to the  
15 county's mobility improvement fund, if such a pledge was approved  
16 at an election under this chapter.

17 (c) Bonds or other obligations issued by a county under this  
18 section may be made payable from money in the county's mobility  
19 improvement fund, subject to any limitations contained in a  
20 contract or interlocal agreement between the county and a transit  
21 authority, and from any other sources of revenue of the county that  
22 are lawfully available. Bonds or other obligations issued by a  
23 transit authority under a contract or interlocal agreement shall be  
24 payable from and secured by the money in the county's mobility  
25 improvement fund and the revenue received from the operation of the  
26 passenger rail services financed by the bonds or other obligations  
27 and may not include any revenue the transit authority receives from

1 a dedicated sales tax or the operation of any other passenger rail  
2 or bus system or related services.

3 (d) Bonds or other obligations issued by a county under this  
4 section or by a transit authority under a contract or interlocal  
5 agreement may mature serially or otherwise not more than 30 years  
6 after the date of issuance.

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

12 (f) A county may not:

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

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

18 [Sections 616.153-616.200 reserved for expansion]

19 SUBCHAPTER E. TRANSIT AND TRANSPORTATION AUTHORITIES

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

21 A subregion of a transportation authority governed by a subregional  
22 board described by Subchapter O, Chapter 452, Transportation Code,  
23 may not use any proceeds from a sales and use tax imposed under that  
24 chapter, or any other revenue of the authority under that chapter,  
25 for a mobility improvement project under this chapter without the  
26 favorable vote of four-fifths of the members of the subregional  
27 board.

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

6       (b) A method of local option funding imposed by a county  
7 under this chapter may not be used to establish or fund services of  
8 a transit authority or a transportation authority created on or  
9 after January 1, 2011.

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

12       SECTION 2. Subchapter C, Chapter 791, Government Code, is  
13 amended by adding Section 791.035 to read as follows:

14       Sec. 791.035. CONTRACTS RELATED TO COUNTY MOTOR FUELS  
15 TAXES. (a) The comptroller may enter into an interlocal contract  
16 with one or more local governments or political subdivisions to  
17 collect, administer, and enforce a county motor fuels tax enacted  
18 under Chapter 616, Local Government Code, and any other related  
19 law.

20       (b) This section expires January 1, 2014.

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

24       (16-a) "County diesel fuel tax" means the tax imposed  
25 by Section 162.2011 or 162.2035.

26       (16-b) "County gasoline tax" means the tax imposed by  
27 Section 162.1011 or 162.1035.

1           (56-a) "State diesel fuel tax" means the tax imposed  
2 by Section 162.201 or 162.203.

3           (56-b) "State gasoline tax" means the tax imposed by  
4 Section 162.101 or 162.103.

5           (57-a) "Taxing county" means a destination county that  
6 has adopted the tax on motor vehicle fuel authorized by Chapter 616,  
7 Local Government Code.

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

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

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

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

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

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

26                       (B) receives from the comptroller and  
27 destination state, if a diversion program is in place, a diversion



1 number authorizing the diversion; and

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

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

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

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

24 SECTION 5. Section 162.005(e), Tax Code, is amended to read  
25 as follows:

26 (e) The comptroller may revoke a license if the license  
27 holder:

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

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

10           SECTION 6. Section 162.012, Tax Code, is amended to read as  
11 follows:

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

20           (b) If an exporter claims an exemption under Section  
21 162.104(a)(4)(B) or 162.204(a)(4)(B) and fails to produce proof of  
22 payment of tax to the destination state or proof that the  
23 transaction was exempt in the destination state, the exporter is  
24 presumed to have not paid the destination state's tax or this  
25 state's tax on the exported motor fuel and the comptroller shall  
26 assess the tax imposed by this chapter on the exported motor fuel  
27 against the exporter.

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

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

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

1 established by the audit.

2 SECTION 7. Section 162.015, Tax Code, is amended to read as  
3 follows:

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

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

27 SECTION 8. Section 162.016, Tax Code, is amended by

1 amending Subsection (a) and adding Subsection (g-1) to read as  
2 follows:

3 (a) A person may not import motor fuel to a destination in  
4 this state or export motor fuel to a destination outside this state  
5 by any means unless the person possesses a shipping document for  
6 that fuel. The shipping document must include:

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

10 (2) the name of the carrier transporting the motor  
11 fuel;

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

13 (4) the type of motor fuel;

14 (5) the number of gallons:

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

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

19 (6) the destination state and, if the destination  
20 state is this state, the county in this state to which the gasoline  
21 or diesel fuel will be delivered [~~of the motor fuel~~] as represented  
22 by the purchaser of the motor fuel and the number of gallons of the  
23 fuel to be delivered, if delivery is to only one state;

24 (7) the name and physical address of the purchaser of  
25 the motor fuel;

26 (8) the name of the person responsible for paying the  
27 tax imposed by this chapter, as given to the terminal by the

1 purchaser if different from the licensed supplier or distributor;

2 (9) the destination state of each portion of a split  
3 load of motor fuel if the motor fuel is to be delivered to more than  
4 one state; and

5 (10) any other information that, in the opinion of the  
6 comptroller, is necessary for the proper administration of this  
7 chapter.

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

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

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

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

18 (a) A tax is imposed on the removal of gasoline from the  
19 terminal using the terminal rack, other than by bulk transfer. The  
20 supplier or permissive supplier is liable for and shall collect the  
21 tax imposed by this section [~~subchapter~~] from the person who orders  
22 the withdrawal at the terminal rack.

23 (b) A tax is imposed at the time gasoline is imported into  
24 this state, other than by a bulk transfer, for delivery to a  
25 destination in this state. The supplier or permissive supplier is  
26 liable for and shall collect the tax imposed by this section  
27 [~~subchapter~~] from the person who imports the gasoline into this

1 state. If the seller is not a supplier or permissive supplier, then  
2 the person who imports the gasoline into this state is liable for  
3 and shall pay the tax.

4 (c) A tax is imposed on the removal of gasoline from the bulk  
5 transfer/terminal system in this state. The supplier is liable for  
6 and shall collect the tax imposed by this section [~~subchapter~~] from  
7 the person who orders the removal from the bulk transfer terminal  
8 system.

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

12 (1) the terminal operator has a terminal operator's  
13 license issued for the facility from which the gasoline is  
14 withdrawn;

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

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

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

21 Sec. 162.1011. IMPOSITION OF COUNTY GASOLINE TAX; POINT OF  
22 COLLECTION. (a) In a county that imposes the tax on motor vehicle  
23 fuels authorized by Chapter 616, Local Government Code, a tax is  
24 imposed on the delivery of gasoline into the taxing county.

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

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

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

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

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

14        SECTION 13. The heading to Section 162.1025, Tax Code, is  
15 amended to read as follows:

16        Sec. 162.1025. SEPARATE STATEMENT OF TAXES [~~TAX~~] COLLECTED  
17 FROM PURCHASER.

18        SECTION 14. Sections 162.1025(a), (b), and (c), Tax Code,  
19 are amended to read as follows:

20        (a) In each subsequent sale of gasoline on which the taxes  
21 have [~~tax has~~] been paid, the taxes [~~tax~~] imposed by this subchapter  
22 shall be collected from the purchaser so that the taxes are [~~tax is~~]  
23 paid ultimately by the person who uses the gasoline. Gasoline is  
24 considered to be used when it is delivered into a fuel supply tank.

25        (b) The taxes [~~tax~~] imposed by this subchapter must be  
26 stated separately from the sales price of gasoline and identified  
27 as gasoline taxes [~~tax~~] on the invoice or receipt issued to a



1 purchaser. Backup gasoline taxes [~~tax~~] may be identified as  
2 gasoline taxes [~~tax~~]. The taxes [~~tax~~] must be separately stated  
3 and identified in the same manner on a shipping document, if the  
4 shipping document includes the sales price of the gasoline.

5 (c) Except as provided by Subsection (d), the sales price of  
6 gasoline stated on an invoice, receipt, or shipping document is  
7 presumed to be exclusive of the taxes [~~tax~~] imposed by this  
8 subchapter. The seller or purchaser may overcome the presumption  
9 by using the seller's records to show that the taxes [~~tax~~] imposed  
10 by this subchapter were [~~was~~] included in the sales price.

11 SECTION 15. The heading to Section 162.103, Tax Code, is  
12 amended to read as follows:

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

14 SECTION 16. Sections 162.103(a) and (c), Tax Code, are  
15 amended to read as follows:

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

18 (1) a person who obtains a refund of tax on gasoline by  
19 claiming the gasoline was used for an off-highway purpose, but  
20 actually uses the gasoline to operate a motor vehicle on a public  
21 highway;

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

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

27 (4) a person, other than a person exempted under

1 Section 162.104, who acquires gasoline on which tax has not been  
2 paid from any source in this state.

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

5 SECTION 17. Subchapter B, Chapter 162, Tax Code, is amended  
6 by adding Section 162.1035 to read as follows:

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

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

12 (A) delivers gasoline into the fuel supply tank  
13 of a motor vehicle;

14 (B) purchases or receives gasoline from another  
15 person; or

16 (C) sells or delivers gasoline to another person;  
17 and

18 (2) a person who obtains a refund of the tax imposed by  
19 Section 162.1011 for gasoline that the person delivered into the  
20 fuel supply tank of a motor vehicle, purchased or acquired, or sold  
21 or delivered in a county that imposes the tax authorized by Chapter  
22 616, Local Government Code.

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

1        (c) The following are exempt from the tax imposed by this  
2 section:

3            (1) gasoline on which the tax imposed by Section  
4 162.1011 has been paid; and

5            (2) gasoline exempt under Section 162.104.

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

8        SECTION 18. Sections 162.104(a) and (c), Tax Code, are  
9 amended to read as follows:

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

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

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

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

23            (4) exported by either a licensed supplier or a  
24 licensed exporter from this state to any other state, provided  
25 that:

26            (A) for gasoline in a situation described by  
27 Subsection (d), the bill of lading indicates the destination state

1 and the supplier collects the destination state tax; or

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

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

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

19 (7) exported to a foreign country if the bill of lading  
20 indicates the foreign destination and the fuel is actually exported  
21 to the foreign country; or

22 (8) sold to a volunteer fire department in this state  
23 for the department's exclusive use.

24 (c) If an exporter described by Subsection (a)(4)(B) does  
25 not have an exporter's license issued under this subchapter, the  
26 supplier must collect the state gasoline tax imposed by ~~under~~  
27 this subchapter.

1 SECTION 19. Section 162.105, Tax Code, is amended to read as  
2 follows:

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

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

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

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

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

25 (5) a terminal operator;

26 (6) an exporter;

27 (7) a blender;

- 1 (8) a motor fuel transporter;
- 2 (9) an aviation fuel dealer; [~~or~~]
- 3 (10) an interstate trucker; or
- 4 (11) a dealer.

5 SECTION 20. Sections 162.107(a) and (b), Tax Code, are  
6 amended to read as follows:

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

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

15 (1) collect the state gasoline tax due to this state on  
16 the gasoline;

17 (2) waive any defense that this state lacks  
18 jurisdiction to require the supplier to collect the state gasoline  
19 tax due to this state on the gasoline under this subchapter;

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

23 (4) keep records of the removal of the gasoline and  
24 submit to audits concerning the gasoline as if the removal had  
25 occurred at a terminal located in this state; and

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

1 SECTION 21. Section 162.108, Tax Code, is amended by adding  
2 Subsection (a-1) to read as follows:

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

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

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

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

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

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

24 SECTION 22. Section 162.110(a), Tax Code, is amended to  
25 read as follows:

26 (a) The license issued to a supplier, permissive supplier,  
27 distributor, importer, exporter, terminal operator, blender, [~~or~~]

1 motor fuel transporter, or dealer is permanent and is valid during  
2 the period the license holder has in force and effect the required  
3 bond or security and furnishes timely reports and supplements as  
4 required, or until the license is surrendered by the holder or  
5 canceled by the comptroller. The comptroller shall cancel a  
6 license under this subsection if a purchase, sale, or use of  
7 gasoline has not been reported by the license holder during the  
8 previous nine months.

9 SECTION 23. Section 162.111(a), Tax Code, is amended to  
10 read as follows:

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

18 SECTION 24. Section 162.112(a), Tax Code, is amended to  
19 read as follows:

20 (a) The comptroller, on or before December 20 of each year,  
21 shall make available to all license holders an alphabetical list of  
22 licensed suppliers, permissive suppliers, distributors, aviation  
23 fuel dealers, importers, exporters, blenders, dealers, and  
24 terminal operators. A supplemental list of additions and deletions  
25 shall be made available to the license holders each month. A  
26 current and effective license or the list furnished by the  
27 comptroller is evidence of the validity of the license until the



1 comptroller notifies license holders of a change in the status of a  
2 license holder.

3 SECTION 25. Sections 162.113(a), (d-1), and (e), Tax Code,  
4 are amended to read as follows:

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

14 (d-1) A supplier or permissive supplier may reinstate the  
15 right of a licensed distributor or licensed importer to defer the  
16 payment of the taxes imposed by this subchapter [~~gasoline tax~~]  
17 before the date prescribed by Subsection (d) if the comptroller  
18 determines that:

19 (1) the supplier or permissive supplier erroneously  
20 requested the credit that resulted in the termination of the  
21 licensed distributor's or licensed importer's right to defer  
22 payment; or

23 (2) the licensed distributor or licensed importer  
24 failed to pay the taxes imposed by this subchapter [~~gasoline taxes~~]  
25 due because of circumstances that may have been outside the  
26 distributor's or importer's control.

27 (e) A licensed distributor or licensed importer who makes

1 timely payments of the state gasoline tax imposed by [~~under~~] this  
2 subchapter is entitled to retain an amount equal to 1.75 percent of  
3 the total state gasoline tax [~~taxes~~] to be paid to the supplier or  
4 permissive supplier to cover administrative expenses.

5 SECTION 26. Section 162.114(a), Tax Code, is amended to  
6 read as follows:

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

12 SECTION 27. Sections 162.115(b), (c), (e), (g), and (h),  
13 Tax Code, are amended to read as follows:

14 (b) A distributor shall keep:

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

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

18 (B) all gasoline blended;

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

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

23 (i) the name of the purchaser;

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

26 (iii) the amount of county gasoline tax  
27 collected from the purchaser; and

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

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

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

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

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

10                    (i) the name of the purchaser;

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

12                    (iii) the amount of county gasoline tax  
13 collected from the purchaser; and

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

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

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

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

23                    (4) all shipping documents.

24                    (c) An importer shall keep:

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

26                    (A) all gasoline inventories on hand at the first  
27 of each month;

1 (B) all gasoline compounded or blended;

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

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

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

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

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

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

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

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

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

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

24 (2) all gasoline compounded or blended;

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

27 (4) all gasoline sold, distributed, or used, showing

1 the name of the purchaser, the county in this state, and the date of  
2 the sale or use; and

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

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

7 (1) the date of transportation;

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

9 (3) the means of transportation;

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

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

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

19 (h) A dealer shall keep:

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

21 (A) [~~(1)~~] gasoline inventories on hand at the  
22 first of each month;

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

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

1                    (D) [~~(4)~~] all gasoline lost by fire, theft, or  
2 accident; and

3                    (2) all shipping documents.

4            SECTION 28. Section 162.116(c), Tax Code, is amended to  
5 read as follows:

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

20            SECTION 29. Section 162.118, Tax Code, is amended to read as  
21 follows:

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

26            (1) the number of net gallons of gasoline received by  
27 the distributor during the month, sorted by product code, seller,

1 point of origin, destination state, carrier, and receipt date;

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

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

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

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

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

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

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

24 SECTION 30. Section 162.123, Tax Code, is amended to read as  
25 follows:

26 Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN.

27 The monthly return and supplements of each blender shall contain

1 for the period covered by the return:

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

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

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

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

13 SECTION 31. Subchapter B, Chapter 162, Tax Code, is amended  
14 by adding Section 162.1235 to read as follows:

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

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

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

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

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

25 SECTION 32. Sections 162.127(a) and (d), Tax Code, are  
26 amended to read as follows:

27 (a) A refund claim must be filed on a form provided by the



1 comptroller, be supported by the original invoice issued by the  
2 seller, and contain:

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

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

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

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

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

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

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

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

26 SECTION 33. The heading to Section 162.201, Tax Code, is  
27 amended to read as follows:

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

2           SECTION 34. Sections 162.201(a), (b), and (c), Tax Code,  
3 are amended to read as follows:

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

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

17           (c) A tax is imposed on the removal of diesel fuel from the  
18 bulk transfer/terminal system in this state. The supplier is  
19 liable for and shall collect the tax imposed by this section  
20 [~~subchapter~~] from the person who orders the removal from the bulk  
21 transfer/terminal system.

22           SECTION 35. Subchapter C, Chapter 162, Tax Code, is amended  
23 by adding Section 162.2011 to read as follows:

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

1        (b) The distributor shall collect the tax imposed by this  
2 section from each person on delivery of diesel fuel into a taxing  
3 county.

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

9        SECTION 36. Section 162.202, Tax Code, is amended to read as  
10 follows:

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

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

17        SECTION 37. The heading to Section 162.2025, Tax Code, is  
18 amended to read as follows:

19        Sec. 162.2025. SEPARATE STATEMENT OF TAXES [~~TAX~~] COLLECTED  
20 FROM PURCHASER.

21        SECTION 38. Sections 162.2025(a), (b), and (c), Tax Code,  
22 are amended to read as follows:

23        (a) In each subsequent sale of diesel fuel on which the  
24 taxes have [~~tax has~~] been paid, the taxes [~~tax~~] imposed by this  
25 subchapter shall be collected from the purchaser so that the taxes  
26 are [~~tax is~~] paid ultimately by the person who uses the diesel  
27 fuel. Diesel fuel is considered to be used when it is delivered

1 into a fuel supply tank.

2 (b) The taxes [~~tax~~] imposed by this subchapter must be  
3 stated separately from the sales price of diesel fuel and  
4 identified as diesel fuel taxes [~~tax~~] on the invoice or receipt  
5 issued to a purchaser. Backup diesel fuel taxes [~~tax~~] may be  
6 identified as diesel fuel taxes [~~tax~~]. The taxes [~~tax~~] must be  
7 separately stated and identified in the same manner on a shipping  
8 document, if the shipping document includes the sales price of the  
9 diesel fuel.

10 (c) Except as provided by Subsection (d), the sales price of  
11 diesel fuel stated on an invoice, receipt, or shipping document is  
12 presumed to be exclusive of the taxes [~~tax~~] imposed by this  
13 subchapter. The seller or purchaser may overcome the presumption  
14 by using the seller's records to show that the taxes [~~tax~~] imposed  
15 by this subchapter were [~~was~~] included in the sales price.

16 SECTION 39. 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 40. 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;

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; and

5 (4) a person, other than a person exempted under  
6 Section 162.204, who acquires diesel fuel on which tax has not been  
7 paid from any source in this state.

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

10 SECTION 41. Subchapter C, Chapter 162, Tax Code, is amended  
11 by adding Section 162.2035 to read as follows:

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

13 (a) A backup tax is imposed at the rate prescribed by Section  
14 162.202(b) on:

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

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

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

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

23 (2) a person who obtains a refund of the tax imposed by  
24 Section 162.2011 for diesel fuel 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 diesel fuel subject to the tax  
2 imposed by this section shall at the time of sale collect the tax  
3 from the purchaser or recipient of the diesel fuel in addition to  
4 the selling price and is liable to this state for the taxes  
5 collected at the 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) diesel fuel on which the tax imposed by Section  
9 162.2011 had been paid; and

10           (2) diesel fuel exempt under Section 162.204.

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

13        SECTION 42. Sections 162.204(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:

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

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

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

1 services;

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

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

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

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

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

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

1           (8) dyed diesel fuel sold or delivered by a supplier to  
2 another supplier and dyed diesel fuel sold or delivered by a  
3 supplier or distributor into the bulk storage facility of a dyed  
4 diesel fuel bonded user or to a purchaser who provides a signed  
5 statement as provided by Section 162.206;

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

12           (10) dyed diesel fuel sold by a supplier or permissive  
13 supplier to a distributor, or by a distributor to another  
14 distributor;

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

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

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

27           (A) is delivered exclusively into the fuel supply



1 tank of the commercial motor vehicle; and

2 (B) is used exclusively to transport passengers  
3 for compensation or hire between points in this state on a fixed  
4 route or schedule; or

5 (14) diesel fuel sold to a volunteer fire department  
6 in this state for the department's exclusive use.

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

11 SECTION 43. Section 162.205(a), Tax Code, is amended to  
12 read as follows:

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

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

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

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

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

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

8 (5) a terminal operator;

9 (6) an exporter;

10 (7) a blender;

11 (8) a motor fuel transporter;

12 (9) an aviation fuel dealer;

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

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

15 (12) a dealer.

16 SECTION 44. Section 162.206(d), Tax Code, is amended to  
17 read as follows:

18 (d) Any gallons purchased or sold in excess of the  
19 limitations prescribed by Subsection (c) constitute a ~~[taxable]~~  
20 purchase or sale subject to the taxes imposed by this subchapter. A  
21 purchaser that exceeds the limitations prescribed by Subsection (c)  
22 shall be required to obtain a dyed diesel fuel bonded user license.

23 SECTION 45. Sections 162.208(a) and (b), Tax Code, are  
24 amended to read as follows:

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

1 state and has this state as the destination state.

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

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

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

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

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

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

19 SECTION 46. Section 162.209, Tax Code, is amended by adding  
20 Subsection (a-1) to read as follows:

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

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

27 (2) the applicant's social security number, driver's

1 license number, and federal employer identification number if the  
2 applicant is a natural person who is not licensed as a supplier,  
3 permissive supplier, or terminal operator; and

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

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

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

15 SECTION 47. Section 162.211(a), Tax Code, is amended to  
16 read as follows:

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

27 SECTION 48. Section 162.212(a), Tax Code, is amended to

1 read as follows:

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

10 SECTION 49. Section 162.213(a), Tax Code, is amended to  
11 read as follows:

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

22 SECTION 50. Sections 162.214(a) and (e), Tax Code, are  
23 amended to read as follows:

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

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

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

11 SECTION 51. Section 162.215(a), Tax Code, is amended to  
12 read as follows:

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

18 SECTION 52. Sections 162.216(b), (c), (e), (g), and (h),  
19 Tax Code, are amended to read as follows:

20 (b) A distributor shall keep:

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

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

24 (B) all diesel fuel blended;

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

1 (D) all diesel fuel sold, distributed, or used,  
2 showing:

3 (i) the name of the purchaser;

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

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

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

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

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

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

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

16 (i) the name of the purchaser;

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

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

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

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

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

27 (3) for diesel fuel exported outside this state, proof

1 of payment of tax to the destination state, in a form acceptable to  
2 the comptroller; and

3 (4) all shipping documents.

4 (c) An importer shall keep:

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

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

8 (B) all diesel fuel compounded or blended;

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

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

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

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

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

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

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

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



1 (e) A blender shall keep a record showing the number of  
2 gallons of:

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

5 (2) all diesel fuel compounded or blended;

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

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

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

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

15 (1) the date of transportation;

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

17 (3) the method of transportation;

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

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

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

27 (h) A dealer shall keep:

- 1           (1) a record showing the number of gallons of:
- 2                   (A) [~~(1)~~] diesel fuel inventories on hand at the
- 3 first of each month;
- 4                   (B) [~~(2)~~] all diesel fuel purchased or received,
- 5 showing the name of the seller and the date of each purchase or
- 6 receipt;
- 7                   (C) [~~(3)~~] all diesel fuel sold or used, showing
- 8 the date of the sale or use; and
- 9                   (D) [~~(4)~~] all diesel fuel lost by fire, theft, or
- 10 accident; and
- 11           (2) all shipping documents.

12           SECTION 53. Section 162.217(c), Tax Code, is amended to

13 read as follows:

14           (c) A supplier or permissive supplier may take a credit for

15 any state gasoline tax [~~taxes~~] that was [~~were~~] not remitted in a

16 previous period to the supplier or permissive supplier by a

17 licensed distributor or licensed importer as required by Section

18 162.214. The supplier or permissive supplier is eligible to take

19 this credit if the comptroller is notified of the default within 15

20 days after the default occurs. If a license holder pays to a

21 supplier or permissive supplier the tax owed, but the payment

22 occurs after the supplier or permissive supplier has taken a credit

23 on its return, the supplier or permissive supplier shall remit the

24 payment to the comptroller with the next monthly return after

25 receipt of the tax, plus a penalty of 10 percent of the amount of

26 unpaid taxes and interest at the rate provided by Section 111.060

27 beginning on the date the credit is taken.

1 SECTION 54. Section 162.219, Tax Code, is amended to read as  
2 follows:

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

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

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

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

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

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

1 fuel; ~~and~~

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

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

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

9 SECTION 55. Section 162.224, Tax Code, is amended to read as  
10 follows:

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

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

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

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

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

25 SECTION 56. Subchapter C, Chapter 162, Tax Code, is amended  
26 by adding Section 162.2245 to read as follows:

27 Sec. 162.2245. INFORMATION REQUIRED ON DEALER'S RETURN. The

1 monthly return and supplements of each dealer shall contain for the  
2 period covered by the return:

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

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

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

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

10 SECTION 57. Sections 162.229(a) and (d), Tax Code, are  
11 amended to read as follows:

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

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

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

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

19 (4) the date of the issuance of the invoice, if  
20 different from the date of fuel delivery;

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

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

26 (7) the type of vehicle or equipment into which the  
27 fuel is delivered.

1           (d) A distributor or person who does not hold a license who  
2 files a valid refund claim with the comptroller shall be paid by a  
3 warrant issued by the comptroller. For purposes of this section, a  
4 distributor meets the requirement of filing a valid refund claim  
5 for state and county diesel fuel taxes if the distributor  
6 designates the gallons of diesel fuel sold or used that are the  
7 subject of the refund claim on the monthly report submitted by the  
8 distributor to the comptroller.

9           SECTION 58. Sections 162.402(a), (c), and (d), Tax Code,  
10 are amended to read as follows:

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

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

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

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

24                 (4) 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                 (5) makes a taxable sale or delivery of liquefied gas

1 without holding a valid dealer's license;

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

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

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

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

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

21 (11) furnishes to a licensed supplier or distributor a  
22 signed statement for purchasing diesel fuel tax-free and then uses  
23 the tax-free diesel fuel to operate a diesel-powered motor vehicle  
24 on a public highway;

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

27 (13) fails or refuses to comply with or violates a

1 comptroller's rule for administering or enforcing this chapter;

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

4 (15) 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; or

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

12 (c) A person receiving motor fuel who accepts a shipping  
13 document that does not conform with the requirements of Section  
14 162.004 or 162.016(a) is liable to this state for a civil penalty of  
15 \$2,000 or five times the amount of the unpaid tax, whichever is  
16 greater, for each occurrence.

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

22 SECTION 59. Section 162.403, Tax Code, is amended to read as  
23 follows:

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

26 (1) refuses to stop and permit the inspection and  
27 examination of a motor vehicle transporting or using motor fuel on



1 the demand of a peace officer or the comptroller;

2 (2) is required to hold a valid trip permit or  
3 interstate trucker's license, but operates a motor vehicle in this  
4 state without a valid trip permit or interstate trucker's license;

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

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

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

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

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

24 (8) uses dyed diesel fuel for the operation of a motor  
25 vehicle on a public highway except as allowed under Section  
26 162.235;

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

1 into the fuel supply tank of a motor vehicle that does not display a  
2 current Texas liquefied gas tax decal;

3 (10) makes a sale or delivery of liquefied gas on which  
4 the person knows the tax is required to be collected, if at the time  
5 the sale is made the person does not hold a valid dealer's license;

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

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

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

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

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

1           (16) is a license holder, a person required to be  
2 licensed, or another user and fails or refuses to make or deliver to  
3 the comptroller a report required by this chapter to be made and  
4 delivered to the comptroller;

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

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

13           (18-a) transports motor fuel to a county in this state  
14 other than the county stated on the shipping document;

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

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

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

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

1           (23) is a license holder, other user, or other person  
2 required to hold a license under this chapter, or the agent or  
3 employee of one of those persons, and makes a false entry or fails  
4 to make an entry in the books and records required under this  
5 chapter to be made by the person or fails to retain a document as  
6 required by this chapter;

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

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

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

17           (27) forges, falsifies, or alters an invoice or  
18 shipping document prescribed by law;

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

21           (29) furnishes to a licensed supplier or distributor a  
22 signed statement for purchasing diesel fuel tax-free and then uses  
23 the tax-free diesel fuel to operate a diesel-powered motor vehicle  
24 on a public highway;

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

27           (31) fails to remit any tax funds collected or

1 required to be collected by a license holder, another user, or any  
2 other person required to hold a license under this chapter;

3 (32) makes a sale of dyed diesel fuel tax-free into a  
4 storage facility of a person who:

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

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

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

11 (34) purchases any motor fuel tax-free when not  
12 authorized to make a tax-free purchase under this chapter;

13 (35) purchases motor fuel with the intent to evade any  
14 tax imposed by this chapter or accepts a delivery of motor fuel by  
15 any means and does not at the same time accept or receive a shipping  
16 document relating to the delivery;

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

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

27 (38) blends products together to produce a blended

1 fuel that is offered for sale, sold, or used and that expands the  
2 volume of the original product to evade paying applicable motor  
3 fuel taxes; or

4 (39) evades or attempts to evade in any manner a tax  
5 imposed on motor fuel by this chapter.

6 SECTION 60. Section 162.405(d), Tax Code, is amended to  
7 read as follows:

8 (d) An offense under Section 162.403(7), (18-a), (22),  
9 (23), (24), (25), (26), (27), (28), or (29) is a felony of the third  
10 degree.

11 SECTION 61. Section 222.105, Transportation Code, is  
12 amended to read as follows:

13 Sec. 222.105. PURPOSES. The purposes of Sections 222.106  
14 and 222.107 are to:

- 15 (1) promote public safety;
- 16 (2) facilitate the development or redevelopment of  
17 property;
- 18 (3) facilitate the movement of traffic; and
- 19 (4) enhance a local entity's ability to sponsor a  
20 project [~~authorized under Section 222.104~~].

21 SECTION 62. Sections 222.106(c), (i), and (j),  
22 Transportation Code, are amended to read as follows:

23 (c) If the governing body determines an area to be  
24 unproductive and underdeveloped and that action under this section  
25 will further the purposes stated in Section 222.105, the governing  
26 body of the municipality by ordinance may designate a contiguous  
27 geographic area in the jurisdiction of the municipality to be a

1 transportation reinvestment zone to promote a transportation  
2 project [~~described by Section 222.104~~] that cultivates development  
3 or redevelopment of the area.

4 (i) Money deposited to a tax increment account must be used  
5 to fund transportation projects [~~authorized under Section~~  
6 ~~222.104~~], including the repayment of amounts owed under an  
7 agreement entered into under Section 222.104 [~~that section~~].

8 (j) Except as provided by Subsection (k), a transportation  
9 reinvestment zone terminates on December 31 of the year in which the  
10 municipality complies with a contractual requirement, if any, that  
11 included the pledge of money deposited to a tax increment account or  
12 the completion of the transportation project for [~~repayment of~~  
13 ~~money owed under the agreement under Section 222.104 in connection~~  
14 ~~with~~] which the zone was designated.

15 SECTION 63. Sections 222.107(c), (i), and (k),  
16 Transportation Code, are amended to read as follows:

17 (c) The commissioners court of the county, after  
18 determining that an area is unproductive and underdeveloped and  
19 that action under this section would further the purposes described  
20 by Section 222.105, by order or resolution may designate a  
21 contiguous geographic area in the jurisdiction of the county to be a  
22 transportation reinvestment zone to promote a transportation  
23 project [~~described by Section 222.104~~] that cultivates development  
24 or redevelopment of the area and for the purpose of abating ad  
25 valorem taxes imposed by the county on real property located in the  
26 zone.

27 (i) To assist the county in developing a transportation

1 project [~~authorized under Section 222.104~~], if authorized by the  
2 commission under Chapter 441, a road utility district may be formed  
3 under that chapter that has the same boundaries as a transportation  
4 reinvestment zone created under this section.

5 (k) A road utility district formed as provided by Subsection  
6 (i) may enter into an agreement with the county to assume the  
7 obligation, if any, of the county to fund a transportation project  
8 [~~under Section 222.104~~] or to repay funds owed to the department  
9 under Section 222.104. Any amount paid for this purpose is  
10 considered to be an operating expense of the district. Any taxes  
11 collected by the district that are not paid for this purpose may be  
12 used for any district purpose.

13 SECTION 64. Sections 222.106(b) and 222.107(b),  
14 Transportation Code, are repealed.

15 SECTION 65. (a) The comptroller of public accounts' duties  
16 and responsibilities for the collection, administration, and  
17 enforcement of a county motor fuels tax as authorized by Chapter  
18 616, Local Government Code, as added by this Act, are specifically  
19 contingent on the comptroller receiving sufficient funding in  
20 advance of the effective date of any motor fuels tax imposed by a  
21 county to adequately cover the comptroller's initial  
22 implementation costs.

23 (b) The legislature intends that the initial implementation  
24 costs be funded through an interlocal agreement between the  
25 comptroller of public accounts and one or more local entities. The  
26 comptroller's duties and responsibilities under this Act are  
27 specifically contingent on the approval and execution of this



1 agreement by the parties in a manner that results in funding being  
2 available to the comptroller on or before December 1, 2011. If the  
3 comptroller does not receive funding in a timely manner as  
4 determined by the comptroller, the comptroller is not required to  
5 enforce the provisions of this Act related to a county motor fuels  
6 tax.

7 SECTION 66. (a) A county may not impose a motor fuels tax  
8 under Chapter 616, Local Government Code, as added by this Act,  
9 before the effective date of rules adopted by the comptroller of  
10 public accounts under Section 616.102, Local Government Code, as  
11 added by this Act.

12 (b) The comptroller of public accounts shall adopt the rules  
13 required by Section 616.102, Local Government Code, as added by  
14 this Act, before the 60th day after the date the constitutional  
15 amendment proposed by the 82nd Legislature, Regular Session, 2011,  
16 allowing the expenditure of motor vehicle fuel taxes to construct,  
17 maintain, and operate passenger rail, transit, and freight rail is  
18 approved by the voters.

19 SECTION 67. This Act takes effect on the date on which the  
20 constitutional amendment proposed by the 82nd Legislature, Regular  
21 Session, 2011, allowing the expenditure of motor vehicle fuel taxes  
22 to construct, maintain, and operate passenger rail, transit, and  
23 freight rail is approved by the voters. If that amendment is not  
24 approved by the voters, this Act has no effect.