

## **Transportation Agenda for the 82<sup>nd</sup> Texas Legislature**

### **Goal**

Increase state resources for funding transportation projects and provide citizens the means to access local revenue for transportation to maintain mobility, enhance connectivity, avoid gridlock, serve population growth, preserve existing infrastructure, and sustain the Texas economy. In so doing, ensure accountability and optimize transparency of transportation investments. Tools to accomplish this goal include:

### **Diversions / Indexing / Rate Increase / Local Option Authority**

Pass one bill – the Transportation Investment Act – that

- Stops the diversion of transportation resources over time
- Indexes the state tax on gasoline and diesel fuel to stop the erosion of purchasing power
- Increases the rate of the state tax on gasoline and diesel fuel by ten cents per gallon and allocates the revenue to the TxDOT districts by formula to fund needed road, rail and transit projects
- Authorizes counties to hold local option elections so that their citizens can vote to decide if they want to pay to fund specific transportation projects with a mobility improvement fee and/or a county motor fuel tax...much like a local bond election

Pass one joint resolution to implement the Transportation Investment Act that

- Amends the Texas Constitution to permit the Comptroller to adjust the rate of the state tax on motor fuel annually (indexing), phases out DPS funding with gas tax and vehicle registration fee revenues (diversions), authorizes a voter-approved county motor fuel tax and vehicle registration fee to fund road, rail and transit projects, and allows revenue from the new ten cent state motor fuel tax to fund rail and transit as well as roads

(DRAFT Transportation Investment Act – bill and JR – is at [www.ntc-dfw.org/transportation](http://www.ntc-dfw.org/transportation))

### **Reinvestment Zones for Transportation**

Expand the ability to use reinvestment zones to fund transportation; authorize cities and counties to capture the growth increment in local property taxes and/or local sales taxes for investment in transportation projects

### **County Toll Authorities**

Authorize counties to establish a county toll authority, except counties already served by a regional toll authority, or to join with adjacent counties in a regional toll authority.

### **Public Private Partnerships / Comprehensive Development Agreements**

Restore authority to use public private partnerships and comprehensive development agreements to fund transportation projects

# 82<sup>nd</sup> Session Transportation Investment Act **DRAFT**

## Overview

- Reduces diversion of transportation resources to public safety incrementally – 20 percent per biennium over ten years.
- Indexes the state tax on gasoline and diesel fuel to the highway cost index multiplied by the combined state and federal rates – a different indexing mechanism could be used, e.g., the consumer price index or the corporate average fuel economy.
- Increases the rate of the state tax on gasoline and diesel fuel from 20 cents to 30 cents per gallon, requires that 100 per cent of the revenue from the ten-cent increase be used to fund transportation only (roads, transit and rail, subject to passage of a constitutional amendment) and that the increased revenue be allocated directly to the TxDOT districts by formula (based on proportional vehicle registrations and daily vehicles miles of travel) adopted by commission rule.
- Authorizes counties to hold local option elections on a uniform election date in November to fund mobility improvement projects (just like a local bond election) with a five or ten cent per gallon county tax on gasoline and diesel fuel and a mobility improvement fee of \$10 to \$60 collected annually at the time of vehicle registration renewal. Scales back TLOTA from the 81<sup>st</sup> session by eliminating provisions unique to particular regions; assumes cities, counties, MPOs and transit/transportation agencies can deal with equity and project selection issues locally; the core of the bill is in the first 27 pages; the last 62 pages address fuel tax collection only. Only a tax or fee the voters approve for operations and maintenance will be on-going. A tax or fee approved by the voters for capital improvements will cease when the project is implemented and any associated debt is retired.
- Is accompanied by a constitutional amendment that reduces diversions (takes out public safety over ten-year time frame), allows the comptroller to adjust the state motor fuels tax rate annually (indexing), and permits revenue from the county motor fuels tax and vehicle registration fee and from the ten-cent increase in the state motor fuels tax to be used for transit and rail as well as roads.

## 82<sup>nd</sup> Session Joint Resolution

proposing a constitutional amendment limiting the purposes for which revenue from motor vehicle registration fees, taxes on motor fuels and lubricants, and certain revenues received from the federal government may be used, authorizing the legislature to provide for automatic adjustments of the rates of motor fuels taxes, and authorizing the legislature by general law to permit counties to assess and collect a local motor fuels tax and an additional vehicle registration fee to be used for mobility improvement projects.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article VIII, Texas Constitution, is amended by amending Sections 7-a and 7-b and adding Sections 7-c and 7-d to read as follows:

Sec. 7-a. (a) Subject to legislative appropriation, allocation, and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from state motor vehicle registration fees, and all state taxes, except gross production and ad valorem taxes, on motor fuels and lubricants used to propel motor vehicles over public roadways at the rate in effect on January 1, 2011, shall be used only for ~~[the sole purpose of]~~ acquiring rights-of-way and[;] constructing and[;] maintaining~~[, and policing]~~ such public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads performed by, or under the supervision of, the agency of this state, or a component or successor in function, responsible for the construction and maintenance of state highways; ~~[and for the payment of the principal and interest on county and road district bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund~~

~~under existing law;~~] provided, however, that one-fourth (1/4) of such net revenue from the state motor fuel tax at the rate in effect on January 1, 2011 shall be allocated to the Available School Fund; and, provided, however, that the net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945.

(b) Nothing in this section may [~~contained herein shall~~] be construed as authorizing the pledging of the State's credit for any purpose.

Sec. 7-b. All revenues received from the federal government as reimbursement for state expenditures of funds that are themselves dedicated for acquiring rights-of-way and constructing and[~~]~~ maintaining[~~, and policing~~] public roadways or for the administration of a law described by Section 7-a of this article are also constitutionally dedicated and shall be used only for those purposes.

Sec. 7-c. All revenues, after deductions for refunds and collections expenses, received from an increase in the rate of the state tax on gasoline or diesel fuel enacted after January 1, 2011 shall be used only to fund transportation.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 82<sup>nd</sup> Legislature, Regular Session, 2011, prescribing the purposes for which revenue from motor vehicle registration fees and taxes on motor fuels and lubricants and certain revenues received from the federal government may be used.

(b) The amendments to Sections 7-a and 7-b, Article VIII, of this constitution, take effect September 1, 2020.

(c) Beginning in the state fiscal year beginning on September 1, 2020, and subject to Subsection (e) of this temporary provision, the legislature may not appropriate any revenue described by Section 7-a or 7-b, Article VIII, of this constitution, and the state agency responsible for the construction and maintenance of state highways may not allocate any revenue described by those sections that is appropriated to the state agency, for any purpose other than acquiring rights-of-way and constructing and maintaining public roadways, public transit, passenger rail, freight rail, or for the administration of a law described by Section 7-a, Article VIII, of this constitution.

(d) Beginning in each state fiscal year that begins on or after September 1, 2012, but before September 1, 2020, and subject to Subsection (e) of this temporary provision, the legislature shall proportionally decrease the amount of revenue described by Sections 7-a and 7-b, Article VIII, of this constitution, that is appropriated for any purpose other than acquiring rights-of-way and constructing and maintaining public roadways or for the administration of a law described by Section 7-a of that article, as necessary to comply with Subsection (c) of this temporary provision beginning September 1, 2020. The state agency responsible for the construction and maintenance of state highways shall ensure that any revenue described by Sections 7-a and 7-b, Article VIII, of this constitution, that is appropriated to the agency is allocated in a manner that reflects that proportional decrease.

(e) This temporary provision does not affect:

(1) the allocation of revenue to the available school fund or the allocation to counties of motor vehicle registration fees under Section 7-a, Article VIII, of this constitution; or

(2) the use of revenue described by Sections 7-a and 7-b, Article VIII, of this constitution, for a purpose specifically authorized by another provision of this constitution.

(f) This temporary provision expires September 1, 2020.

Sec. 7-d. The legislature by general law may authorize the comptroller of public accounts to automatically adjust the rates of taxes imposed on motor fuels. A general law authorizing the comptroller of public accounts to automatically adjust the rates must prescribe the manner in which the comptroller may adjust the rates and may include a provision basing the adjustment wholly or partly on one or more price or cost indexes published by an agency of the United States.

SECTION 3. Article VIII, Texas Constitution, is amended by adding Section 7-e to read as follows:

Sec. 7-e. (a) The legislature by general law may authorize a county to:

(1) assess and collect a local tax on the sale of gasoline and diesel fuel in the county;

(2) assess and collect an additional vehicle registration fee on a vehicle registered in the county; and

(3) use all revenue derived from the tax and fee for mobility improvement projects, including acquiring rights-of-way, constructing and maintaining public

roadways of the county, and providing funding for the construction, maintenance, and operation of passenger rail, transit, and freight rail systems.

(b) Notwithstanding any other provision of this constitution, revenue derived from a tax or fee authorized by Subsection (a) of this section may only be used as provided by that subsection.

(c) Section 7-a of this article does not apply to a tax authorized by this section.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 8, 2011. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment limiting the purposes for which revenue from motor vehicle registration fees, taxes on motor fuels and lubricants, and certain revenues received from the federal government may be used, authorizing the legislature to provide for automatic adjustments of the rates of motor fuels taxes, and authorizing the legislature by general law to permit counties to assess and collect a local motor fuels tax and an additional vehicle registration fee to be used for mobility improvement projects."

By: \_\_\_\_\_

H.B. No. \_\_\_\_\_

BILL TO BE ENTITLED

AN ACT

relating to the rate of the state gasoline tax and diesel fuel tax, to the permissible uses of the state highway fund, to the allocation of funding by formula, and to local options regarding mobility improvement projects in certain counties; providing authority to impose a tax, issue bonds, and impose penalties.

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

SECTION 1. Section 162.102, Tax Code, is amended to read as follows:

Sec. 162.102. TAX RATE. Except as provided by Section 162.1025, the [The] state gasoline tax rate is ~~20~~ 30 cents for each net gallon or fractional part on which the tax is imposed under Section 162.101.

SECTION 2. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1025 to read as follows:

Sec. 162.1025. ANNUAL RATE CHANGE ACCORDING TO PRODUCER PRICE INDEX. (a) In this section:

(1) "Producer price index" means the producer price index for highway and street construction published by the United States Department of Labor.

(2) "Producer price index percentage change" means the percentage increase or decrease, not to exceed five percent, in the producer price index of a given state fiscal year from the producer price index of the preceding state fiscal year.

(b) Subject to Subsection (c), on October 1 of each year, the rate of the state gasoline tax imposed under this subchapter is increased or decreased by an amount that is equal to the producer price index percentage change for the preceding fiscal year multiplied by the combined rate of the state and federal gasoline taxes on August 1 of that year.

(c) If the computation required by Subsection (b) will result in a state tax rate that is less than 30 cents for each net gallon or fractional part on which the tax is imposed under Section 162.101, the comptroller shall set the state tax rate at 30 cents.

(d) Not later than September 1 of each year, the comptroller shall:

(1) compute the new state tax rate as provided by this section;

(2) give the new state tax rate to the secretary of state for publication in the Texas Register; and

(3) notify each license holder under this subchapter of the applicable new state tax rate.

SECTION 3. Section 162.103(a), Tax Code, is amended to read as follows:

(a) A backup tax is imposed at the rate prescribed by Sections [~~Section~~] 162.102 and 162.1025 on:

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

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

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

SECTION 4. Section 162.202, Tax Code, is amended to read as follows:

Sec. 162.202. TAX RATE. Except as provided by Section 162.2025, the [The] state diesel fuel tax rate is ~~20~~ 30 cents for each net gallon or fractional part on which the tax is imposed under Section 162.201.

SECTION 5. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2025 to read as follows:

Sec. 162.2025. ANNUAL RATE CHANGE ACCORDING TO PRODUCER PRICE INDEX. (a) In this section:

(1) "Producer price index" means the producer price index for highway and street construction published by the United States Department of Labor.

(2) "Producer price index percentage change" means the percentage increase or decrease, not to exceed five percent, in the producer price index of a given state fiscal year from the producer price index of the preceding state fiscal year.

(b) Subject to Subsection (c), on October 1 of each year, the rate of the state diesel fuel tax imposed under this subchapter is increased or decreased by an amount that is equal to the producer price index percentage change for the preceding fiscal year multiplied by the combined rate of the state and federal diesel fuel taxes on August 1 of that year.

(c) If the computation required by Subsection (b) will result in a state tax rate that is less than 30 cents for each net gallon or fractional part on which the tax is imposed under Section 162.201, the comptroller shall set the tax rate at 30 cents.

(d) Not later than September 1 of each year, the comptroller shall:

(1) compute the new state tax rate as provided by this section;

(2) give the new state tax rate to the secretary of state for publication in the Texas Register; and

(3) notify each license holder under this subchapter of the applicable new state tax rate.

SECTION 6. Section 162.203(a), Tax Code, is amended to read as follows:

(a) A backup tax is imposed at the rate prescribed by Sections [~~Section~~] 162.202 and 162.2025 on:

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

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

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

SECTION 7. Section 201.115(d), Transportation Code, is amended to read as follows:

(d) Notwithstanding Section 222.001, money in the state highway fund may be used to repay a loan under this section, if permissible under the Texas Constitution and appropriated by the legislature for that purpose.

SECTION 8. Section 222.001, Transportation Code, is amended to read as follows:

Sec. 222.001. USE OF STATE HIGHWAY FUND. (a) Money that is required to be used for public roadways by the Texas Constitution or federal law and that is deposited in the state treasury to the credit of the state highway fund, including money deposited to the credit of the state highway fund under Title 23, United States Code, may be used only:

(1) to improve the state highway system;

(2) to mitigate adverse environmental effects that result directly from construction or maintenance of a state highway by the department; or

(3) by the Department of Public Safety to police the state highway system and to administer state laws relating to traffic and safety on public roads, provided that such use by the Department of Public Safety shall be phased out incrementally 20 per cent per biennium over the next five biennia.

(b) Except as otherwise provided by this code, money in the state highway fund that is not described by Subsection (a) may be used only to improve the state highway system.

(c) To the extent permitted by the Texas Constitution, one hundred percent of the revenue derived from the 10 cent per gallon increase in the rate of state tax on gasoline and diesel fuel effective with passage of this act, less expenses for refunds and

collections, shall be used to fund transportation – roads, public transit, passenger rail and freight rail - only, not public safety and not public education.

SECTION 9. Section 222.073, Transportation Code, is amended to read as follows:

Sec. 222.073. PURPOSES OF INFRASTRUCTURE BANK. To the extent permissible under [~~Notwithstanding~~] Section 222.001, the commission shall use money deposited in the bank to:

(1) encourage public and private investment in transportation facilities both within and outside of the state highway system, including facilities that contribute to the multimodal and intermodal transportation capabilities of the state; and

(2) develop financing techniques designed to:

(A) expand the availability of funding for transportation projects and to reduce direct state costs;

(B) maximize private and local participation in financing projects;  
and

(C) improve the efficiency of the state transportation system.

SECTION 10. Section 222.002, Transportation Code, is repealed.

SECTION 11: Chapter 201, Transportation Code, is amended by adding Section 201.620 to read as follows:

Sec. 201.620. FUNDING ALLOCATION FORMULA. (a) The commission shall adopt a rule containing a formula to allocate directly to its districts a funding amount equal to the revenue generated from ten cents per gallon of the current state motor fuel tax collections.

(b) The formula should be reflective of the districts' proportional vehicle registrations and daily vehicle miles traveled.

(c) The districts shall use the funding allocated by this formula for maintenance, rehabilitation and construction projects they determine to be of highest priority.

(d) This section is effective only if the 82<sup>nd</sup> Texas Legislature approves this act increasing the rate of the state tax on gasoline and diesel fuel from 20 cents per gallon to 30 cents per gallon.

SECTION 12. Subtitle B, Title 14, Local Government Code, is amended by adding Chapter 616 to read as follows:

CHAPTER 616. LOCAL OPTIONS FOR TRANSPORTATION PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 616.002. DEFINITIONS. (a) The definitions in Chapter 162, Tax Code, apply to this chapter.

(b) In this chapter:

(1) "Department" means the Texas Department of Transportation.

(2) "Intermodal hub" and "transit system" have the meanings assigned by Section 370.003.

(3) "Metropolitan planning organization" has the meaning assigned by Section 472.031.

(4) "Mobility improvement project" means a capital improvement or set of related capital improvements in a geographic area, including maintenance and

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

(5) "Transit authority" or "transportation authority" means an authority operating under Chapter 370, 451, 452, or 460.

Sec. 616.0025. APPLICABILITY. The provisions of this chapter apply to any county in the state of Texas.

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

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

Sec. 616.004. GRANT OF POWERS AND AUTHORITY. The legislature grants any county located in a metropolitan planning organization that approves a method of finance authorized by this chapter the powers and authority authorized by this chapter.

Sec. 616.005. PROHIBITIONS ON USE OF REVENUE. A county may not use revenue from a method of finance imposed under this chapter:

(1) to pay a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code;

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

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

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

Sec. 616.006. LIBERAL CONSTRUCTION. This chapter shall be liberally construed to effect its purposes.

Sec. 616.007. INTERLOCAL CONTRACTING AUTHORITY. (a) A political subdivision may contract or agree with another political subdivision to perform governmental functions and services in accordance with this chapter.

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

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

Sec. 616.008. ANNUAL REPORT AND AUDIT. (a) On or before the 90th day following the end of the fiscal year of a county that imposes a motor fuels tax under this chapter, the commissioners court must submit a report to the executive director of the department and to the state auditor. The report must include:

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

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

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

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

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

Sec. 616.009. EXPIRATION OR REPEAL OF CHAPTER. The expiration or repeal of this chapter does not affect:

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

(2) the continued imposition and collection of a method of finance authorized at an election held under this chapter necessary to fulfill an obligation or other instrument described by Subdivision (1) before its expiration or repeal;

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

(4) the administration of a county mobility improvement fund established under this chapter for revenue from a method of finance.

[Sections 616.010-616.050 reserved for expansion]

#### SUBCHAPTER B. ELECTIONS; PROJECT SELECTION; EQUITY

Sec. 616.051. CALLING OF ELECTION. (a) All of the commissioners courts of those counties that are wholly or partly located in the boundaries of the same metropolitan planning organization shall, by order, call an election on the issue of imposing a method of finance under this chapter if, at least 180 days before a uniform election date in November, a resolution or resolutions requesting that an election be called are adopted by the commissioners courts of one or more of those counties that contain at least 66 percent of the total population of those counties.

(b) An election called under this section by the commissioners courts of more than one county in the boundaries of the same metropolitan planning organization must be held on the same date and must be held on a uniform election date in November.

(c) Section 334.025, Local Government Code, applies to an election called under this section.

Sec. 616.052. SUBSEQUENT ELECTIONS. (a) The commissioners court by order may call a subsequent election to impose a method of finance authorized under this chapter using the procedures described by this subchapter.

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

Sec. 616.053. REQUIRED BALLOT LANGUAGE. (a) An order under this subchapter calling an election must list and generally describe:

(1) the nature and scope of the proposed mobility improvement projects to be constructed as determined and selected under Section 616.054 or 616.0545;

(2) the estimated cost and the estimated completion date for the capital construction of each proposed mobility improvement project; and

(3) the method of finance and the rate or amount proposed to finance the mobility improvement projects.

(b) The ballot at an election held under this subchapter must be printed as follows: "Authorizing \_\_\_\_\_ (insert name of county) to undertake the following mobility improvement projects: \_\_\_\_\_ (insert, on four separate lines, the following items: a name or brief description of each proposed mobility improvement project; an estimated total cost of each project; an estimated date any necessary and related bonds will expire; and an estimated date the project will be operational to the public)." Below the listing of each project and the required items, the ballot must read: "The capital construction of each project listed above will be funded with the following: \_\_\_\_\_ (insert each method of finance, including the appropriate rate or amount of the method of finance, and, if applicable, insert, on a separate line, each method of finance, including the appropriate rate or amount of the method of finance, to be used for proposed maintenance and operations of a mobility improvement project. State parenthetically after each method of finance whether the method will expire when bonds are retired)." As the last statement at the bottom of the ballot, the ballot must read: "Do you authorize the construction of the

mobility improvement project or projects listed above and the collection of the (insert method of finance, as applicable) in \_\_\_\_\_ County?"

(c) The estimated cost of construction of a mobility improvement project listed on a ballot is not a legally binding restriction on the actual and ultimate cost of financing the project.

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

(e) A ballot may not list more projects than the proposed methods of finance can immediately finance.

Sec. 616.054. AUTHORIZED PROJECTS. (a) A county may propose for funding by a method of finance imposed under this chapter:

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

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

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

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

(b) A county may only use funds collected from a method of finance imposed under this chapter to fund mobility improvement projects consistent with the

transportation plans and programs of the metropolitan planning organization in which the county is wholly or partly located.

(c) A county wishing to use a method of finance authorized by this chapter shall request of its metropolitan planning organization a list of eligible mobility improvement projects, and within thirty days the metropolitan planning organization shall the supply the county a list of such projects.

(d) On or before the 240th day before an election is held under this subchapter, the commissioners court shall, by order and in consultation with municipalities and transit agencies located or operating in the county, determine in a public hearing which projects from the list submitted under Subsection (c) shall be proposed for funding from a method of finance imposed under this chapter.

(e) A county may not propose for inclusion on the ballot a mobility improvement project for which the county does not intend to initiate construction. The county may not propose more mobility improvement projects than the proposed methods of finance can immediately support.

Sec. 616.0545. PROJECT SELECTION COMMITTEE. (a) A county may appoint a project selection committee to optimize community participation in the selection process.

(b) The commissioners court may appoint an advisory project selection committee or may delegate to a committee full project selection authority.

(c) A project selection committee appointed by the county shall be representative of the community including but not limited to municipalities, transit agencies, other transportation providers, workforce, and employers.

(d) Project selection committee meetings shall be open to the public and notice of the meetings shall be widely distributed to the media.

(d) The commissioners court shall clearly communicate the authority, duties, responsibilities, schedule and term of any project selection committee it establishes.

(e) A commissioners court that does not appoint a project selection committee shall initiate other measures to achieve community involvement in the project selection processs including consultation with municipal officials, transit officials and other parties of interest and shall hold an at large public hearing and a public hearing in each precinct before making their project selection decision.

Sec. 616.055. COMMITMENT TO EQUITY. (a) Revenue from a method of finance imposed under this chapter and collected within any municipality having territory located in a transportation authority funded by a dedicated sales tax and governed by a subregional board under Subchapter O, Chapter 452, shall be maintained in a single segregated account separate from revenue from a method of finance collected elsewhere in the county.

(b) Revenue maintained in the account described by Subsection (a) may not be used outside the boundaries of the territory of that authority or the county unless the governing body of each municipality in the county with territory in the authority and the governing body of the transportation authority consent to the use.

(c) Revenue from a method of finance collected in an area outside the territory of a transportation authority funded by a dedicated sales tax and governed by a subregional board under Subchapter O, Chapter 452 may not be used in the territory of that authority or outside the county unless the commissioners court of the county or the governing

bodies of two or more municipalities representing 60 percent or more of the population of the county outside of the territory of the authority consent to the use.

(d) Before the commissioners court selects a mobility improvement project under Section 180.054, the governing body of any authority, county, or municipality required under this section to provide its consent regarding the use of revenue collected under this chapter shall indicate by order, resolution, or other formal action whether the consent is granted. On final approval of the project by the commissioners court, the governing body of a municipality or authority may not rescind its consent if it has been given.

[Sections 616.056-616.100 reserved for expansion]

#### SUBCHAPTER C. METHODS OF FINANCE

Sec. 616.101. METHODS OF FINANCE AUTHORIZED; EXPIRATION. (a) If approved by a majority of the votes cast in a county at an election held under Subchapter B, the commissioners court of the county by order shall impose and collect any combination of the following methods of finance:

(1) a county local tax at a rate of 5 or 10 cents per gallon on the sale, delivery, or use of gasoline and diesel fuel that is sold in the county outside the bulk transfer/terminal system by a person, including a dealer, distributor, supplier, or permissive supplier, engaged in the sale of motor fuels used to propel a motor vehicle on the public highways of the state; and

(2) a mobility improvement fee, in an amount not less than \$10 or more than \$60, imposed on a person registering a motor vehicle in the county at the time of registration, except that the fee is not imposed on a person registering a motor vehicle in the manner provided by Section 501.0234.

(a-1) A county may not impose the tax authorized under this chapter on the removal of gasoline or diesel fuel from the bulk transfer/terminal system at a terminal rack or on gasoline or diesel fuel exempted from motor fuel tax by Section 162.104 or 162.204, Tax Code.

(b) The mobility improvement fee authorized by this section is not an automobile registration fee and may not be construed as an automobile registration fee for any legal or constitutional purpose.

(c) Except as otherwise provided by this subchapter, a county shall adopt rules and prescribe forms for the collection of a tax or fee authorized by this section. A person required to collect a tax or fee authorized by this section shall report and send the tax or fee to the county as provided by the county.

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

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

Sec. 616.1012. COUNTY AUTHORITY TO IMPOSE METHOD OF FINANCE. A county may impose and collect a method of finance approved by a majority of the voters of the county voting at an election held under this chapter and may enter into a contract or interlocal contract or agreement as provided by Section 616.007 to implement the imposition or collection.

Sec. 616.1013. LOW-INCOME RELIEF. (a) A county commissioners court shall, by an order, establish an exemption, waiver, or partial reduction from the mobility improvement fee for citizens of the county of low or moderate income who demonstrate significant financial hardship, based on income guidelines adopted by the Texas Commission on Environmental Quality under Section 382.210, Health and Safety Code. Before issuing an order under this section, the commissioners court must hold a public hearing regarding the proposed exemption, waiver, or partial reduction.

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

Sec. 616.1014. IMPOSITION OF METHOD OF FINANCE. (a) If a majority of the votes cast in an election held in a county under this chapter approve any method or combination of methods of finance, the commissioners court of the county by order shall, except in regard to a motor fuel tax, impose and begin the collection of the approved method or methods of finance before the 91st day after the election date.

(b) At a minimum, the order imposing the method or methods of finance must specify:

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

and

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

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

(d) A method of finance implemented under this chapter:

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

(2) must expire when the approved mobility improvement projects are accepted by the governmental entity that contracted for the projects or when the bonds are paid off, whichever is later, unless continued funding for maintenance and operation of a project, including the impact to an existing system as specified by an interlocal agreement, was authorized at an election held under this chapter.

Sec. 616.102. ADMINISTRATION, COLLECTION, ENFORCEMENT, AND PROSECUTION OF MOTOR FUEL TAX. (a) A motor fuel tax imposed under this chapter shall be administered, collected, and enforced exclusively by the comptroller strictly in conformance with Chapters 111, 112, 113, and 162, Tax Code, and other law that applies to a tax imposed by Chapter 162, Tax Code. Venue for criminal prosecution for a motor fuel tax imposed under this chapter is governed by Section 162.407, Tax Code. A county does not have any authority regarding a motor fuel tax imposed under this chapter that is not explicitly granted by this chapter or Chapter 162, Tax Code.

(b) The definitions in Section 162.001, Tax Code, apply to a motor fuel tax imposed under this chapter.

(c) The exemptions provided by Sections 162.104 and 162.204, Tax Code, apply to a motor fuel tax imposed under this chapter.

(c-1) A person has the same rights in relation to a tax imposed under this chapter that a person has in relation to a tax imposed by Chapter 162, Tax Code, including the right to claim a refund, petition for redetermination, file suit, or take other action authorized by Chapter 111, 112, or 113, Tax Code, or by other law that applies to a tax imposed under Chapter 162, Tax Code.

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

(e) Except as provided by Subsection (f), the tax authorized by this section takes effect on the first day of the first calendar quarter following the expiration of the first complete quarter occurring after the date of election authorizing the order imposing the tax under Subchapter B. The order imposing the tax or discontinuing the imposition of the tax shall state the date that the tax is imposed or discontinued.

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

(g) The county motor fuel tax is added to the selling price of the gasoline or diesel fuel and is part of the gasoline or diesel fuel price, is a debt owed to the seller, and is recoverable at law in the same manner as the fuel charge for gasoline or diesel fuel.

(h) The tax described by Sections 162.1011, 162.1035, 162.2011, and 162.2035, Tax Code, is the tax imposed under this chapter and is not an additional tax.

(i) The comptroller may assign to a county the comptroller's authority to prosecute an offense relating to a motor fuel tax imposed by this chapter.

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

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

(1) the entities that would be required to:

(A) collect and remit a motor fuel tax imposed under this chapter;

and

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

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

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

(c) Rules adopted under Section 616.102:

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

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

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

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

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

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

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

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

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

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

[Sections 616.108-616.150 reserved for expansion]

#### SUBCHAPTER D. FUND

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

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

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

(1) for each approved mobility improvement project; and

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

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

Sec. 616.152. USE OF MONEY IN FUND; ISSUANCE OF BONDS. (a) A county may use money in its county mobility improvement fund to:

(1) reimburse or pay, without issuing bonds or other obligations or otherwise creating debt, the costs of planning, acquiring, establishing, developing,

constructing, or renovating mobility improvement projects in the county that were approved at an election under this subchapter;

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

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

(4) pay amounts due and owing to a municipality under a contract or interlocal agreement between the county and the municipality under which the municipality agrees to provide, develop, or construct mobility improvement projects located inside the municipality;

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

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

(b) A contract or interlocal agreement entered into between a county and a transit authority or transportation authority for the purposes described by Subsection (a)(3) may

have those terms and provisions, and may impose and contain requirements, grants, and limitations, as the county and the transit authority or transportation authority may mutually agree, including the power of the transit authority or transportation authority to pledge as security for its bonds all amounts, less agreed costs of collection, deposited to the county's local option transportation fund, if such a pledge was approved at an election under this subchapter.

(c) Bonds or other obligations issued by a county under this section may be made payable from money in the county's county mobility improvement fund, subject to any limitations contained in a contract or interlocal agreement between the county and a transit authority or transportation authority, and from any other sources of revenue of the county that are lawfully available. Bonds or other obligations issued by a transit authority or transportation authority under a contract or interlocal agreement shall be payable from and secured by the money in the county's county mobility improvement fund and the revenue received from the operation of the passenger rail services financed by the bonds or other obligations and may not include any revenue the transit authority or transportation authority receives from a dedicated sales tax or the operation of any other passenger rail or bus system or related services.

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

(e) Any bonds or other obligations issued by a county or by a transit authority or transportation authority under this section, and the proceedings authorizing the bonds or

other obligations, must be submitted to the attorney general for review and approval under Chapter 1202, Government Code.

(f) A county may not:

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

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

[Sections 616.153-616.200 reserved for expansion]

#### SUBCHAPTER E. TRANSIT AND TRANSPORTATION AUTHORITIES

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

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

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

(b) A motor fuel tax imposed by a county under this chapter may not be used to establish or fund services of a transit authority or a transportation authority created on or after January 1, 2011.

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

SECTION 13. Subchapter C, Chapter 791, Government Code, is amended by adding Section 791.034 to read as follows:

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

(b) This section expires January 1, 2014.

SECTION 14. Section 162.001, Tax Code, is amended by adding Subdivisions (16-a), (16-b), (17-a), (56-a), (56-b), and (57-a) to read as follows:

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

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

(17-a) "Destination county" means the county in this state to which motor fuel is delivered.

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

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

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

SECTION 15. Sections 162.004(e) and (g), Tax Code, are amended to read as follows:

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

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

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

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

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

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

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

(4) if delivering the motor fuel into this state, denote on the shipping document the physical delivery address to which the motor fuel will be delivered, or in

the case of a split load, each physical delivery address to which a portion of the motor fuel will be delivered; and

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

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

SECTION 16. Section 162.005(e), Tax Code, is amended to read as follows:

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

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

(2) delivers motor fuel on which the county gasoline tax or county diesel fuel tax is due without issuing a properly completed shipping document listing the physical delivery address at which the delivery occurred.

SECTION 17. Section 162.012, Tax Code, is amended to read as follows:

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

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

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

(c-1) The presumption under Subsection (a) or (c) or under any other provision of this chapter regarding county motor fuel tax may be rebutted by an invoice, delivery receipt, or shipping document accepted by the purchaser showing the street address to

which the motor fuel was delivered or by any other documentation prescribed by the comptroller. An invoice is considered to have been accepted by the purchaser if the invoice was paid.

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

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

SECTION 18. Section 162.015, Tax Code, is amended to read as follows:

Sec. 162.015. ADDITIONAL TAX APPLIES TO INVENTORIES. (a) On the effective date of an increase in the rate ~~[rates]~~ of a tax ~~[the taxes]~~ imposed by this chapter,

a distributor or dealer that possesses for the purpose of sale 2,000 or more gallons of gasoline or diesel fuel at each business location on which a tax [~~the taxes~~] imposed by this chapter at a previous rate has [~~have~~] been paid shall report to the comptroller the volume of that gasoline and diesel fuel, and at the time of the report shall pay a tax on that gasoline and diesel fuel at a rate equal to the rate of the tax increase.

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

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

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

SECTION 20. Sections 162.101(a), (b), (c), and (f), Tax Code, are amended to read as follows:

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

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

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

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

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

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

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

SECTION 21. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1011 to read as follows:

Sec. 162.1011. IMPOSITION OF COUNTY GASOLINE TAX; POINT OF COLLECTION. (a) In a county that imposes the tax on motor fuels authorized by Chapter 616, Local Government Code, a tax is imposed on the delivery of gasoline outside the bulk transfer/terminal system to a dealer or end user located in the taxing

county. The removal of gasoline from the bulk transfer/terminal system at a terminal rack is not a taxable delivery.

(a-1) The tax is not imposed again on each subsequent delivery of gasoline on which the tax imposed by this section has been paid, but each subsequent sale or delivery of the gasoline is subject to the collection requirement of Subsection (c).

(b) The distributor is liable for and shall collect the tax from the person to whom the distributor delivers gasoline in a taxing county.

(b-1) A tax is imposed on the blending of gasoline in a taxing county outside the bulk transfer/terminal system. The blender is liable for and shall pay the tax. The number of gallons of gasoline blended fuel on which the tax is imposed is equal to the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed gasoline used to make the blended fuel.

(c) In each subsequent sale of gasoline on which the tax imposed by this section has been paid, the seller shall add the amount of the tax to the sales price of the gasoline so that the tax is paid ultimately by the person who delivers the gasoline into a fuel supply tank. When the amount of tax is added:

(1) it becomes part of the sales price of the gasoline;

(2) it is a debt of the purchaser to the seller until paid; and

(3) if unpaid, it is recoverable at law in the same manner as the sales price of the gasoline.

SECTION 22. Section 162.102, Tax Code, is amended to read as follows:

Sec. 162.102. TAX RATES [~~RATE~~]. (a) The state gasoline tax rate is 30 cents for each net gallon or fractional part of a net gallon on which the tax is imposed under Section 162.101.

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

SECTION 23. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1025 to read as follows:

Sec. 162.1025. SEPARATE STATEMENT OF TAXES COLLECTED FROM PURCHASER. (a) In each subsequent sale of gasoline on which the taxes have been paid, the taxes imposed by this subchapter shall be collected from the purchaser so that the taxes are paid ultimately by the person who uses the gasoline. Gasoline is considered to be used when it is delivered into a fuel supply tank.

(b) The taxes imposed by this subchapter must be stated separately from the sales price of gasoline and identified as state gasoline tax or county gasoline tax, as appropriate, on the invoice or receipt issued to a purchaser. Except for gasoline sold from a retail motor fuel pump, an invoice or receipt must:

(1) state separately the price for gasoline, the amount of state gasoline tax paid, and the amount of county gasoline tax paid; or

(2) include the statement "Price includes state motor fuel tax and applicable county motor fuel tax."

(c) Backup state gasoline tax may be identified as state gasoline tax, and backup county gasoline tax may be identified as county gasoline tax. The taxes must be

separately stated and identified on a shipping document in the manner provided by this subsection and Subsection (b), if the shipping document includes the sales price of the gasoline.

(d) If the invoice, receipt, or shipping document does not separately state taxes or contain the statement required by Subsections (b) and (c), the sales price of gasoline stated on an invoice, receipt, or shipping document is presumed to be exclusive of the taxes imposed by this subchapter. The seller or purchaser may overcome the presumption by proving by a preponderance of the evidence that the taxes imposed by this subchapter were included in the sales price.

SECTION 24. The heading to Section 162.103, Tax Code, is amended to read as follows:

Sec. 162.103. BACKUP STATE GASOLINE TAX; LIABILITY.

SECTION 25. Sections 162.103(a) and (c), Tax Code, are amended to read as follows:

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

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

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

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

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

SECTION 26. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1035 to read as follows:

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

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

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

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

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

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

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

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

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

and

(2) gasoline exempt under Section 162.104.

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

SECTION 27. Sections 162.104(a) and (c), Tax Code, are amended to read as follows:

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

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

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

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

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

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

or

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

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

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

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

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

SECTION 28. Section 162.105, Tax Code, is amended to read as follows:

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

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

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

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

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

(5) a terminal operator;

(6) an exporter;

(7) a blender;

(8) a motor fuel transporter;

(9) an aviation fuel dealer; [~~or~~]

(10) an interstate trucker; or

(11) a dealer.

SECTION 29. Sections 162.107(a) and (b), Tax Code, are amended to read as follows:

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

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

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

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

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

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

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

SECTION 30. Section 162.108, Tax Code, is amended by adding Subsection (a-1) to read as follows:

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

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

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

(3) if the applicant is a corporation, limited liability company, professional association, partnership, or other entity that is not licensed as a supplier, permissive supplier, or distributor, the physical address, mailing address, social security number, and driver's license number of:

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

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

SECTION 31. Section 162.110(a), Tax Code, is amended to read as follows:

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

SECTION 32. Section 162.111(a), Tax Code, is amended to read as follows:

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

SECTION 33. Section 162.112(a), Tax Code, is amended to read as follows:

(a) The comptroller, on or before December 20 of each year, shall make available to all license holders an alphabetical list of licensed suppliers, permissive suppliers, distributors, aviation fuel dealers, importers, exporters, blenders, dealers, and terminal operators. The list must contain the physical address and county of each licensed dealer. A supplemental list of additions and deletions shall be made available to the license holders each month. A current and effective license or the list furnished by the comptroller is evidence of the validity of the license until the comptroller notifies license holders of a change in the status of a license holder.

SECTION 34. Sections 162.113(a), (d), and (e), Tax Code, are amended to read as follows:

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

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

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

SECTION 35. Section 162.114, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsections (a-2) and [~~Subsection~~] (b), each person who is liable for a [~~the~~] tax imposed by this subchapter[~~, a terminal operator, and a licensed distributor~~] shall file a return on or before the 25th day of the month following the end of each calendar month.

(a-1) Except as provided by Subsection (a-2), a supplier, permissive supplier, terminal operator, importer, exporter, distributor, blender, or dealer shall file a return on or before the 25th day of the month following the end of each calendar month regardless

of whether the person has tax liability for a tax imposed by this subchapter that accrued in the calendar month.

(a-2) Unless a licensed supplier or permissive supplier is a party directly involved in a transaction subject to the tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035, the licensed supplier or permissive supplier is not required to file a return or a supplement to a return in regard to a tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035.

SECTION 36. Sections 162.115(b), (c), (e), (g), and (h), Tax Code, are amended to read as follows:

(b) A distributor shall keep:

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

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

(B) all gasoline blended;

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

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

(i) the name and physical delivery address of the purchaser;

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

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

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

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

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

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

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

(i) the name and physical delivery address of the purchaser;

(ii) the county in this state;

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

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

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

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

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

(4) all shipping documents and invoices.

(c) An importer shall keep:

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

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

(B) all gasoline compounded or blended;

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

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

(E) all gasoline lost by fire, theft, or accident; [~~and~~]

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

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

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

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

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

(3) all shipping documents and invoices.

(e) A blender shall keep all shipping documents and invoices and a record showing the number of gallons of:

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

(2) all gasoline compounded or blended;

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

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

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

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

(1) the date of transportation;

(2) the name of the consignor and consignee;

(3) the means of transportation;

(4) the quantity and kind of gasoline transported;

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

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

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

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

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

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

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

(5) the shipping documents and invoices.

SECTION 37. Section 162.116(c), Tax Code, is amended to read as follows:

(c) A supplier or permissive supplier may take a credit for any state gasoline tax [~~taxes~~] that was [~~were~~] not remitted in a previous period to the supplier or permissive

supplier by a licensed distributor or licensed importer as required by Section 162.113. The supplier or permissive supplier is eligible to take the credit if the comptroller is notified of the default within 60 days after the default occurs. If a license holder pays to a supplier or permissive supplier the tax owed, but the payment occurs after the supplier or permissive supplier has taken a credit on its return, the supplier or permissive supplier shall remit the payment to the comptroller with the next monthly return after receipt of the tax, plus a penalty of 10 percent of the amount of unpaid taxes and interest at the rate provided by Section 111.060 beginning on the date the credit was taken.

SECTION 38. Section 162.118, Tax Code, is amended to read as follows:

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

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

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

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

(4) the number of net gallons of gasoline removed by the distributor during the month from a terminal located in another state for conveyance to this state, as

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

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

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

(7) any other information required by the comptroller.

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

SECTION 39. Section 162.123, Tax Code, is amended to read as follows:

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

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

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

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

(4) any other information required by the comptroller.

SECTION 40. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1235 to read as follows:

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

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

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

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

(4) any other information required by the comptroller.

SECTION 41. Sections 162.125(a), (c), (e), and (f), Tax Code, are amended to read as follows:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid taxes [~~tax~~] on the purchase of gasoline and subsequently resells the gasoline without collecting the taxes [~~tax~~] to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under contract with the United States;

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

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the gasoline to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline exclusively to provide those services.

(c) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter, other than a license as an aviation fuel dealer, may file a refund claim with the comptroller if the license holder or person paid taxes [~~tax~~] on gasoline and the license holder or person:

(1) is the United States government and the gasoline is for its exclusive use, provided that a credit or refund is not allowed for gasoline used by a license holder or person operating under a contract with the United States;

(2) is a public school district in this state and the gasoline is for the district's exclusive use;

(3) is a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and the gasoline is used exclusively to provide those services;

(4) uses the gasoline in off-highway equipment, in stationary engines, or for other nonhighway purposes and not in a motor vehicle operated or intended to be operated on the public highways;

(5) uses the gasoline in a motor vehicle that is operated exclusively off the public highways, except for incidental travel on the public highways as determined by the comptroller, provided that a credit or refund may not be allowed for the portion used in the incidental highway travel; or

(6) is a licensed aviation fuel dealer who delivers the gasoline into the fuel supply tanks of aircraft or aircraft servicing equipment.

(e) A license holder may take credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if the license holder or person paid taxes [~~tax~~] on gasoline and the gasoline is used in this state by auxiliary power units or power take-off equipment on any motor vehicle, if that use can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel or idle the motor vehicle. The comptroller may approve and adopt the use of any device as a basis for determining the quantity of gasoline consumed in those operations for tax credit or tax refund. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a credit or refund may not be allowed for the gasoline taxes [~~tax~~] paid on any portion of the gasoline that is used for that purpose. A credit or refund may not be allowed for the gasoline taxes [~~tax~~] paid on that portion of the gasoline used for idling.

(f) A person who paid taxes [~~tax~~] on the purchase of gasoline may claim a credit or seek a refund with the comptroller if 100 or more gallons of gasoline is subsequently

exported or lost by fire, theft, or accident. A credit or refund claimed under this subsection must be taken or filed within the limitation period provided by Section 162.128.

SECTION 42. Sections 162.127(a) and (d), Tax Code, are amended to read as follows:

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

- (1) the stamped or preprinted name and address, including county in this state, of the seller;
- (2) the name and address of the purchaser;
- (3) the date of delivery of the gasoline;
- (4) the date of the issuance of the invoice, if different from the date of fuel delivery;
- (5) the number of gallons of gasoline delivered;
- (6) the amount of state or county gasoline taxes paid [~~tax~~], either separately stated from the selling price or stated with a notation that both state and county taxes are included if both apply [~~the selling price includes the tax~~]; and
- (7) the type of vehicle or equipment, such as a motorboat, railway engine, motor vehicle, off-highway vehicle, or refrigeration unit or stationary engine, into which the fuel is delivered.

(d) A distributor or person who does not hold a license who files a valid refund claim with the comptroller shall be paid by a warrant issued by the comptroller. For purposes of this section, a distributor meets the requirement of filing a valid refund claim

for state and county gasoline taxes if the distributor designates the gallons of gasoline sold or used that are the subject of the refund claim on the monthly report submitted by the distributor to the comptroller.

SECTION 43. The heading to Section 162.201, Tax Code, is amended to read as follows:

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

SECTION 44. Sections 162.201(a), (b), and (c), Tax Code, are amended to read as follows:

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

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

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

SECTION 45. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2011 to read as follows:

Sec. 162.2011. COUNTY DIESEL FUEL TAX IMPOSED; POINT OF COLLECTION. (a) In a county that imposes the tax on motor fuels authorized by Chapter 616, Local Government Code, a tax is imposed on the delivery of diesel fuel outside the bulk transfer/terminal system to a dealer or end user located in the taxing county. The removal of diesel fuel from the bulk transfer/terminal system at a terminal rack is not a taxable delivery.

(a-1) The tax is not imposed again on each subsequent delivery of diesel fuel on which the tax imposed by this section has been paid, but each subsequent sale or delivery of the diesel fuel is subject to the collection requirement of Subsection (c).

(b) The distributor is liable for and shall collect the tax from the person to whom the distributor delivers diesel fuel in a taxing county.

(b-1) A tax is imposed on the blending of diesel fuel in a taxing county outside the bulk transfer/terminal system. The blender is liable for and shall pay the tax. The number of gallons of blended diesel fuel on which the tax is imposed is equal to the difference between the number of gallons of blended diesel fuel made and the number of gallons of previously taxed diesel fuel used to make the blended fuel.

(c) In each subsequent sale of diesel fuel on which the tax imposed by this section has been paid, the seller shall add the amount of the tax to the sales price of the diesel fuel so that the tax is paid ultimately by the person who delivers the diesel fuel into a fuel supply tank. When the amount of tax is added:

- (1) it becomes part of the sales price of the diesel fuel;
- (2) it is a debt of the purchaser to the seller until paid; and

(3) if unpaid, it is recoverable at law in the same manner as the sales price of the diesel fuel.

SECTION 46. Section 162.202, Tax Code, is amended to read as follows:

Sec. 162.202. TAX RATES [~~RATE~~]. (a) The state diesel fuel tax rate is 30 cents for each net gallon or fractional part of a net gallon on which the tax is imposed under Section 162.201.

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

SECTION 47. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2025 to read as follows:

Sec. 162.2025. SEPARATE STATEMENT OF TAXES COLLECTED FROM PURCHASER. (a) In each subsequent sale of diesel fuel on which the taxes have been paid, the taxes imposed by this subchapter shall be collected from the purchaser so that the taxes are paid ultimately by the person who uses the diesel fuel. Diesel fuel is considered to be used when it is delivered into a fuel supply tank.

(b) The taxes imposed by this subchapter must be stated separately from the sales price of diesel fuel and identified as state diesel fuel tax or county diesel fuel tax, as appropriate, on the invoice or receipt issued to a purchaser. Except for diesel fuel sold from a retail motor fuel pump, an invoice or receipt must:

(1) state separately the price for diesel fuel, the amount of state diesel fuel tax paid, and the amount of county diesel fuel tax paid; or

(2) include the statement "Price includes state motor fuel tax and applicable county motor fuel tax."

(c) Backup state diesel fuel tax may be identified as state diesel fuel tax, and backup county diesel fuel tax may be identified as county diesel fuel tax. The taxes must be separately stated and identified on a shipping document in the manner provided by this subsection and Subsection (b), if the shipping document includes the sales price of the diesel fuel.

(d) If the invoice, receipt, or shipping document does not separately state taxes or contain the statement required by Subsections (b) and (c), the sales price of diesel fuel stated on an invoice, receipt, or shipping document is presumed to be exclusive of the taxes imposed by this subchapter. The seller or purchaser may overcome the presumption by proving by a preponderance of the evidence that the taxes imposed by this subchapter were included in the sales price.

SECTION 48. The heading to Section 162.203, Tax Code, is amended to read as follows:

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

SECTION 49. Sections 162.203(a) and (c), Tax Code, are amended to read as follows:

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

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

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

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

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

SECTION 50. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2035 to read as follows:

Sec. 162.2035. BACKUP COUNTY DIESEL FUEL TAX; LIABILITY. (a) A backup tax is imposed at the rate prescribed by Section 162.202(b) on:

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

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

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

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

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

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

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

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

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

(2) diesel fuel exempt under Section 162.204.

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

SECTION 51. Sections 162.204(a) and (c), Tax Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 52. Section 162.205(a), Tax Code, is amended to read as follows:

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

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

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

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

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

(5) a terminal operator;

(6) an exporter;

(7) a blender;

(8) a motor fuel transporter;

(9) an aviation fuel dealer;

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

(11) a dyed diesel fuel bonded user; or

(12) a dealer.

SECTION 53. Section 162.206(d), Tax Code, is amended to read as follows:

(d) Any gallons purchased or sold in excess of the limitations prescribed by Subsection (c) constitute a ~~taxable~~ purchase or sale subject to the taxes imposed by this subchapter. The purchaser paying the tax on dyed diesel fuel in excess of the limitations prescribed by Subsection (c) may claim a refund of the tax paid on any dyed diesel fuel used for nonhighway purposes under Section 162.227. A purchaser that exceeds the limitations prescribed by Subsection (c) shall be required to obtain a dyed diesel fuel bonded user license.

SECTION 54. Sections 162.208(a) and (b), Tax Code, are amended to read as follows:

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

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

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

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

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

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

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

SECTION 55. Section 162.209, Tax Code, is amended by adding Subsection (a-1) to read as follows:

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

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

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

(3) if the applicant is a corporation, limited liability company, professional association, partnership, or other entity that is not licensed as a supplier, permissive supplier, or distributor, the physical address, mailing address, social security number, and driver's license number of:

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

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

SECTION 56. Section 162.211(a), Tax Code, is amended to read as follows:

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

SECTION 57. Section 162.212(a), Tax Code, is amended to read as follows:

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

SECTION 58. Section 162.213(a), Tax Code, is amended to read as follows:

(a) The comptroller, on or before December 20 of each year, shall make available to all license holders an alphabetical list of licensed suppliers, permissive suppliers, distributors, aviation fuel dealers, importers, exporters, blenders, dealers, terminal operators, and dyed diesel fuel bonded users. The list must contain the physical address and county of each licensed dealer. A supplemental list of additions and deletions shall be made available to the license holders each month. A current and effective license or

the list furnished by the comptroller is evidence of the validity of the license until the comptroller notifies license holders of a change in the status of a license holder.

SECTION 59. Sections 162.214(a) and (e), Tax Code, are amended to read as follows:

(a) Each [~~licensed~~] distributor and [~~licensed~~] importer shall remit to the supplier or permissive supplier, as applicable, the tax imposed by Section 162.201 for diesel fuel removed at a terminal rack. A licensed distributor or licensed importer may elect to defer payment of the tax to the supplier or permissive supplier until two days before the date the supplier or permissive supplier is required to remit the tax to this state. The distributor or importer shall pay the taxes by electronic funds transfer.

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

SECTION 60. Section 162.215, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsections (a-2) and [~~Subsection~~] (b), each person who is liable for a [the] tax imposed by this subchapter~~[, a terminal operator, and a licensed distributor]~~ shall file a return on or before the 25th day of the month following the end of each calendar month.

(a-1) Except as provided by Subsection (a-2), a supplier, permissive supplier, terminal operator, importer, exporter, distributor, blender, or dealer shall file a return on or before the 25th day of the month following the end of each calendar month regardless

of whether the person has tax liability for a tax imposed by this subchapter that accrued in the calendar month.

(a-2) Unless a licensed supplier or permissive supplier is a party directly involved in a transaction subject to the tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035, the licensed supplier or permissive supplier is not required to file a return or a supplement to a return in regard to a tax imposed by Section 162.1011, 162.1035, 162.2011, or 162.2035.

SECTION 61. Sections 162.216(b), (c), (e), (g), and (h), Tax Code, are amended to read as follows:

(b) A distributor shall keep:

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

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

(B) all diesel fuel blended;

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

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

(i) the name and physical delivery address of the purchaser;

(ii) the county in this state;

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

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

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

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

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

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

(i) the name and physical delivery address of the purchaser;

(ii) the county in this state;

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

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

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

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

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

(4) all shipping documents and invoices.

(c) An importer shall keep:

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

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

(B) all diesel fuel compounded or blended;

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

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

(E) all diesel fuel lost by fire, theft, or accident; [~~and~~]

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

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

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

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

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

(3) all shipping documents and invoices.

(e) A blender shall keep all shipping documents and invoices and a record showing the number of gallons of:

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

(2) all diesel fuel compounded or blended;

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

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

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

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

- (1) the date of transportation;
- (2) the name of the consignor and consignee;
- (3) the method of transportation;
- (4) the quantity and kind of diesel fuel transported;
- (5) full data concerning the diversion of shipments, including the county

in this state and the number of gallons diverted from interstate to intrastate and intrastate to interstate commerce; and

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

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

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

SECTION 62. Section 162.217(c), Tax Code, is amended to read as follows:

(c) A supplier or permissive supplier may take a credit for any state diesel fuel tax [~~taxes~~] that was [~~were~~] not remitted in a previous period to the supplier or permissive supplier by a licensed distributor or licensed importer as required by Section 162.214.

The supplier or permissive supplier is eligible to take this credit if the comptroller is notified of the default within 60 days after the default occurs. If a license holder pays to a supplier or permissive supplier the tax owed, but the payment occurs after the supplier or permissive supplier has taken a credit on its return, the supplier or permissive supplier shall remit the payment to the comptroller with the next monthly return after receipt of the tax, plus a penalty of 10 percent of the amount of unpaid taxes and interest at the rate provided by Section 111.060 beginning on the date the credit is taken.

SECTION 63. Section 162.219, Tax Code, is amended to read as follows:

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

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

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

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

(4) the number of net gallons of diesel fuel removed by the distributor during the month from a terminal located in another state for conveyance to this state, as

indicated on the shipping document for the diesel fuel, sorted by product code, seller, terminal code, bulk plant address, and carrier;

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

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

(7) any other information required by the comptroller.

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

SECTION 64. Section 162.224, Tax Code, is amended to read as follows:

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

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

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

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

(4) any other information required by the comptroller.

SECTION 65. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2245 to read as follows:

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

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

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

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

(4) any other information required by the comptroller.

SECTION 66. Sections 162.227(a), (c), and (e), Tax Code, are amended to read as follows:

(a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid taxes ~~[tax]~~ on the purchase of diesel fuel and subsequently resells the diesel fuel without collecting the taxes ~~[tax]~~ to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under a contract with the United States;

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

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the diesel fuel to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel exclusively to provide those services.

(c) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter, other than a license as an aviation fuel dealer, may file a refund claim with the comptroller if the license holder or person paid taxes [~~tax~~] on diesel fuel and the license holder or person:

(1) is the United States government and the diesel fuel is for its exclusive use, provided that a credit or refund is not allowed for diesel fuel used by a license holder or person operating under a contract with the United States;

(2) is a public school district in this state and the diesel fuel is for the district's exclusive use;

(3) is a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and the diesel fuel is used exclusively to provide those services; or

(4) is a licensed aviation fuel dealer who delivers the diesel fuel into the fuel supply tanks of aircraft or aircraft servicing equipment.

(e) A person who paid taxes [~~tax~~] on the purchase of diesel fuel may claim a credit or seek a refund with the comptroller if 100 or more gallons of diesel fuel is subsequently exported or lost by fire, theft, or accident. A credit or refund claimed under this subsection must be taken or filed within the limitations period provided by Section 162.230.

SECTION 67. Section 162.227(c-1), Tax Code, as added by Chapter 220 (H.B. 1332), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

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

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

(2) in a medium for the removal of drill cuttings from a well bore in the production of oil or gas.

SECTION 68. Section 162.227(c-1), Tax Code, as added by Chapter 911 (H.B. 2982), Acts of the 80th Legislature, Regular Session, 2007, is relettered as Subsection (c-2) and amended to read as follows:

(c-2) [~~(c-1)~~] A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if:

- (1) the license holder or person paid taxes [~~tax~~] on diesel fuel;
- (2) the diesel fuel is used in this state by movable specialized equipment used in oil field well servicing; and
- (3) the person who purchased the diesel fuel has received or is eligible to receive a federal diesel fuel tax refund under the Internal Revenue Code of 1986 for the diesel fuel used by movable specialized equipment used in oil field well servicing.

SECTION 69. Sections 162.229(a) and (d), Tax Code, are amended to read as follows:

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

- (1) the stamped or preprinted name and address, including county, of the seller;
- (2) the name and address of the purchaser;
- (3) the date of delivery of the diesel fuel;
- (4) the date of the issuance of the invoice, if different from the date of fuel delivery;
- (5) the number of gallons of diesel fuel delivered;

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

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

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

SECTION 70. Sections 162.402(a), (c), and (d), Tax Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) transports motor fuel to a physical delivery address in this state other than the physical delivery address stated on the shipping document, receipt, or invoice.

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

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

SECTION 71. Section 162.403, Tax Code, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18-a) transports motor fuel to a physical delivery address in this state other than the physical delivery address stated on the shipping document, receipt, or invoice;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 72. Sections 162.405(d) and (f), Tax Code, are amended to read as follows:

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

(f) Violations of three or more separate offenses under the following sections [~~Sections 162.403(22) through (29)~~] committed pursuant to one scheme or continuous course of conduct may be considered as one offense and punished as a felony of the second degree:

(1) Section 162.403(7);

(2) Sections 162.403(13) through (16);

(3) Section 162.403(18-a); or

(4) Sections 162.403(22) through (29).

SECTION 73. Section 502.003(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (b) and by Chapter 616, Local Government Code, a political subdivision of this state may not require an owner of a motor vehicle to:

(1) register the vehicle;

(2) pay a motor vehicle registration fee; or

(3) pay an occupation tax or license fee in connection with a motor vehicle.

SECTION 74. (a) The comptroller of public accounts' duties and responsibilities for the collection, administration, and enforcement of a county motor fuels tax as authorized by Chapter 616, Local Government Code, as added by this Act, are specifically contingent on the comptroller receiving sufficient funding in advance of the effective date of any motor fuels tax imposed by a county to adequately cover the comptroller's initial implementation costs.

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

SECTION 75. (a) A county may not impose a motor fuels tax under Chapter 616, Local Government Code, as added by this Act, before the effective date of rules adopted by the comptroller of public accounts under Chapter 616, Local Government Code, as added by this Act.

(b) The comptroller of public accounts shall adopt the rules required by Chapter 616, Local Government Code, as added by this Act, before the first anniversary of the date on which an agreement described by Section 41.64 of this Act is entered into.

(c) The comptroller of public accounts may not require a supplier, permissive supplier, terminal operator, distributor, dealer, importer, exporter, or blender of motor fuel to comply with a requirement prescribed by Chapter 616 Local Government Code, or prescribed by Chapter 162, Tax Code, in relation to a county motor fuel tax, or enforce such a requirement, before the effective date of the rules adopted by the comptroller of public accounts under this section.

SECTION 76. (a) Unless otherwise authorized by the constitution of this state, money collected from a county motor fuel tax authorized by this Act may be used only for acquiring rights-of-way, for constructing, maintaining, and policing public roadways, and for administering laws related to the supervision of traffic and safety on those roads.

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

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

SECTION 77. (a) If any provision of this Act conflicts with a provision of S.B. No. 1495, Acts of the 81st Legislature, Regular Session, 2009, relating to the taxation of

motor fuels, the provision in S.B. No. 1495 controls, regardless of relative dates of enactment.

(b) This section applies only if S.B. No. 1495, Acts of the 81st Legislature, Regular Session, 2009, relating to the taxation of motor fuels, is enacted and becomes law. If S.B. No. 1495, Acts of the 81st Legislature, Regular Session, 2009, is not enacted or does not become law, this section has no effect.

SECTION 78. (a) This section and Section 73 of this Act take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section and Section 73 of this Act take effect August 31, 2011.

(b) Except as provided by Subsection (a) of this section, this article takes effect September 1, 2011.