

Amend Amendment No. 1 by Duncan to **SB 1** (senate committee printing) by adding the following appropriately numbered ARTICLE to the amendment and renumbering subsequent ARTICLES and SECTIONS of the amendment accordingly:

ARTICLE _____. REIMBURSEMENT FOR COLLECTION AND DISCOUNT FOR PREPAYMENT OF SALES AND USE TAXES AND ALLOCATION OF CERTAIN REVENUE

SECTION __.01. Section 151.423, Tax Code, is amended to read as follows:

Sec. 151.423. REIMBURSEMENT TO TAXPAYER FOR TAX COLLECTIONS. Subject to Section 151.4231, a [A] taxpayer may deduct and withhold three-fourths ~~[one-half]~~ of one percent of the amount of taxes due from the taxpayer on a timely return as reimbursement for the cost of collecting the taxes imposed by this chapter. ~~[The comptroller shall provide a card with each form distributed for the collection of taxes under this chapter. The card may be inserted by the taxpayer with the tax payment to provide for contribution of all or part of the reimbursement provided by this section for use as grants under Subchapter M, Chapter 56, Education Code. If the taxpayer chooses to contribute the reimbursement for the grants, the taxpayer shall include the amount of the reimbursement contribution with the tax payment. The comptroller shall transfer money contributed under this section for grants under Subchapter M, Chapter 56, Education Code, to the appropriate fund.]~~

SECTION __.02. Subchapter I, Chapter 151, Tax Code, is amended by adding Section 151.4231 to read as follows:

Sec. 151.4231. LIMITATION ON AMOUNT OF REIMBURSEMENT. (a) The amount deducted and withheld by a taxpayer under Section 151.423 may not exceed:

- (1) \$312.50 each month if the taxpayer files monthly;
- (2) \$937.50 each quarter if the taxpayer files quarterly under Section 151.401(b); and
- (3) \$3,750 each state fiscal year.

(b) The comptroller shall adopt rules for determining to which state fiscal month, quarter, and year amounts deducted and withheld by a taxpayer under Section 151.423 will be allocated for purposes of this section.

SECTION __.03. Section 151.424, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1), (e), and (f) to read as follows:

(a) In addition to the amount permitted to be deducted and withheld under Section 151.423, a [A] taxpayer who prepays the taxpayer's tax liability on the basis of a reasonable estimate of the tax liability for a quarter in which a prepayment is made or for a month in which a prepayment is made may deduct and withhold the lesser of the following, as determined by the comptroller under Subsection (e):

(1) 1.25 percent of the amount of the prepayment; or

(2) an annually adjusted percentage of the amount of the prepayment that yields an annualized rate of return equal to the prime rate as published in The Wall Street Journal on the first business day of each calendar year, plus four percent [in addition to the amount permitted to be deducted and withheld under Section 151.423 of this code].

(a-1) A reasonable estimate of the tax liability under Subsection (a) must be at least 90 percent of the tax ultimately due or the amount of tax paid in the same quarter, or month, if a monthly prepayer, in the last preceding year. Failure to prepay a reasonable estimate of the tax will result in the loss of the entire prepayment discount.

(e) Not later than January 5 of each year, the comptroller shall:

(1) determine the percentage of a taxpayer's prepayment that may be deducted and withheld under Subsection (a); and

(2) publish the percentage determined under this subsection on the comptroller's Internet website.

(f) The percentage determined under Subsection (e) applies to a deduction and withholding from a prepayment of tax liability that a taxpayer makes on or after January 15 of the year the comptroller makes the determination and before January 15 of the succeeding year.

SECTION __.04. Section 151.801, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to

read as follows:

(a) Except for the amounts allocated under Subsections (a-1), (a-2), (b), and (c), all proceeds from the collection of the taxes imposed by this chapter shall be deposited to the credit of the general revenue fund.

(a-1) The comptroller shall calculate the difference between the amount of the proceeds from the collection of the taxes imposed by this chapter that, in the absence of the limitation on reimbursements specified by Section 151.4231, taxpayers would deduct and withhold under Section 151.423 at the percentage in effect under that section on January 1, 2011, and the amount that taxpayers actually deduct and withhold under Section 151.423 after applying the limitation specified by Section 151.4231. The comptroller shall deposit an amount equal to that difference to the credit of the foundation school fund.

(a-2) If the percentage determined under Section 151.424(a)(2) applies in determining the amount a taxpayer may deduct and withhold under Section 151.424 from taxes imposed by this chapter, the comptroller shall determine the difference between the amount the taxpayer would deduct and withhold if the percentage under Section 151.424(a)(1) applied and the amount the taxpayer actually deducts and withholds under Section 151.424(a)(2). The comptroller shall deposit an amount equal to that difference to the credit of the foundation school fund.

SECTION __.05. The comptroller of public accounts shall make the initial determination required by Section 151.424(e), Tax Code, as added by this article, not later than January 5, 2012.

SECTION __.06. Section 151.423, Tax Code, as amended by this article, applies to a tax report due on or after the effective date of this Act. A tax report due before the effective date of this Act is governed by the law in effect on the date the tax report was due, and the former law is continued in effect for that purpose.

SECTION __.07. Section 151.424, Tax Code, as amended by this article, applies to a prepayment of tax liability made on or after January 15, 2012. A prepayment of tax liability made before January 15, 2012, is governed by the law in effect immediately preceding the effective date of this Act, and the former law is

continued in effect for that purpose.

SECTION __.08. The change in law made by this article does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this article had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.